

**Senate Foreign Affairs, Defence and Trade  
References Committee**

**SUBMISSION COVER SHEET**

---

**Inquiry Title:** Effectiveness of Australia's Military Justice System

**Submission No:** P5A

**Date Received:** 10.11.03

**Submitter:** Mr Allen Warren

**Organisation:**

**Address:**

**Phone:**

**Fax:**

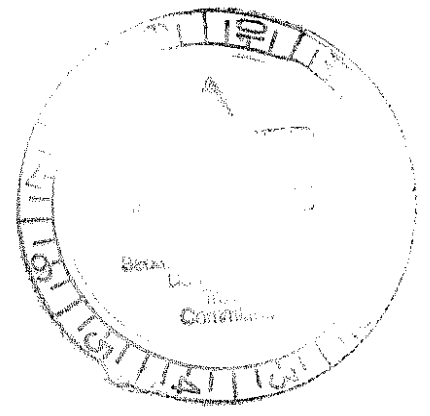
**Email:**

**Name/Contact:** Mr Allen Warren

**Date Authorised:**

Allan WARREN

10 November 2003



B. Holmes  
 Sec, FA, D & T References Committee  
 Department of the Senate  
 Parliament House  
 Canberra, ACT 2600

Dear Secretary

RE: Senate Reference Committee Inquiry into the  
Military Justice System

I wish to make submission on the matters of:

" the effectiveness of the Australian military justice system in providing impartial, rigorous and fair outcomes, and mechanisms to improve the transparency and public accountability of military justice procedures; and

allegations that ADF personnel ..... OR former personnel have been mistreated. "

The 1998 Joint Standing Committee on Foreign Affairs, Defence and Trade - Defence Sub Committee Inquiry into Military Justice Procedures in the Australian Defence Force (hereafter referred to as the '1998 Inquiry') was supposedly a comprehensive examination of its subject.

The reality probably is that that inquiry has achieved very little in improving the integrity and competency of the senior officers and their legal officers, who together, control the military justice system.

The 1998 Inquiry Report of June 1999, paragraph 1.16 in part states:

" Since the commencement of the Parliamentary inquiry, the ADF has taken action to implement substantial structural and procedural change to the military justice system. "

Again the reality is more likely any such supposed changes to the rule of law within army have merely provided protection for the systemic culture of dishonesty and deceit amongst the senior officers who manipulate procedural fairness mechanisms at will, and as in the ex-Major Warren case 1980 to date.

The 1998 Inquiry Report, at paragraph 9 of its Forward, in part states:

" Where the Committee touched on individual cases it did so solely to examine the procedures employed and the effectiveness of the military justice system. "

This attitude is disingenuous to those people who made submission to that 1998 Inquiry and provided it with evidence that gave clear accounts of malfeasance and nonfeasance by senior officers in their adjudication or decision-making through due process.

In the ex-Major Warren case such officers have flaunted their habitual corruption of due process in the face of responsible ministers and other parliamentarians for years. And how convenient it must be for the army generals to know that parliamentary committees of inquiry into their conduct afford them so much seeming compliance or indifference.

Such inquiries simply navel-gaze whilst the service chiefs put up the pretence of protecting the good name of the service. Behind such pretences are the cover-ups for abuses of power by the highest ranking officers. The ex-Major Warren case could not have escalated to its current public state if this was not the case. Past lessons have not been learnt either by the army generals or their ministers.

In a submission to the 1998 Inquiry I wrote:

"If the Australian Parliament is to avoid re-occurrences of similar blatant failures in the rule of law then it needs to examine not only the adequacy and appropriateness of the existing legislation but also the integrity of its implementation. They are inter-dependent"

1998 Inquiry Volume 1 of Submissions, p 79

I suspect that the blatant abuses of due process by senior officers has been allowed to continue because the responsible ministers would not face up to their responsibilities and parliament has avoided proper scrutiny of the executive. One hopes that this Senate inquiry is genuine in its examination of grievances against ADF mistreatment of its personnel and former personnel.

I request this Senate References Committee Inquiry retrieve copies of my submissions to the 1998 Inquiry and accept and record them as being new submissions to this Senate inquiry. The specific submissions included in this request are:

1998 Inquiry Submissions	Volume 1	Number 5
	4	5.1
	4	5.2
	5	5.3
	5	5.4

These submissions make it abundantly clear just how open and pervasive are the capricious abuses of due process by senior officers in the military justice system.

Yours sincerely  
A K Warren