

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

SUBMISSION COVER SHEET

Inquiry Title: Effectiveness of Australia's Military Justice System

Submission No: **P16I**

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Senator S. Hutchins

Chair

Senate Foreign Affairs, Defence and Trade References Committee

S.157

Parliament House

CANBERRA ACT 2600

Dear Senator Hutchins

Inquiry into the Effectiveness of Australia's Military Justice System: Correction and Clarification of Evidence on Navy Alcohol and Drug Testing Policy and Practices

I offer the following comments on Navy's Random Urinalysis Program policy and practices, as a correction and clarification of my responses to questions at the subject Senate Inquiry on Thursday 5 August 2004. (Hansard Thursday 5 August 2004, FAD&T 53-56 refers.)

In response to a question from Senator Johnston (FAD&T 53) on responsibility for drug testing in a joint facility, I responded as follows:

Whoever is running that particular organisation – there will be somebody who is running it. Even though it is a joint facility, it will be run under the mandate of one particular service. If there are Navy people who are serving on a RAAF base, we will agree that they be subject to the RAAF testing.

I affirm that when I approved the revised Navy Urinalysis Program under *Defence Instruction (Navy) PERS 13-1 'Illegal use of drugs and drug education in the Royal Australian Navy'* revised 19 December 2003, in support of the then ADF policy in *Defence Instruction (General) PERS 15-2 'Involvement by members of the Australian Defence Force with Illegal Drugs'* revised November 1994, I intended to permit testing of any Navy person under any Service's drug testing regime, pending development of a separate Defence Instruction (General) enabling random drug testing.

When I appeared before the Senate Inquiry on 5 August, I failed to recollect one aspect of legal advice I had received on the risk of successful appeal against Administrative Action arising from tests administered by Army or RAAF. I had passed this advice on through the Navy Command chain on 4 June 2004, with a statement that:

I have received legal advice that the absence of a Defence Instruction (General) regarding random drug testing increases the risk of a successful appeal against Administrative action taken against a member where the test was administered by Army or RAAF, even if Navy procedures are used. Until this DI(G) is produced, Navy personnel can only be tested by NPCs using Navy procedures detailed in Ref A.

Upon noting this irregularity, I immediately rescinded the latter part of this statement, formally amending the extant *Defence Instruction (Navy) PERS 13-1 'Illegal use of drugs and drug education in the Royal Australian Navy'* and promulgating this change by an "All Ship, All Shore, All Ship Support Units" signal message. This amendment specifically invoked other Services testing regimes, as follows:

24A. RAN personnel posted to, serving at, attached to or visiting an establishment which is not commanded by the ran, may be tested by Army or RAAF authorised testers as part of routine random testing programs using extant single service procedures.

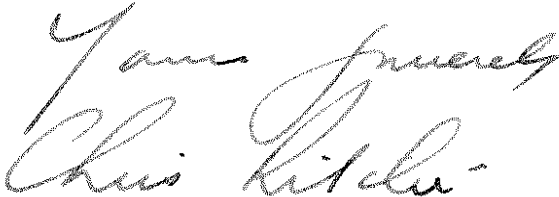
24B. The Navy Random Urinalysis Program (RUP) coordinator is to be advised of all testing of navy members. The RUP coordinator can be contacted by phone on (08) 9553 5297, mob 0439 602 809 or by e-mail to rup(space)coordinator (at) defence.gov.au. In the event of a pending result following a screen test, the Navy version of the form quote Request for Drug Analysis unquote is to be obtained from the RUP Coordinator and is to accompany the sample sent for further laboratory analysis. This form is available from the Navy RUP Coordinator by fax or e-mail on request.

24C. All RAN members must comply with the instructions of Army and RAAF authorised testers for the provision of a urine sample and conduct of the RUP test. A failure to comply with an Army or RAAF authorised testers instructions for the RUP procedure would constitute a failure to comply with this lawful general order and the member may be subject to DFDA action.

It was never my intention to diminish the ability of other Services to test uniformed personnel, within bases or Commands operating under Army or RAAF command, and I have issued revised instructions to explicitly give them this authority.

Notwithstanding my use of future tense in my response to Senator Johnston's question, I accept that this would have been interpreted in the present tense, hence this formal correction to evidence and clarification of my intent.

I remain committed, along with CA and CAF, to the development of a new Defence Instruction (General) and changes to the *Defence Force Discipline Act*. I stand by my statements that notwithstanding the differences in single Services instructions and testing regimes, and the different terminology used to describe them in the single Service context, the *effect* of those instructions has been the same. When the new DI(G) and legislative changes take effect, Navy will apply the same testing methods and policy as other Services.

A handwritten signature in cursive script, appearing to read "Chris Ritchie".

C.A. RITCHIE
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Chief of Navy

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8 September 2004