

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

**SUBMISSION COVER SHEET**

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

**Submission No:** P55

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## **SUBMISSION TO THE SENATE COMMITTEE INVESTIGATING THE EFFECTIVENESS OF AUSTRALIA'S MILITARY JUSTICE SYSTEM.**

### **Background Information**

I am a member of the Army Reserve in the Australian Army Psychology Corps and hold the rank of Warrant Officer Class 2. I enlisted on 13 March 1967 and have been efficient every year of the 37 years since then. I am also an Officer of Cadets in the Australian Army Cadets (AAC), currently holding the rank of Major, and have been since 1973.

A project undertaken by some reserve members of the psychology unit in Perth was the development of a Performance Appraisal/Training Development System to be used in Western Australia to assist in the training of Officers of Cadets and Instructors of Cadets in the AAC. The documentation we developed so impressed the staff at HQ ADF Cadets that they made a decision to conduct a trial with the intention of introducing it nationally for all three cadet services. The trial was to be conducted using all AAC units in WA, as well as each state HQ for Army Cadets. As part of this trial a training weekend was arranged for the personnel from each of the respective state HQ at Randwick Barracks in Sydney on the weekend of 7, 8, 9 Nov 2003 at which time they were to be briefed and trained on how the system would work.

The three members of the AAPsych Corps involved in the development of this system, namely CAPT Melanie Freeman, CAPT Julia Mackay-Koelen and myself flew from Perth to Sydney to conduct this training. Approximately one week prior to leaving Perth I was engaged in a phone call with COL(AAC) Peter Christie regarding this trip, at which time he told me he wanted me to attend wearing my AAC uniform as he did not want the other AAC personnel seeing the exercise as being Army Reserve driven as the other states did not have the same positive working relationship with AAPsych as existed in WA.

On my return to Perth an attendance record was completed for the three of us claiming three days pay. I claimed in this way and not through cadets because the tasks I performed were all in my role as a member of AAPsych as the system was still being developed and modified. My reserve pay would have been approximately \$300 as opposed to approximately \$450 as an OOC, but as had been past practice, the person whom the work is being done for pays for the days worked.

This activity had been approved prior to departure by the Senior Psychologist PSS-WA, the completed Attendance Record was authorised for payment and sent to the pay clerk for processing and he input my pay data into the computerised pay system. When I received my pay sheet for this period I noted that these three days had been entered and then cancelled. I phoned him to question this and was informed that WO2 Delsie Mowbray, the ARA WO from PSS-WA had sent him an e-mail directing him to do so. He has since confirmed this in an e-mail to me.

## Complaint

It was at this time I was informed by friends, not members of the ADF, that the Military Police were conducting an investigation into me fraudulently claiming Army Reserve days for this November weekend.

This action both surprised and amazed me because if a superior authority felt I should not have been paid as Army Reserve for this time they could have made a phone call to me asking me for an explanation. I would have been equally happy to claim as an OOC as I would have been \$150 better off financially. I also fail to understand why some sort of investigation was not conducted at Unit level rather than refer the complaint to the Military Police in the first instance.

On hearing of the investigation I made a phone call to the Military Police and spoke to a CPL Eiken (*unsure of the correct spelling*) and asked him whether I was under investigation. He was interested in how I had heard but would neither confirm nor deny that an investigation was being conducted. I suggested to him that if he liked to meet with me I could probably save him a lot of time and effort. I have not heard from him or any other member of the Military Police since that time.

On 15 Dec 2003 the same CPL Eiken phoned my employer, Mazenod College, and spoke with the Principal's Secretary and Business Manager. After introducing himself to the Principal's Secretary he informed her he was conducting a fraud investigation and could she confirm if I was at work on a list of dates he gave her, most of which were on school holidays or weekends. Both the Principal's Secretary and Business Manager are prepared to give statements confirming these facts.

I am appalled by this occurrence given that I had not been spoken to regarding it, especially when information is given to my employer about an investigation that has never been confirmed to me. This has also been very disconcerting to in relation to my employment because it casts doubt in my employers mind as to what fraud has allegedly been committed. It is further complicated by the fact that I am unable to tell him exactly what is going on and what it is that I am being investigated for.

On 23 Dec 2003 I sent an e-mail to WO2 Mowbray asking for an explanation as to why the three days in November had been notated as cancelled on my pay-sheet, number 181, as they had been approved prior to the trip to Sydney being undertaken. Her reply was not sent until 9 Feb 2004, in which she stated:

“As you are aware the dates in question relate to an ongoing SIB investigation. When the investigation is completed (and depending on its outcome) the days will be actioned.”

This was the first acknowledgement of any kind to me that an investigation existed.

What is of greater concern to me in relation to this matter is that on 13 Jan 2004 WO2 Mowbray showed the e-mail I had sent her on 23 Dec 2003 to another Army Reserve member and discussed this whole situation with her. The soldier concerned sent me an e-mail the next day containing a summary of the conversation had between her and WO2 Mowbray on the Tuesday evening. This e-mail states as follows:

“She said she had received your e-mail and was not pleased, and I read it too. She said you knew very well why your pay had been stopped (so you may have to follow up). When I said about blocking the pay being guilty til proven innocent she said:

- That she “had the word from Canberra to block the pay”.
- That you had already been found guilty on one charge and would be done for more things. They were digging deeper and finding all sorts of stuff. (Interesting).
- That you had rung SIB(?) and offered to come in for a chat and they said they would call you when they needed you.

She said she couldn't believe you had not shared the info (about being investigated) with your professional peers – implying it was negative (don't know how you were supposed to know you were being investigated).

I contacted the RSM of AAPsych Corps via e-mail on 9 Mar 2004 and informed him that I believed there were deliberate acts of victimisation against me in relation to this investigation and other pay related matters. The final paragraph of his reply was:

“Geoff I am not interested in getting e-mails blaming others for your situation. You're big enough, ugly enough, and been around long enough to manage your own admin and affairs correctly. I trust this will be borne out in the outcome of the investigation as well.”

It bothered me that my concerns were not taken seriously but I have since learnt that the handing of this investigation to the Military Police was done from the Psychology directorate and therefore with his full knowledge.

## **Summary**

In summary my concerns are as follows:

1. All of my superiors in WA were well aware of my claim being for Army Reserve days, there were no secrets. A simple phone call to me in November from those concerned about my pay claim could have nipped this whole issue in the bud. It could easily have been changed to payment by the AAC and I would have been \$150 better off.
2. No investigation was conducted at unit level and at no time have any Officers in my direct command structure been spoken or interviewed by either the directorate or the Military Police.
3. My pay being stopped after it had been approved and entered into the computerised pay system by the pay clerk removed presumption of innocence before the investigation had started.
4. Not being informed of the investigation or it's content, even after phoning the Military Police and offering to speak to them, lacks any form of transparency in the investigative system.

5. I believe the contact made by the Military /Police with my employer stating they are conducting a fraud investigation involving me is severely flawed. It has created a degree of difficulty for me in my work environment and created doubt in the minds of people I work with.
6. It is obvious from the comments made by WO2 Mowbray that the Military Police have passed information related to their investigation back to her. I find this highly unethical and inappropriate as they have no idea what she will then do with this information. A fact clearly borne out by her preparedness to discuss it in detail with other unit members. This discussion with other soldiers is also highly inappropriate and lacks any degree of fundamental professionalism. To then tell others that I have been found guilty on one charge when I have not even been interviewed, let alone charged, I find reprehensible.
7. The fact that the existence of this investigation is widely known by other members of AAPsych Corps before I am informed of it lacks any degree of confidentiality and professionalism.
8. To this point of time no senior officers in my chain of command, including those I travelled with, have ever been spoken to by anyone from the Psychology directorate or interviewed by the Military Police. These people were all aware of my attendance claim being for Army Reserve days – there has never been any secrecy in relation to this.

I believe that the “Terms of Reference (1) (a)” is relevant to my case in that the system has failed to be impartial and as a consequence the outcome cannot be fair. The mechanism has not been transparent or accountable, has lacked procedural fairness and denied me natural justice.

It is not the fact that the investigation is occurring that bothers me, it is the lack of fairness in the process that I find offensive and therefore of serious concern.

Yours sincerely

Geoff Lewis