



Australian Government

Department of Defence

**REPORT OF AN AUDIT OF
THE AUSTRALIAN DEFENCE
FORCE INVESTIGATIVE
CAPABILITY**

July 2006

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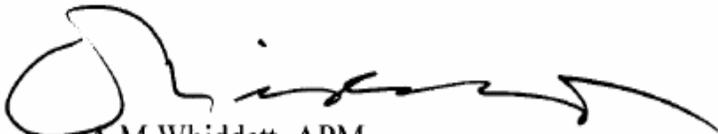
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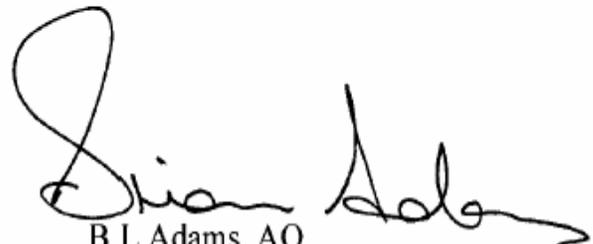
ACM A G Houston AO, AFC
Chief of the Defence Force
R1 - 5 - CDF Suite
Russell Offices
Canberra ACT 2600

REPORT OF THE AUDIT OF THE ADF INVESTIGATIVE CAPABILITY

Attached in accordance with your terms of reference dated 16 February 2006 is the report of the audit of the ADF investigative capability.



A M Whiddett, APM



B L Adams, AO
Rear Admiral RAN (rtd)

31 July 2006

Attachment

Report of the 2006 Audit of the ADF Investigative Capability

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

Introduction

1. The purpose of this audit was to identify those reform measures required to provide the Australian Defence Force (ADF) with an effective and efficient investigative capability. The task involved more than a straightforward evaluation of resource, personnel, support, and technical issues. It was made more complex by the size and scope of the problems identified, the scale and interrelated nature of the reforms necessary, and the considerable challenges and obstacles confronting independent, impartial and unfettered investigations conducted by Service Police (SP) investigators in the ADF command environment.
2. Quite early, audit team members perceived that the recommendations of the reports of a number of earlier reviews, including that undertaken of the Army's investigative capability by Ernst and Young in 2004¹, all of which identified deficiencies in the ADF investigative capability, did not seem to have produced decisive, measurable reforms or improvements.
3. In the event, this audit has found that the ADF investigative capability is in serious decline and that remediation, even if approached with unremitting resolve and commitment, is likely to take no less than five years. The audit has also found that the capacity of the SP in each Service to undertake a general, 'garrison' policing role, has virtually ceased to exist and that this has implications for the prevention and detection of Service-related offences and ultimately for the effectiveness and success of SP investigators.
4. The viability of the investigative elements of the three Services is seriously threatened on several fronts. All are experiencing problems related to staff numbers allocated and their quality and experience. Many investigators have high workloads, poor administrative support and outdated and inadequate information technology support systems. The more fundamental deficiencies are that despite being reviewed, re-organised, restructured and downsized over the last fifteen years, SP still lack clear purpose and direction, a senior 'champion' or advocate to advance their interests, adequate leadership, and modern policy, doctrine, training and tradecraft. In consequence, investigator motivation and morale is suffering and capable people are contemplating leaving the ADF.
5. The plight of the investigative capability is further exacerbated by a higher tempo of operations, integrated military and civilian workforces, and new investigative challenges which have neither been foreseen nor responded to adequately.

¹ Review of the MPIC – Final Report, Ernst & Young, 24 June 2004.

6. The audit has revealed that from senior commanders down, and even among SP themselves, there is no shared view as to the *place, purpose and standing* of investigators in fulfilling the mission of the contemporary ADF.

7. A most significant finding, however, is the influence on SP investigations brought to bear by the dominant ADF command culture. It is clear that many commanders are ignorant or dismissive of the limitations of, or restraints on, their command authority when an incident leads to an SP investigation. The apparent level of obstruction of, and interference by commanders into, SP investigations, suggests that there is at least a poor understanding that a SP investigation is an integral component of the ADF military justice system and must be allowed to proceed independently and without interference.

8. The SP investigative capability has, in the opinion of the audit team, reached the point where fundamental questions could be asked whether the service it provides justifies the significant resources expended on it. However, given the Government's decision that the ADF will retain its investigative capability, remediation must not be further delayed. It is very likely that unless action is taken as a matter of priority, the capability's depleted condition will eventually be evidenced either by its collapse or by the inability of the ADF to respond appropriately to a serious, sensitive event.

Major Conclusions

9. The first of two major conclusions of this audit is that the ADF investigative capability is in a state of serious decline. Principal amongst the reasons for the decline are:

- There is no shared understanding amongst ADF commanders and commanding officers, and indeed among SP themselves, as to place, purpose and standing of SP in fulfilling the mission of the contemporary ADF.
- An unhealthy environment exists in the ADF which, in places, is hostile to police, in others resistant to SP activity and in many other areas simply ignorant of both the role an investigative capability must play in the military justice system and the responsibility ADF commanders and commanding officers have to support and assist SP in their investigations.
- A joint SP culture does not yet exist and aspects of the three single SP cultures are old fashioned, misguided and a source of acrimony between them and many in the organisations they exist to serve.
- All three SP organisations, and particularly the investigative elements thereof, are under-resourced, lacking administrative support, functional information technology support, coherent and accurate guiding policy and modern 'tradecraft'.
- While many in the existing investigator workforce are loyal, enthusiastic and hard working people, they are too widely geographically dispersed and their workload is not effectively planned, prioritised, coordinated or quality assured.

10. The second major conclusion is that it would be futile to maintain the ADF investigative capability as it presently exists. To overcome the problems identified the

audit team recommends that an Australian Defence Force Investigative Service (ADFIS) be formed to operate under joint rather than single Service command.

11. If considered together in a coherent program and implemented resolutely, all the recommendations made in this report should arrest the decline and help transform the existing ADF investigative capability into a highly trained service capable of investigating Service and criminal matters independently, impartially and to a standard that equals best practice in the Australian civilian police and investigation services.

Recommendations

CHAPTER 1 – THE NATURE OF ADF INVESTIGATIONS

1.1. The ADF should adopt one definition of a SP investigation and reflect that in all relevant policy and doctrine, whether Departmental or ADF. The proposed definition is:

An inquiry into matters involving ADF members or Defence Civilians and the collection and presentation of relevant material to a standard acceptable for use, if required, by competent ADF and civilian authorities.

1.2. Action be taken to ensure consistency between the different sources of policy on ADF aircraft crash investigation.

1.3. CDF decide whether it is appropriate to empower civilian investigators of non-ADF Defence organisations to investigate ADF people for alleged breaches of the DFDA.

1.4. The ADO should adopt a common investigation standard promulgated in one Defence investigation policy to be complied with by all Defence Investigative Authorities (DIAs) and all their investigators.

1.5. Those ADF members empowered to initiate investigations and inquiries receive formal familiarisation with the types and methods available to them.

CHAPTER 2 – THE ENVIRONMENT IN WHICH ADF INVESTIGATIONS ARE CONDUCTED

2.1 Each Service review and clarify the function and roles of its SP organisation.

2.2. Action be taken to dispel the strong perception that exists amongst SP and some ADF officers that special forces units and some infantry units are exempt from ADF disciplinary policy and processes.

2.3. Action continue to ensure that the ODMP is provided with sufficient numbers of qualified and experienced staff.

2.4. The training of ADF commanders and commanding officers at all levels must emphasise:

- the importance of high quality SP investigations to the maintenance of discipline and the delivery of military justice;
- their responsibilities to support the conduct of investigations; and
- the consequences of impeding or obstructing an SP investigation.

2.5. Signs at the entrance to ADF units be amended to remove any reference to a need for Service or civilian police to report to unit guard houses.

2.6. Protocols should be developed between investigators and Service personnel posting authorities to ensure that the timeliness of SP investigations is not jeopardised by the posting or discharge of ADF members while investigation or prosecution work involving them is in progress.

2.7. In the interest of focussing effort on major investigations, SP investigators be given the discretion to prioritise and choose not to investigate, but to simply record, minor, 'one off' offences, where a successful conviction would be unlikely to justify the time, effort and other resources involved in the investigation.

2.8. Only in exceptional cases should SP investigators investigate matters of minor indiscipline more properly dealt with by commanders and their staffs.

2.9. An ADF policing plan be developed.

2.10. Use of the Discipline Officer scheme be mandatory in all units except where grounds not to do so have been identified and explained and approved by the relevant Service Chief.

2.11. The PM-ADF and the ODMP develop guidance for SP to use in the preparation of briefs of evidence to a standard acceptable for use by competent ADF and civilian authorities.

CHAPTER 3 – THE CURRENT SERVICE POLICE INVESTIGATIVE CAPABILITY

No recommendations

CHAPTER 4 – LEGISLATION, POLICY AND DOCTRINE

4.1. Urgent action be taken to prepare and make available to all ADF investigative agencies and their operatives, one common source of investigation policy published under the signatures of the CDF and Secretary and binding on all agencies. The policy should in so far as is possible be based on the Australian Government Investigation

Standards (AGIS) 2003 and Australian Federal Police (AFP) investigation standards and be available in one document, separate from and not to be confused with, investigation procedures and techniques that should be published elsewhere.

4.2. The PM-ADF be made responsible and accountable for the development and maintenance of ADO investigation policy and doctrine.

4.3. The one common source of ADO investigation policy should contain a direction to the effect that: *“Without exception, Notifiable Incidents are to be reported simultaneously to Service police and the appropriate chain of command. Service police are to inform civilian police and other Defence Investigative Authorities as appropriate.”*

4.4. The ADO prohibit in its investigation policy and procedures any Service or other organisation-centric exclusions.

4.5. ADO investigation policy and doctrine be of sufficient specificity and clarity to negate the need for local interpretation and expansion by subordinate commanders

4.6. There should only be one extant version of ADFP 06.1.4 – *Administrative Inquiries Manual*.

4.7. In ADO investigation policy the emphasis be placed on ensuring that incidents are handled lawfully, ethically and professionally and that everything else, including informing superiors, military or civilian, is secondary.

4.8. The purpose of a QA be defined as being *“... to assess rapidly the then known facts of an incident and decide what is the proper course of action to be taken in response to it”*.

4.10. ADF Quick Assessment policy should be published separate from ADFP 06.1.4. It should be applicable to all matters whether administrative or otherwise and its purpose should be stated as being *“to assess rapidly the then known facts of an incident and decide what is the proper course of action to be taken in response to it”*.

4.11. The ADO adopt a new QA policy along the lines of that proposed at Attachment 1 to Chapter 4 of this report. (*Note - the proposed new policy has already been circulated to relevant areas for comment.*)

4.12. ‘Context management’ not be part of QA policy.

4.13. Defence review the DFDA.

4.14. The ADF explore the exceptionally powerful provisions of the Law Enforcement (AFP Professional Standards and Related Matters) Act 2006, and the complementary, internal measures to distinguish between levels of misconduct and to speed up their disposition, with a view to introducing similar legislation for the ADF.

4.15. In parallel with development of one Defence investigations policy, DI(G) ADMIN 45-2 - *Reporting and Investigation of Alleged Offences within the Australian Defence Organisation* be reviewed and repromulgated to focus on the *reporting* of offences, and to reflect the establishment of the PM-ADF position and decisions to be made by CDF as to which DIA will investigate offences under the DFDA.

4.16. The DITI should not be revised. As soon as the common investigation policy and procedures are prepared and made available throughout the ADF, the DITI be cancelled.

4.17. The ADO adopt the definitions and standards set for the classification of reported offences by the Australian Bureau of Statistics through the National Centre for Crime and Justice Statistics (NCCJS) and the National Crime Statistics Unit (NCSU).

4.18. Development of DPSMS Stage 2 conform to NCSU requirements.

CHAPTER 5 – TRAINING

5.1. SP and investigator training needs be reviewed to emphasise and reinforce the basic core skills and competencies of policing. These include the taking of statements from witnesses, interviewing suspects and offenders, and the rules governing the admissibility of evidence, including the value and use of exculpatory as well as inculpatory evidence.

5.2. The DPTC development wing should be staffed to incorporate an effective research capability that will permit SP curricula to be amended in a timely manner to reflect changes in Australian law and policing practice.

5.3. The police training wing of the RAAF SFS should close and all ADF SP and investigator training, except needs based refresher training, be conducted at the DPTC.

5.4. The DPTC must achieve best practice standard and SP leadership in all Services should encourage, demand and enforce adherence to that standard amongst all SP.

5.5. DPTC should develop a refresher module for investigators that could be offered at the DPTC and at concentration locations around Australia in order to maintain a high common standard of investigator professional knowledge.

5.6. Consideration should be given to conducting refresher training by distance learning means.

5.7. Consideration should be given to affiliating the DPTC with a credible civilian law enforcement teaching institution such as Charles Sturt University.

- 5.8. The proper care and management of incident and crime scenes, at least in terms of basic protection and preservation techniques, ought to be an element of all pre-command training courses in the ADF and be reinforced periodically during career advancement.
- 5.9. The ADF should renew or develop formal memoranda of understanding with the AFP, principally, and also State and Territory police on the attendance of SP on relevant, accredited training courses as an essential supplement to DPTC training and to improve professional competencies and advancement prospects.
- 5.10. Attachments to civilian policing organisations should be reserved for SP personnel only and be coordinated by the PM-ADF rather than by the Service personnel organisations.
- 5.11. The PM-ADF be appointed the Training Requirements Authority for all ADF investigator training courses and for the investigation element of all other courses including SP courses, staff colleges, pre-command training and leadership and management training.
- 5.12. Navy and Air Force identify and begin preparing suitable officers to command the DPTC in due course, and share a proportional load of the Centre's trainer liability.
- 5.13. When the Commandant DPTC is an Army officer he should not be 'double hatted' as the Head of Corps of the RACMP. The current commandant should divest himself of this role as soon as possible in order to permit him to concentrate on renewing and reinvigorating SP training.
- 5.14. SP personnel posted to DPTC as instructors should be screened to ensure that they have the skills and attributes required for such duties.
- 5.15. Action be taken to fill the ADF staff vacancies at the DPTC.
- 5.16. CDF's Directive establishing the DPTC be rewritten to incorporate the changes proposed by this audit report and be repromulgated. The new CDF Directive for the DPTC should incorporate specific SP training reform objectives to be achieved by the Commandant by specified times during his appointment.
- 5.17. Navy and Air Force senior leadership become more involved with the DPTC.
- 5.18. A formal and funded ADF Investigator Development Program should be developed and coordinated by the PM-ADF with the assistance of Service personnel authorities.
- 5.19. ADF commanders of all ranks should be informed that an SP of any rank who has undergone scene of incident and crime scene management training at the DPTC is more qualified than they to assess and control a crime or incident scene.

5.20. All SP and all other ADF people be taught and understand that knowing what *not* to do at an incident or crime scene is equally important as knowing what to do.

5.21. The PM-ADF should establish a feedback loop between his office, the ODMP and the DPTC to, inter alia, facilitate improvement in the standard of briefs of evidence.

CHAPTER 6 – RESOURCES

6.1. A consistent application of additional administrative support to the ADF investigative capability be made in order to help improve their timeliness.

6.2. While also taking action to improve the recruitment and retention of investigators, the thrust of reform be on improving the effectiveness and efficiency of the existing workforce.

6.3. The ADF investigative capability be provided with information technology support that aids in the planning, execution, management, quality control and periodic evaluation of investigations and operations. A new system must: allow interviews, statements, photographic and graphic material, and exhibit identification and tracking, formatted into a brief of evidence suitable for transmission to the ODMP or other recipient and cater for more sophisticated link analysis in relation to single, multiple and related incidents and events, offences, people of interest (suspects, offenders, and associates), witnesses, vehicles, addresses, telephone numbers, and other data highly relevant to operations.

6.4. Defence proceed with the Stage 2 upgrade of DPSMS as a matter of urgency.

6.5. An experienced SP member be nominated to assist in the development of DPSMS Stage 2.

6.6. DPTC must become a centre of excellence in DPSMS instruction. To avoid the detrimental effects of ADF posting ‘churn’, appropriately experienced and trained civilians should provide DPSMS training at the DPTC. Action be taken now to recruit, train and appoint to appropriate DPTC civilian DPSMS instructors.

6.7. Analysts Notebook be funded by DPSMS Stage 2 and made available to all ADO investigators.

CHAPTER 7 – NEW SERVICE POLICE INVESTIGATION COMMAND, ORGANISATION AND CONDITIONS OF SERVICE ARRANGEMENTS

7.1. The Australian Defence Force Investigation Service (ADFIS) be established outside the Service chains of command answerable directly to CDF through its

commander the PM-ADF, as the most effective, efficient and economic future use of ADF investigative resources.

7.2. Any Service plans to reduce existing investigator establishment positions or staffing levels, by means of the Army Personnel Establishment Plan (APEP) for example, should be cancelled and posting priority should be given to staffing the ADFIS.

7.3. The ADF's need for garrison policing be reviewed.

7.4. The draft CDF Directive at Attachment 1 to Chapter 7 of this report be used to establish the ADFIS.

7.5. The role of the ADFIS be established as *“to assist the CDF to maintain ADF discipline through the lawful, ethical and effective investigation of matters involving ADF members, independent of Service chains of command.”*

7.6. The functions of the ADFIS be established as to:

- a. *“Inquire into matters involving ADF members and Defence Civilians and collect relevant material to a standard acceptable for use, if required, by competent ADF and civilian authorities.*
- b. *Keep CDF informed of results of, and trends in, ADF discipline matters.*
- c. *Maintain a police intelligence capability to support investigations and operations and provide effective crime prevention and detection measures.*
- d. *Monitor developments in Australian civil and allied military law enforcement in order to adjust ADF policy, training and procedures as required to maintain best investigative practice.”*

7.7. ADFIS investigators be empowered to investigate any matter within the jurisdiction of the DFDA and all other SP who have completed the Service Police Basic Course and/or the Military Police Investigations Course, and non-SP SNCO or officers appointed under Section 101 of the DFDA, be limited to the investigation of:

- a. insubordination,
- b. failure to comply,
- c. absence without leave,
- d. creating a disturbance,
- e. prejudicial behaviour,
- f. disobedience,
- g. negligent performance of duty, and
- h. insulting or provocative words.

7.8. The ADFIS workforce should be comprised of suitably qualified ADF investigators and suitably qualified civilians, either Defence APS members or Professional Service Providers, all engaged under suitable employment terms in order to undertake investigations.

7.9. The ADFIS be commanded by the PM-ADF and his duties be as described in the draft duty statement at Attachment 2 to Chapter 7 of this report.

7.10. The CDF approach the Commissioner of the AFP to identify and obtain the services of a suitably qualified and experienced AFP member to advise the PM-ADF in the implementation of the agreed recommendations of this audit report.

7.11. ADFIS incorporate a Major Investigations Team (MIT) comprised of highly qualified and experienced investigators with the primary role of conducting major, complex and sensitive investigation.

7.12. ADFIS base its professional policing standards on those of Australian law enforcement agencies.

7.13. ADFIS introduce a Quality Assurance Review and Reporting regime to ensure the quality and standard of its output.

7.14. All appropriate ADF training and education include content aimed at generating amongst ADF officers an acknowledgement that an effective and efficient SP investigative capability is an essential aid to them in fulfilling their responsibility to maintain discipline amongst those ADF members they command.

7.15. During their training ADF officers be informed that when a QA suggests to them that a serious Service or civilian offence may have been committed they no longer have any choice of action – they must refer the matter to SP forthwith, who will then arrange for civilian police involvement where necessary. This content should stipulate that, in the case of death or serious injury, a QA is irrelevant and the incident must be reported forthwith to SP.

7.16. A program of work be prepared aimed at developing a new joint culture shared by all ADF investigators in order to begin the process of rebuilding the confidence of ADF people in the ADF investigative capability

7.17. Disciplinary action be taken against ADF commanders who knowingly fail to report a serious Service or civilian offence to SP or are otherwise found to have kept knowledge of such a matter within their command or to have sought to have it dealt with it by inappropriate administrative or other means.

7.18. The PM-ADF be made responsible for the control and coordination of the development and maintenance of all ADF policy and doctrine relating to investigations.

7.19. The Australian Defence Investigation Policy and Coordination Committee (ADFIPCC) be established to subsume and expand on the role currently undertaken by meetings of the Heads of the Defence Investigative Authorities. Proposed Terms of Reference for the ADIPCC are at Attachment 3 to Chapter 7 of this report.

7.20. In order to overcome the deficiencies associated with the absence of any ADF policing and investigation planning and or coordination measures, the PM-ADF be allocated responsibility for development of an ADF Policing Plan and a Major Investigation Plan (MIP).

7.21. Particular care be taken in appointing suitable officers and SNCOs to leadership and instructional positions at the DPTC.

7.22. Use of the term Special Investigations Branch (SIB) cease in the ADF.

7.23. Formal and informal lines of communication and liaison be established and maintained by the PM-ADF with Federal, State and Territory law enforcement bodies, and that full membership or observer status be acquired of the relevant professional forums of those bodies.

7.24. ADFIS investigators continue the practice of selectively wearing plain clothes in Australia and that the decision when to do so be left to the discretion of investigator supervisors.

7.25. ADFIS personnel be issued with a suitable form of identification badge and card.

7.26. Uncertainty over the legality of employing civilians to investigate offences by ADF members under the DFDA be removed by amendment of the DFDA if necessary. (see also related Recommendation 1.3).

7.27. The matter of compensating SP for the costs of wearing plain clothes be reviewed by Defence pay and employment conditions authorities with a view to obtaining approval for the payment of an allowance to members of the ADFIS.

7.28. ADFIS investigators undertake selected training courses and suitable secondments available in the Federal, State and Territory police forces within a personnel management and development framework based on an equitable, regulated and deliberate policy of *essential skills acquisition*, career development and advancement for the right people at the right time.

7.29. The PM-ADF coordinate the appointment of investigators within this development framework, with the assistance of Service personnel authorities.

7.30. The ADFIS establish a police intelligence capability in support of operations and to inform ADF leadership of the nature, extent and effect of existing and emerging criminal threats, to enable timely effective counter-measures.

7.31. APS officers should be appointed to develop and maintain the ADF policing intelligence capability.

7.32. To meet the need for organic ADFIS legal capability, the Major (E) legal officer position at 1 MP Battalion be transferred to the ADFIS and that the ADFIS establish a means of obtaining from ODMP a direct and authoritative source of legal advice.

7.33. ADFIS incorporate a technical capability sufficient to support operations that are not dependent, at the present stage of ADFIS development, on specific legislative sanction.

7.34. As an urgent priority, the ADF enter into formal arrangements with, principally, the AFP, for the provision of forensic services in Australia and overseas with specific emphasis given to major incidents or crimes involving the non-combat related death of, or serious injury to, ADF personnel.

7.35. The ADF formulate a service level agreement with the AFP for the ADF to contribute to the maintenance of a modestly priced forensic capability in the AFP and, in exchange, receive priority in major incidents and crimes.

7.36. The ADF consider implementing a fingerprint and DNA signature recording program for all its members.

CHAPTER 8 – AN ACTION PLAN

8.1. The action plan as proposed in Chapter 8 be implemented.

CHAPTER 1 – THE NATURE OF ADF INVESTIGATIONS

Inquiry and Investigation

- 1.1. As defined, the words ‘inquiry’ and investigation’ are synonymous. However, the Australian Defence Organisation (ADO) uses a number of different types of investigations and inquiries, and has investigation and inquiry agencies, each of which either has the right or is seeking the right to investigate matters involving ADF members. The purpose of this chapter is to clarify for readers the investigation capability that is the subject of this audit report.

Types of Investigation

- 1.2. The types of investigations and inquiries conducted by ADF authorities are described in, and authorised by, four separate documents. The first is the Defence Inquiry Regulations 1985 (DIR) made under the Defence Act 1903, the Naval Defence Act 1910 and the Air Force Act 1923. The second is the Defence Force Discipline Act 1982 (DFDA). The third is Australian Defence Force Publication (ADFP) 06.1.4 – Administrative Inquiries Manual (AIM), while the last is ADFP 731 – Medical Guide to Aircraft Accident/Incident Investigation.
- 1.3. The DIR defines an inquiry simply as “an inquiry under these regulations” and lists five types of them. They are:
 1. A *general court of inquiry* that may be formed “to inquire into such matters concerning the Defence Force as are specified in the instrument”.
 2. A *board of inquiry* that may be formed to “inquire into such matters concerning the administration of the Defence Force as specified in the instrument”.
 3. A *combined board of inquiry* that may be formed “to inquire into...a matter concerning the Defence Force that involves the armed forces of another country or of other countries”.
 4. Under the heading “Investigating officers and inquiry assistants”, provision is made for an “Inquiry Officer” to be appointed “to inquire into a matter concerning part of the Defence Force”.
 5. Inquiries by persons appointed by the Inspector General ADF (IGADF) as an Inquiry Officer to “inquire into the matter for which he or she is appointed”.
- 1.4. The AIM provides advice on the conduct of those administrative inquiries listed in the DIR, adds one more form of inquiry, the *Routine Inquiry*, and states in Paragraph 1.9 the objectives of all inquiries as being:
 - a. *to collect and assemble information and, in some cases, preserve documents and equipment;*
 - b. *to gather the best available information with the least possible delay;*

- c. *to establish facts known to be true and those that may be inferred from all available information;*
 - d. *to make findings on the basis of the information collected; and*
 - e. *to make recommendations arising from the findings concerning remedial or other action, including administrative action or the initiation of a separate investigation by Service or civilian police.”*
- 1.5. *Routine Inquiries* are stated in the Manual to be conducted in relation to a broad range of matters which arise in a unit from day to day and with as little formality as possible, free from the constraints and legal requirements under the DIR.
- 1.6. In the DFDA ‘investigation’ is not defined. However, ‘investigating officer’ is defined in Section 101 of the DFDA as “a. a police member, or b. an officer, warrant officer or non-commissioned officer (not being a police member) engaged in the investigation of a Service offence”.
- 1.7. **Aircraft Crash Investigation.** While beyond the terms of reference of this audit, it is appropriate that we point out that action might be warranted to ensure consistency between different sources of policy on ADF aircraft crash investigation. Specifically, ADFP 731 – *The Medical Guide to Aircraft Accident/Incident Investigation* may not reflect either the provisions of higher level policy guidance contained in Defence Instructions or those of general ADF investigative practice.

Who conducts ADF Investigations

- 1.8. Defence has a number of what are called Defence Investigative Authorities (DIA) that conduct investigations for the Department of Defence and the ADF. They are:
- Headed by a Band 2 level member of the Australian Public Service (APS), the Inspector General Division (IG-D) of the Department of Defence provides independent analysis, review, evaluation and investigation of the probity and effectiveness of program delivery and resource management. Additionally, its management audit function independently reviews the regularity, economy, efficiency and effectiveness of expenditure and of management policies and practices within all Defence Groups. IG-D investigations are conducted in accordance with a 1991 Directive and a 2005 Charter both issued by the Secretary of the Department of Defence and the Chief of the Defence Force (CDF).
 - Headed by an Executive Level 2 APS member, the Security Investigations Unit (SIU) of the Defence Security Authority (DSA) is responsible for the conduct of complex and major security investigations. Its investigations are conducted under the authority of the Secretary of the Department of Defence and the CDF.

- Headed by officers of Lieutenant Colonel and equivalent rank of the Navy and Air Force appointed as Provost Marshal (PM), the three SP organisations: the Navy's Naval Police Coxswain (NPC) category, the Army's Royal Australian Corps of Military Police (RACMP) and the Air Force's Security Police (SECPOL) all of which derive their investigative authority from the DFDA.
- 1.9. While not a designated DIA, the IGADF also conducts ADF investigations. The IGADF is a statutory authority whose main function is to provide the CDF with an internal review of the military justice system, separate from the normal chain of command, and to provide an avenue by which failures in the system – systemic or otherwise – may be examined. His investigations are conducted under the authority of section 8 of the Defence Act 1903.

Definition and Characteristics of a SP investigation

- 1.10. It is not clear to us that the extent of the mandate of each DIA has ever been formally considered, compared and agreed. However, a concise definition of a SP investigation that we recommend for adoption by the ADO is:

An inquiry into matters involving ADF members or Defence Civilians and the collection and presentation of relevant material to a standard acceptable for use, if required, by competent ADF and civilian authorities.

- 1.11. A SP investigation has, in the opinion of the audit team, the following characteristics:
- it is not a Quick Assessment (QA) (nor is a QA an investigation);
 - it is one possible outcome of a QA;
 - it must be independent and unfettered;
 - it must be impartial;
 - it must be conducted fairly and prudently in a manner consistent with authorised investigative policy;
 - it is not an administrative inquiry undertaken in accordance with the DIR or the AIM;
 - investigations differ from administrative inquiries by being concerned, from initiation, with the possibility of the commission of an offence under the DFDA or civilian criminal law;
 - it cannot be bound by externally (e.g. by command) imposed time or resource constraints; and
 - to obstruct, hinder or otherwise delay a SP investigation may result in disciplinary or criminal proceedings.

Choice of Investigation Method

- 1.12. This audit report is therefore focused on SP investigations but clearly they are but one of a number of investigation methods available to collect information on matters involving ADF people. For an ADF commander or a commanding officer the availability of multiple methods can be confusing, and produce a risk of the incorrect method being chosen. For example, it has been put to the audit team that SP need not be involved in an incident involving the death of an ADF member if it appears to the local commander that the death occurred by accident. Further, it was also put to us that the improper discharge of a Service weapon occasioning injury to a person in an ADF area of operations need not involve SP but could be handled by an appointment of an inquiry officer. We believe both arguments are wrong and that greater policy clarity is necessary in order to reduce the risk of the wrong method being chosen.
- 1.13. While a high degree of cooperation exists between the DIAs, and between them and the IGADF, competition, demarcation disputes and role uncertainty also exist. Audit team members were told that both the IG-D and the DSA SIU have sought, or were in the process of seeking, legal advice from sources external to Defence as to whether they could investigate offences under the DFDA. There may well be merit in doing this – for example, in the case of fraud investigations for the IG-D and for security incidents in the case of SIU. However, the maintenance of ADF discipline is the responsibility of the CDF and the DFDA exists for that purpose alone. It should not be up to individual non-ADF organisations or individuals within them to determine whether they should investigate ADF members and offences committed under the DFDA. The CDF should make that decision informed by legal advice and the advice of the Service Chiefs responsible to him for maintaining discipline in their respective Services.

Lack of Standardisation

- 1.14. The audit team has observed considerable variation in investigation standards between and within the different DIA and concluded that this detracts from efforts to maintain a high standard of ADF discipline and an effective military justice system. At the very least, there is no consistent level of conformance with the Australian Government Investigation Standard (AGIS) 2003, particularly in so far as Service aircraft accident investigation is concerned. An appropriate level of standardisation between ADO investigation agencies is considered to be essential. A detailed discussion on this matter and possible policy, doctrine and procedural means of improving standards is contained in Chapter 4.

Summary

- 1.15. ADF commanders and commanding officers have available to them a number of investigatory agencies and methods having overlapping or unclear divisions of investigative responsibility. There exists a significant risk of the incorrect investigation agency or method being selected, and no consistency in investigation standards.

Recommendations

- 1.16. The audit team recommends that:

- 1.1. The ADF should adopt one definition of a SP investigation and reflect that in all relevant policy and doctrine, whether Departmental or ADF. The proposed definition is:

An inquiry into matters involving ADF members or Defence Civilians and the collection and presentation of relevant material to a standard acceptable for use, if required, by competent ADF and civilian authorities.

- 1.2. Action be taken to ensure consistency between the different sources of policy on ADF aircraft crash investigation
- 1.3. CDF should decide whether it is appropriate to empower civilian investigators of non-ADF Defence organisations to investigate ADF people for alleged breaches of the DFDA.
- 1.4. The ADO should adopt a common investigation standard promulgated in one Defence investigation policy to be complied with by all DIAs and all their investigators.
- 1.5. Those ADF members empowered to initiate investigations and inquiries receive formal familiarisation with the types and methods available to them.

CHAPTER 2 – THE ENVIRONMENT IN WHICH ADF INVESTIGATIONS ARE CONDUCTED

Deficiencies in SP Investigations

- 2.1 The principal deficiencies in SP investigations identified by the audit team are untimeliness and inferior quality briefs of evidence. Other perceived deficiencies included the less-than-impartial pursuit by SP of alleged offenders in order to achieve a successful prosecution, a focus on finding guilt rather than simply inquiring thoroughly and collecting material for possible evidentiary purposes, and a lack of investigation experience, capacity and skill. However, we consider that it is wrong to attribute blame for all the perceived deficiencies to SP. Instead, problems exist in both the *manner* in which SP investigations are conducted and the *environment* in which they conduct them.
- 2.2 It should not surprise anyone that a significant problem exists in the environment. There have been several reviews related to SP and to ADF investigations conducted over the last decade or so, notably that done of the Army investigative capability by Ernst & Young in 2004. In each review, deficiencies and weaknesses were identified, solutions offered and recommendations made yet it seems, particularly in the eyes of SP, that little discernible improvement has resulted. It is not to say that changes have not been made, they have, but for SP and the ADF investigation capability, it has been minor, at the low end of the change scale. Fundamental issues of attitude, perception, staffing, employment, conditions of service and maintenance of standards have not been addressed.
- 2.3 Deficiencies in the manner in which SP investigations are conducted are addressed in Chapters 3 to 8. In this chapter we discuss the environment in which investigations are conducted.

Lack of Role Clarity

- 2.4 It is not merely that, as illustrated in Attachment 1 to this Chapter, each of the Services has a demonstrably different practical emphasis on the use of SP on bases or in the field, rather it is an undeveloped, unshared view on the part of commanders and commanding officers and indeed among SP themselves, as to the place, purpose and standing of SP in fulfilling the mission of the contemporary ADF. The investigative function is similarly fraught, with a wide divergence of opinions on its role and purpose. In the case of the Navy and the Air Force the investigative role is more uncertain and obscure than in Army. In the Navy, investigator duties can be one of some 25 functions set for a coxswain of a major warship. The RAAF SECPOL investigative role seems to have been suppressed for some years due to an emphasis on base security and counter intelligence. The audit team considers that coxswains at sea are overworked ‘jacks of all trades’ and that the SECPOL community has lost direction, in part by endeavouring to construct an intelligence role for itself. A review of the duties

- imposed on coxswains seems warranted, as is a careful examination of the required intelligence function of SECPOL, in order to identify the specific area of it that should best involve them. In this regard, Chapter 7 of this report describes the need for ADF ‘police intelligence’.
- 2.5 The fundamental absence of an informed and shared understanding of the role of SP investigators is compounded by the antipathy of some ADF members towards SP in relation to their conduct of the more serious and complex investigations. Australian historical factors, wariness of any police, Service or civilian, a view that SP are failures in other categories, corps and musterings, and a low regard for SP investigator skills are major contributory factors. More worryingly, it is clear to the audit team that there exists a ‘how dare you attitude’ towards being investigated by a member of your own Service and a feeling that SP investigations are inappropriate when ‘he’s a good bloke’ or ‘a good soldier’. All these attitudes contribute to what, in the opinion of the audit team, is an unhealthy environment for the conduct of an investigative activity that has a direct bearing on the maintenance of appropriate standards of ADF discipline and justice.
- 2.6 Peculiar to ADF commanders is a dilemma that arises from them having a duty of care and responsibility for both the offender or suspect and the victim in cases where a disciplinary or criminal offence has been committed within a unit. From our interviews it seems possible that this leads to a situation in which the commander is beset with divided loyalties – to the offender and to the victim, both of whom are under his or her command. In these circumstances an SP investigation can be regarded as a threat to members of that unit rather than as the very means for a commander to have a matter investigated impartially.
- 2.7 As the Ernst & Young study also found, many ADF people do not believe SP have an *independent* investigative function. Lack of knowledge on the part of commanders, low regard for investigator skills, not regarding investigation as a core ADF function, and placing higher priority on non-investigative and more attractive SP functions such as RAAF ‘counter-intelligence’, Army close personal protection (CPP) and military dog handling, all contribute to the relegation of SP investigations to a low rung on the ladder of ADF capability.
- 2.8 Neither the joint SP culture nor the single Service SP culture is strong. A joint investigator culture has not been identified but among investigators of all Services met by the audit team there is a strongly held opinion that a joint investigations community and culture should be developed – while retaining parent single Service links.
- 2.9 There are a number of additional factors that affect the investigative capability. While they will be addressed in detail later in this report, it is appropriate to say here that they include: rivalries and antipathy between general duties SP and investigator factions, most evident in Army; the relative youth and inexperience of a many investigators; the pressing need to update and upgrade investigator

training and tradecraft; a workload that is disproportionately high when minor disciplinary infractions are factored in; the absence of case and investigative management tools; outdated computer systems; inadequate or non-existent support staff to relieve investigators of routine, time-wasting administration; and the paucity of formal and informal, internal (especially with legal officers) and external relationships and contacts which would broaden and deepen the experience and the competence of SP.

Different Roles and Powers of Civilian and Military Police

- 2.10 SP do not share the constitutional characteristics of civilian police in Australia. SP are not bestowed the powers of civilian police - they are confined to administering military law. Indeed, SP more closely resemble the internal investigation elements found in civilian police and some Public Service agencies. Some view this circumscription as inhibiting SP in the performance of their duties, yet equally there is an acceptance that there would be resistance, at least at present, to the notion of extending the civil powers of constable to SP, no matter how desirable that may be in practical terms when they are required to reach into the civilian environment for assistance and information in discharging their duties. However, this does not mean SP do not, or should not, adopt the long settled principles that govern policing in the liberal state. SP, as with their civilian counterparts, ought to perform their duties independently, lawfully and ethically and without fear, favour, malice or ill-will. Ultimately, they are answerable to the law for their actions and their independence in investigations should not be fettered by a commander or commanding officer when they are investigating a matter relating to an ADF member. In terms of their proper governance, conduct and professional performance, SP are of course accountable to the CDF via the chain of command.
- 2.11 The audit revealed that of the three SP organisations, Army SP tended to identify more with civil police than was evident in Navy or Air Force people, although this varied depending on their age, background and experience. Older SP members, especially in Army, asserted that the culture of SP had changed from the days when SP investigators were 'feared' and, in the Army at least, were referred to colloquially as 'body snatchers'. This was not so much a lament, but rather rueful recognition that the authority and influence of SP had waned, and that this was a negative development.

Command Perceptions

- 2.12 The audit found that there is a divergence of opinion on answers to the question "For whom do investigators work?" Many commanders held that investigators work for the command in which an incident has occurred or from which it is reported. Some suggested the relevant Service PM. Few thought that investigators act on behalf of the CDF and military justice, or indeed were answerable ultimately to the law in the proper execution of their duties

- 2.13 We believe that SP investigations have been and continue to be interfered with by commanders. Some of this interference is wilful and intended to thwart the conduct and outcomes of investigations. However, it is clear to the team that the far greater proportion of interference occurs because the command chain, and individual commanders at all levels of the chain, believe it is their right, indeed their duty, to determine whether an SP investigation will be conducted, how it will be conducted, by whom and how. This latter type of interference is not of a criminal, dishonest or mischievous nature. It is the behaviour of well-intentioned officers of all ranks, Services, both genders and diverse background who genuinely believe that command interests and responsibility are of central importance and should invariably take precedence over the interests of individuals. Where in the civilian community the natural inclination would be to call police in response to an incident, the initial ADF response can be to manage context, to maximise the freedom of command decision making and to find ways to deal with matters, by administrative inquiries for example, other than by using police, civilian or Service.
- 2.14 The pre-eminence of command authority in the minds of ADF people is not accidental. For very sound operational reasons the ADF places very strong emphasis on the need for a unified, joint, continuous, well informed command as a prerequisite for operational success. Command is a central feature of military training, command opportunities are the career appointments most highly prized and sought after, and the most senior ADF ranks are populated by those who have demonstrated an ability to command.
- 2.15 As made clear in the Government's response to the 2005 Senate Report ² "The maintenance of effective discipline is indivisible from the function of command...". As a result, SP and their investigative elements are not considered to have a function independent of the command. This thinking can be observed in the RAAF publication AAP 4332.001 where the mission of RAAF SECPOLE is defined as being to "*contribute to military capability by creating conditions that enable commanders to have freedom of action...*" The emphasis is being placed on the needs of the command chain rather than on simply deciding what is the right thing to be done by the right people at the right time.
- 2.16 There are, at the other extreme, some commanders who want SP assistance but only when *they* dictate the terms, for command-specific purposes. Some commanders actively involve SP, unnecessarily in our view, in the investigation of low level disciplinary matters as they consider the current disciplinary environment is a quagmire which unduly emphasises process at the expense of a fair, just, and importantly, timely outcome. Some commanders say they and their contemporaries have become 'risk averse' and feel they must set about 'doing something', including dotting every 'i' and crossing every 't' in even the most

² Government Response to the Senate Foreign Affairs, Defence and Trade References Committee report "*The Effectiveness of Australia's Military Justice System*", dated 5 Oct 2005 (Senate Hansard).

minor cases, lest censure follow. Exercise of discretion and the test of reasonableness are obsolete, even if pursuit of the complaint or offence is unreasonable or disproportionate in terms of the time and cost expended to achieve a 'result'. It seems to us that in some cases the *process* of investigation has become more important than the outcome. Accordingly, many SP investigators are fearful of exercising a reasonably applied discretion not to investigate minor or trivial matters for the same reason

- 2.17 In Paragraph 2.24 we discuss the questionable, excessive practice of SP investigating cases of indiscipline best dealt with more appropriately and expeditiously by commanders.
- 2.18 It was put to the audit team by ADF commanders on a number of separate occasions that ADF personnel deployed on operations might be hesitant in performing their combat duties if they believed that they might be held to account for their actions through SP investigations. Indeed, this was argued as a reason why ADF investigators should not routinely accompany ADF forces on operations – as opposed to 'flying in' to investigate a particular incident. The fear appears to be based on the misapprehension that SP investigations will as a matter of course, be undertaken into the activities that are integral to combat and combat related duties, rather than into incidents that appear not part of routine activity. To us this misapprehension indicates that a weakness exists in the ADF training and development processes, particularly for commanders and commanding officers.
- 2.19 While there may be sound occupational health and safety reasons to control entry to a ship, base or other workplace it is clear that some commanding officers seek to control the involvement of SP in investigating matters in their units. For example, a number of ADF units have signs at entry points directing SP and civilian police to report to unit guard posts before entering. The singling out of police amongst the many different types of people who might visit a unit, in our view, conveys an unacceptable message that police investigations will occur in those units only at the discretion of unit command. No individual or unit should have such discretion and we recommend that the signs be amended to remove any reference to SP or civilian police.
- 2.20 The audit team found that many SP believe that some ADF units are 'command-protected' and exempt from the discipline and justice processes applying elsewhere in the ADF, particularly the employment of SP in investigating incidents that occur within them. Strong and widespread perceptions exist amongst SP and some ADF officers that Army special forces and some infantry units in particular are subject to extraordinary and extra-legal processes involving untrained investigators, the non-reporting of Notifiable Incidents (NI), failure to pass important and accurate information up to the highest levels and failure to properly investigate offences. The audit team was unable to determine whether or not these perceptions are well founded. However, given that the perceptions certainly exist, the higher than usual levels of national and operational security

attendant to special operations and the regard in which members of the special forces are currently held by sections of the Australian community, we consider it important that the perceptions be dispelled. In the longer term, the ADF and the Army will be harmed if they are allowed to linger. Strict adherence to process in the reporting and investigation of incidents, the cooperative employment of appropriately qualified SP investigators in these matters, and the development of more effective working relationships seem vital.

- 2.21 The QA and NI policies have played a distinct part in shaping the environment in which SP operate. The audit reveals that the QA - the otherwise useful method by which a Notifiable Incident is initially assessed on the *known* facts for the purpose of deciding what avenue is appropriate in dealing with it, is frequently misused. Misuse of the QA has caused investigations not to occur, or to be delayed or compromised. Recommendations are made in Chapter 4 on policy actions needed to overcome this problem.

Untimeliness of Investigations

- 2.22 The most common criticism of SP heard by the audit team was that their investigations take far too long and that, as a result, justice is neither done nor seen to be done. While it cannot be disputed that their investigations are indeed generally untimely, the reasons for this are complex. In our opinion factors contributing to this untimeliness include:

1. SP understaffing and inexperience;
2. disproportionately distributed workloads for SP investigators;
3. the misemployment of investigators in indiscipline cases more properly undertaken by unit staff members;
4. the lack of a case categorisation and prioritisation model to accept, reject or remit cases elsewhere on a consistent basis;
5. lack of administrative support to some investigators;
6. investigator involvement in formation or unit ceremonial and other activity to the detriment of investigations;
7. attribution to SP of delays that occur after a brief of evidence is passed for action to the Office of the Director of Military Prosecutions (ODMP);
8. untimely handling of briefs of evidence arising from differences of opinion between legal officers and investigators over their required content and quality;
9. avoidable delays in both the investigative and prosecutorial processes arising from Service career management agencies posting ADF personnel without knowledge or consideration of the needs of investigators or prosecutors and the inability of both groups to influence those actions;
10. lack of modern information technology support to streamline the reporting, conduct and management of investigations and brief of evidence preparation; and
11. the apparent lack of SP authority to exercise reasonable discretion in whether to refuse to investigate or to cease the investigation of matters that are unproductive by reason of cost effectiveness or likely outcome.

- 2.23 Points 1 and 2 are addressed in detail in Chapter 3 –The Current Service Police Investigative Capability. Points 9 and 10 will be addressed in Chapter 6 – Resources. The other points are addressed in the following paragraphs.
- 2.24 **Misemployment of Investigators.** A significant percentage of disciplinary matters remitted by commanders to SP would best be dealt with exclusively by commanders, in the interests of obtaining a timely outcome. SP investigators should have the freedom to hand back minor matters to units and to merely record but take no action on matters unlikely to produce a meaningful outcome. Better differentiation between types of offences, and development of a protocol to determine to which SP investigator effort should or should not be applied, should help alleviate this problem. Better use of Discipline Officers would also help considerably. Further consideration of these matters is contained in Paragraphs 2.29. to 2.31.
- 2.25 The audit team believes that investigators are often inappropriately and unnecessarily involved in the investigation of simple indiscipline cases better dealt with exclusively by commands. It is unclear when or why it was decided to overlay the handling of breaches of military discipline with the more onerous investigative practices and procedures more appropriate in the investigation of crime, but the effect has been to extend significantly the process of investigation, prosecution and final disposition. Some simple disciplinary cases that arguably could have been resolved to everyone’s satisfaction within hours or a few days at the most, have languished unresolved for two to three years.
- 2.26 The audit team was told that commanders and ADF members who have encountered such discipline cases have lost confidence in the military justice system and this is partly due to the cumbersome and slow passage of cases. Commanders and offending individuals are left dissatisfied by a process that denies the speedy resolution of comparatively trivial infractions. It also undermines command authority. For the offender, the burden of the process, the delays, and the uncertainty of the outcome often magnify the issue and cause undue psychological stress and provoke the offender to seek a level of legal support and avenues of redress quite disproportionate to the offence committed. Thus, the possibility of a just and proportionate result for all concerned is stifled by process.
- 2.27 **Lack of Administrative Support.** The provision of administrative support to SP is uneven, varying by Service and geographic location. While some investigators have high levels of administrative support others, notably in the areas where workloads are high (initial entry or other training establishments for example), have little or no support. Investigators therefore are diverted from their core investigative function by the need to complete such things as transport returns and to enter data on (‘user unfriendly’) systems. The latter is a particularly sore point amongst investigators which they attribute in part to a dysfunctional

Stage 1 of the Defence Policing and Security Management System (DPSMS). This is discussed in more detail in Chapter 6 – Resources.

2.28 **Delays in the ODMP.** The time that elapses between the receipt of a SP brief of evidence in the ODMP and prosecution is reported to be decreasing, from an average of 17 months pre-January 2004 to six months after January 2005. The audit team found that there are three principal reasons for delays that occur after a brief of evidence is passed to the ODMP. They are:

1. **ODMP is understaffed.** The recommendations of previous reviews have not yet been fully implemented because of what we were told was the unavailability of experienced legal officers. Until such time as sufficient numbers of qualified legal officers are appointed to the ODMP timelier handling of SP briefs of evidence will not occur. In the meantime, a process should be introduced to permit proper attribution of delay to the SP by clearly identifying when an investigation ceases and when ODMP action has begun. This process should be well supported by the DPSMS (see Chapter 6 – Resources).
2. **Content of Briefs of Evidence.** While beyond the terms of reference and capacity of the audit team to make recommendations on, we were told on a number of occasions that ODMP prosecutors seek a quality of brief of evidence that exceeds the requirement simply to establish a prima facie case and indeed may be unattainable. While inadequacies in doctrine (see Chapter 4 – Legislation, Policy and Doctrine) and the failure of individual investigators to abide by the doctrine compound the problem, this seems to be a fundamental matter that requires consideration by the appropriate Defence authority as a matter of priority. Agreement between the ODMP and DIAs on this matter is vital.
3. **Uncoordinated Posting Action.** The interstate and overseas posting of ADF complainants, plaintiffs and witnesses without reference to investigators and prosecutors compounds the difficulty of, and extends the time needed for, investigations. It has a similar effect on prosecution efforts to arrange and conduct trials. Operational requirements, departures from a Service, physical and mental health issues and training needs all contribute to this problem but, particularly in the more serious cases, there seems to be a need for a strong relationship between investigators and Service personnel authorities. Protocols are needed to facilitate personnel posting stability while investigation or prosecution work is in progress. Higher level coordination of this activity seems appropriate for attention by the new Provost Marshal ADF (PM-ADF).

Discipline Officers

- 2.29 An important factor in the unacceptable delays in investigations conducted by SP is that the measures (i.e. taping and videoing interviews) routinely used are more applicable to the investigation of criminal matters and consequently takes the investigation onto a path that is long, tortuous and frequently, unnecessarily, litigious. Such an approach is inimical to the swift, fair and certain outcome that should attend the correction of indiscipline and is unsatisfactory for both the offender and the command. The audit team recommended in Chapter 2 that SP should not be involved in the investigation of minor disciplinary offences more properly handled by unit staff members.
- 2.30 As we view the instilling and maintenance of discipline to be grounded chiefly on training, positive correction and remediation, and that punishment ought to be the last resort, any measures that will contribute to maintaining discipline while avoiding an approach more suited to dealing with criminal offences ought to be supported enthusiastically by all ADF commanders. The use of Discipline Officers is one such important measure.
- 2.31 The audit team recommends that use of Discipline Officers be promoted and they be used more widely than they are now. The last ADF review to recommend an expansion and greater use of the scheme was the Burchett Inquiry³ where it was recommended that it be extended to the rank of Army Captain and equivalent. The audit also confirmed Burchett's findings that, even though Discipline Officers were introduced in 1995, they are still not widely known or used in the ADF. A solution may be for CDF to mandate the use of the Discipline Officer scheme unless good grounds are identified and explained as to why it is not appropriate in a particular unit.

The Preferred Environment

- 2.32 The audit team believes that an efficient and effective investigative capability is a key element of a coherent and robust framework of measures – including: education and training; professional and ethical standards; quality assurance; inspection; audit and review, that contribute to setting and maintaining the requisite standards of professional conduct in the ADF expected by the Government and the public. The investigative function, therefore, ought to be seen as an integral tool in ensuring that when preventative measures have failed or are insufficient, standards of conduct are ultimately upheld through investigation and prosecution.
- 2.33 The primary purpose of ADF investigations is to contribute to the over-arching quality assurance of the ADF. Rather than being seen in a largely negative light of only having a punishment-related role, confidence must be developed in ADF

³ Report of an Inquiry into Military Justice in the Australian Defence Force, July 2001.

commanders and commanding officers that they can rely on (a reformed and improved) SP investigative capability to assist them in maintaining discipline, and to identify developments and trends that may affect the maintenance of discipline both in their command, and the ADO as a whole. Rather than an independent SP investigation capability being viewed as usurping command prerogatives, it ought to be treated as an indispensable tool of command. A professional and effective investigative capability is therefore essential to achieve two critical objectives:

1. to contribute to confidence of the public, the Government and the men and women who serve in the ADF that military justice is dispensed competently, impartially, fairly and without undue delay; and

2. to contribute to informing the CDF, senior command and commanders in a timely manner of internal trends and developments which, if not addressed, may reflect adversely on the ADF and bring the organisation into disrepute.

2.34 **Absence of Policing Planning.** The ADF does not have a ‘policing plan’ that encompasses all the many matters addressed in this Chapter on both a joint and individual Service basis. While certain aspects of ADF investigations and Service policing are coordinated by committee activity, liaison and goodwill, there is no overall coordination and prioritisation of work, across-Service distribution of resources to match and ‘even out’ workload, or effective joint development of policy and procedures. A policing plan is considered by the audit team to be vital in the effective conduct of both ADF investigations and policing overall. This matter is discussed further in Chapter 7.

Summary

2.35 In summary, ADF investigations take place in an environment that cannot be said to be conducive to an independent, unfettered, impartial, and fearless search for the truth in the interests of military justice. Add to this the long-standing shortfall in capable and experienced investigator staff, in the basic resources and systems to sustain them, and the absence of planning and it is little wonder that SP are unable to conduct most investigations in a timely and adequate manner and that, in consequence, their reputation has suffered.

Recommendations

2.36 The audit team recommends that:

2.1 Each Service review and clarify the function and roles of its SP organisation.

2.2. Action be taken to dispel the strong perception that exists amongst SP and some ADF officers that special forces units and some infantry units are exempt from ADF disciplinary policy and processes.

2.3. Action continue to ensure that the ODMP is provided with sufficient numbers of qualified and experienced staff.

2.4. The training of ADF commanders and commanding officers at all levels must emphasize:

- the importance of high quality SP investigations to the maintenance of discipline and the delivery of military justice,
- their responsibilities to support the conduct of investigations, and
- the consequences of impeding or obstructing an SP investigation.

2.5. Signs at the entrance to ADF units be amended to remove any reference to a need for Service or civilian police to report to unit guard houses.

2.6. Protocols should be developed between investigators and Service personnel posting authorities to ensure that the timeliness of SP investigations is not jeopardised by the posting or discharge of ADF members while investigation or prosecution work involving them is in progress.

2.7. In the interest of focussing effort on major investigations, SP investigators be given the discretion to prioritise and choose not to investigate, but to simply record, minor, 'one off' offences, where a successful conviction would be unlikely to justify the time, effort and other resources involved in the investigation.

2.8. Only in exceptional cases should SP investigators investigate matters of minor indiscipline more properly dealt with by commanders and their staffs.

2.9. An ADF policing plan be developed.

2.10. Use of the Discipline Officer scheme be mandatory in all units except where grounds not to do so have been identified and explained and approved by the relevant Service Chief.

2.11. The PM-ADF and the ODMP develop guidance for SP to use in the preparation of briefs of evidence to a standard acceptable for use by competent ADF and civilian authorities.

Attachment:

1. Functions and roles of the Service Police Organisations

FUNCTIONS AND ROLES OF THE SERVICE POLICE ORGANISATIONS

	Navy (DI(N) Admin 45 – 1)	Army	Air Force (AAP 4332.001)
Function/Mission	“...policing which encompasses law enforcement and the maintenance of good order and discipline in the RAN.”	The Army does not have an extant, modern, statement of RACMP function and roles. DI(A) PERS 183 – 1 is dated May 1994 and a new Land Warfare Doctrine Publication 0 – 1 – 3 <i>Military Police</i> is in the course of development. In the 1994 DI(A) the functions of the RACMP are shown as: <ul style="list-style-type: none"> • “a. to provide commanders with an essential element of command and control, • assist formations and units in operations, and • assist with the maintenance of morale and discipline within the Army.” 	“contribute to military capability by creating conditions that enable commanders to have freedom of action...by limiting the vulnerabilities of operations, materiel, information and personnel ...to both direct and indirect threats”.
Roles	Policing in accordance with the DFDA including: <ul style="list-style-type: none"> • Investigation • Managing the DPSMS • Police and law enforcement liaison • Recover absentees • Manage RAN arrest warrants • Whole ship coordination • Force protection (counter intelligence, security against espionage, sabotage, theft and damage, prisoner of war handling and tactical questioning) 	The following is an extract from a February 2006 CA letter to the RACMP: <ul style="list-style-type: none"> • Command and control support operations in the Hardened and Networked Army. • Providing impartial and modern investigative capabilities. • Liaison with State and Federal police. • Prisoner of war handling • Close personal protection • Military working dogs 	“Protect, enforce and advise” by undertaking: <ul style="list-style-type: none"> • Law enforcement • Investigations • Crime prevention • Residual order and discipline tasks • Force protection, • Counter intelligence, • Security intelligence, • Ground combat intelligence, • Operations security, • Protective security, • Security risk management, surveillance, • Records management, • Tactical law enforcement • Emergency response • Patrolling • Military working dog operations

CHAPTER 3 – THE CURRENT SERVICE POLICE INVESTIGATIVE CAPABILITY

Introduction

- 3.1. The principal deficiency of SP investigations is untimeliness. This has been attributed to the under-resourcing of SP, particularly with regard to staff numbers, and to an inordinately large workload. This chapter describes the current SP investigative capability in terms of workforce, workload and several other factors.

The Current SP Capability

- 3.2. While the audit is chiefly concerned with the investigative capability of SP, it was necessary to consider other SP matters. As a result, it was manifest that general duties SP were insufficient in number and too geographically dispersed to undertake consistent and sustained general duties or ‘garrison’ policing roles, on bases, or while deployed on operations. Essentially, all SP are either investigating offences or employed in their combat and non-combat tasks that have little or nothing to do with general duties policing.
- 3.3. As we have explained in Chapter 2, each Service expects quite different capabilities of its SP and that, in consequence, the skills and experience of SP are both uneven and limited. In Army, a significant proportion of general duties MP are currently deployed overseas, have recently returned from deployment or are preparing for subsequent rotations overseas. In the RAAF, ‘policing’ has ceased to exist with personnel from other employment ‘streams’ within SECPOL filling in as best they can. Navy has not conducted shore-based policing of installations for some time and effectively has no capability for this purpose. A significant outcome of the combined effect of these factors is that there is no longer any general duties SP capability devoted to ‘policing’ in any of the Services. Indeed, the audit team considers that the capability for SP conventional policing operations in Australia is so depleted as to have ceased to exist.

Nomenclature

- 3.4. For a layman, nomenclature used for aspects of the ADF’s SP capability can be confusing. Specific matters worthy of consideration in this context include:
 - **Navy.** As stated in paragraph 2.4, the NPC undertake many tasks, most of which are unrelated to policing. They include clerical duties related to leave and movement, ship husbandry and workforce management. The title NPC has its origins in the amalgamation of the old Naval Police, a non-seagoing policing element of the RAN, and the Coxswain category, an historical ship-based function focussed on the leadership of sailors, seamanship, the maintenance of discipline and personnel management. While the turmoil and discontent that accompanied this amalgamation has diminished significantly, it still lingers. In association with

the implementation of the agreed recommendations of this report, particularly Recommendation 2.1, there may be scope for the Navy to consider whether changes to the nomenclature and NPC duties are warranted.

- **Army.** The so called ‘regimental police’ used in Army units are not police but ordinary soldiers drawn from the unit’s workforce to provide a pool of labour for assignment by the unit hierarchy for tasks unrelated to any policing function. We recommend that use of the term Regimental Police cease, and that the word ‘police’ be associated only with the RACMP and its tasks. Regimental Police could accurately be called ‘unit orderlies’.
- **Air Force.** As is evident from the workforce data provided later in this chapter, and from observations made in Chapter 2, the RAAF SP organisation is unusual. While the Air Force is the smallest of the three Services it has the largest SP workforce with the smallest investigative workload. Moreover, and based on comments made to the audit team by SECPOL members, the workforce does little if any garrison policing, instead devoting most of its time to what are best described as physical and protective security and guarding tasks. However, the Air Force has a Airfield Defence Guards (ADG) capability. Against a background of our observation that “the RAAF SECPOL community has lost direction” it seems that like the Navy there may be scope for the Air Force to consider whether changes are warranted to some of its nomenclature and to SECPOL duties.
- **Provost Marshal.** On a number of occasions audit team interviewees have questioned the wisdom of continued ADF use of the term ‘provost marshal’. The audit team agrees that the term does lack meaning in a contemporary policing context but given that it seems to resonate in the minds of many ADF people, there is no impediment to its continued use to indicate a function as the head of a SP organisation.

Comparisons with Civil Police

- 3.5. In civil policing, investigators/detectives are drawn almost exclusively from the uniform component of a police force. The same practice has applied in the SP, however, the vocational development and the on-the-job experience of SP are not comparable with their civilian counterparts. Uniform civil police are engaged full-time on general policing duties, are exposed to a greater range and volume of crime and public order events, and are therefore continually being developed and tested to assume more difficult police work. They are not distracted by extraneous duties as are their military counterparts, for whom ‘policing’ is not their primary function, nor, in some cases, even a significant duty. At present, as it is for the wider ADF, readiness to perform combat roles is the primary role of SP, requiring them to train and deploy regularly. While this emphasis on combat skills is undeniably critical in the ADF, its adverse by-product is to render SP ill-equipped to perform garrison policing, let alone conduct investigations. For these reasons we conclude that a new joint Service investigative capability simply cannot be developed and sustained solely from the existing general duties SP base.

Desirable General Policing Tasks and Skills

- 3.6. The primary objective of an efficient police force is the *prevention and detection of crime and the preservation of public order and safety*. In performing their duties police must at all times maintain a relationship where they and the community are effectively one and the same, with police simply giving full-time attention to responsibilities for law and order incumbent on every citizen. In the ADF context, SP ought to be, and be seen to be, natural members of all military formations, whether permanently formed in Australia or formed temporarily for deployment. SP must conduct themselves so as to be part of, not set apart from, military formations if they are to gain the respect, confidence and ready co-operation of the members of those formations. SP must be accessible and visible in the performance of their duties and must make a point of engaging regularly with their assigned 'constituency', gaining the constituency's co-operation in securing observance of the law, receiving timely information from them, keeping abreast of occurrences and incidents, and learning quickly of offences and breaches, or, preferably, preventing them before they occur. SP should make it a point to liaise regularly with base and formation commanders and their staff so that valuable feed back is obtained on SP activities and performance.
- 3.7. At present, SP do not participate in the full range of community policing duties expected of civil police. SP roles are largely compartmentalized and exercised inconsistently, if not indiscriminately, and tend to be influenced by the whims and personal priorities of individual commanders, rather than in response to a formal, universal policing plan. SP roles are therefore more likely to be defined narrowly by the specific 'jobs'- such as dog handler - that constitute all or the greater part of their duties.
- 3.8. If it is accepted that a principal role of SP is the prevention and detection of crime and preservation of order and safety, then it follows that they must have 'visibility'. If the ADF wishes its SP to fulfil a role similar to that undertaken by civilian police, then SP must conduct mobile and foot patrols of bases and other areas where there are significant concentrations of ADF personnel and ADF assets and infrastructure. This responsibility ought not to be left to privately contracted security guards who essentially control perimeter access and have no function in maintaining discipline amongst ADF members. Ideally, such patrolling by SP ought to occur regularly and consistently, but not predictably, 24 hours a day, 365 days of the year. The value of SP patrols is not to be underestimated. Not only do they prevent and detect crime the 'presence' provides valuable local knowledge of people, their movements and the flow of life generally in a 'community'. In the civilian community it is quite often the local knowledge of informed uniform police that is instrumental in assisting investigators to solve crime.
- 3.9. SP could also expand their 'services' to their communities by introducing crime prevention programs, including the identification marking and recording of the

high-value and attractive personal items of Service personnel. They could also extend preventative measures to high-value ADF materiel.

- 3.10. Garrison policing also includes routine and random traffic operations, involving traffic stops for all manner of violations, including speeding and driving under the influence of alcohol or drugs. It is important to note that in civilian policing it is common for traffic operations to yield evidence of more serious offences having been committed.
- 3.11. While much of SP work tends to fall in the less serious range, it is more likely, particularly if they are deployed in sufficient number according to a policing plan, that general duties SP will be the first, or one of the first, to attend an incident or crime scene. Of course their immediate responsibility is to attend to injured or distressed victims and arrange for medical treatment; their next is to notify SP investigators. Therefore it is critical that all SP have good crime scene skills in order to preserve and protect the scene and any evidence, and to handle offenders, suspects and witnesses so that any spontaneous statements made and their visible actions or reactions are recorded contemporaneously in SP official notebooks and, as far as is possible, they be required to remain at the scene.

General Duty SP and Investigators

- 3.12. To a great extent, the efficiency and effectiveness of ADF investigative capability will depend on the relationship it has with general duties SP who are effectively the ‘eyes and ears’ of the ADF investigative capability on bases and in the field. It is therefore crucial that close, cordial and co-operative professional relations be fostered and maintained by regular formal and informal contact between their respective staff at all levels. This will take goodwill and effort on both sides in order that a ‘Them and Us’ culture is avoided.

What is an ADF Investigator?

- 3.13. For the purposes of a workforce analysis it is necessary that we differentiate between general duties and investigator-qualified SP. As we mentioned in Paragraph 1.6, the DFDA defines ‘investigating officer’ as “a. a police member, or b. an officer, warrant officer or non-commissioned officer (not being a police member) engaged in the investigation of a Service offence”. SP members undergo the training described in the following table in order to qualify as an investigator:

Course	Competency Obtained
For Navy and Army the Service Police Basic Course (SPBC) conducted at the DPTC or for RAAF SECPOL the Security Police Introduction Course conducted at the SFS.	In addition to obtaining a range of joint and single Service general duties policing competencies, a graduate of one of these courses is sufficiently skilled to investigate minor disciplinary offences only.
For Navy and Army, the Military Police Investigation Course (MPIC) conducted at the DPTC and for RAAF SECPOL the Special Investigations Basic Course conducted at the SFS.	These courses qualify SP to investigate some specified criminal offences.
For all three Services, the Investigator Qualifying Course (IQC) conducted at the DPTC	A graduate of this course is competent to investigate all disciplinary and criminal offences within DFDA jurisdiction.

Workforce

Table 1 - Navy – NPC Strength

	WO	CPO	PO	LS	TOTAL
MRU (1) demand	4	57	77	86	224
Current strength	6	47	62	68	183
Under/Over bearing	+ 2	- 10	- 15	- 18	- 41

Note:

1. MRU – Manpower Required in Uniform.

Table 2 - Navy – Numbers and Employment of Investigator Qualified NPC

	Sea in coxswain's positions	Shore in general NPC duties	Serving in dedicated investigator positions	Under training
Current strength	20	15	15	5

Table 3 - Navy – 12 Month Rolling Separation Rates

Trained Force												
	CPO			PO			LS			Total		
	Size	Out	%	Size	Out	%	Size	Out	%	Size	Out	%
03/04	49	8	16.3	64	8	12.5	66	4	6.0	179	20	11.2
04/05	47	4	48.5	65	6	9.2	70	5	7.1	182	15	8.2
Current	50	7	14	63	6	9.5	70	4	5.7	183	17	9.3

Table 4 - Navy – NPC Recruiting Performance against Targets

Year	Target	Achievement	Delta
2004	24	14	- 10
2005	24	15	- 9
2006 (YTD)	24	8	- 16

Army

Table 5 – Army - Military Police Strength

	WO1	WO2	SGT	CPL	TOTAL
MRU demand	7	33	57	158	255
Current strength	5	29	47	130	211
Under/Over bearing	- 2	- 4	- 10	-28	- 44

Table 6 - Army – Numbers and Employment of Investigator Qualified MP

	All serving in dedicated investigator positions	Under training
Current strength	44	nil
Under/Over bearing	- 13	nil

Table 7 - Army – MP 12 Month Rolling separation Rates

Trained Force															
	WO1			WO2			SGT			CPL			Total		
	Size	Out	%	Size	Out	%									
03/04	7	2	29	28	3	10	58	3	5	146	23	15	239	31	13
04/05	6	1	16	30	4	13	52	5	9	164	27	16	252	37	15
Current	6	1	16	29	4	13	47	7	15	130	15	11	212	27	13

Table 8 - Army – MP Recruiting Performance against Targets

Year	Target	Achievement	Delta
2004	36	32	- 4
2005	36	26	- 10
2006 (YTD)	18	11	- 7

3.14. It is noteworthy that of the total Army investigator workforce only 9% are fully qualified against the requirements of the Army's Employment Categorisation Number criteria, and in receipt of the pay that they could actually receive.

Air Force

Table 9 - Air Force – SECPOL Strength

	WOFF	FSGT	SGT	CPL	LAC/LACW	MRU
MRU demand	7	29	59	102	143	340
Current strength	8	31	61	89	149	338
Under/Over bearing	+ 1	+ 2	+ 2	- 13	+ 6	- 2

Table 10 - Air Force – Numbers and Employment of Investigator Qualified SECPOL

	Serving in general duties SECPOL duty position	Serving in dedicated investigator positions	Under training
Current strength	No dedicated general duties stream	36	0

Table 11 - Air Force – SECPOL 12 Month Rolling separation Rates

Trained Force															
	WO			FSGT			SGT			CPL			Total		
	Size	Out	%	Size	Out	%	Size	Out	%	Size	Out	%	Size	Out	%
03/04	6	2	33	26	1	3.9	49	3	6.1	97	11	11.3	306	19	6.2
04/05	6	0	0	28	0	0	51	3	5.9	94	7	7.5	325	17	5.2
Current	8	6	75	28	2	7.1	56	3	5.9	84	13	15.5	313	25	7.9

Table 12 - Air Force – SECPOL Recruiting Performance against Targets

Year	Target	Achievement	Delta
2004	40	35	- 5
2005	37	29	- 8
2006 (YTD)	46	36	- 10

Command Arrangements and Organisation

3.15. While Navy and Army SP training is conducted on a joint basis at the DPTC established by CDF directive, and while the newly appointed PM-ADF works

outside the Service chains of command, all other elements of the ADF SP and investigative capability are commanded and controlled by the Services. Investigators are organised and disposed geographically to meet single Service needs and priorities. While each Service does call upon the investigative resources of the others, particularly to investigate matters involving its own SP, this is done on a goodwill basis rather than under a formal arrangement. As a result, the workload is spread unevenly between and within Services with investigators from one Service having a very different size and complexity of workload than investigators of another Service working in the same geographical area, and investigators of their own Service in a different geographical area.

Absence of Policing and Investigation Planning

3.16. ADF policing and investigation activity is not currently planned or coordinated. There is no single, overarching Policing Plan to reflect the mission of policing in the ADF and to be a template for the prioritisation, conduct and management of policing operations. Similarly, there is no Major Investigation Plan (MIP) for the investigation of serious or complex matters that require the co-operation and coordination of diverse internal resources and/or external agencies. This state of affairs differs markedly from civilian best practice wherein the AFP and State and Territory police forces have long worked to a mutually developed MIP to conduct investigations that are inter-jurisdictional, require close collaboration, and clear and unambiguous command and control arrangements.

Workload

3.17. Data provided by the Service Provosts Marshal indicates that at the end of April 2006 the ADF-wide SP investigation workload was:

	Number of active investigations (1)	Average time the active investigations have been open	Number of cases awaiting trial	Of the cases awaiting trial, the average time between submission of a brief of evidence and trial
Navy	86	59 days	41	74 days (longest 171 days)
Army	297	139 days	Not available	Not available
Air Force	45	56 days	36	Not available

Note:

1. An active investigation is defined as one still in the hands of an investigator, and for which a brief of evidence has not been submitted.

Trends in the Number of SP Investigations

3.18. The numbers of investigations undertaken over the last four financial years are:

	02 - 03	03 -04	04 - 05	05 - 06
Navy	431	391	344	362
Army	1394	1203	911	1172
Air Force	365	327	246	185
Total	2190	1921	1501	1719

Trends in Time Taken to Investigate

3.19. Navy and Air Force report that the time taken to conduct investigations has been decreasing over recent years. Army reports that the time is increasing.

Investigation Caseload

3.20. Based on the data provided by the Services the caseload for investigators is as shown in the following table:

	Number of cases open at end April 06	Average number of open cases per investigator as at end April 06 (1)	Number of investigations undertaken in 05/06	Average number of cases undertaken per investigator in 05/06 (2)
Navy	86	1.9	362	8
Army	297	7	1172	27
Air Force	45	1.5	185	5

Notes:

1. Based on the number of investigator qualified persons actually engaged in investigation duties.
2. Based on an assessment of the number of investigator qualified persons actually engaged in investigation duties during 05 – 06. Essentially this is the same as referred to in Note 1.

3.21. Differences between the ways in which each Service records investigation data makes it impossible to do a valid case handling comparison and the use of averages can obscure the fact that, as we have mentioned in Paragraph 3.3, some investigators have large workloads while others have a comparatively light workload. Nevertheless, the workload seems to be decreasing over the period assessed with the most pronounced decrease evident in the Air Force.

3.22. A lack of data has prevented the audit team from assessing what the reasons may be for the decreasing investigation workload. On the one hand it could suggest that better leadership, better behaviour, better morale, better overall discipline and more effective use of means other than the DFDA to deal with some matters have

produced a pleasing reduction. On the hand, and as some of those interviewed have suggested to the audit team, some matters may simply not have been dealt with properly. Offences may be ignored, or dealt with by administrative rather than DFDA means because they are considered to be quicker or more certain of achieving a suitable result. Use of the notice to show cause and discharge to deal with ADF drug offenders may be an example, while the misuse of the DIR to deal with matters that should be investigated by SP under the DFDA may be another. Further development of recording mechanisms such as the Australian Defence Force Administrative Inquiry Tracking System (ADFAITS) may permit the ADF to identify with precision exactly why changes occur in the investigation workload.

Ratios of SP to the ADF Population

- 3.23. For reasons related to the differences that exist between the way civilian police and SP are employed, there is no useful benchmark against which to determine the adequacy of ADF investigator numbers in comparison with either those of Australian civilian police forces or the SP of allied countries. However, for the record, the ratio of SP investigators to the permanent service ADF population of about 52 000, is 1:331. The ratio for all SP - investigators and General Duties, to that population is 1:63. Given the range of duties undertaken by SP and the fact that the majority of ADF investigations do not involve serious Service offences (defined in Section 101 of the DFDA as those attracting a punishment of imprisonment for life or a period exceeding six months), and are therefore of a relatively minor nature in comparison with those investigated by civilian police, the ‘raw’ numbers of current ADF investigators seem to be adequate.

Workload and Workforce Summary

- 3.24. In Chapters 2 and 6 we refer to a range of factors that contribute to the untimeliness of investigations – poor IT support, misemployment of SP, lack of administrative support, protracted adjudication on briefs of evidence, disagreement over the required content of such briefs, lack of investigation planning and a lack of coordination between SP and personnel agencies. The data presented in this chapter suggests that the problem may be more complex than that. On the face of it the ADF has an investigator workforce of an acceptable size to deal with a diminishing investigation workload that is largely concerned with minor disciplinary offences. Low productivity arising from those factors, some of which are beyond their ability to control, is the principal problem for the investigator workforce in the opinion of the audit team.

Attraction and Recruiting

- 3.25. The principal attraction of a career as an SP investigator is the very nature and importance of an investigator’s work. In general, the work hours are longer for investigators than they are for general duties SP, there are no financial or non-

- financial conditions of service attractors and they generally encounter disdainful if not hostile attitudes and behaviour from some of their Service colleagues. In these circumstances, it is a credit to many investigators that they have persevered in what is largely a very unattractive work environment.
- 3.26. While some SP investigators are recruited directly from civilian employment with recognition of prior investigator learning, the principal source of SP and investigator recruitment, both commissioned and non-commissioned, is by transfer of category, corps or mustering in each Service. Members transfer to SP after having undergone initial entry and category/corps/mustering training, and reached the rank of Leading Seaman or Corporal. On successful completion of the SPBC at either the DPTC in the case of Navy and Army or the RAAF SFS for RAAF members, graduates are employed as SP and progress through the ranks in either the NPC category, the RACMP or the RAAF SECPOL mustering. Those wishing to can undertake specialist training and specialise as investigators.
- 3.27. Of particular concern for the audit team was the tendency of ADF people, even of high rank, to view SP as failures in their previous category, corps or mustering rather than as professionals. Most SP seemed to have been attracted by the nature of the SP job while others simply saw it as a better or more satisfying option than their previous ‘corps’ employment. Given the extra workload involved and complete absence of any financial or non-financial condition of service incentive, SP who became investigators did so as a result of a genuine interest in the duties involved. What is not clear is whether any real thought was, or is being, given to determining the aptitude of prospective investigators for the more demanding investigation duties. Combined with the deficiencies that exist in SP training (see Chapter 5 - Training) the lack of robust selection criteria suggests that not all members of the existing investigator workforce are well matched to the duties expected of them.

Morale and Retention

- 3.28. All three SP organisations function primarily because of the commitment and enthusiasm of a largely junior and relatively inexperienced investigator workforce. However, in the opinion of the audit team, morale amongst SP in general and investigators in particular, is not high. Reference to the wastage and recruitment data provided in the tables above suggests that low morale might be a contributory factor. While nobody we met gave the impression of having given up, there was a sense that if this audit fails to improve the lot of SP the consequences could be dire. Also, we have been struck by a view prevalent in the Navy and Army SP communities in particular that ‘time has run out’ for the investigative community and to a lesser degree SP overall. A number of SP told us that they are withholding their resignations only to see if this current audit produces meaningful improvement – unlike many earlier review reports including, in their opinion, the Ernst & Young report. If this is true, the civilian workforce demand for people possessing investigator skills suggests departing

ADF investigators could have well-remunerated employment options available outside the ADF.

Summary

- 3.29. As stated in paragraph 3.3, the SP general duties garrison policing capability has virtually ceased to exist. Different training, employment and record keeping practices made it difficult for the audit team to make accurate deductions from the data provided. However, investigator productivity is much lower than the data suggests it could be and it is clear that while there has been a decrease in the number of ADF investigations the investigative workforce is neither attracting sufficient recruits nor retaining sufficient experienced people.

CHAPTER 4 – LEGISLATION, POLICY AND DOCTRINE

Introduction

- 4.1. In Chapter 1 we recommended that the ADO adopt a common investigation standard to be incorporated in investigation policy and doctrine mandated by CDF and the Secretary for use by all DIAs. This chapter discusses the range of policy, doctrine and procedural matters that underpin that recommendation.
- 4.2. Many of the ADF people interviewed said that they are confused by what they perceive to be a morass of complex, legalistic, overlapping, frequently contradictory, and often outdated policy, doctrine and procedures related to justice, discipline and investigations. An audit team review of this policy and doctrine found that while Defence makes available for its people a very comprehensive and extensive body of policy advice, the volume of it, the extent of cross referencing and the attempts made in it to dot every ‘i’ and cross every ‘t’ produce a block of paper that is daunting for its intended users. Legal officers, some SP and other frequent users of the documents seem to become reasonably familiar and comfortable with using it but commanders, managers and supervisors, who change frequently in an ADF dealing with high wastage rates and posting ‘churn’, find it an ordeal to locate quickly the guidance they need in the stressful circumstances that arise after an incident becomes known.
- 4.3. Generally speaking, existing ADF policies, practices and procedures do not support the prioritisation, planning, execution, reporting and brief of evidence preparation, so essential in SP investigations, to the minimum standards required externally, let alone to best practice standards. This wastes time and effort, and the commensurately inflated costs thereby incurred, are exacerbated by an investigation IT support system that was not designed to support the investigative function from commencement through to brief of evidence preparation. This matter is addressed in detail in Chapter 6 – Resources.

Sources of Policy Guidance

- 4.4. Defence has many sources of guidance relating to the conduct of ADF investigations. For example, one such source, ADFP 06.1.4 – Administrative Inquiries Manual, lists 32 other sources of guidance relevant to administrative inquiries. All these and many others can be relevant to the conduct of SP investigations.
- 4.5. Audit team interviews revealed that many ADF people find it a frustration and a challenge to locate the correct, authoritative guidance they seek, particularly when confronted by a complex matter on which a short term decision must be made, frequently accompanied by pressure to report in detail to superiors in the command chain. Updating and otherwise amending these publications to keep them modern and relevant is clearly a laborious, bureaucratic process in which

- many interested parties demand consultation and the right to endorse a document's contents before publication. While all of these documents are sponsored by a part of the ADO or an individual appointment within it, few seem to have an effective 'champion' accountable for their relevance, accuracy and modernity. We recommend that the ADO identifies and holds accountable a single authority on investigations and empower it to develop and maintain policy and doctrine.
- 4.6. The audit team reviewed a number of instructions, memoranda and directives issued by local area commanders to state their requirements for the handling of offences, incidents, complaints and inquiries. Some of these 'instructions' are pages in length and an extensive list of 'References' is a feature of all of them. We formed the view that commanders issue such documents for at least two reasons. Firstly, because of what they perceive to be a confusing mass of guidance available to them, commanders have sought to simplify matters for their subordinates. However, in our view, policy or doctrine which requires local, lower level, interpretation in order to understand or implement it is fundamentally and fatally flawed and a source of problems rather than a solution to them. Secondly, some local instructions serve little purpose other than to state an individual commander's 'intent'. Critics have expressed a view to us that these instructions are little more than self serving documents that can be used against a subordinate in case of his or her failure or error.
- 4.7. It is notable that some very important documents include 'Service exclusions', whereby the policy is modified in its implementation in a Service or simply made inapplicable to a Service. The DFDA is a notable example as is the Defence Investigative Technical Instructions (DITI) in which Service-centric supplements override its prescriptions at places where the policies, doctrines or procedures of any of the three Services are at variance. While it is not difficult to identify how differences can exist in the operational environments in which the Services operate, it is very difficult indeed to develop an argument to justify different approaches to the investigation of offences, the maintenance of discipline, and the delivery of justice in the three arms of what is a relatively small defence force. The audit team believes that tri-Service policy and doctrinal uniformity and consistency are non-negotiable benchmarks to deliver uniform standards of discipline, justice and resource economies, and to promote vocational professionalism in SP.

DFDA

- 4.8. It is common to hear views expressed by ADF members, including SP, to the effect that the DFDA has simply had its day, that it is an outdated and anachronistic document that does not match modern disciplinary, legal and policing requirements. Single Service exclusions and supplements and the perceived inadequacies of the DFDA to appropriately empower SP and

investigators are examples of specific deficiencies pointed out to the audit team members.

- 4.9. Both the Burchett and the Ernst & Young reports commented critically on the DFDA. While some action has been taken to amend the Act, that work seems to have been very narrow in focus and effect and, according to some SP, not the outcome of a thorough consultation process. The fact remains that the DFDA has not undergone a fundamental review for over a quarter of a century. The views on the DFDA expressed by SP, investigators and non-investigators alike, merely add weight to a view that the time has arrived for a fundamental review.
- 4.10. SP draw their powers, authorities and responsibilities from Section 101 of the DFDA. While the audit team primarily concentrated on the practical investigative capability of SP investigators, it concurs with previous reports, including that by Ernst & Young, that the DFDA needs to be updated to bring it into line with comparable and more modern legislation, for example in relation to the need to extend the proscription of evolving classes of illicit drugs which are now widely available and used in society and from which the ADF is unlikely to be immune. We recommend that Defence undertake a review of the DFDA.

Adequacy of Investigative Powers

- 4.11. Very few investigators complained to the audit team that they were insufficiently empowered by the DFDA to perform their routine duties, however, it is apparent that such changes as the increasing trend for ADF personnel to live off base, the inability of the ADF to deal with illicit drug abuse other than for the use of cannabis, and the advent of some computer-based offences and new types of fraud, are impacting on the depleted SP investigator capability. Investigators sense that their 'client base' is shrinking and increasingly beyond their reach. SP have to rely on the goodwill of civil authorities for assistance where offences with a Service nexus occur other than on or in Defence property, and that frequently public and private sector agencies will not provide assistance as SP are not regarded as a Commonwealth Law Enforcement Agency. Investigators are therefore often faced with a dilemma where they require civil authorities to issue search warrants on their behalf, but do not have enough information on which to ground warrants or subpoenas. This situation is likely to be remedied, at least in part, by developing closer and more formal relationships with the necessary external agencies including the negotiation of memoranda of understanding, co-opting if required the support of the mainstream police forces in 'recognising' SP as an affiliate body with a legitimate, albeit if confined, law enforcement role. We recommend that Defence intensify its efforts to have DIA recognised as Commonwealth Law Enforcement Agencies.
- 4.12. It is apparent that many failed ADF investigations could have been successful if ADF investigators had the powers of the Australian Federal Police (AFP) in dealing with its staff. Section 40VE Law Enforcement (AFP Professional

Standards and Related Matters) Act 2006 permits a direction to be given by an AFP investigator to an AFP appointee to provide information, to produce a document or record or thing, or answer a question, or to do anything else that is reasonably necessary for the purposes of obtaining evidence in relation to an investigation or inquiry. The audit team recommends that the ADF explore the exceptionally powerful provisions of this new Act, and the complementary, streamlined internal measures to distinguish between levels of misconduct and to speed up their disposition, with a view to introducing similar legislation for the ADF.

ADFP 06.1.4 – Administrative Inquiries Manual

- 4.13. ADFP 06.1.4 – *Administrative Inquiries Manual*, is a comprehensive guide to the conduct of administrative inquiries. Unfortunately, the Manual, or at least parts of it, exists in two different forms; in a ‘hard’ copy being used ‘in the field’ and in ‘soft’ copy which seems to differ by incorporating amendments apparently sought by the Army. The soft copy in our view is not an improvement on the hard copy. Also, while the publication of this manual seems to have contributed to improving the administration of ADF inquiries, we believe it has the unfortunate and unintended side effect of confusing action to be taken in relation to *administrative* matters with those to be taken in relation to matters potentially involving the commission of either a *criminal* or *serious Service offence*. Its handling of QA is also a specific matter of concern.

Quick Assessment

- 4.14. **Purpose of a QA.** The Administrative Inquiries Manual is the principal source of guidance used by ADF commanders and others for the conduct of QA. However, in the view of the audit team, Chapter 2 of the Manual does not define the purpose of a QA with sufficient precision, and that imprecision is reflected in such documents as Defence Instruction (General) (DI(G)) 45 - 2 - *Reporting and Investigation of Alleged Offences within the Australian Defence Organisation*. Indeed, we have learnt from our interviews that the Manual creates confusion in the minds of some ADF people as to the proper course of action to take.
- 4.15. Additionally, the QA has the unintended effect of reinforcing the view we referred to in Chapter 2 that all the actions of commanders and their subordinates must protect, support and maximise the decision making flexibility and discretion of the ADF command chain. Indeed, Paragraph 2.2 of ADFP 06.1.4 begins its description of a QA by asserting that they are conducted “*To enable a commander...*” In our view, the command chain and the wishes of commanders are being given prominence over the simple and straightforward need to undertake a QA in order to determine the proper course of action to be taken.
- 4.16. The Manual is also testament to a desire to attempt to cover all eventualities in policy documents with the result that ADF people are confronted by a mass of

guidance rather than a simple direction guide as to how to proceed in given circumstances. It is a fact worthy of close examination that the ADF can provide its combat soldiers with orders for opening fire, for killing people, on a small card yet it takes 20 pages of an administration manual to tell them how to quickly assess whether an incident requires further investigation. As is, the policy mixes, and in doing so confuses, QA with accidental death, unacceptable behaviour, subsidiary post-QA actions, report formats and, most worryingly, “context management”.

- 4.17. **Context Management.** Rather than focusing narrowly on determining whether and how an incident should be investigated, Chapter 2 of the Manual devotes pages to how to manage the context in which an incident occurred and how it should be handled in terms of advising the command and in information presentation. This has produced a situation in which, in the views of some interviewed by the audit team, the delineation between QA, investigation, context management, information presentation, media relations and what is colloquially referred to as ‘spin doctoring’ are badly blurred. In all ADF policy the emphasis must be focussed on ensuring that incidents are handled lawfully, ethically and professionally. Everything else, including informing superiors, military or civilian, is secondary.
- 4.18. **‘Misplacement’ of QA Policy.** The QA doctrine is currently misplaced in the Administrative Inquiries Manual. QA are an essential precursor to almost all inquiries or investigations not just to those of an administrative nature. To illustrate this point we believe that it is completely inappropriate and indeed dangerous to ‘bury’ policy guidance on reporting the death of an ADF member in a Chapter of an administration manual.
- 4.19. The audit team recommends that a discrete ADO policy on QA needs to be prepared and promulgated as a matter of priority. An illustrative draft of a new QA policy is at Attachment 1 to this Chapter.

Defence Instructions (DI)

- 4.20. Numerous DI, General and Service-specific, can relate to the conduct of SP investigations. Significant numbers of them do relate directly to the conduct of ADF investigations, in particular:
- DI(G) ADMIN 45-2 - *Reporting and Investigation of Alleged Offences within the Australian Defence Organisation* – Sponsor, ASGIR in IG-D.
 - DI(G) PERS 35-4 – *Management and Reporting of Sexual Offences* – Sponsor, Director of the Defence Equity Organisation in the Defence Personnel Executive.
 - DI(G) PERS 45-1 – *Jurisdiction under Defence Force Discipline Act – Guidance for Military Commanders* – Sponsor, Director General ADF Legal Services (DGADFLS).

- DI(G) PERS 45-4 – *Australian Defence Force Prosecution Policy* – Sponsor, the Director of Defence Discipline Law in DL.
- DI (A) ADMIN 23-2 – *Management of Reportable Offences* – sponsor, the Director of Coordination - Army.

4.21. These Instructions contain much useful information for people seeking guidance. However, the variety of instruction sponsors and the fact that the good advice contained in DI(A) ADMIN 23-2 is not binding on either Navy or RAAF members simply illustrates the absence of commonality in a field of activity in which commonality is essential. In an era of joint command and joint operations in which members of all three Services may be involved in one incident, there is no room for multiple processes and sources of guidance.

Notifiable Incidents

4.22. DI(G) ADMIN 45-2 is central to the proper conduct of investigations of ADF people and it is vital that its contents be unambiguous and consistent with all other relevant policy and doctrine. It is also vital that its intent be made crystal clear to ADF commanders and commanding officers in pre-command training, and to all ADO managers.

4.23. In its present form the document contains a break in logic that leads directly to what we described in Chapter 2 as command interference. In Paragraph 7 it states that “*An incident is a ‘Notifiable Incident’ if it raises a reasonable suspicion that an offence may have been committed against the DFDA, the criminal law of the Commonwealth, States or Territories, or the criminal law of another country and involves a Defence member, Defence Civilian, Defence contractor, Defence consultant, other ADO personnel or ADO premises.*” On reading this a person can reasonably conclude that a notifiable incident is a matter that should be investigated and therefore referred expeditiously to SP in the first instance and thereafter to civilian police or another DIA if appropriate.

4.24. This important clarity is lost in Paragraphs 8, 13 and 14 which state respectively:

- “Notifiable Incidents that are to be reported by ADO personnel to a DIA (through the chain of command as applicable) are listed below.”
- “Once a CO or manager determines that a Notifiable Incident has occurred, the CO or manager is to report, or make arrangements for the reporting of, the Notifiable Incident to a DIA as soon as practicable.”
- “COs or managers may also report Notifiable Incidents to their chain of command in parallel to making the report to the DIA. COs or managers may report a Notifiable Incident to a DIA through an appropriate person in their command, for example, a Naval Police Coxswain on board a ship.”

4.25. The audit team recommends the following to replace the statements listed in Paragraph 4.24: “*Without exception notifiable incidents are to be reported simultaneously to Service police and the appropriate chain of command. Service*

police are to inform civilian police and other Defence Investigative Authorities as appropriate". Adherence to this policy would remove the tension that arises when either the command chain or SP is not informed or when both are informed but at different times. It would also make it clear that the investigation of notifiable incidents is compulsory and not at the discretion of people in the command chain.

- 4.26. We recommend that in so far as is possible the investigations-related content of the Defence Instructions listed in Paragraph 4.20 be incorporated in one investigations policy document to be promulgated under the signature of both the CDF and the Secretary and that it be made binding on all ADF and Defence civilians.

The Defence Investigation Technical Instructions

- 4.27. The Defence Investigation Technical Instructions (DITI) is an excellent example of a well intentioned policy initiative failing to improve the lot of investigators. Promulgated on 19 October 2005 after six years in the making the DITI purports to standardise investigations and reporting processes across Defence and to ensure all investigations are conducted at least consistent with the Australian Government Investigation Standards (AGIS 2003). Unfortunately, it does not achieve that goal. Some investigators are ignorant of, or only vaguely aware of, its existence. Others disregard it and continue to use old single Service policy and procedures. While those who do try to use it are frustrated by its complexity and the 'user unfriendliness' of the intranet site from which easy access to it should be possible. Sections of the document are simply not accessible from the site. Accordingly it is not as yet relied upon by Service practitioners, save for the extent to which its contents coincide with existing Service-centric doctrine and procedures.
- 4.28. In its considerable substance the DITI does indeed bring together, inter alia, doctrine on NI, the conduct and management of investigations, the handling of individuals associated with an investigation, and what may be termed investigator tradecraft in the execution of investigations. In attempting to make the DITI the complete A to Z on investigations, its contents have been badly drawn together from diverse sources, including from overseas. In its present form it is difficult to read as it merges policy and methodology in one weighty, daunting document.
- 4.29. The DITI does not reflect best practice in investigation planning and execution or developments in tradecraft-specific information technology and investigative methodology. Some of the policy in the DITI seems to be the work of committees seeking to ensure that single Service interests are met – often to the detriment of policy coherence, brevity and utility. As a result the policy is diluted by Service-centric supplements that override its prescriptions where the policies, doctrines and procedures of any of the three Services are at variance.

- 4.30. The audit team believes that an urgent need exists to make available to all DIA and their operatives, one common source of investigation policy published under the signatures of the CDF and Secretary and binding on all agencies in its application. The DITI should not be revised. Rather, we recommend that a new ADF *policy* be developed based on that of the AFP and be available in one document, separate from and not to be confused with investigation *procedures and techniques* that should be published elsewhere. The need for this document will be reinforced in Chapter 5 – Training, and in Chapter 8 – An Action Plan.

Reporting

- 4.31. In attempting to deal with the workload matters discussed in Chapter 3 the audit team encountered difficulty in developing an understanding of the numbers of different types of offences investigated by each SP organisation. The problem arises because each Service uses different offence taxonomy conflicting too with civil classifications - for example 'fraud'. This problem could be avoided, and considerable simplicity and clarity could be thereby obtained, if the ADO conformed to the National Crime Statistics Unit (NCSU) of the National Centre for Crime and Justice Statistics Centre (NCCJS) of the Australian Bureau of Statistic's standards on how offences are categorised and reported. A minimum amount of modification might be necessary to adequately describe Service offences. Clearly, the standards would need to be those used in DPSMS. We recommend that development of DPSMS Stage 2 conform to NCSU requirements.

Summary

- 4.32. The volume, complexity, inferior quality and inaccessibility of ADF investigation-related policy and doctrine impede the conduct of QA, investigations and reporting. A concerted and well coordinated program to provide accurate, plain English policy and guidance in a very small number of authoritative and easily accessible sources would improve the standard of ADF investigations.

Recommendations

- 4.33. The audit team recommends that:

4.1. Urgent action be taken to prepare and make available to all ADF investigative agencies and their operatives, one common source of investigation policy published under the signatures of the CDF and Secretary and binding on all agencies. The policy should in so far as is possible be based on the AGIS 2003 and AFP investigation standards and be available in one document, separate from and not to be confused with investigation procedures and techniques that should be published elsewhere.

4.2. The PM-ADF be made responsible and accountable for the development and maintenance of ADO investigation policy and doctrine.

- 4.3. The one common source of ADO investigation policy should contain a direction to the effect that: *“Without exception notifiable incidents are to be reported simultaneously to Service police and the appropriate chain of command. Service police are to inform civilian police and other Defence Investigative Authorities as appropriate.”*
- 4.4. The ADO prohibit in its investigation policy and procedures any Service or other organisation-centric exclusions.
- 4.5. ADO investigation policy and doctrine be of sufficient specificity and clarity to negate the need for local interpretation and expansion by subordinate commanders
- 4.6. There should only be one extant version of ADFP 06.1.4 – *Administrative Inquiries Manual*.
- 4.7. In ADO investigation policy the emphasis be placed on ensuring that incidents are handled lawfully, ethically and professionally and that everything else, including informing superiors, military or civilian, is secondary.
- 4.8. The purpose of QA be defined as being *“... to assess rapidly the then known facts of an incident and decide what is the proper course of action to be taken in response to it”*.
- 4.10. ADF Quick Assessment policy should be published separate from ADFP 06.1.4. It should be applicable to all matters whether administrative or otherwise and its purpose should be stated as being *“to assess rapidly the then known facts of an incident and decide what is the proper course of action to be taken in response to it”*.
- 4.11. The ADO adopt a new QA policy along the lines of that proposed at Attachment 1 to Chapter 4 of this report.
- 4.12. ‘Context management’ not be part of QA policy.
- 4.13. Defence review the DFDA.
- 4.14. The ADF explore the exceptionally powerful provisions of the Law Enforcement (AFP Professional Standards and Related Matters) Act 2006, and the complementary, internal measures to distinguish between levels of misconduct and to speed up their disposition, with a view to introducing similar legislation for the ADF.
- 4.15. In parallel with development of one Defence investigations policy, DI(G) ADMIN 45-2 - *Reporting and Investigation of Alleged Offences within the Australian Defence Organisation* be reviewed and repromulgated to focus on the *reporting* of offences, and to reflect the establishment of the PM-ADF position and decisions to be made by CDF as to which Defence Investigative Authorities will investigate offences under the DFDA.

4.16. The DITI should not be revised. As soon as the common investigation policy and procedures are prepared and made available throughout the ADF, the DITI be cancelled.

4.17. The ADO adopt the definitions and standards set for the classification of reported offences by the Australian Bureau of Statistics through the National Centre for Crime and Justice Statistics (NCCJS) and the National Crime Statistics Unit (NCSU).

4.18. Development of DPSMS Stage 2 conform to NCSU requirements.

Attachment:

1. Proposed new ADF Quick Assessment Policy.

PROPOSED NEW QUICK ASSESSMENT POLICY

QUICK ASSESSMENT

Introduction

1. Incidents involving ADF members will often require prompt investigation by appropriately qualified and experienced people, particularly where death, serious injury or criminal behaviour by, or of, an ADF member, is a factor in the incident.

Purpose

2. The purpose of a QA is to assess rapidly the then known facts of an incident and decide what is the proper course of action to be taken in response to it.

Possible Outcomes of a QA

3. The outcomes of QA can be:
- a. no further action:
 - b. referral of the matter to Service police:
 - c. referral of the incident to civilian police: or
 - d. referral of the matter for investigation under the Defence Inquiry Regulations.

Action on Incidents Involving Death of an ADF Member

4. Where the death of an ADF member occurs by any means in Australia or overseas, other than in combat or combat related activity, it is to be reported first and forthwith to the Service police and then immediately thereafter to the appropriate ADF commander. The Service police are responsible for the timely contacting of appropriate civilian authorities and the Provost Marshal ADF.

Time

5. A QA is to be undertaken immediately a notifiable incident becomes known. In circumstances where a QA cannot be completed in less than 24 hours it must be referred to the Service police.

QA and Investigation

6. QA are a prompt assessment of the then known facts; they are not investigations. Unlike a QA, an investigation involves the interviewing of offenders, suspects and

witnesses and the gathering of evidence. Investigations must be left to Service police, civilian police or a person formally appointed to undertake an administrative inquiry.

QA and Public Affairs

7. Public affairs activity must neither pre-empt nor impede a QA. Hot Issues Briefs and media statement preparation must occur after a QA is complete and a decision made as to the proper course of action to be taken in response to an incident.

Simultaneous Reporting of a QA

8. Regardless of the communications medium used, all QA results are to be reported simultaneously to Service police and the appropriate commander.

Follow on Reporting

9. Once a matter has been referred to Service police or civilian police, responsibility for further reporting on that matter transfers to them. Commanders, commanding officers and their staff must not report on a referred matter without the agreement and advice of the Service or civilian police undertaking the investigation.

QA Report Formats

10. There is no need to report QA results in any particular format. Those undertaking or reporting a QA should simply record sufficient detail to substantiate the quick assessment made.

CHAPTER 5 - TRAINING

- 5.1. The DPTC has the makings of a best practice investigator training establishment but, as with any training institution, it is only as good as its leadership, its staff and its curricula, and a failure in one can lead to failure in the others. Attention must be given to all three components, discerningly and consistently, if the Centre is to train and equip new generations of professional Service investigators. This chapter discusses these and a range of other SP training matters.

SP Schools

- 5.2. SP and investigator training is conducted in two locations. At the DPTC located in Holsworthy, New South Wales, NPC and RACMP members undergo all their training including those elements common to both Services and, by means of tailored course modules, those elements unique to one Service (for example, submarine Chief of the Boat training for selected submarine service senior sailors). RAAF SECPOL members on the other hand undertake SP training and basic investigator training at the RAAF SFS located at RAAF Amberley in Queensland. SECPOL do, however, undertake the IQC at the DPTC along with their Navy and Army counterparts.

DPTC

- 5.3. **Facilities.** The DPTC is a relatively modern and well appointed facility that is in the course of extensive expansion and modernisation. Its classrooms and offices are well appointed, it is well equipped with computer resources and its specialist training facilities including scene of crime management, close personal protection, finger print training facility and interview training rooms are of a high standard. The DPTC is also the site of the Defence Force Corrective Establishment (DFCE), the Army's RACMP 'corps home', 2 MP Company and a section of 52 Platoon, 5 MP Company Special Investigations Branch (SIB) which services the greater Sydney area.
- 5.4. **Command and Control.** Command and administration of the DPTC is conducted on an Army-sponsored joint basis in accordance with CDF Directive 14/2003. The Commandant, an Army Lieutenant Colonel rank officer, is 'double hatted' as the Commandant of the DPTC and the Head of Corps of the RACMP. The Deputy Commandant is a Navy Lieutenant Commander.
- 5.5. **Instructor Staff.** The DPTC instructor work force is predominantly Army. However, external support is provided as shown in the following table:

Table 1 – DPTC Course Support

Course	Support Provided	Providing Organisation	Duration of Support
Service Police Basic Course (SPBC)	Traffic Accidents	NSW Police	Over 10 years
Investigator Qualification Course (IQC)	Case studies: <ul style="list-style-type: none"> • Murder/Manslaughter • Arson 	NSW Police	Over 10 years
	Forensic Services Group - Sydney Police Centre: <ul style="list-style-type: none"> • Ballistics • Fingerprints • Crimes Scene 	NSW Police	Over 10 years
	Surveillance: <ul style="list-style-type: none"> • Theory • Exercise 	NSW Police	Over 10 years
	Forensic Services Group: <ul style="list-style-type: none"> • Computer Crime 	AFP Sydney	Over 10 years
Scenes of Crime Course (SOCO)	AFP - Weston Creek Complex: <ul style="list-style-type: none"> • Ballistics • Crime Scene Labs 	AFP Canberra	Over 10 years
	Forensic Services Group: <ul style="list-style-type: none"> • Fingerprints -Parramatta 	NSW Police	Over 10 years
	Sydney Police Centre: <ul style="list-style-type: none"> • Ballistics 	NSW Police	Over 10 years

RAAF SFS

- 5.6. The RAAF SFS provides training for Airfield Defence Guards (ADG), military working dog handlers (MWDH) and their dogs, fire fighters and SECPOL.
- 5.7. **Facilities.** The facilities used for training SECPOL are remote from the main SFS precinct, old, dilapidated and poorly equipped. Generally, they compare most unfavourably with the facilities available in the dog handling, fire fighting and ADG elements of the School. We formed the view that SECPOL training was accorded significantly less importance, resources and effort than are the other sections of the School.
- 5.8. **Command and Control.** RAAF SFS is commanded, operated and administered on single Service RAAF lines without any Navy or Army involvement. Support is provided by RAAF Base Amberley while policy direction is provided from Air Headquarters in Canberra and Training Command - Air Force.
- 5.9. **Instructor Staff.** Instruction at the RAAF SFS is conducted by RAAF personnel.

The DPTC Curriculum

- 5.10. The curricula of both SP training establishments do not reflect policy or investigation best practice. This is primarily a direct result of the absence of an effective research and development capability that is closely and constantly attuned to developments in the external environment – in the law and in policing in particular – that ought to be identified, adopted and incorporated into SP curricula. A number of key DPTC and SFS instructional staff acknowledged that they were aware of deficiencies in what they taught but said that change was difficult and took an inordinately long time, sentiments confirmed by audit team inquiries. It was also said that some SP resisted changing what was taught there because it was ‘what they were familiar with’. We were told that even when new methods and standards were identified by SP, usually informally and by chance rather than design, there was reluctance on the part of those responsible for curricula changes to adopt the new material. It was also said that even rarely accepted changes took months, sometimes years, to negotiate a ponderous bureaucratic process. It is crucial that there be a culture and capability which values continual re-evaluation and improvement in the DPTC, and that in terms of investigator training, the school is attuned to the requirements and expectations of the PM-ADF.
- 5.11. While perhaps necessary for the general and single Service-specific elements, the curriculum development approach laid down in the CDF directive for DPTC is unnecessarily bureaucratic and time consuming for the investigator components of SP training. If, as recommended in Chapter 4, the ADF develops and mandates one common investigation policy and doctrine, and as will be recommended later in this report, makes the PM-ADF the technical authority for investigator training, then a more streamlined, effective and timely process will be adopted. This process should involve consultation between the DPTC and PM-ADF in order to determine what changes should be made in the investigation curricula and when. Where a change is particularly significant, the Services can be consulted and informed.
- 5.12. The recent announcement by DEFGRAM of complete revisions of the DFDA and ADFP 06.1.1 - the Discipline Law Manual (DLM), exemplifies the deficiencies in existing curriculum development processes. Both documents are the most fundamental sources of content for SP courses. However, DPTC staff members were caught unawares by the publication of the revisions electronically on the Defence Restricted Network and had not been able to make the necessary changes to the curricula. At the time of preparing this report, cancellation or rescheduling of two courses was being contemplated in order to amend the DPTC curricula and course instructional material. Clearly, better working relationships, some forethought and better liaison could have avoided this potential delay and disruption.

- 5.13. DPTC leadership has recognised both the deficiencies that exist in the curricula and the need to redevelop it. Indeed, the Centre has engaged consultants who are currently conducting a Training Needs Analysis of the IQC. This important work must continue without delay, except where it might need to be modified by the agreed outcomes of this audit report.

Training Issues

- 5.14. The location of DPTC at Holsworthy is said to deter many prospective students and instructors, especially those with school-age children. Navy and RAAF graduates of the DPTC frequently referred to an unnecessarily strong RACMP culture which (perhaps not unsurprisingly) pervades the DPTC. The Centre's leadership must make it clear that it is a joint establishment formed by CDF Directive, not an RACMP school, and make it a priority to develop a culture there that focuses on meeting the needs of all Services. Leadership must also pay very close attention to the suitability and behaviour of members of all Services posted there as instructors. Also, Navy and Air Force senior leadership should become more closely involved with the Centre and ensure their Services are represented there by exemplary SP personnel.
- 5.15. It would be possible to conduct investigator training in one or more of the major capital cities in order to overcome the issue of the undesirability of a short term posting to the Holsworthy region. Access to forensic laboratory functions, now close to completion at DPTC, would not need to be replicated but could be catered for through memoranda of understanding with the Federal or State forensic laboratories. However, this would clearly involve duplication, under use of facilities available at the DPTC, and the complete detachment of investigators from the organisations which do, and will need to continue to, provide the bulk of new investigators. On balance, the audit team recommends that investigator training continue to be provided from the DPTC. Refresher training, referred to again later in this report, could be provided to practising investigators at convenient locations in major cities or ADF concentrations in Australia.
- 5.16. DPTC staff members that the audit team met were favourably critiqued by the Commandant DPTC and in the opinion of the audit team most appeared committed, keen and effective. However, it seems that chance dictates the experience and instructional qualities of those periodically assigned to instructional duties at the Centre. Some Navy and Air Force graduates of the DPTC commented unfavourably on the quality, instructional skills and attitudes that were said to be demonstrated by RACMP SNCO instructors. The audit team considers that some of this criticism is unwarranted, more the normal response to change and Service chauvinism than an indication of major personnel problems at the DPTC. However, there is enough anecdotal evidence available to the audit team to suggest that the ill-feeling of some former DPTC students stems in part from the demeanour and attitudes of certain instructors who were either ignorant of, or chose not to exercise, the interpersonal skills reasonably required of them to

- instruct mature age students and to encourage and inspire them. Staff shortages and operational needs will always make it difficult to select the best to serve as DPTC instructors, but the Service personnel authorities and the Centre must consult to ensure that ADF members posted there meet the standards required.
- 5.17. Importantly, the ability of the DPTC to deliver high quality training is diminished by vacancies amongst key personnel, particularly in the instructional and development areas where there are three vacancies in ADF personnel - one Army Captain, one Warrant Officer Grade 2 and one Sergeant (investigator).
 - 5.18. A significant number of SP interviewed stated that what is taught at DPTC is not consistent with what is practised 'in the field'. Some attributed this to the tendency of some to cling to the single Service practice they have known and are comfortable with. Others attributed it to the deficiencies in doctrine contained in the DITI (addressed in detail in Chapter 4 – Legislation, Policy and Doctrine). A small number put it down to an entrenched and bloody minded 'my Service is best' attitude. Ultimately, the causes are irrelevant and the solution is simple. The DPTC must teach 'best practice' standard and SP leaders of all Services must demand and enforce alignment and adherence to that standard amongst all SP.
 - 5.19. We also conclude, from an assessment of a sample of Service briefs of evidence and from discussions with ADF legal officers, that SP and investigator training needs to be reviewed to re-emphasise or reinforce the basic core skills and competencies of policing. These include the taking of statements from witnesses, interviewing suspects and offenders, and the rules governing the admissibility of evidence, including the value and use of exculpatory as well as inculpatory evidence. Investigator training should also prepare investigators to consider an incident or crime, and the weight of potential evidentiary material available, through the eyes of prosecutors and defence counsel, not merely through the eyes of investigators, if they are to eliminate, or at least reduce, evidentiary flaws in the prosecution's case.
 - 5.20. Investigators receive very little feedback from ODMP on the overall quality of their briefs of evidence other than requests for additional material. Without such feedback it is very difficult for them to improve either their individual skills or the doctrine stipulating the format and content of their briefs of evidence. A three way feed back loop between the ODMP, the PM-ADF and DPTC on briefs of evidence matters would permit changes to be made in the curricula to incorporate lessons learned through prosecutions. It would also do much to improve the morale, confidence and standards of SP investigators.
 - 5.21. That flaws exist in SP briefs of evidence is unsurprising due to the relative inexperience of a sizeable proportion of investigators in the ADF. In this regard it is apparent that the diverse and extraneous other duties of SP, in Navy and Air Force especially, tend to reduce their exposure to the number, type and complexity of investigations that would otherwise hone their skills and

competencies through repetition and growing familiarity. There are, nevertheless, a relatively small number of very competent investigators whose competencies are of a high order. This scarce resource is, of course, the most pressed.

Refresher Training and Development for Investigators

- 5.22. **Refresher Training.** No formal program exists to update the knowledge of investigators after they have graduated from the DPTC. In our view this is a deficiency which contributes significantly to variations in investigator performance and attitude evident between and within the Service organisations. Moreover, such training is vital in an organisation in which many investigators have little variety in the nature of matters they investigate and therefore have limited opportunity to expand and hone their skills. A solution would be for the DPTC to develop a short refresher module that could be offered both at the Centre and at concentrations of investigators around Australia as often as is necessary to ensure a high, common standard of investigator professional knowledge is maintained. It could also be offered by distance learning. The recent revisions of the DFDA and DLM are an example of a change to be covered by such a module.
- 5.23. **Development.** No formal program exists for the further development of investigators after graduation from the DPTC. Investigators do undertake additional education and training, often at tertiary level, and utilising Service-assisted study schemes, but this is on the basis of personal initiative and commitment rather than as a result of planned and coordinated investigator development program. A formal, funded, Investigator Development Program (IDP) should be developed and coordinated by the PM-ADF with the assistance of service personnel authorities.
- 5.24. The PM-ADF should be made the Training Requirements Authority (TRA) for investigator training at DPTC and for the investigative element of any other course conducted in Defence. In due course, a new CDF Directive for DPTC needs to be issued to incorporate and publicise this and any other changes. This Directive should incorporate specific DPTC reform objectives to be achieved by the Commandant by specific times during his appointment.

Crime Scene Management

- 5.25. DPTC is paying closer attention to crime and incident scene management and forensic capability, at least in terms of training students to protect and preserve crime and incident scenes and to know what specialist capabilities are available from external sources. It is more important than ever that training emphasises incident and crime scene management. As general duties and investigator SP are likely to be the 'first responders' to an incident or crime with a Service nexus, or one to be referred to civil authorities, it is crucial that they are thoroughly trained and equipped to protect and preserve incident and crime scenes, wherever they may occur. The objective is to ensure the integrity of forensic and other probative

evidence and the proper treatment and handling of victims, suspects and witnesses. Incident and crime scene management must be treated as an absolutely essential core competency of all SP, investigator-qualified or not.

- 5.26. Just as importantly, in the era of DNA technology, SP and all other ADF people need to be taught and understand that knowing what *not* to do at an incident or crime scene is equally important as knowing what to do. In the environment described in Chapter 2 of this report, in which commanders can deny an SP role and assume inappropriate and improper command prerogatives, a high risk exists that matters will be prejudged, that a serious crime will be concealed or its effective investigation of crime jeopardised through failure to properly manage a scene. Finally, ADF commanders of all ranks must acknowledge and accept that an SP of any rank who has undergone scene of incident and crime management training at the DPTC is more qualified than they to assess and control such a scene.

Relationships between ADF Investigators and Other Organisations

- 5.27. Investigator training would benefit immeasurably from a more formal and centrally coordinated association with civil police, in terms of undertaking selected, accredited training courses with Australian police organisations. In the interests of uniformity and consistency, it is strongly recommended that training in investigative standards be based on those of the AFP, the Commonwealth's principal law enforcement agency, whose standards, frequently incorporating State and Territory police material and those of compatible overseas agencies, reflect best practice. However, specific State and Territory police courses could also supplement those offered by the AFP.
- 5.28. Over the years, either through formal memoranda of understanding or informal private arrangements, SP have undergone training with Federal, State and Territory police, but these arrangements have either lapsed or are dormant, so selection and attendance have been ad hoc and irregular, benefiting but a select few. There is no question that the controlled attendance of SP at relevant Australian police training courses would be beneficial to their professional development and forge useful contacts in civil authorities. In the past, where there have been invitations from civil authorities to SP to attend courses, attendance has been denied by superiors, citing Service 'commitments' – understaffing and high workloads – as the reason. The audit team strongly recommends that the selection of SP for training in, or attachment to, external law enforcement agencies, be coordinated by the PM-ADF rather than by Service personnel organisations.
- 5.29. The audit team considers that much would be gained from formally affiliating the DPTC with a high quality civilian teaching institution that has an established and credible presence in law enforcement education. The relationship between The Australian Institute of Police Management and Charles Sturt University is a model

for such an affiliation. The modernity and credibility of DPTC courses would be enhanced considerably by such an affiliation.

- 5.30. In the DPTC, Defence has the foundation of a high quality SP and investigator training facility. All SP training should be conducted there and a concerted effort be made to developing better curricula, benchmarking it against AFP practice, developing a better joint culture and staffing the Centre with exemplary SP.

Recommendations

- 5.31. The audit team recommends that:

5.1. SP and investigator training needs be reviewed to emphasise and reinforce the basic core skills and competencies of policing. These include the taking of statements from witnesses, interviewing suspects and offenders, and the rules governing the admissibility of evidence, including the value and use of exculpatory as well as inculpatory evidence.

5.2. The DPTC development wing should be staffed to incorporate an effective research capability that will permit SP curricula to be amended in a timely manner to reflect changes in Australian law and policing practice.

5.3. The police training wing of the RAAF SFS should close and all ADF SP and investigator training, except needs-based refresher training, should be conducted at the DPTC.

5.4. The DPTC must achieve best practice standard and SP leadership in all Services should encourage, demand and enforce adherence to that standard amongst all SP.

5.5. DPTC should develop a refresher module for investigators that could be offered at the DPTC and at concentration locations around Australia in order to maintain a high common standard of investigator professional knowledge.

5.6. Consideration should be given to conducting refresher training by distance learning means.

5.7. Consideration should be given to affiliating the DPTC with a credible civilian law enforcement teaching institution such as Charles Sturt University.

5.8. The proper care and management of incident and crime scenes, at least in terms of basic protection and preservation techniques, ought to be an element of all pre-command training courses in the ADF and be reinforced periodically during career advancement.

5.9. The ADF should renew or develop formal memoranda of understanding with the AFP, principally, and also State and Territory police on the attendance of SP on relevant,

accredited training courses as an essential supplement to DPTC training and to improve professional competencies and advancement prospects.

5.10. Attachments to civilian policing organisations should be reserved for SP personnel only and be coordinated by the PM-ADF rather than by the Service personnel organisations.

5.11. The PM-ADF be appointed the Training Requirements Authority for all ADF investigator training courses and for the investigation element of all other courses including SP courses, staff colleges, pre-command training and leadership and management training.

5.12. Navy and Air Force identify and begin preparing suitable officers to command the DPTC in due course, and share a proportional load of the Centre's trainer liability.

5.13. When the Commandant DPTC is an Army officer he should not be 'double hatted' as the Head of Corps of the RACMP. The current Commandant should divest himself of this role as soon as possible in order to permit him to concentrate on renewing and reinvigorating SP training.

5.14. SP personnel posted to DPTC as instructors should be screened to ensure that they have the skills and attributes required for such duties.

5.15. Action be taken to fill the ADF staff vacancies at the DPTC.

5.16. CDF's Directive establishing the DPTC should be rewritten to incorporate the changes proposed by this audit report and be repromulgated. The new CDF Directive for the DPTC should incorporate specific SP training reform objectives to be achieved by the Commandant by specified times during his appointment.

5.17. Navy and Air Force senior leadership become more involved with the DPTC

5.18 A formal and funded ADF Investigator Development Program should be developed and coordinated by the PM-ADF with the assistance of Service personnel authorities.

5.19. ADF commanders of all ranks should be informed that a SP of any rank who has undergone scene of incident and crime scene management training at the DPTC is more qualified than they to assess and control a crime or incident scene.

5.20. All SP and all other ADF people be taught and understand that knowing what *not* to do at an incident or crime scene is equally important as knowing what to do.

5.21. The PM-ADF should establish a feedback loop between his office, the ODMP and the DPTC to, inter alia, facilitate the improvement in the standard of briefs of evidence.

CHAPTER 6 - RESOURCES

- 6.1. In this chapter we discuss the adequacy of resources devoted to the ADF investigation capability and make recommendations intended to increase the return on the resource investment in the capability.

Human Resources

- 6.2. The human resource aspects of the ADF investigative capability are discussed in detail in Chapters 3 – The Current Service Police Investigative Capability, Chapter 5 – Training and 7 – New Command, Organisation and Conditions of Service Arrangements. However, we conclude that an increase in ADF uniformed investigator numbers is not warranted in the short term. Significant improvement in productivity and quality can be achieved by expanded use of civilian personnel, better categorisation and prioritising of investigations, removing investigators from dealing with minor disciplinary matters and better control and direction of the existing SP workforce.
- 6.3. While improvement in investigator recruitment and retention must be sought, the more pressing needs are to enhance investigator skills, make better use of the existing workforce through improved prioritisation, planning and control of investigations and better matching of investigator numbers to the investigation workload. In our opinion it will take at least five years before the experience and skill levels of all ADF investigators can be raised to an acceptable higher level. Simply increasing investigator numbers by graduating more SP from the IQC will do as much harm as good.
- 6.4. **Administrative Support.** The administrative support for investigators currently differs by Service and geographic location. Some locations have excellent support while others have none. In the latter areas, investigator effort is squandered in time-consuming, routine low level reporting and data entry tasks. The consistent application to investigations of a relatively low level of additional administrative support should liberate a disproportionately large amount of investigator effort for commitment to addressing the most serious shortcoming in ADF investigation – untimeliness.

Funding

- 6.5. Defence advice is that the estimated cost of maintaining the existing ADF investigative capability is in the order of \$12.7m per annum. Of this, about \$11.6m is spent on salaries while about \$1.1m is expended on operating costs including travel, stationery and consumable stores, general services and training costs.

IT Support and the DPSMS

- 6.6. To perform to an acceptable standard the ADF investigative capability requires information technology support that aids in the planning, execution, management, quality control and periodic evaluation of investigations and operations. A high quality system would allow interviews, statements, photographic and graphic material, and exhibit identification and tracking to be formatted into a brief of evidence suitable, potentially, for electronic transmission to the ODMF or other recipients. The system must also cater for more sophisticated link analysis in relation to single, multiple and related incidents and events, offences, people of interest (suspects, offenders, and associates), witnesses, vehicles, addresses, telephone numbers, and other data highly relevant to operations. The ADF investigative capability also requires information technology that can support a strategic and tactical law enforcement police intelligence capability which will be essential if it is to inform the CDF and other senior commanders in a timely manner of events, trends and developments that threaten, or are a potential risk, to the maintenance of good order and discipline.
- 6.7. Modern civilian law enforcement systems also cater for major, complex and protracted operations where a detailed planning process is essential and frequently multi-faceted, encompassing such factors as the setting and prioritization of operational objectives, projected timelines, the level and nature of resources required, the use of special and covert measures, technical support, the capabilities and vulnerabilities of targets, and threats and risks to the operation and operatives. Financial expenditure is also monitored and tracked as one element to be considered by decision-makers as to the viability of an operation in terms of time and resources expended and projected results versus costs.
- 6.8. Stage 1 of the DPSMS is an obsolete system using outdated technology that is inadequate to support the needs and requirements of the presently constituted SP investigation element, let alone support the functions and roles of a rejuvenated and improved ADF investigative capability. The DPSMS Stage 1 straightforward reporting function, and the making of elementary links between associated classes of data is slow, cumbersome and frustrating to users. It was made very clear to the audit team that shortcomings in DPSMS Stage 1 deter SP from using it to its limited optimum capacity, or indeed to use it at all.
- 6.9. Briefings provided to the audit team show that that systems such as the AFP Police Real-time Operations Management System (PROMIS) and Case Management Information System (CMIS) have been examined by Defence authorities and their capabilities are said to be incorporated in the High Level Requirement for the Stage 2 upgrade of DPSMS. This requirement is understood to have already been agreed by the Services and the DSA. If this requirement is implemented the existing shortcomings of DPSMS will be overcome and the ADF will be provided with a system capable of supporting its investigation needs well

into the future. The audit team strongly recommends that Defence proceed with the Stage 2 upgrade of DPSMS as a matter of urgency.

- 6.10. Some of the significant difficulties associated with Stage 1 of the DPSMS arise from inadequate training in its use by SP, particularly at the DPTC. Instructional staff at the DPTC must become the experts in the system's use and all SP graduating from the Centre in future must be proficient in its use. Remediation training must be provided for all other users. Service posting 'churn' means that the use of civilian instructors, likely to have tenure, will be the only way the DPTC will develop and retain the requisite system knowledge and instructional skills. The audit team strongly recommends that action begin to recruit, train and appoint to DPTC DPSMS civilian system administrators and instructors.
- 6.11. In the course of the review it was made clear to the audit team that there are a number of applications in common use in law enforcement agencies that are particularly helpful to investigators. One in particular, Analysts Notebook, is highly valued and is indeed used by a small number of SP investigators. This application should be funded by DPSMS Stage 2 and made available to all ADO investigators.

Summary

- 6.12. Better IT and administrative support and more effective planning and management of investigations will produce significant benefit without an expansion in investigator numbers. A better return can be realised on the annual financial investment currently being made.

Recommendations

- 6.13. The audit team recommends that:
 - 6.1. A consistent application of additional administrative support to the ADF investigative capability be made in order to help improve their timeliness.
 - 6.2. While also taking action to improve the recruitment and retention of investigators, the thrust of reform be on improving the effectiveness and efficiency of the existing workforce.
 - 6.3. The ADF investigative capability be provided with information technology support that aids in the planning, execution, management, quality control and periodic evaluation of investigations and operations. A new system must allow interviews, statements, photographic and graphic material, and exhibit identification and tracking, formatted into a brief of evidence suitable for transmission to the ODMP or other recipient, and cater for more sophisticated link analysis in relation to single, multiple and related incidents and events, offences, people of interest (suspects, offenders, and

associates), witnesses, vehicles, addresses, telephone numbers, and other data highly relevant to operations.

6.4. Defence proceed with the Stage 2 upgrade of DPSMS as a matter of urgency.

6.5. An experienced SP member be nominated to assist in the development of DPSMS Stage 2.

6.6. DPTC must become a centre of excellence in DPSMS instruction. To avoid the detrimental effects of ADF posting 'churn', appropriately experienced and trained civilians should provide DPSMS training at the DPTC. Action be taken now to recruit, train and appoint to DPTC appropriate civilian DPSMS instructors.

6.7. Analyst Notebook be funded by DPSMS Stage 2 and made available to all ADO investigators.

CHAPTER 7 – NEW SERVICE POLICE INVESTIGATION COMMAND, ORGANISATION AND CONDITIONS OF SERVICE

Introduction

- 7.1. In Chapter 3 – The Current Service Police Investigative Capability, we outlined the existing policing and investigative capability and arrangements. In this chapter we propose changes that will enhance them. We also propose complementary changes to certain SP conditions of service.

The ADF Investigative Capability Requirement

- 7.2. The requirement for the ADF to have its own independent, impartial, unfettered and effective investigative capability which has the unqualified support and confidence of stakeholders is critical as it is now urgent. The audit has found that the present arrangements have failed comprehensively to deliver these essential characteristics, are unlikely to do so as presently constituted, and that the reforms we recommend in this report are predicated on, and best achieved by, the creation of a single, joint and centrally directed and controlled investigative service under the joint command chain rather than the Service chains of command.
- 7.3. Importantly, the audit team believes that the centrepiece of the reforms, the creation of an Australian Defence Force Investigation Service (ADFIS), governed by a single set of policies, practices and procedures, and jointly commanded, is likely to be achievable within the existing investigator workforce establishment and budgets of the three SP elements. This will be made possible through the integration of SP investigators into the ADFIS, a redistribution of the workforce to reduce and consolidate existing geographic investigator allocations, improved deployment protocols, and a more methodical and coordinated approach to casework and the skill matching of personnel.
- 7.4. While no additional ADF positions are considered necessary, it will be crucial to the success of the reforms we propose that the 152 existing investigator and support personnel establishment positions of the three Services all be quarantined, guaranteed and transferred immediately to ADFIS upon its establishment. Any Service plans to reduce existing investigator establishment positions or staffing levels, by means of the Army Personnel Establishment Plan (APEP) for example, should be cancelled. We do, however, forecast a need to enhance civilian specialist support for the ADF investigative capability by a small increase in staff numbers.
- 7.5. It is unrealistic to expect that all of those SP who presently occupy investigator positions will be fully equipped, by virtue of training, experience and competence, to take up immediately and capably the more specialised responsibilities of ADFIS. However, a start must be made very soon and it will be a primary responsibility of the PM-ADF to fine-tune the ADFIS organisation in the short to

- medium-terms to acquire the right balance in Service and civilian numbers, skills and deployment. Audit team members believe that change must occur incrementally, but purposefully, if ADFIS is to build a modern and effective investigative capability.
- 7.6. It is expected that ADFIS would base its professional standards on those applying in Australian law enforcement agencies. Its operations would be governed by overarching and integrated policing and major investigation plans, would be the template for national and overseas operations, and be adhered to by all regions and elements.
 - 7.7. To ensure that future ADF investigations are completed in a timely manner the acceptance, rejection or on-forwarding of investigation referrals from ADF authorities to the ADFIS would be subject to a case categorisation and prioritisation regime.
 - 7.8. Investigations conducted by ADFIS would be maintained at a high standard by close regional supervision and centralized case management which will routinely monitor and periodically re-assess investigations in train. No brief of evidence will leave ADFIS without first being assessed as to its adequacy and quality. Internal Quality Assurance Review (QAR) of investigations and briefs of evidence will be standard operating procedure, as would periodic QAR of critical investigations by an external agency, such as the AFP which undertakes consensual QAR of the investigations of several Government investigative agencies.
 - 7.9. ADFIS would be supported by organic administrative, legal, technical, IT services, and purpose-specific IT for the planning, conduct, management and reporting of investigations and brief preparation.
 - 7.10. Formation of an ADFIS would help overcome the following problems identified in earlier chapters of this report that can be summarised as:
 - an ADF environment in which command prerogatives can and do improperly influence the conduct of investigations;
 - lack of SP role clarity;
 - there is no longer any general duties SP capability devoted to conventional policing in any of the Services;
 - senior ADF and Defence officers lack confidence in the ability of investigators to deal with complex and serious matters;
 - a lack of high level command support for, or ‘championing of’, investigators,
 - inadequate investigation policy and practices;
 - an anachronistic SP and investigator culture and a lack of modern professional and ethical standards;
 - no overarching policing and investigation plans;

- no uniform and consistent means to categorise and prioritise the acceptance; rejection or remittance of reported casework;
- a largely youthful and inexperienced investigator workforce;
- inadequate SP and investigator training;
- an investigator workforce that is mismatched to the workload, unnecessarily dispersed and subject to a command chain that is not conducive to effective planning, prioritisation, resourcing and control of investigations;
- a workload that inappropriately includes the investigation of indiscipline matters that are best dealt with contemporaneously by commands;
- recruiting and retention levels that are unsustainable in the longer term;
- inadequate and outdated IT support systems; and
- no purpose-specific IT support for SP operations and investigations.

The ADF Environment

- 7.11. Experience over recent years indicates that continuing ADF involvement in a higher tempo of operational activity will produce more rather than less serious and complex incidents and offences requiring investigation by competent authority. Demand for investigations in ADF areas of operations is therefore likely to increase.
- 7.12. The principal change that must occur is acceptance by ADF officers that an effective and efficient SP investigative capability is an essential aid to them in fulfilling their responsibility to maintain discipline in the ADF. It is in their interests, the interests of the ADF and of military justice overall that investigations conducted by SP are, and are seen to be, independent of command influence, supported by ADF commanders and free from obstruction or interference by any person, of any rank or position. It must be accepted that an SP investigation as we have defined it in Paragraph 1.10. - *“An inquiry into matters involving ADF members or Defence Civilians and the collection and presentation of relevant material to a standard acceptable for use, if required, by competent ADF and civilian authorities.”* – requires specialist knowledge, and often technology, and an adherence to protocols and processes beyond that with which an ADF commander can reasonably be expected to be familiar.
- 7.13. ADF commanders must also accept that when a QA suggests to them that a NI has occurred, or that a Service or civilian offence may have been committed, they no longer have any choice of action – the matter must be referred to SP who will then arrange for civilian police involvement where necessary. In such circumstances there is no reason to prolong a QA, to begin their own investigation, seek freedom for themselves or any other level of ADF command to deliberate further on the matter, or begin a process of ‘context management’. And just as importantly, commanders who keep such a matter within their command or seek to deal with it by inappropriate administrative or other means, for whatever reason, may commit a criminal offence.

- 7.14. ADF officer and SNCO training should be reviewed to ensure that these straight-forward principles are well communicated and reinforced. Commanders at all levels must be held accountable for complying with them and SP must ensure that, when identified, failure to comply, by any person, is reported.

Lack of SP Role Clarity

- 7.15. In Chapter 2 we described the problems associated with the lack of role clarity that exists for general duties SP and investigators alike. While this report proposes measures to clarify the role of investigators, separate work will be required in each Service to clarify the roles of the non-investigator SP community. One such role will remain that of producing high quality volunteers for training as investigators. However, fixing the true roles of general duties SP is made difficult by the same factors that influence the investigators. Staff shortages mean that, without transfer of people from other categories, corps or musterings, or markedly improved recruiting, simply returning to SP the full burden of garrison policing will not produce sustainable improvement. In the view of the audit team an increased garrison policing workload without a commensurate allocation of extra resources to SP will simply divert effort from other legitimate SP activities, exacerbate large workloads for some and impact unfavourably on recruitment and retention rates.
- 7.16. In the case of the Navy, the audit team questions whether seagoing coxswains can hope to provide an adequate professional policing service while burdened with so many other unrelated tasks. In the case of the RAAF, the audit team considers that the nature of the CI function requires specificity – is it simply physical security or, if not, what is it? Similarly, should SECPOI continue to move away from general policing roles and if they do specialise narrowly in SI and CI functions, who will undertake the garrison policing role?

Garrison Policing

- 7.17. We have mentioned in Chapter 2 of this report that there is no common view within or between the Services as to the function and roles of SP in the modern ADF. In Chapter 3 we observed that the SP capability for garrison policing operations in Australia is so depleted as to have ceased to exist. It must be understood that establishment of the ADFIS and the implementation of the many other reforms proposed in this report will not change the situation regarding garrison policing. ADFIS will not change the numbers of non-investigator SP currently available to the Service Chiefs for the conduct of the range of non-investigative duties they expect of their SP.
- 7.18. While beyond CDF's terms of reference for this audit, we recommend that the need for garrison policing be reviewed. If a continuing need is identified then we recommend that common principles be developed for it and that the Services allocate the additional resources required to develop and maintain it. We consider

that a viable garrison policing capability is critical to the success of the police intelligence function. While ADFIS members would not play a direct role in garrison policing an ADFIS police intelligence capability would assist it.

Lack of Confidence in SP Capabilities

- 7.19. While the SP organisations contain many loyal, committed and hard working people, their skill levels, experience and ‘tradecraft’ standards have fallen below a minimum standard acceptable in Australian civilian police forces. Where identified, deficiencies such as those apparent in SP briefs of evidence, have not been overcome and have been permitted to linger. Leadership inadequacies, a desire to continue with anachronistic single Service policing practices, bureaucratic processes, simple neglect and disputation amongst individual SP have all contributed to this problem. A new culture shared by all ADF investigators will need to be forged in order to begin the process of rebuilding the confidence of ADF people in the capabilities of the ADF investigative capability.

Inadequate Doctrine and Policy

- 7.20. In Chapter 4 we described the multiple inadequacies we believe exist in ADF policy and doctrine relevant to the conduct of investigations. There is too much of it; verbose, uncoordinated and therefore not sufficiently coherent, ambiguous, selectively applicable to only parts of the ADF, sometimes contradictory, mixed with irrelevant and extraneous content and promulgated by a range of authorities possibly acting in sectional rather than ADF interests. It is clear that while Defence Legal needs to write and sponsor certain policy and doctrine derived from legislation, and contribute to other policy development, there exists a need for one ADF authority to control and coordinate all ADF policy and doctrine relating to investigations.

Investigator Practices and Procedures

- 7.21. The *practices* of investigators need to be reviewed. For example, economies and efficiencies in time, money and resources are likely to be achieved in an organisation as widely dispersed geographically as the ADF if the manner in which less sensitive, routine inquiries and statements are taken and evidentiary material collected are reviewed. A simple example is that it is not always necessary for an investigating team to be solely responsible for taking witness statements. Those that are uncomplicated, that merely outline a part or parts played in a sequence of events or corroborate the statement of another witness, could be taken by other investigator qualified SP, suitably briefed, who are located closer to the place where the witness lives or works.

An Anachronistic Service Police and Investigator Culture

- 7.22. The audit has revealed that antipathy exists between some ADF members and their SP colleagues and between general duties SP and their investigator colleagues. Some of this is long standing, going as far back as World War I and is perhaps part of the fabric of the ADF culture. The audit team considers that no matter how undesirable some of the manifestations of this antipathy may be, there is little that can be done about it in the short term. A significant improvement will only come about through exemplary leadership by all parties at all levels to cultivate a culture of professional and co-operative effort.
- 7.23. Disagreements between individual SP or between elements of them should be addressed as a matter of priority by SP leadership. Officers and SNCOs identified as being unwilling or incapable of building better relationships between SP investigators and general duties SP should be counselled, undergo remedial training and, if improvement does not occur, be removed from leadership positions. It follows that appointments to command positions within SP, or to RSM and equivalent Navy and RAAF positions, should involve a careful selection process to ensure the suitability of appointees for these roles. Particular care should also be taken to appoint suitable officers and SNCOs to positions at the DPTC.
- 7.24. The audit team was not convinced by arguments in favour of retaining the Special Investigation Branch (SIB) label in any Service. Despite its interesting history and the fact that many good people have served in its ranks, the title is anachronistic, does not reflect the duties of ADF investigators and is unlikely to contribute to the development of a new organisational culture. Investigations into matters related to Service and criminal offences are the routine business of SP investigators to which the 'special' label need not be applied.
- 7.25. Great care must in future be taken in SP training and in the leadership of SP to ensure that they understand their role as *contributors* to the efforts of ADF command to maintain discipline. They do not have primary responsibility for maintaining discipline, nor to find guilt or to punish, a task clearly the prerogative of competent ADF and civilian authorities. As made clear in earlier reports, SP must attend to both exculpatory as well as inculpatory evidence. Ultimately, they will be assessed by the quality of their work, manifest in briefs of evidence that will permit the ODMP to achieve the appropriate lawful outcome.
- 7.26. **Essential Partnerships.** In our view, the proposed function and roles of the ADFIS are such that the service could be accepted as a Commonwealth Law Enforcement Agency. It will therefore be critical for the PM-ADF to move quickly to establish and maintain a close, cordial, and professional relationship with SP who undertake garrison policing, key ADF stakeholders, and with external law enforcement, regulatory and reporting agencies. Regular, formal and informal lines of communication and liaison ought to be established and

maintained, and full membership or observer status be acquired of the relevant professional forums of Federal, State and Territory law enforcement bodies. The threshold objective of having these relationships is to have the ADF investigative capability accepted by external law enforcement agencies, and relevant others, as a counterpart agency with whom they are prepared to exchange information freely if the accepted conventions of protection and confidentiality are accepted.

Structure of ADFIS

7.27. We propose that the ADFIS be formed by CDF directive as a joint organisation under ADHQ, largely from the existing ADF investigator population, that it be part of Defence Output 1 – Defence Operations, and comprise:

- a headquarters in Canberra consisting of ADF members, Defence APS members and Professional Service Providers (PSP), and seconded AFP where desirable;
- a Major Investigation Team (MIT) comprised of highly qualified and experienced investigators with the primary role of conducting major, complex and sensitive investigations;
- investigators and support staff located at major ADF concentrations around Australia and attached to ADF forces deployed overseas;
- all qualified and experienced ADF investigators assessed as having the competence to undertake the investigation of any Service or criminal offence within ADF jurisdiction; and
- non-ADF members qualified and experienced in investigations employed specifically to undertake investigations as a member of ADFIS. Essentially PSP, these people would need to be appropriately security cleared and physically and medically fit to be deployed at short notice to undertake investigations in Australia and overseas.

7.28. The role and functions of the ADFIS are proposed as:

Role

The role of the ADFIS is to assist the CDF to maintain ADF discipline through the lawful, ethical and effective investigation of matters involving ADF members, independent of Service chains of command.

Functions

The functions of the ADFIS are:

- a. Inquire into matters involving ADF members and Defence Civilians and collect relevant material to a standard acceptable for use, if required, by competent ADF and civilian authorities.*
- b. Keep CDF informed of results of, and trends in, ADF discipline matters.*

c. *Maintain a police intelligence capability to support investigations and operations and provide effective crime prevention and detection measures.*

d. *Monitor developments in Australian civil and allied military law enforcement in order to adjust ADF policy, training and procedures as required to maintain best investigative practice.*

e. *Provide support to the PM-ADF in undertaking all the policy, doctrine, training, representational and general policing-related activity specified in that officer's duty statement.*

One ADF Investigative Service

- 7.29. If our proposal is accepted, there will be one ADF investigative service, not four. There can be no 'shopping round' for investigative assistance and it must be clear to all ADF people that there is one ADF investigative service clearly responsible and accountable to the CDF. Establishment of the ADFIS will therefore change the current status of the Service Provosts Marshal by abolishing their role as heads of Defence Investigative Authorities. However, the Service PM would retain an important consultative and advisory role and need to continue to represent Service interests in a forum to advise the PM-ADF on the development of ADF policing and investigation policy and in the coordination of investigation activity. This forum is described in Paragraph 7.36 and in Attachment 3 to this Chapter.
- 7.30. A clear distinction is needed between the offences that are *only to be* investigated by the ADFIS and those that *may be* investigated by non-ADFIS investigators or non-SP investigators appointed under Section 101 of the DFDA. It is proposed that the ADFIS investigate 'serious service offences' as defined in the interpretation contained in Section 101 of the DFDA and a range of other matters requiring a higher level of investigatory skill. Given that what might first present as a minor matter may escalate in either seriousness or nature and require referral to another authority, it is not possible to determine an absolute assignment to each level of investigative competence. However, assignment shown in Table 7.1. is proposed for adoption by the ADF as a functional regime:

Table 7.1

Column 1	Column 2	Column 3	Column 4
ADF Units	ADFIS		IG-D and DSA
Matters that may be investigated by non-SP unit staff members or by a non-SP SNCO or officer appointed under Section 101 of the DFDA	Matters that may be investigated by ADFIS staff members who are SP graduates of the Service Police Basic Course, the Military Police Investigations Course.	Matters that may be investigated by ADFIS investigators	The jurisdiction of the IG-D and the HDSA to investigate DFDA matters is addressed in Paragraphs 1.8 and 1.13 and in Recommendation 1.3.
<ul style="list-style-type: none"> • insubordination, • failure to comply, • absence without leave, • creating a disturbance, • prejudicial behaviour, • disobedience, • negligent performance of duty, and • insulting or provocative words. 	<ul style="list-style-type: none"> • Non-violent ‘barrack room’ thefts of money or personal property or stealing involving property valued at \$5000 or less, • theft of or from private or Service motor vehicles, • theft of Service property, excluding weapons, ammunition, controlled stores and public or non-public monies, • destruction of or damage to personal, Service and civilian property other than by fire or explosion not exceeding \$10 000 in value, • common assault or fighting, • traffic accidents on Service property not involving a fatality, • leave related offences involving potential criminal offences such as falsification or fraud, and • obscene behaviour. 	<ul style="list-style-type: none"> • by exception, all offences listed in Columns 1 and 2, and • all other offences within DFDA jurisdiction including ‘<i>serious service offences</i>’ as defined in Section 101 of the DFDA 	<ul style="list-style-type: none"> • IG-D – fraud and other matters covered by the CDF and Secretary Charter to the IG • DSA – complex and major security investigations.

ADFIS Command and Control

7.31. Having the ADF investigative capability placed within and under the command and control of a SP organisation focussed on non-investigative duties has been a failure. We propose instead that in the interests of impartiality, the maintenance of high professional standards and the avoidance of interference in investigations, the ADFIS also function outside the Service chains of command and be answerable directly to CDF through its commander, the PM-ADF.

7.32. The ADFIS headquarters in Canberra would enable the PM-ADF to undertake the roles and tasks essential for the development and maintenance of an effective ADF investigative capability. A draft duty statement for the PM-ADF that lists those roles and tasks is at Attachment 2 to this Chapter.

7.33. While the audit team members support the appointment of a Colonel rank officer as the first PM-ADF we do not consider the rank is sufficient. In both the ADF

rank structure and in the Canberra bureaucracy an officer of Colonel rank does not possess the authority to influence the command, policy, workforce and financial factors that will determine the performance of the ADFIS. More significantly, in what the audit team considers to be a very strong ADF culture of command, an officer of Colonel rank, operating outside the ADF Senior Leadership Group, will have limited capacity to influence or assist the senior ADF commanders of one star (Brigadier (E)) rank and above who share the larger part of the burden of maintaining discipline 'in the field'. Importantly, we note that all other key appointments to lead and head authorities dealing with ADF justice matters are of at least ADF one star or APS Band 1 rank or level.

- 7.34. Furthermore, the PM-ADF should be a one star officer if the ADFIS and the new Service policing arrangements are to be fundamentally reformed, strengthened and maintained at the requisite standards of professionalism and if he or she is to sit with others in the military justice system as an equal. The obstacles to be overcome in reforming SP and the establishment of the ADFIS ought not to be underestimated; they will be onerous. It will require extraordinary leadership, management and liaison skills. Not only will the PM-ADF have to win the confidence and trust of senior ADF leaders and of the broader ADF community, he or she must promote the new arrangements externally, in particular to Federal, State and Territory civil law enforcement, regulatory and compliance agencies, and to be accepted as a credible counterpart policing agency with whom they can cooperate with confidence. A part of such acceptance is the standing of the PM-ADF in Defence and amongst his or her civilian peers. There is, for instance, no civil investigative agency whose head would be appointed at less than Commonwealth Senior Executive Service Band 1 level. This is quite unremarkable as even mid-level investigators in external agencies are appointed at Executive Level 1.
- 7.35. Given the recommended future involvement of civilian investigators in the proposed ADFIS workforce there will be a need for an ADFIS identification badge and card. In combination with a Defence identity card this item would be needed to permit ADFIS investigator entry to all ADO establishments and installations.
- 7.36. At present ADF investigation policy and related activity are considered by the HDIA at their regular meeting. DI (G) ADMIN 45-2 empowers the HDIA to assess NI and either initiate an investigation into an incident or refer the matter for action by a competent authority. HDIA may also close an investigation. The abolition of the status of the Service PM as HDIA and the need to improve the ADF capacity to undertake these tasks necessitates a change in these arrangements. The audit team recommends that the HDIA meetings be replaced by the Australian Defence Investigations Policy and Coordination Committee (ADIPCC). Proposed Terms of Reference for an ADIPCC are at Attachment 3 to this Chapter.

7.37. As mentioned in Chapter 3, ADF policing and investigation activity is not currently planned or coordinated. With the establishment of the ADFIS the ADF would have a suitable means of developing a single, overarching Policing Plan to reflect the mission of policing in the ADF and a Major Investigation Plan (MIP) for the investigation of serious or complex matters that require the co-operation and coordination of diverse internal resources and/or external agencies. We recommend that the PM-ADF be assigned responsibility for developing these plans.

Residual Roles of the Service Provosts Marshal (PM)

7.38. The establishment of the ADFIS and its responsibility for the conduct of investigations in the ADF will affect the residual responsibilities of the Service PM. The unique-to-service roles of the different SP organisations will produce different responsibilities for each PM.

7.39. The Director of Policing and Security – Navy (DSPN) currently serves as the PM-Navy. This would not change following the establishment of ADFIS with DSPN retaining responsibility for the provision of staff advice to NHQ on investigations, liaison with ADFIS, representing the RAN on policing and investigation matters and implementing relevant aspects of the ADF Policing Plan.

7.40. Provost Marshal – Army (PM-A) should be retained in AHQ with residual responsibility for combat development of the RACMP, the RACMP head of Corps function, non-investigative aspects of MP operations, staff advice to AHQ on investigations, liaison with ADFIS, representing the Army on policing and investigation matters and implementing relevant aspects of the ADF policing plan.

7.41. The Air Force have separated the investigative functions of SECPOL from what we understand is now termed the ‘protective security’ and ‘physical security’ functions. This involved the establishment of a separate Provost Marshal – Air Force (PM-AF) with staff and investigative sections at RAAF bases. We recommend that this function transfer entirely to the ADFIS, thereby requiring the PM-AF function to be assumed by Director of Security and Policing Policy – Air Force (DSP-AF) who would retain responsibility for the SECPOL mustering and specialisation, sponsorship of training and Air Force policing policy. DSP-AF would remain responsible for providing staff advice to AFHQ on investigations, liaison with ADFIS, representing the RAAF on policing and investigation matters and implementing relevant aspects of the ADF policing plan.

ADFIS Investigator Entry Criteria

7.42. As can be seen from the information in Chapter 3, Tables 4, 8 and 12, recruiting of investigators is not meeting targets. Obtaining greater productivity from the existing workforce will offset the effects of this shortfall but, in the view of the audit team, direct recruiting of qualified civilian investigators to serve in the

ADFIS is necessary. DFDA amendment may be necessary to overcome uncertainty surrounding the legality of employing civilian investigators to investigate offences by ADF members under the DFDA. We recommended that, if necessary, the DFDA be amended.

- 7.43. In addition to helping overcome the recruiting shortfall the recruitment and employment of civilian investigators would inject ‘new blood’ into the ADF investigator community. The importation of new and different skills held by people trained in external investigation agencies would be both cost effective and to the benefit of the ADFIS culture. Such people would of course need to meet certain psychological, health and fitness criteria in order to be deployable to ADF areas of operations at the required readiness notice.
- 7.44. The audit team therefore recommends that ADFIS investigators should comprise:
- a. ADF members who have successfully completed the SPBC, the MPIC and the IQC, or who have equivalent recognised prior learning and who have been well reported on over a period of least two years employment as an investigator in a minimum rank of Corporal (E).

AND

- b. non-ADF members possessing ADF-recognised qualifications and experience in investigations employed specifically by Defence to undertake investigations either as a member of the Defence APS or as a PSP and who are physically and medically fit to be deployed at a stated readiness notice for investigation duties in Australia or overseas.
- 7.45. Non-ADF investigator members of the ADFIS would not have military rank or command authority. They should be referred to as ‘Investigator’ but have their status relative to commissioned and non-commissioned personnel established on grounds of competency, seniority or position in the ADFIS. (see also Paragraph 7.48).

Attracting Investigators

- 7.46. Ideally, investigators ought to be mature, level-headed, of above average intelligence, intuitive, perceptive, analytical and determined, with good writing and interpersonal skills. Importantly, they must have the *aptitude* and *interest* to be an investigator. Investigators drawn from civilian agencies and authorities ought to be critically assessed beyond mere acceptance of proffered referee statements or nominated supervisors.
- 7.47. The primary prerequisite to attracting suitable people to the position of investigator in the ADFIS is for the ADF to treat the new body and its roles and functions as important and as an integral part of its administrative and operational

assurance capability. Equally important is for investigators to be accepted as being an *important and integral part of the military justice system*, the effectiveness, efficiency and fairness of which can not be maintained unless SP investigators are of a high calibre and are properly trained, equipped and supported by ADF senior command.

- 7.48. The remuneration of investigators ought to be at a level appreciably higher than non-investigator SP in order to acknowledge that investigations require a higher aptitude and training than required for other SP duties. Investigators ought to be treated as a professional stream of the ADF. Remuneration should be based not on rank but on competencies and sustained, demonstrated professional commitment. This could be achieved through a pay increment structure system based on positions as well as rank. The terms ‘Investigator’, ‘Senior Investigator’, ‘Supervisory Investigator’, ‘Manager Investigations’, ‘Executive Manager Investigations’, or similar nomenclature, should be used to differentiate between the competencies, and hence responsibilities, of people of the same or different ranks.
- 7.49. It will be crucial that ADFIS investigator pay and conditions are competitive with at least that offered in the public sector if any headway is to be made in widening and deepening the investigative ‘gene pool’. IG-D and DSA SIU experience, and the experience of other external investigation bodies, suggest that the Defence APS 6 and Executive Level 1 is an appropriate benchmark for their investigators. We consider that, given the mixed civilian and ADF workforce proposed for the ADFIS, that the remuneration of ADF investigators be examined in order to achieve equity for people undertaking similar duties in the same environment.

Minimum Standards

- 7.50. The present lack of depth in the qualities, qualifications and experience of SP investigators will pose difficulties for ADFIS in the transitional period and possibly into the medium term. We propose that, as mentioned in Paragraph 7.4, all ADF investigator positions be transferred to the ADFIS on its establishment. Thereafter, the PM-ADF should assess the suitability of all the investigators in these positions to achieve the standards expected of an ADFIS investigator. We accept that some investigators may choose to return to general SP duties rather than serve in the ADFIS, that others may be assessed as unsuitable for such employment, and that others may need to be offered an opportunity to enhance their skills in order to achieve the higher standard.
- 7.51. The audit team concludes that it would be unrealistic to insist on a standard of investigative competence and experience that mirrors closely that prevailing in mainstream policing agencies, simply because the majority of instances of criminal matters which have a Service nexus fall in the lower range of seriousness and their numbers are not a significant proportion of reported matters. Accordingly, it is recommended that a standard of appropriate accreditation

- coupled with endorsement of competence by supervisors and experience as an investigator for no less than two years, would be a reasonable threshold criteria.
- 7.52. At the inception of the ADFIS, investigators will be drawn from the existing ADF investigator workforce. Thereafter, however, investigators will be drawn from both external and internal sources, including from the general duties SP, where those who are rated as suitable to be considered for investigator training would also be drawn.
- 7.53. In so far as the recruitment of civilian investigators is concerned, we recommend that, in the short to medium-terms, efforts be made to recruit close-to-retirement or newly retired police or other civilian investigators to bolster waning internal experience and to mentor the inexperienced. We again caution that great care should be exercised in selecting people externally to ensure their declared credentials are independently validated and that they reflect proven competence and contemporary experience.
- 7.54. One option, if the recruitment of experienced investigators proves insufficient to sustain and build capability, is to consider attracting a small number of direct entries into ADFIS ranks, rather than via the SP general duties element where recruits will continue to be ‘soldiers’ first and foremost and ‘police’ second. This means that ADFIS would sponsor its investigator recruits as attendees at external police colleges, more likely as part of periodic intakes rather than as separate classes. New investigators would, on graduation, be assigned to more experienced ADFIS investigators to be mentored and developed ‘on the job’ with goals and tasks which test and reinforce training and develop requisite skills and competencies.
- 7.55. There are, of course, risks associated with the direct recruitment of people without an investigative background, especially in a depleted organisation such as the SP, but this has to be weighed up against the alternative of not maintaining a viable capability. In any event, this option should not be discounted.

Investigator Training and Development

- 7.56. To reinforce the point made in Chapter 5 regarding the development of DPTC curricula, the PM-ADF and DPTC must cooperate to ensure that future investigator training reflects up to date content, and this will only be achieved by a research and development element whose function includes scanning the external environment for relevant changes to law and investigative method and tradecraft and be reflected in suitably modified syllabus.
- 7.57. In comparison with their counterparts in mainstream police agencies, most ADF investigators are not exposed to the range and number of the more serious criminal investigations. This means that the gaining of experience and competence in conducting investigations tends to take longer and is often not

reinforced through repetition and lessons learned. It is important, therefore, that internal training and experience be supplemented and reinforced by ADFIS investigators undertaking selected training courses and suitable secondments available in the Federal, State and Territory police forces. The attendance at such courses and secondments must be formalised within a personnel management and development framework and be on the basis of an equitable, regulated and deliberate policy of *essential skills acquisition*, career development and advancement for the right people at the right time and for the right imperatives of ADFIS. The PM-ADF should coordinate the selection and appointment of investigators within this development framework.

- 7.58. A mentoring scheme ought to be established in the ADFIS where more senior experienced investigators are assigned the responsibility of nurturing, encouraging and evaluating the performance and progress of junior investigators. This will allow for the early identification of issues that may require early intervention and remediation. Existing Service performance evaluation and reporting processes should incorporate for ADF investigators a mandatory requirement that their investigation skills be assessed and reported on annually.
- 7.59. We believe that it would be very beneficial if a senior and suitably qualified AFP member was identified formally as an adviser for the PM-ADF in the implementation of the agreed recommendations of this audit report. We recommend that the CDF approach the Commissioner of the AFP on this matter.

Investigator Numbers and Locations

- 7.60. **In Australia.** The distribution of investigators must be determined by the number, type, complexity and geographic distribution of the investigation caseload. Total ADFIS investigator numbers and their distribution needs to be based on a sustainable establishment in a reduced number of geographic locations in Australia, taking into account the population of ADF personnel present, the existing and projected workload, the accessibility of sites and the logistics of increasing coverage and acquiring necessary assistance in a timely manner, if and when required.
- 7.61. **Overseas.** Owing to the criticality of competently and quickly containing and managing incident and crime scenes, a sustainable number of investigators ought to be a permanent, non-negotiable presence in overseas deployments of ADF forces. When deployed in areas of operations, investigators should not be assigned extraneous duties that may interfere with or delay their capacity to undertake investigations in a timely manner. The CDF decision of May 2006 has provided the basis for this to occur.

Conditions of Service

- 7.62. **Rank and the Wearing of Plain Clothes.** The wearing of plain clothes by ADF investigators continues to be a source of acrimony between some sections

of the SP, and between SP and some other ADF members. The DFDA requires SP to state their name and rank when identifying themselves during the performance of their duties. However, some argued strongly that rank played a significant negative part in the dynamics that occurred between SP and, chiefly, suspects and offenders. Others contended that rank paid no part in proceedings involving SP and other members of the ADF. There is also the valid argument that using a neutral title, as opposed to rank, negates the potential for the future contention on the part of defence counsel to argue, for example, that investigators intimidated or overbore a more junior ranked ADF member. All these arguments have their merits, as the interplay between investigators and others will invariably hinge on the personal and professional attitudes and demeanour each party brings to the encounter.

- 7.63. The audit team, however, formed its opinion against the backdrop of command interference where unquestionably rank does play a role, albeit subtle and often indirect. While the audit team understands that an amendment to the DFDA would be required, it nevertheless recommends that ADFIS investigators omit their rank, simply introducing themselves as ‘Investigator’ followed by their name and organisation (ADFIS).
- 7.64. In the opinion of the audit team the acrimony about dress is unwarranted. If our recommendation concerning the wearing of plain clothes is accepted, the matter of dress during interviews will not be an issue. In terms of investigators who are ADF members, there are good reasons why they should wear plain clothes in the course of their duties. Working with Federal, State or Territory police in the civilian community is one occasion while another is when they interview junior ADF members who might be intimidated by the uniform of a senior ranking investigator. In the view of the audit team the wearing of plain clothes, in Australia, should be left to the discretion of supervising investigators. It is, however, our recommendation that ADFIS personnel wear plain clothes and that SP continue to wear uniform in the course of their duties except when undertaking specialist roles such as close personal protection where plain clothes will often be required.
- 7.65. Investigators purchase their plain working clothes at their own expense. We recommend that compensating them for the costs of doing so should be considered by the Defence pay and employment conditions authorities with a view to obtaining approval for the payment of an allowance to members of the ADFIS. The PM-ADF should be made responsible for nominating those members eligible for such payments.

ADFIS CAPABILITY

Police Intelligence

- 7.66. The audit team considers that the lack of a SP police intelligence capability is a significant deficiency. Police intelligence is material in any form, often from multiple and diverse sources, which has been highly value-added, tested and evaluated, by overt and covert measures, as to its reliability, value and potential use. Police intelligence can be either strategic or tactical.
- 7.67. **Strategic intelligence.** At its highest, police intelligence ought to contribute to informing ADF leadership of the nature, extent and effect of existing and emerging criminal threats in order that reasoned decisions may be taken as to the levels of risks and threats and to the commensurate resources to be allocated in the context of competing Defence programs.
- 7.68. **Tactical Intelligence.** Tactical intelligence is a product of the planning and execution of both overt and covert operations to determine the composition, disposition, networks, intentions, capabilities and vulnerabilities of criminals and their enterprises with the aim of disrupting, dismantling or eliminating the criminal activity and arresting the principals.
- 7.69. Operationally, police intelligence is instrumental in:
- identifying the relevant issues, threats and trends and the formulation of plans to collect, analyse and report on identified criminals and their enterprises; and
 - the prioritisation of identified criminal targets and organisations for law enforcement action.
- 7.70. ADF posting churn will hinder the development of an effective policing intelligence capability. The audit team recommends that this problem is best avoided by the employment of APS officers to establish and maintain the police intelligence capability.

Legal Capability

- 7.71. ADFIS will require an organic legal capability. We therefore recommend that to meet this requirement the Major (E) legal officer position at 1 MP Battalion be transferred to the ADFIS. Further, it will be important for the ADFIS to establish a means of obtaining from ODMP a direct and authoritative source of legal advice.

Technical Support of ADFIS Operations

- 7.72. It is apparent that some past SP investigations may have produced more conclusive and successful results had investigators ready access to the level of

technical support available to civil law enforcement bodies. An effective technical capability is an indispensable tool in the investigation planning and execution of serious and/or complex crimes. Of course, some technical measures (i.e. telecommunications interception) are only available to designated law enforcement agencies when approved by a judicial officer.

- 7.73. However, the present state of training and the general readiness of most SP are such that they could not widely or productively use the kind of sophisticated electronic covert means available. There are a small number of SP with an understanding of covert technical measures, however, these measures are labour intensive, requiring constant, careful and usually real-time monitoring and support by skilled people and a capacity to respond immediately to developments, often unexpected and unforeseen, as the operation progresses. In time, with greater experience and improved skill sets, it would be important for ADFIS to employ technical measures judiciously in support of complex operations, including supporting and improving the success of static and mobile surveillance.
- 7.74. ADFIS will require technical support personnel covering DPSMS, photography and audio-visual production. It will also require IT support not just for DPSMS or administrative applications but to support its investigations and operations into matters involving defence logistics and other IT systems.
- 7.75. ADFIS ought to include the provision of suitable technical support in its development of memoranda of understanding with the Federal, State and Territory police. In the meantime, ADFIS should use covert measures that are within its competence more frequently in support of operations where success is more likely to be achieved by taking a planned, methodical and long-term approach.

An ADFIS Forensic Capability

- 7.76. SP currently have a limited forensic capability, and given the considerable cost, complexity and specialisation of forensic services and the rapid advances in the sciences and technologies that underpin them (DNA for example) it is not considered cost effective to duplicate the level of forensic services available in Australian civilian agencies. And even in the external setting, the cost of equipment and infrastructure have, in achieving economies of scale, lead forensic laboratories to specialise rather than replicate the range of services offered. The National Institute for Forensic Science (NIFS) is a common police service that comprises and represents the forensic laboratories of Australia and its members interact collaboratively.
- 7.77. SP have, but ought to strengthen, the capacity to process fingerprints at incident or crime scenes, and to take fingerprints for identification and elimination purposes. As ADF personnel are not routinely fingerprinted at the time of their induction, as is the case with civilian police, the full usefulness of fingerprinting is not realised. We note that there are many advantages of recording fingerprints and the DNA

signature of inductees including, for example, disaster and combat victim identification. We therefore recommend that the ADF consider implementing a fingerprint and DNA signature recording program.

- 7.78. In our view, the heightened operational tempo and the commensurate increase in the numbers of ADF personnel deployed abroad, make it an urgent priority that the ADF improve its existing forensic capabilities and enter into formal arrangements with, principally, the AFP for the provision of more highly specialised forensic services in Australia and overseas, with specific emphasis given to major incidents or crimes involving the non-combat related death of, or serious injury to, ADF personnel. We recommend that the ADF formulate a service level agreement with the AFP for the ADF to contribute to the maintenance of a modestly priced forensic capability in the AFP and, in exchange, receive priority in major incidents and crimes.

Summary

- 7.79. The problems confronting the existing ADF investigation capability are such that an entirely new approach is needed. New SP and investigator roles need to be defined and significant changes made in investigator policy, doctrine, training and methods of employment. In light of the seriousness of these findings, the audit team considers that the renewal and revitalisation of the ADF investigation capability centred on the establishment of the AFDIS, begin with a 'blank slate', eschewing reference or adherence to past policies, doctrine and procedures. To do otherwise will simply continue the separateness, confusion and uncertainty caused by the mishmash of policies, doctrine and procedures within and between the three SP organisations. If such an approach is not adopted the proposed reforms will take far longer to achieve than is warranted, or they will fail.

Recommendations

- 7.80. The audit team recommends that:

7.1. The Australian Defence Force Investigation Service (ADFIS) be established outside the Service chains of command answerable directly to CDF through its commander the PM-ADF, as the most effective, efficient and economic future use of ADF investigative resources.

7.2. Any Service plans to reduce existing investigator establishment positions or staffing levels, by means of the Army Personnel Establishment Plan (APEP) for example, should be cancelled and that posting priority should be given to staffing the ADFIS.

7.3. The ADF's need for garrison policing be reviewed.

7.4. The draft CDF Directive at Attachment 1 of Chapter 7 of this report be used to establish the ADFIS.

7.5. The role of the ADFIS be established as *“to assist the CDF to maintain ADF discipline through the lawful, ethical and effective investigation of matters involving ADF members, independent of Service chains of command.”*

7.6. The functions of the ADFIS be established as to:

- a. *“Inquire into matters involving ADF members and Defence Civilians and collect relevant material to a standard acceptable for use, if required, by competent ADF and civilian authorities.*
- b. *Keep CDF informed of results of, and trends in, ADF discipline matters.*
- c. *Maintain a police intelligence capability to support investigations and operations and provide effective crime prevention and detection measures.*
- d. *Monitor developments in Australian civil and allied military law enforcement in order to adjust ADF policy, training and procedures as required to maintain best investigative practice.”*
- e. *Provide support to the PM-ADF in undertaking all the policy, doctrine, training, representational and general policing-related activity specified in that officer’s duty statement.*

7.7. ADFIS investigators be empowered to investigate any matter within DFDA jurisdiction and that all other SP who have completed the Service Police Basic Course and/or the Military Police Investigations Course and non-SP SNCO or officers appointed under Section 101 of the DFDA, be limited to investigation of:

- a. Insubordination;
- b. failure to comply;
- c. absence without leave;
- d. creating a disturbance;
- e. prejudicial behaviour;
- f. disobedience;
- g. negligent performance of duty; and
- h. insulting or provocative words.

7.8. The ADFIS workforce should be comprised of suitably qualified ADF investigators and suitably qualified civilians, either Defence APS members or Professional Service Providers, all engaged under suitable employment terms in order to undertake investigations.

- 7.9. The ADFIS be commanded by the PM-ADF and that his duties be as described in the draft duty statement at Attachment 2 to Chapter 7 of this report.
- 7.10. The CDF approach the Commissioner of the AFP to identify and obtain the services of a suitably qualified and experienced AFP member to advise the PM-ADF in the implementation of the agreed recommendations of this audit report.
- 7.11. ADFIS incorporate a Major Investigations Team (MIT) comprised of highly qualified and experienced investigators with the primary role of conducting major, complex and sensitive investigation.
- 7.12. ADFIS base its professional policing standards on those of Australian law enforcement agencies.
- 7.13. ADFIS introduce a Quality Assurance Review and reporting regime to ensure the quality and standard of its output.
- 7.14. All appropriate ADF training and education include content aimed at generating amongst ADF officers an acknowledgement that an effective and efficient SP investigative capability is an essential aid to them in fulfilling their responsibility to maintain discipline amongst those ADF members they command.
- 7.15. During their training ADF officers be informed that when a QA suggests to them that a serious Service or civilian offence may have been committed, they no longer have any choice of action – they must refer the matter to SP forthwith, who will then arrange for civilian police involvement where necessary. This content should stipulate that, in the case of death or serious injury, a QA is irrelevant and the incident must be reported forthwith to SP.
- 7.16. A program of work be prepared aimed at developing a new joint culture shared by all ADF investigators in order to begin the process of rebuilding the confidence of ADF people in the ADF investigative capability
- 7.17. Disciplinary action be taken against ADF commanders who knowingly fail to report a serious Service or civilian offence to SP, or are otherwise found to have kept knowledge of such a matter within their command or to have sought to have it dealt with it by inappropriate administrative or other means.
- 7.18. The PM-ADF be made responsible for the control and coordination of the development and maintenance of all ADF policy and doctrine relating to investigations.
- 7.19. The Australian Defence Investigations Policy and Coordination Committee (ADFIPCC) be established to subsume and expand on the role currently undertaken by meetings of the Heads of the Defence Investigative Authorities. Proposed Terms of Reference for the ADIPCC are at Attachment 3 to Chapter 7 of this report.

7.20. In order to overcome the deficiencies associated with the absence of any ADF policing and investigation planning and or coordination, the PM-ADF be allocated responsibility for development of an ADF Policing Plan and a Major Investigation Plan (MIP).

7.21. Particular care be taken in appointing suitable officers and SNCOs to leadership and instructional positions at the DPTC.

7.22. Use of the term Special Investigations Branch (SIB) cease in the ADF.

7.23. Formal and informal lines of communication and liaison be established and maintained by the PM-ADF with Federal, State and Territory law enforcement bodies, and full membership or observer status be acquired of the relevant professional forums of those bodies.

7.24. ADFIS investigators continue the practice of selectively wearing plain clothes in Australia and that the decision when to do so be left to the discretion of investigator supervisors.

7.25. ADFIS personnel be issued with a suitable form of identification badge and card.

7.26. Uncertainty over the legality of employing civilians to investigate offences by ADF members under the DFDA be removed by amendment of the DFDA if necessary. (see also related Recommendation 1. 3).

7.27. The matter of compensating SP for the costs of wearing plain clothes be reviewed by Defence pay and employment conditions authorities with a view to obtaining approval for the payment of an allowance to members of the ADFIS.

7.28. ADFIS investigators undertake selected training courses and suitable secondments available in the Federal, State and Territory police forces within a personnel management and development framework based on an equitable, regulated and deliberate policy of *essential skills acquisition*, career development and advancement for the right people at the right time.

7.29. The PM-ADF coordinate the appointment of investigators within this development framework, with the assistance of Service personnel authorities.

7.30. The ADFIS establish a police intelligence capability in support of operations and to inform ADF leadership of the nature, extent and effect of existing and emerging criminal threats, to enable timely effective counter-measures.

7.31. APS officers should be appointed to develop and maintain the ADF policing intelligence capability.

7.32. To meet the need for organic ADFIS legal capability, the Major (E) legal officer position at 1 MP Battalion be transferred to the ADFIS and the ADFIS establish a means of obtaining from ODMP a direct and authoritative source of legal advice.

7.33. ADFIS incorporate a technical capability sufficient to support operations that are not dependent, at the present stage of ADFIS development, on specific legislative sanction.

7.34. As an urgent priority, the ADF enter into formal arrangements with, principally, the AFP for the provision of forensic services in Australia and overseas with specific emphasis given to major incidents or crimes involving the non-combat related death of, or serious injury to, ADF personnel.

7.35. The ADF formulate a service level agreement with the AFP for the ADF to contribute to the maintenance of a modestly priced forensic capability in the AFP and, in exchange, receive priority in major incidents and crimes.

7.36. The ADF consider implementing a fingerprint and DNA signature recording program for all its members.

Attachments:

1. Proposed CDF Directive to establish the ADFIS.
2. Proposed PM-ADF Duty Statement
3. Proposed Terms Of Reference for the Australian Defence Investigations Policy and Coordination Committee (ADIPCC)

ATTACHMENT 1 TO CHAP 7

CDF Directive NoXX/2006

DIRECTIVE BY CHIEF OF THE DEFENCE FORCE THE ESTABLISHMENT OF THE AUSTRALIAN DEFENCE FORCE INVESTIGATION SERVICE

INTRODUCTION

1. The Senate Foreign Affairs, Defence and Trade Reference Committee report '*The Effectiveness of Australia's Military Justice System*' dated 16 June 2005, made a number of recommendations for change to the administration of military justice in the ADF, including recommendations pertaining to the referral of offences, the capacity of the Service Police (SP) to perform their investigative function, and an audit of current SP staffing, equipment, training and resources.
2. The inaugural Provost Marshal Australian Defence Force (PM-ADF) was appointed in April 2006 and is responsible to me for the command and control of specified investigations and the implementation of recommendations from the Senate Report and relevant previous inquiries and reviews.
3. The report of the audit of the ADF investigative capability has recommended that, in order to professionalise and provide an effective and efficient investigative capability to the ADF, the investigative agencies of the three Services should be grouped into a single, joint investigative service under the direct command of the PM-ADF.
4. I have accepted this recommendation and direct the establishment of the Australian Defence Force Investigation Service (ADFIS) as a joint unit as part of the Australian Defence Headquarters (ADHQ).
5. PM-ADF is to serve in the dual capacity as the Commander of the ADFIS and as the senior SP adviser to me and other ADF commanders.
6. The ADFIS is to function under joint command in order to:
 - a. ensure the independence and 'transparency' of the ADF investigative process;
 - b. conduct strategic investigation planning on a joint basis;
 - c. control and coordinate investigations on a joint basis;
 - d. coordinate the professional training and development of ADF investigators;
 - e. achieve greater economy in the application and employment of resources in the conduct of investigations; and

- f. develop an internal quality assurance regime to monitor the standard of ADFIS casework and introduce external monitoring.

AIM

7. The aim of this Directive is to detail the arrangements for the establishment of the ADFIS.

ROLE

8. The role of the ADFIS is to assist the CDF to maintain ADF discipline through the lawful, ethical and effective investigation of matters involving ADF members, independent of Service chains of command.

FUNCTIONS

9. The functions of the ADFIS are to:
 - a. inquire into matters involving Defence members and Defence Civilians and collect relevant material to a standard acceptable for use, if required, by competent ADF and civilian authorities;
 - b. inform CDF of results and trends in ADF discipline and investigation matters;
 - c. maintain a police intelligence capability to support investigations and operations and take effective crime prevention measures;
 - d. monitor developments in Australian civil and allied military law enforcement in order to adjust ADFIS policy and procedures as required to maintain best investigative practice; and
 - e. provide support to the PM-ADF in undertaking all the policy, doctrine, training, representational and general policing-related activity specified in that officer's duty statement.

COMMAND AND CONTROL

10. **Command and Control.** ADFIS is to be a joint unit under ADHQ. Command and control of the ADFIS is vested in the PM-ADF.
11. **Output management.** ADFIS is part of Defence Output 1 - Defence Operations. VCDF is the output manager.
12. **Tasking.** ADFIS is to be tasked by CDF. ADF commanders and managers at all levels may request ADFIS support. While the ADFIS is empowered to investigate any Service or criminal offence within DFDA jurisdiction its priority will be to deal with the more serious or sensitive matters that are not directed by the CDF and Secretary to be conducted by either the Inspector General Division or the Defence Security Agency Security Investigation Unit.
13. **Heads Defence Investigative Authorities Conference.** The PM-ADF is to be the permanent chair of the Australian Defence Investigations Policy and Coordination Committee (ADIPCC), which is to subsume the former Heads of Defence Investigative Authorities (HDIA)

Conference, meeting the role as the principle coordination mechanism for DIA operations and investigative policy within the ADO. The HDIA Conference will no longer occur.

14. **Relationship with the Single Service Policing Organisations.** The non-investigator elements of the RAN NPC category, the RACMP and RAAF SECPOL remain under command of their parent Services. They have, however, a critical role in both the broader policing needs of the ADF and the investigation of those minor disciplinary and criminal matters that are not investigated by the ADFIS.

15. PM-ADF is to develop the ADF Policing Plan, which is to include a continuum of policing, covering pro-active policing and crime prevention measures, first response policing arrangements, the conduct of minor criminal investigations by non-Investigator SP and the referral of matters by other SP agencies to ADFIS.

16. PM-ADF is also to develop the ADF Major Investigation Plan (MIP).

Discipline

17. The PM-ADF is appointed as the ADFIS Commanding Officer (CO) for disciplinary purposes under the Defence Force Discipline Act (DFDA) 1982.

18. PM-ADF is to appoint appropriate ADFIS officers as Subordinate Summary Authorities.

ADFIS STRUCTURE

19. The ADFIS will comprise the Office of the PM-ADF, a Major Investigation Team (MIT), specialist policing staff and joint investigation elements organised regionally across Australia and in Butterworth, Malaysia. The interim organisational structure of the ADFIS is at Annex A. In the light of experience gained in 2007 the PM-ADF is to further develop the ADFIS structure for review by me in August 2008. This review is to include the strength, Service, rank, trade and civilian personnel breakdown required for the ADFIS.

20. HQ ADFIS is to be raised as soon as possible but not later than January 2007. Investigation operations are to continue under existing single Service arrangements, but overseen and coordinated by PM-ADF, through the Service Provosts Marshal, until 1 January 2007, when joint investigation sections will assume responsibility for investigations in accordance with the ADFIS establishment and migration plan. ADFIS is to formally commence operations on 1 Jan 2007.

21. **Establishment.** PM-ADF is to develop an interim establishment for the ADFIS which is to be submitted to me for approval by 1 September 2006. PM-ADF is to review the establishment in the light of experience gained in 2007 and propose any desired amendments to me in August 2008.

PERSONNEL

22. **Personnel.** ADFIS will subsume the Navy Investigation Service, the Army Special Investigation Branch and RAAF SECPOL investigation elements. The Services will no longer have an independent police investigative capability. The transfer of personnel positions from current Service establishments to the ADFIS is to be coordinated and supervised by the PM-ADF in consultation with the respective Service personnel management agencies.

23. The Investigator and support personnel positions identified at annex B are to be quarantined from any personnel-related action pending transfer to ADFIS.
24. **Posting Action.** Posting action is to occur for personnel identified for appointment to HQ ADFIS as soon as possible and not later than 30 September 2006.
25. **Civilian Personnel.** HDPE is to assist PM-ADF in the identification of suitable civilian personnel for employment within the ADFIS in accordance with the ADFIS establishment.
26. **Career Progression.** The ADFIS is a specialist investigative agency separate from the single Service corps, categories and musterings that previously sponsored this capability. This will necessitate a review of single Service trade management plans for both Investigator and other SP personnel. PM-ADF is to coordinate a review of these plans in consultation with Service personnel authorities no later than June 2007. This review is to produce new career progression guidelines for ADF investigators.

TRAINING

27. **Training.** PM-ADF is to be the Training Requirements Adviser (TRA) for investigations training in the ADF and is to plan and coordinate the individual and collective training requirements of ADFIS investigators. ADF members of the ADFIS are to be made available to undertake Service promotion and other courses as negotiated with Service personnel authorities and without detriment to the ADF investigative workload.
28. **Training Development.** Commandant Defence Police Training Centre (DPTC) is responsible for development and delivery of joint, Defence and single Service Police training conducted at DPTC. The Security and Police Training Advisory Group (SECPOLTAG) exercises oversight of syllabi and is the primary body for consideration of single Service input into SP training.
29. PM-ADF is responsible for development of the investigative elements of all courses conducted at DPTC or elsewhere. As the TRA for investigations training, PM-ADF is to attend meetings of the SECPOLTAG and direct the Commandant DPTC on investigations training requirements.
30. **ADFIS Investigator Development.** PM-ADF is to establish an Investigator Development Program for the ongoing professional development of ADFIS personnel.

ADMINISTRATION AND LOGISTICS

31. **Administrative and Garrison Support.** The ADFIS is to include appropriate organic administrative support. The DSG is to continue to provide garrison support services, including: clerical, telephony, information systems, security, clothing, catering, logistics services, health and dental services to ADFIS elements in their local areas.
32. **Uniform.** All ADF members posted or attached to the ADFIS are to wear, when appropriate to their investigation duties, the uniforms and accoutrements of their parent Service. The Order of Dress (Dress of the Day) shall be directed by the PM-ADF.
33. **Civilian Attire.** ADFIS personnel are authorised to wear appropriate civilian attire while conducting investigation operations in Australia and outside ADF areas of operations. In

consultation with the appropriate DPE officers, the PM-ADF is to develop a case seeking payment of an annual allowance to fund the purchase by ADFIS investigators of appropriate civilian work clothing.

Equipment Transfer

34. PM-ADF is to identify the ADFIS equipment requirements including those investigation-specific equipment presently held by the single Service investigative elements for the conduct and support of investigations. This equipment is to be transferred to the ADFIS by 1 January 2007. Transfer is to be coordinated and supervised by the respective Service logistic management agencies in consultation with the PM-ADF.

FINANCE

35. **Finance.** From 1 January 2007 the ADFIS is to be funded under CDF's budget. Before then financial and administrative support for the ADFIS is to be coordinated through HJMIT.

36. **Resource transfer.** The coordination of resource transfer from the services to the ADFIS is to commence from the effective date of this directive. CFO is to coordinate and manage the process of resource transfer from the Services to the ADFIS. Once funding transfers have been completed, the ADFIS Business Manager is to be responsible for all ADFIS resourcing issues.

FACILITIES

37. **Facilities planning and process.** As the establishment of the ADFIS is likely to involve the merging of existing single Service investigations elements in some areas, PM-ADF is to prepare a Corporate Services and Infrastructure Requirement (CSIR) to inform ADFIS facilities requirements.

38. **Facilities Investment.** Infrastructure Division is to progress the development of the facilities to meet ADFIS requirements as soon as practicable.

TIMINGS

39. Key timings for the establishment of the ADFIS are:

- a. PM-ADF advises Service career management agencies of posting action required for December 2006 – not later than 22 September 06.
- b. Posting orders for initial ADFIS personnel issued – 30 October 2006.
- c. Establish HQ ADFIS/Office of the PM-ADF – 1 December 2006.
- d. ADFIS formally commences operations – 1 January 2007.

POINTS OF CONTACT

40. Points of contact for the establishment of the ADFIS are:

- a. PM-ADF. COL T.A. Grützner, FYSH (T)-1-038, ph (02) 61274044;
- b. NHQ.

- c. AHQ.
- d. AFHQ.

A.G. HOUSTON, AO, AFC
Air Chief Marshal
Chief of the Defence Force

XX August 2006

Annexes:

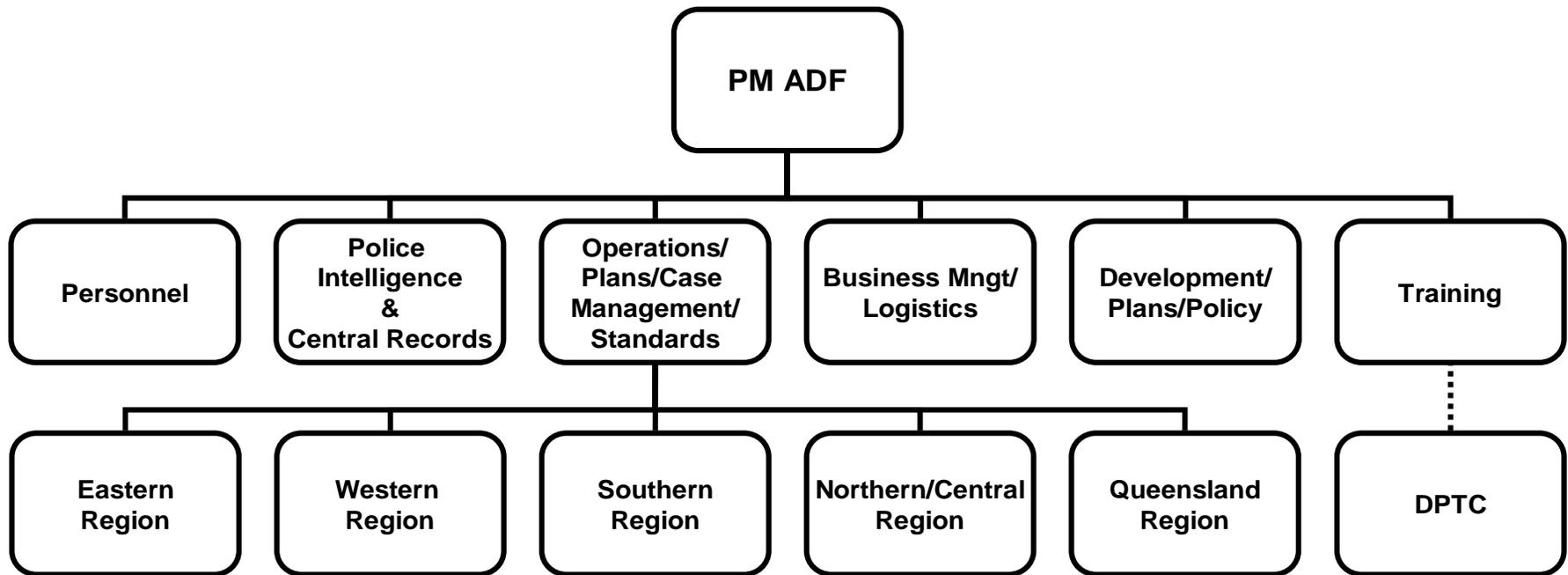
- A. ADFIS Organisational Structure
- B. Service Police Investigator and Support Personnel Positions to Transfer to ADFIS

Distribution:

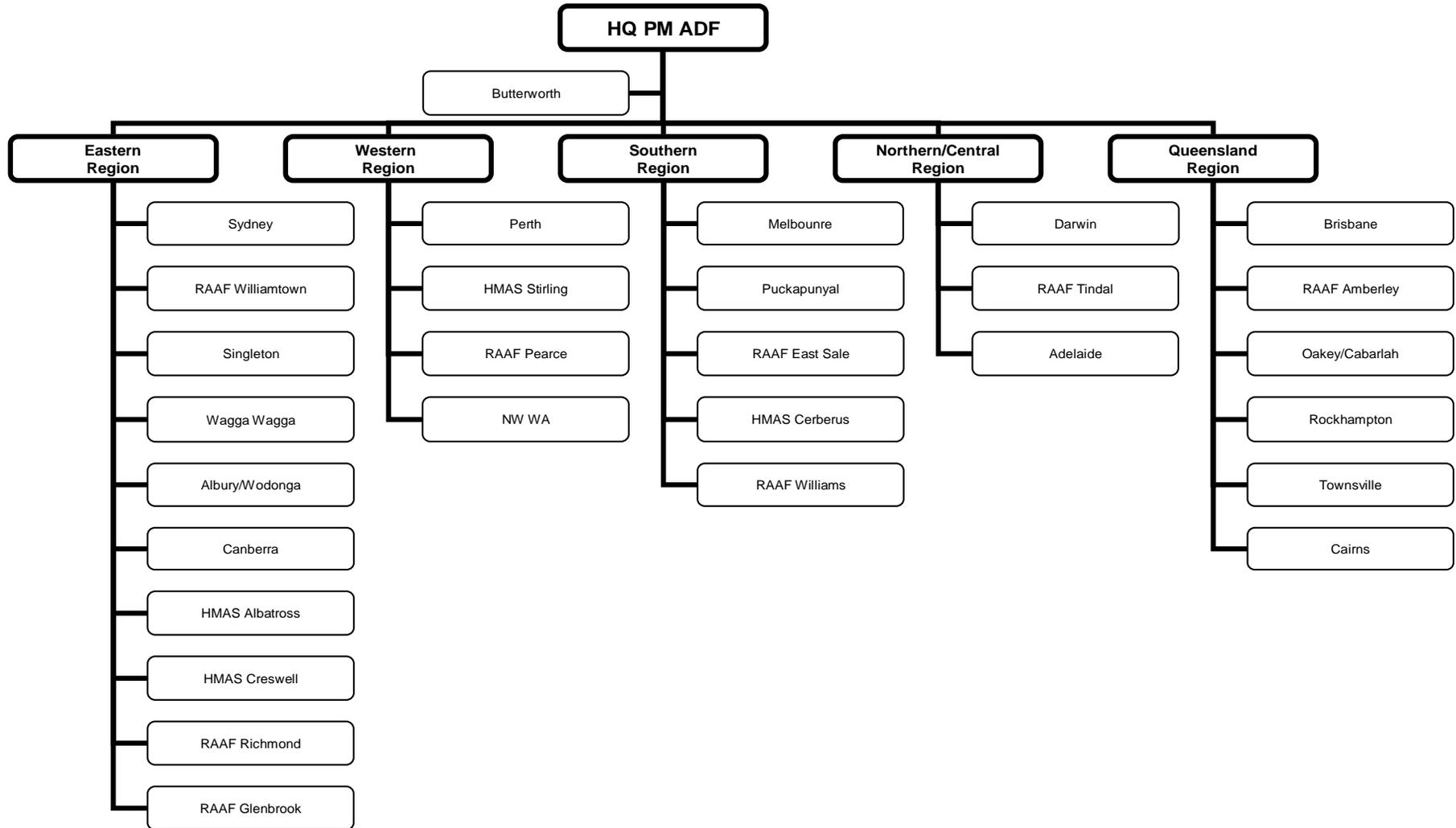
VCDF
CN
CA
CAF
HMJIT
PM ADF

For Information:

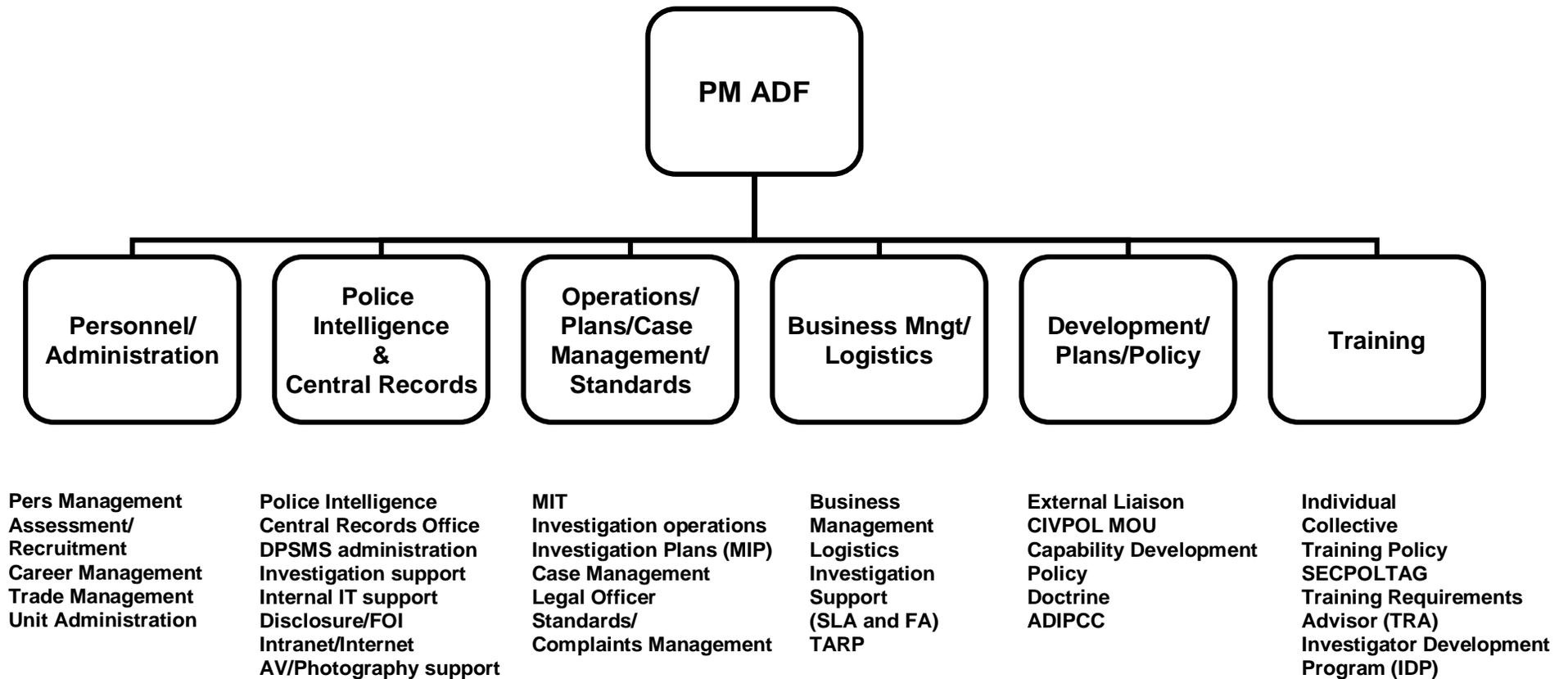
ADFIS ORGANISATIONAL STRUCTURE



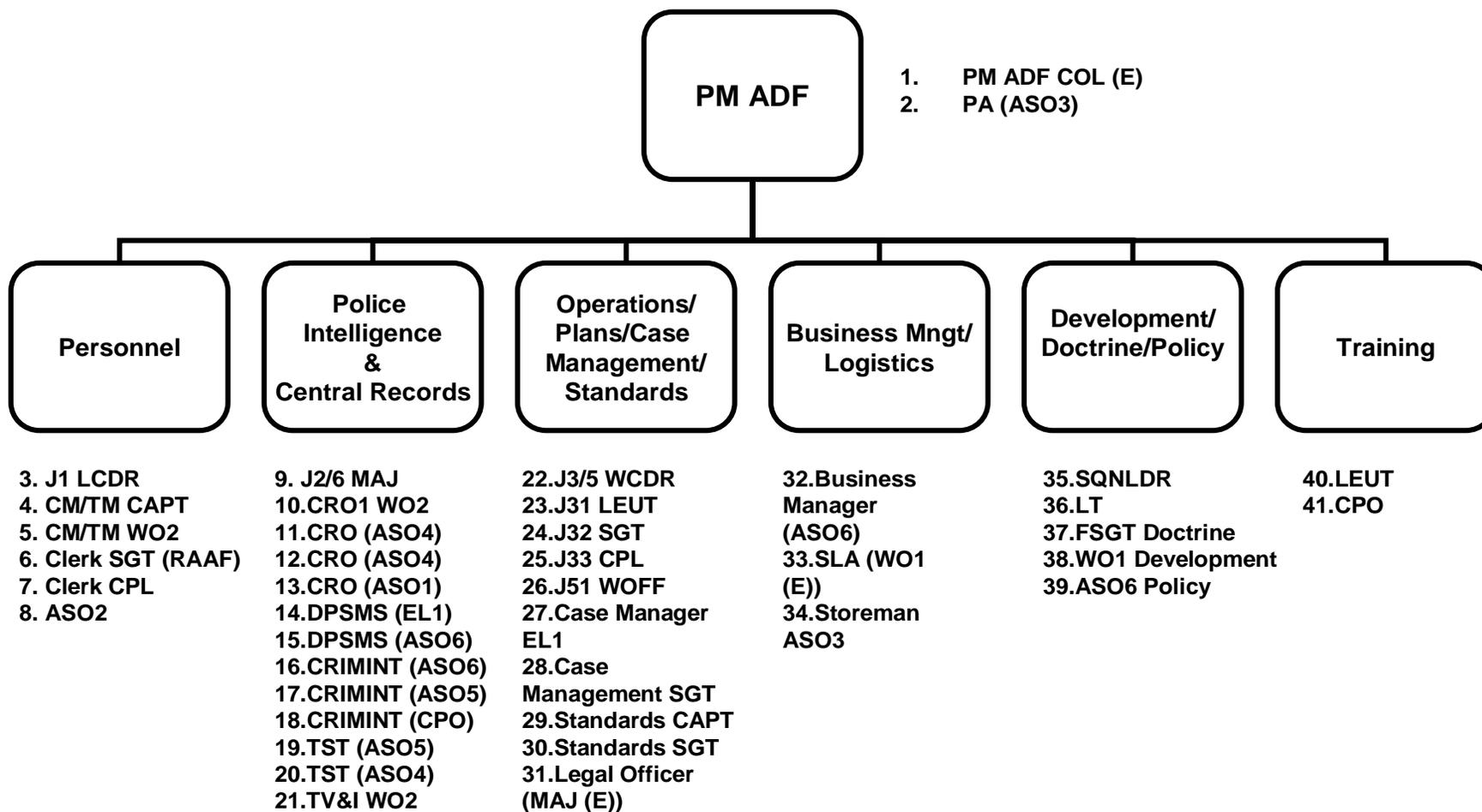
INTERIM ADFIS REGIONAL STRUCTURE AND AREAS OF RESPONSIBILITIES



INTERIM HQ ADFIS STAFF RESPONSIBILITIES



INTERIM HQ ADFIS STAFF ALLOCATION



Note: Positions 16, 17, 19, 27 and 33 are unfunded at this time.

**ANNEX B TO
CDF DIRECTIVE NOXX/2006
DATED XX AUG 06**

**SERVICE POLICE INVESTIGATOR AND SUPPORT PERSONNEL POSITIONS TO
TRANSFER TO ADFIS**

1. The following Investigator and support personnel establishment positions are to be quarantined from any personnel-related action pending transfer to ADFIS.
2. **RAN:**
 - a. LCDR.
 - b. LEUT x 2.
 - c. CPO x 8.
 - d. PO x 16.
 - e. LS x 10.
 - f. APS 4 x 2.
 - g. APS 3.
3. **Army:**
 - a. MAJ.
 - b. CAPT x 5.
 - c. LT.
 - d. WO1 ECN 190 x 2.
 - e. WO2 ECN 190 x 13.
 - f. SGT ECN 190 x 26.
 - g. SGT ECN 190 x 1 (AHQ).
 - h. CPL ECN 190 x 16.
 - i. CPL ECN 074.
 - j. ASO 2.
 - k. ASO 1.
4. **RAAF:**
 - a. WCDR.
 - b. SQNLDR.
 - c. FLTLT.
 - d. WOFF.
 - e. FSGT x 2.
 - f. SGT x 11.
 - g. CPL x 20.

- h. SGT (Admin – DSP-AF).
- 5. The Legal Officer (MAJ (E)) provided by Defence Legal to 1 MP Bn to support investigation operations is to transfer to HQ ADFIS.
- 6. In addition to the above, the WO2 (E) Service Police Investigations Liaison Officer (SPILO) position at ODMP is to transfer to the ADFIS establishment for employment as the ADFIS Liaison Officer to the ODMP.

**PROPOSED DUTY STATEMENT FOR THE
PROVOST MARSHAL AUSTRALIAN DEFENCE FORCE (PM-ADF)**

Immediate superior: CDF

Highest level of subordinate: LTCOL (E) or EL 1.

Function

The function of the PM-ADF is to assist the Chief of the Defence Force (CDF) to discharge his responsibilities for the lawful and ethical investigation of incidents and offences involving members of the ADF, independent of Service chains of command.

Roles

The roles of the PM-ADF are to:

1. Head the ADFIS.
2. Advise the CDF on ADF investigations.
3. Develop policing and investigation plans and plan, arrange and conduct investigations on behalf of the CDF.
4. Prioritise all investigations to be conducted by the ADFIS.
5. Direct the referral to civilian police or to formation and unit authorities of any investigations not suitable for or not warranting ADFIS attention.
6. Through VCDF/CJOPS, contribute to ADF operations planning to ensure an appropriate level of Service police investigations capability is deployed for all overseas operations.
7. Develop and maintain a strategic and tactical police intelligence capability.
8. Be the technical authority for all ADF investigations policy and doctrine.
9. Be responsible for development, publication and amendment of Defence investigations policy, doctrine and procedures to be published under CDF and Secretary authority from 2006 onwards.
10. Be responsible for development, publication and amendment of Defence instructions, ADFP or other documentation concerning the conduct of ADF Service police investigations.
11. Be responsible to CDF through the Head Military Justice Implementation Team (HMJIT) for implementation of those recommendations of the 2006 Audit of the ADF Investigative Capability agreed by the CDF.
12. Be responsible to CDF through the Head Military Justice Implementation Team (HMJIT) for implementation of those Government-agreed recommendations of the 2005 Senate Committee report into the effectiveness of the military justice system.

13. Be the internal and external ADF advocate on Service Police matters, particularly investigation-related matters.
14. Advise and assist all Service career management authorities in the skill development and career management needs of all qualified Service police investigators.
15. Liaise with Service career management agencies to help ensure the availability of ADF complainants, plaintiffs and witnesses to assist in the conduct of investigations and trials.
16. Be the Training Requirements Authority for investigator training and determine the content of all ADF investigations courses and others that have an investigations component whether conducted at the Defence Police Training Centre or elsewhere.
17. Be responsible for all ADF agreements and Memoranda of Understanding (MOU) with Federal, State and Territory police and other relevant agencies on investigation and other Service police matters.
18. Maintain good working relationships with senior levels of all Australian Federal, State and Territory police agencies.
19. Represent ADF investigation and Service police matters to the Australian Police Commissioners' Conference and other appropriate senior law enforcement forums as agreed by CDF
20. Monitor developments in Australian civilian investigative practice and amend ADF investigations policy and doctrine to ensure maintenance of complementary best practice standards.
21. As required by CDF, contribute to the training of senior ADF commanders and commanding officers in investigations policy, doctrine and practice.
22. Monitor the reporting of all Notifiable Incidents by ADF units and individuals and advise CDF on those in which CDF intervention is necessary.
23. Maintain good working relationships and liaise as necessary with IGADF, IG-D, HDL, DSA and Service Provosts Marshal.
24. Chair regular meetings of the Australian Defence Investigations Policy and Coordination Committee (ADIPCC).

ATTACHMENT 3 TO CHAP 7

PROPOSED TERMS OF REFERENCE

AUSTRALIAN DEFENCE INVESTIGATIONS POLICY AND COORDINATION COMMITTEE (ADIPCC)

Role

1. The ADIPCC subsumes and expands on the role formerly undertaken by the meetings of the Heads of Defence Investigative Authorities. Its role is to oversee the development of ADF investigation policy and to guide the direction of the ADF investigative effort.

Members

2. The following principals, or their representatives not below LTCOL (E) rank or APS Executive Level 2, are involved in the ADIPCC:

Permanent members: The Provost Marshal Australian Defence Force (PM-ADF) (Chair), the Provosts Marshal Navy, Army and Air Force, the Director of Investigation and Recovery in the Inspector General Division and the Director of the Defence Security Agency Security Investigation Unit .

Permanently Invited Members: A representative of the Inspector General ADF.

Invited members: Attendance of others at meetings of the ADIPCC is at the discretion of the Chair.

ADIPCC Secretary: PM-ADF will provide a secretary for the ADIPCC.

Business Rules

Agenda

3. Only permanent and permanently invited members of the ADIPCC may nominate and sponsor agenda items. The Chair will agree and promulgate an agenda at least ten working days before a meeting. With the input of members the Chair will develop a long term committee business list.

4. Papers associated with agenda items are to be distributed to members not less than five working days before the meeting at which they will be considered.

Meetings Dates

5. The ADIPCC will meet quarterly or as required by the PM-ADF.

Outcomes

6. The ADIPCC will prepare a list of meeting outcomes describing any action to be taken and by whom.

CHAPTER 8 - A REFORM ACTION PLAN

- 8.1. As the reform recommendations we have made are integrated and their successful implementation is dependent on sustained commitment, it is essential that they be initiated on several fronts simultaneously and that firm but realistic milestones and timelines are set and adhered to. The audit team recommends that an independent change manager, perhaps the HMJIT, should oversight implementation.

Investigative Capability Reform Goal

- 8.2. The goal of this reform is to *transform the existing ADF investigative capability into a highly trained service capable of investigating Service and criminal matters independently and impartially and to a standard that matches best practice in the Australian civilian police and investigation agencies.*

Timing and Phasing

- 8.3. With the considerable time it takes to develop a competent investigator being the major factor, the audit team believes that complete achievement of the reform goals cannot be expected in less than five years. That said, there is a great deal that can and must be done in the short and medium-terms in order to set the reform on the correct path. All the reform actions can be grouped into three broad phases as follows:
- Phase 1 – A transition phase to be completed by 30 June 2007.
 - Phase 2 – A consolidation phase to be completed by December 2007.
 - Phase 3 – An ongoing evaluation and adjustment phase.
- 8.4. The body of work in each Phase should be subject to a critical path of objectives to be met within timelines agreed by the independent change manager.

Implementation

- 8.5. The tasks to be undertaken in each Phase are:

Phase 1

- 1.1. Identify and place on readiness notice a small, joint team of competent and experienced ADF investigators to undertake investigations into serious matters that may occur before the ADFIS is properly established, and to be the core of a permanent Major Investigation Team.
- 1.2. Promulgate a CDF Directive based on that provided at Attachment 1 to Chapter 7 of this report to initiate the establishment of the ADFIS.

1.3. Prepare and implement a plan to communicate the agreed outcomes of the 2006 audit of the investigative capability throughout Defence but particularly to all SP.

1.4. Hold the inaugural meeting of the Australian Defence Investigations Policy and Coordination Committee to identify and initiate the role of the entity in the change process.

1.5. Raise the Headquarters of the ADFIS.

1.6. Establish interim regional offices.

1.7. Form small working groups to assist the PM-ADF to implement specific recommendations made in this audit report.

1.8. Quarantine and allocate to the ADFIS the 152 existing positions that form the existing ADF investigative capability, and the ADF members filling them.

1.9. Strictly limit the employment of the PM-ADF to that activity necessary to:

- undertake only those investigations mentioned in Action 1.1 and all overseas investigations in accordance with CDF direction;
- assume technical control of all ADF investigator training and investigations;
- establish the core of ADFIS and prepare it to begin more extensive operations in January 2007;
- promulgate and apply the skill and experience criteria for employment in the ADFIS;
- undertake an audit of the skill levels and experience of all ADF investigators in order to ascertain:
 - their aptitude, qualifications and performance history for continuing service in the ADFIS;
 - their preference to continue to serve in the ADFIS or to leave the ADFIS to undertake general SP duties with their investigation jurisdiction limited to minor disciplinary offences; and
 - the supplementary and refresher training each needs in order to undertake investigations to the standards required;
- prepare the inaugural Major Investigation Plan;
- develop and obtain agreement to a memorandum of understanding with the AFP forensic services; and
- implement the agreed recommendations of this report.

1.10. Identify a small team, including ADF, Defence APS and consultants as appropriate, to prepare for the CDF and Secretary's consideration by December 2006:

- one discrete, coherent, plain English, comprehensive Defence investigation policy that:
 - does not contain any Service or other organisation exclusions,

- is binding on all ADF members and on all Defence Investigative Authorities,
- makes clear the distinction between administrative inquires and those undertaken into Service or criminal offences;
- discrete, coherent, plain English, comprehensive Defence investigative doctrine and procedures (tradecraft) based in so far as is possible on those of the AFP and that the minimum standards be the Australian Government Investigation Standards (AGIS), that:
 - does not contain any Service or other organisational exclusions, and
 - is binding on all Defence and ADF investigators;
- a revision of DI(G) ADMIN 45–2 to address only the reporting of incidents, without reference to investigations policy or practice, context or information management and any other extraneous subjects;
- a new, discrete, Quick Assessment policy based on that provided for consideration at Attachment 2 to Chapter 4.

1.11. Minimise SP training at DPTC in so far as is possible in order to develop by March 2007 new courses based on the policy and doctrine to be developed under Action 1.7.

1.12. Cease the training of Service police basic and all investigations training for SECPOL at the RAAF SFS and conduct all ADF SP training at DPTC Holsworthy from March 2007 onwards.

1.13. As soon as practicable, but not later than 1 January 2007, transfer the function of Head of Corps of the RACMP away from the Commandant DPTC to an appropriate officer in the Army chain of command.

1.14. PM-ADF prepare a new CDF Directive for the DPTC that reflects the relevant agreed recommendations of this audit report, effective from 1 January 2007.

1.15. Establish selection criteria to ensure that SP posted to the DPTC are both willing to, and capable of working in, a joint environment where they must be exemplars for investigator and non-investigator SP alike.

1.16. Review DPTC staffing arrangements to ensure that effective 1 January 2007 an appropriate proportional Service representation exists amongst instructors.

1.17. Task HDPE to begin preparation of pay and allowance cases to recognise investigator competency and enable the compensation or reimbursement of costs associated with ADFIS investigators and other SP needing to wear plain clothes on duty.

Phase 2

2.1. Change Manager and the PM-ADF review progress and continue work outstanding from Phase 1.

- 2.2. Implement nationally a case categorisation and prioritisation regime to regulate the acceptance, rejection and referral of casework.
- 2.3. Review and adjust as necessary the interim ADFIS establishment and staff distribution.
- 2.4. Continue with the establishment of memoranda of understanding with external agencies.
- 2.5. Promulgate the agreed ADF Policing Plan.
- 2.6. Introduce a Quality Assurance/Reporting regime.
- 2.7. Adopt professional policing standards.

Phase 3

- 3.1. Change Manager and the PM-ADF review progress and continue work outstanding from Phases 1 and 2.
- 3.2. Use non-defence people to undertake periodic evaluations of progress made in implementing the recommendations of the 2006 audit report and other relevant report recommendations.

Recommendation

The audit team recommends that:

- 8.1. The action plan as proposed in Chapter 8 be implemented.



CHIEF OF
THE DEFENCE FORCE

ANNEX A

INSTRUMENT OF APPOINTMENT AND TERMS OF REFERENCE

AUDIT OF THE AUSTRALIAN DEFENCE FORCE INVESTIGATIVE CAPABILITY

I, Air Chief Marshal A.G. Houston, AO, AFC, Chief of the Defence Force, hereby appoint:

Rear Admiral Brian Adams (Rtd).

Mr Adrian Whiddett, and

Provost Marshal—ADF designate (as required)

to conduct an audit into the Australian Defence Force's (ADF) investigative capability. The audit will require an examination and evaluation of the investigative capabilities and capacity of the Naval Police Coxswains and Naval Investigation Service, Army Military Police and Air Force Service Police. You are to collect evidence and submit a written Report upon the matters set out in these Terms of Reference. The audit is to be conducted in accordance with the procedures detailed in Chapter 4, ADFP 06.1.4, Administrative Inquiries Manual.

You are authorised to interview any member of the Australian Defence Force who you consider may assist you in conducting the audit. You are authorised to access any necessary material that may assist you in conducting the audit.

Purpose

1. A number of previous investigations and reviews have identified deficiencies in the ADF's investigative capability. The purpose of this audit is to identify those reform measures required to provide the ADF with an effective and efficient investigative capability.

Background

2. The following reports have referred to the ADF's military investigative capabilities:

- a. 1998 Commonwealth Ombudsman's *'Own Motion Investigation into how the ADF Responds to Allegations of Serious Incidents and Offences'*;
- b. 1999 Joint Standing Committee on Foreign Affairs, Defence and Trade report *'Military Justice Procedures for the Australian Defence Force'*;
- c. 2001 Joint Standing Committee on Foreign Affairs, Defence and Trade report *'Rough Justice? An Investigation into Allegations of Brutality in the Army's Parachute Battalion'*;

- d. 2001 *'Report of an Inquiry into Military Justice in the Australian Defence Force'* conducted by Mr J.C.S. Burchett QC;
- e. 2004 Ernst & Young *Review of the Military Police Battalion Investigation Capability*; and
- f. 2005 Joint Standing Committee on Foreign Affairs, Defence and Trade *'Report on the Effectiveness of Australia's Military Justice System'*.

General

3. You are to examine and evaluate the investigation processes and procedures in each of the three Services, including the training and ongoing professional development of Service Police investigators.

4. Your audit is to include, but is not limited to, an investigation of the following aspects:

- a. the investigative workload of the three Service investigative organisations:
 - (i) the Naval Investigative Service;
 - (ii) Special Investigation Branch (Army); and
 - (iii) RAAF Police investigators;
- b. the current staffing levels of the investigation services, and the methods and effectiveness of recruitment to the investigation services;
- c. the geographical location of the investigators and the suitability of the locations;
- d. the initial and continuation training provided for investigators, and any specialist training requirements;
- e. the command and control of the investigative services, including any effect (adverse or otherwise) of local command, and the requirement for the exercising of technical control;
- f. the equipment and resources available to each Service to perform its role;
- g. the use of any common policy or doctrine, including the recently released Defence Investigation Technical Instructions;
- h. the impact of other military duties on the investigative capability within each Service;
- i. the function of the proposed ADF Investigation Unit, headed by a Provost Marshal-ADF, within the investigative capability;

- j. the existence and use of any arrangements and/or memoranda of understanding with civil authorities;
- k. any problems concerning the status of Service investigators and their relationships with other Service areas;
- l. the extent and effectiveness of present authorities and legislation to undertake investigative duties; and
- m. the length of tenure of personnel assigned to investigative duties.

End-state

5. To provide recommendations to identify those reform measures required to provide the ADF with an effective and efficient investigative capability.

Recommendations

6. You are to make recommendations, among other things, upon how best to:
- a. establish and prepare the proposed ADF Investigation Unit; and
 - b. enhance the overall ADF investigative capability.

Where appropriate, your recommendations should include the resources necessary to give effect to that recommendation.

Other findings

7. You are not to make recommendations pertaining to criminal or DFDA matters. Should you, in the course of the inquiry, discover any criminal or DFDA related offences, you are to refer such matters to the commanding officer of the unit or to other appropriate authorities. The Inspector General ADF is also to be informed of any such referral.

Documentation

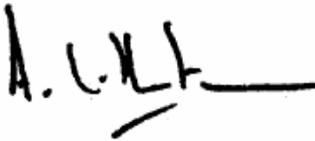
8. The following documentation is to be provided with your Report:
- a. a list detailing authorities consulted in conducting the inquiry;
 - b. these Terms of Reference; and
 - c. your Instrument of Appointment.

9. You may attach other material if it materially benefits your report. Any material gathered during the course of your inquiry that is not included with your report is to be provided to my office for retention or disposal.

Progress Reports

10. A progress report is required by 30 April 2006 to allow the scope of the inquiry to be reviewed and in order to address any particular matters that may have arisen.

11. You are to complete your Report by 30 July 2006 or, if completion is delayed, you are to arrange for an appointment with me seven days before that date, at which time you are to submit to me a progress report on that date and be in a position to justify any request for an extension of time. If completion is further delayed, you are to submit monthly reports until the Report is completed.

Appointing AuthorityA handwritten signature in black ink, appearing to read 'A.G. Houston', followed by a horizontal line.

A.G. HOUSTON, AO, AFC
Air Chief Marshal
Chief of the Defence Force

16 February 2006

LIST OF THOSE INTERVIEWED

3 March 2006

LTCOL T. Grutzner, former Provost Marshal – Army, CO 1 Military Police Battalion and Commandant DPTC, Canberra, ACT

MAJ N. Rose, Deputy Provost Marshal – Army, Canberra, ACT

Mr Geoff Early, Inspector General Australian Defence Force, Canberra, ACT

8 March 2006

SQNLDR J. Durden, Acting Commanding Officer and Chief Instructor, RAAF Security and Fire School, Amberley, QLD

9 March 2006

LTCOL M. Heron, Commandant, MAJ D. McGarry Chief Instructor, Defence Police Training Centre, Holsworthy, NSW

10 March 2006

LTCOL J. Gaynor, Deputy Director Military Prosecutions, Victoria Barracks Paddington, NSW

LTCOL C. Pearce, Commanding Officer 1 Military Police Battalion, Victoria Barracks, Paddington, NSW

13 March 2006

WGCDR L. Griffiths, SO1 Legal, Military Justice Implementation Team, Canberra, ACT

16 March 2006

LCDR R. Dokter, Deputy Provost Marshal – Navy, Garden Island, Sydney NSW

All NPC Investigators available at the Naval Investigation Service Headquarters Garden Island, Sydney NSW

CMDR P. Leavy, Commanding Officer, LCDR B. Schlegel, Executive Officer and CPONPC G. Crannage, Coxswain HMAS STUART, Garden Island, Sydney NSW

17 March 2006

CMDR L. Menon, Training Authority Maritime Warfare, HMAS WATSON, Watsons Bay, NSW

All NPC investigators available at the Naval Investigation Service Headquarters Garden Island, Sydney NSW

21 March 2006

COL C. Hamilton, Deputy Commander 7 Brigade, Gallipoli Barracks, Enoggera, QLD

LTCOL C. Whitting, Commanding Officer and WO1 D. Kear, Regimental Sergeant Major 7 Combat Services Support Battalion, Gallipoli Barracks, Enoggera, QLD

MAJ M. McKay, Acting Commanding Officer and WO1 R. Singh, Regimental Sergeant Major, 1 Field Regiment, Gallipoli Barracks, Enoggera, QLD

MAJ M. Wilson Officer Commanding Officer, CAPT D. Bushell, Operations Officer and WO2 D. Thompson Acting Company Sergeant Major, 4 Military Police Company, Gallipoli Barracks, Enoggera, QLD

CAPT S. Smith, Platoon Commander and all available investigators, 52 Military Police Platoon (Special Investigation Branch) Gallipoli Barracks, Enoggera QLD

22 March 2006

LTCOL M. Mahy, Commanding Officer, 2 Battalion, Royal Australian Regiment, Townsville, QLD

WGCDR G. Davies, Base Commander, RAAF Base Townsville, Garbutt, QLD

GPCAPT R. Irons, Officer Commanding 395 Expeditionary Combat Support Wing, RAAF Base Townsville, Garbutt, QLD

FSGT P. Larsen, Deputy Security Officer, 323 Expeditionary Combat Support Wing, RAAF Base Townsville, Garbutt, QLD

23 March 2006

LTCOL M. Kingsford, Commanding Officer and WO1 R. Thompson, Regimental Sergeant Major, 4 Field Regiment Lavarack Barracks, Townsville, QLD

LTCOL A. Galloway, Commanding Officer, 1 Battalion, Royal Australian Regiment, Lavarack Barracks, Townsville, QLD

MAJ N. Surtees, Officer Commanding, 1 Military Police Company, Lavarack Barracks, Townsville, QLD

All available investigators, Townsville Section 51 Military Police Platoon (Special Investigation Branch), Lavarack Barracks, Townsville, QLD

29 March 2006

LTCOL J. Thomas, Commanding Officer and WO1 R. Hawton, Regimental Sergeant Major, School of Armour, Puckapunyal, VIC

LTCOL M. Baldwin, Chief of Staff and MAJ M. Langdon, SO2 Command, Leadership and Management Cell, Land Warfare Development Centre, Puckapunyal, VIC

COL R. Manton, Commandant and WO1 R. Speter, Regimental Sergeant Major, Combined Arms Training Centre, Puckapunyal, VIC

BRIG J. Kelly, Commander Land Warfare Development Centre, Puckapunyal, VIC

LTCOL A. Plant, Commanding Officer and WO1 T. Byrne, Regimental Sergeant Major, School of Artillery Puckapunyal, VIC

CAPT C. Claridge, Platoon Commander, 53 Military Police Platoon (Special Investigation Branch), Puckapunyal, VIC

All available investigators, Puckapunyal Section, 53 Military Police Platoon (Special Investigation Branch), Puckapunyal, VIC

30 March 2006

COL S. Wilkie, Commandant, LTCOL G. Llanwarne, Chief of Staff and WO1 M. Gowling, Regimental Sergeant Major, Army Recruit Training Centre, Wagga Wagga, NSW

All available members, Kapooka Section, 53 Military Police Platoon (Special Investigation Branch) Wagga Wagga, NSW

31 March 2006

WGCDR J. Fantini, Base Commander, RAAF Base Wagga Wagga, NSW

GPCAPT R. Cooper, Officer Commanding Ground Training Wing, Headquarters Ground Training Wing, RAAF Base Wagga Wagga, NSW

FSGT G, Durnford, Base Security Officer, and all available SECPOL and investigators, RAAF Base Wagga Wagga, NSW

COL P. Baillie, Provost Marshal – Land, Royal Military Police, British Army, interviewed at Russell Offices, Canberra, ACT while visiting Australia.

5 April 2006

WO1 C. Nunes, Regimental Sergeant Major, Joint Operations Support, Keswick Barracks, Adelaide, SA

WO1 D. Chappel, Regimental Sergeant Major, 9 Brigade, Keswick Barracks, Adelaide, SA

CPL D. Gray Section Commander, Adelaide Section, 53 Military Police Platoon (Special Investigation Branch), Keswick Barracks, Adelaide, SA

SQNLDR A. Tattersall, Legal Officer 92 Wing, RAAF Base Edinburgh, SA

WOFF A. Evans, Warrant Officer Discipline, 92 Wing, RAAF Base Edinburgh, SA

WGCDR D. Flood, Base Commanding Officer, RAAF Base Edinburgh, SA

FLTLT J. Nair, Security Police Officer and all available SECPOL members, Combat Support Unit, Edinburgh, SA

6 April 2006

CAPT M. Humphreys Adjutant and WO1 P. Croft, Regimental Sergeant Major, 13 Bde, Irwin Barracks, Karrakatta, WA

All available investigators, Perth Section 54 Military Police Platoon (Special Investigation Branch) East Fremantle, WA

LTCOL J. McMahon, Commanding Officer and WO1 P. Marr, Regimental Sergeant Major, Special Air Service Regiment, Campbell Barracks, WA

CDRE R. Shalders, Commander Australian Naval Submarine Group, Fleet Base West, HMAS STIRLING, WA

CMDR G. Miles Commanding Officer and CPO D. Nayda, Chief of the Boat, HMAS COLLINS, Fleet Base West, HMAS STIRLING, WA

All available investigators and NPC, Fleet Base West, HMAS STIRLING, WA.

10 April 2006

LTCOL S. Watts Commanding Officer, Land Command Liaison Section, RMAF Base, Butterworth, Malaysia

WO2 A. Johnston, Defence Investigative Authority SE Asia and Military Police Corporals, RMAF Base, Butterworth, Malaysia

WGCDR P. Viggers, Commanding Officer, 324 Combat Support Squadron, RMAF Base, Butterworth, Malaysia

SGT N. Hodges, Senior Non Commissioned Officer in Charge Security Police, 324 Combat Support Squadron, RMAF Base, Butterworth, Malaysia

Company Sergeant Major, Rifle Company Butterworth (RCB-74), RMAF base, Butterworth, Malaysia

11 April 2006

CAPT M. Jerrett, RAN, Defence Adviser, Australian High Commission, Singapore

19 April 2006

BRIG C. Orme, Commander and WO1 A. Dunne, Regimental Sergeant Major 1 Brigade, Robertson Barracks, Darwin, NT

LTCOL A. Rawlins, Commanding Officer and WO1 R. Aboud, Regimental Sergeant Major, 2 Cavalry Regiment, Robertson Barracks, Darwin, NT

LTCOL G. Finney, Commanding Officer and WO1 R. Morland, Regimental Sergeant Major, 8/12 Medium Regiment, Robertson Barracks, Darwin, NT

CAPT R. Wier, Platoon Commander 54 Military Police Platoon (Special Investigation Branch), Robertson Barracks, Darwin, NT

All investigators available from Darwin Section 54 Military Police Platoon (Special Investigation Branch) Robertson Barracks, Darwin

20 April 2006

CMDR S. Wheeler, Commanding Officer HMAS COONAWARRA, Larrakeyah Barracks, Darwin, NT

LCDR A. Powell, Commanding Officer and LSNPC D. Gibbons Coxswain, HMAS LARRAKIA, Larrakeyah Barracks, Darwin, NT

CPONPC J. Monaghan, Coxswain HMAS COONAWARRA, Larrakeyah Barracks,
Darwin, NT

All NPC and investigators available, HMAS COONAWARRA, Larrakeyah Barracks,
Darwin, NT

24 April 2006

COL J. Cook, Colonel Commandant Military Police, Canberra, ACT

4 May 2006

Federal Agent P. Drennan, Manager Economic and Special Crime, Australian Federal
Police Headquarters, Canberra, ACT

8 May 2006

AVM J. Quaife, Air Commander Australia, RAAF Base Glenbrook, NSW

WGCDR P. Nicholas, Commanding Officer 36 Squadron, RAAF Base Richmond, NSW

WGCDR B. Bishell, Base Commander, RAAF Base Glenbrook, NSW

SGT N. Oakes, Base Security Officer, RAAF Base Glenbrook, NSW

SQNLDR G. Magri, Acting Base Commanding Officer and WOFF C. Dwyer, Warrant
Officer Discipline, RAAF Base Richmond, NSW

FSGT D. Morris, Acting Base Security Officer, RAAF Base Richmond, NSW

9 May 2006

RADM R. Moffitt, Deputy Chief of Joint Operations, Headquarters Joint Operations
Command, Potts Point, NSW

RADM D. Thomas, Maritime Commander Australia, Maritime Headquarters, Potts Point,
NSW

LCDR M. Maley, Commanding Officer Navy Clearance Diving Team 1, HMAS
WATERHEN, Waverton, NSW

10 May 2006

LEUT R. Sadler, Director Maritime Security, Maritime Headquarters, Potts Point, NSW

MAJGEN M. Kelly, Land Commander Australia and WO K. Vann, Regimental Sergeant Major Land Command, Headquarters Land Command, Victoria Barracks, Paddington, NSW

LTCOL C. Pearce, Commanding Officer 1 Military Police Battalion, Victoria Barracks, Paddington, NSW

11 May 2006

MAJGEN M. Hindmarsh, Special Operations Commander Australia and WO1 M. Dunn Regimental Sergeant Major, Special Operations Command, Garden Island, Sydney, NSW

15 May 2006

WO-N J. Levay, Warrant Officer of the Navy, Navy Headquarters, Russell, ACT

WO1 K. Woods, Regimental Sergeant Major of the Army, Army Headquarters, Russell, ACT.

WOFF R. Woolnough, Warrant Officer of the Air Force, Air Force Headquarters, Russell, ACT

MAJ M. Pemberton, Officer Commanding, CAPT C. Woodhouse, Operations Officer and WO1 S. Styles, Company Sergeant Major, 5 Military Police Company (Special Investigations Branch), Canberra, ACT

15 May 2006

CAPT D. Garnock RAN, Commanding Officer, LCDR D. Swanson, Legal Officer Command Element, HMAS CERBERUS, VIC

WONPC M. Connors, Coxswain and Defence Investigative Authority, HMAS CERBERUS, VIC

All available NPC and investigators, HMAS CERBERUS, VIC

MAJ B. Smith, Officer Commanding, CAPT N. Pierpoint, Operations Officer, WO1 R. Fenton, Company Sergeant Major, Command Element 3 Military Police Company, Watsonia, VIC.

16 May 2006

LTCOL C. Kingston, Chief Instructor and Commanding Officer, Warrant Officer and Non-commissioned Officer Training Wing, Canungra, QLD

LTCOL M. Lehman, Commandant Defence Intelligence Training Centre, Canungra, QLD

23 May 2006

VADM R. Shalders, Chief of Navy, Navy Headquarters, Russell, ACT

25 May 2006

CAPT S. Smith, Special Investigation Branch, Fyshwick, ACT

29 May 2006

LTGEN P. Leahy, Chief of Army, Army Headquarters, Canberra, ACT

Mr C. Neumann, Inspector General, IG Division, Campbell Park, ACT and all available IG-D investigators, Campbell Park, ACT

30 May 2006

LTCOL M. Heron, Commandant, MAJ D. McGarry, Chief Instructor, Defence Police Training Centre, Holsworthy, NSW

8 June 2006

Ms D. Storen, Director Investigation, Defence Security Agency, Campbell Park, ACT

MAJGEN B. Wilson, Commander Army Training Command, Fyshwick, ACT

12 June 2006

AM G. Shepherd, Chief of Air Force, Air Force Headquarters, Canberra, ACT

8 July 2006

LTCOL J. Pumphrey, Provost Marshal – Strategic Joint Staff, Canadian Forces while visiting Australia.

TERMINOLOGY AND ABBREVIATIONS

ABS	Australian Bureau of Statistics
ADF	Australian Defence Force
ADFAITS	Australian Defence Force Administrative Inquiry Tracking System
ADFIS	Australian Defence Force Investigation Service
ADFP	Australian Defence Force Publication
ADIPCC	Australian Defence Investigations Policy and Coordination Committee
ADG	Airfield Defence Guards
ADO	Australian Defence Organisation
ADHQ	Australian Defence Force Headquarters
AFHQ	Air Force Headquarters
AFP	Australian Federal Police
AGIS	Australian Government Investigation Standards
AHQ	Army Headquarters
AIM	Administrative Inquiries Manual
AIT	Accident Investigation Team
APEP	Army Personnel Establishment Plan
APS	Australian Public Service
CDF	Chief of the Defence Force
CIO	Chief Information Officer
CJOPS	Chief of Joint Operations
CMIS	Case Management and Intelligence System

CO	Commanding Officer
COMDT	Commandant
COSC	Chiefs of Service Committee
DEFGRAM	An internal Defence communications memorandum
DFCE	Defence Force Corrective Establishment
DFDA	Defence Force Discipline Act 1982
DIA	Defence Investigative Authority
DI(A)	Defence Instruction (Army)
DI(G)	Defence Instruction (General)
DIR	Defence Inquiry Regulations
DL	Defence Legal
DLM	Defence Legal Manual
DPSN	Director Policing and Security Navy
DPTC	Defence Police Training Centre
DPSMS	Defence Police and Security Management System
DRN	Defence Restricted Network
DSA	Defence Security Agency
FASPERS	First Assistant Secretary Personnel
HDL	Head Defence Legal
HDIA	Head Defence Investigative Authority
HDPE	Head Defence Personnel Executive
HMJIT	Head Military Justice Implementation Team
IG-D	Inspector General Division of the Department of Defence

IGADF	Inspector General of the Australian Defence Force
IQC	Investigator Qualifying Course
JOC	Joint Operations Command
JHSA	Joint Health Support Agency
MIP	Major Investigation Plan
MIT	Major Investigation Team
MJS	Military Justice System
MOU	Memorandum of Understanding
MWDH	Military Working Dog Handler
NCCJS	National Centre for Crime and Justice Statistics
NHQ	Navy Headquarters
NIFS	National Institute for Forensic Science
NPC	Naval Police Coxswain
NI	Notifiable Incident
ODMP	Office of the Director of Military Prosecutions
PM-A	Provost Marshal Army
PM-ADF	Provost Marshal Australian Defence Force
PM-AF	Provost Marshal Air Force
PM-N	Provost Marshal Navy
PROMIS	Police Real Time Online Management Information System
PSP	Professional Service Provider
QA	Quick Assessment
QAR	Quality Assurance Review/Report

RAAF	Royal Australian Air Force
RAAF SFS	RAAF Security and Fire School
RACMP	Royal Australian Corps of Military Police
RAN	Royal Australian Navy
SECPOL	RAAF Security Police
SECPOL TAG	Security and Police Training Advisory Group
SES	Senior Executive Service
SIB	Special Investigation Branch
SIU	Security Investigations Unit
SOCO	Scenes of Crime Officer
SP	Service Police. Where used in this report the term ‘Service police’ and its abbreviation ‘SP’ refer to any member of the Naval Police Coxswain (NPC) category, the Royal Australian Corps of Military Police (RACMP) or the RAAF Security Police (SECPOL), or to an officer appointed to serve in an SP organisation. Where further Service specificity is required, the appropriate single Service term is used.
SNCO	Senior Non-Commissioned Officer
SPBC	Service Police Basic Course
SPTAG	Service Police Training Advisory Group
VCDF	Vice Chief of the Defence Force