From Lieutenant Colonel Paul Morgan

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Background: LTCOL Morgan

I have spent 16 years in the Army, including operational service to Bougainville, East Timor, Solomon Islands, Iraq and the Middle East area of operations. I have counseled victims of abuse in Defence, advised Army commanders on the management of abuse in Defence, and been a public target of *en masse* abuse by colleagues.

In 2010 a hate group formed on the Internet, targeting me and 5 others by name, rank and workplace unit. Its stated aim was to make all gay members of the ADF understand that the members of the hate site did not want any gays in the ADF. The ADF had been informed of this hate site, but it grew for another week, before I became aware of it, from a colleague that had just been invited to join it. This is despite the fact that I had received an explicit and graphic gay-hate based death threat on my Defence Restricted email, stating that I would be killed by someone that had just walked past me at work on me secure Defence base. For some time I and my family did not know which of the 80 members of the hate group may be planning my death.

Defence failed to conduct or oversight this investigation properly. I and my family were subject to retribution and intimidation for complaining and asserting that public accountability for inaction would be sought. Defence determined that the joining of this hate site did not constitute "unacceptable behaviour", decided not to issue Formal Warnings or any other formal Army discipline. In 2012 Defence conducted a media campaign stating that it found the behaviour unacceptable and the Chief of Army spoke in person on national television to assure the public Army had issued Formal Warnings, and disciplined the participants. It had not.

My experience of abuse, and its mismanagement, is not unique; it is simply a case example for Army's systematic mismanagement of, and cultural indifference to, abuse.

These outcomes are not acceptable to me. They send an unacceptable message of tolerance of, and casual indifference to gay-hatred by senior Army officers. I will never accept the message this sends to gay and lesbian youth considering a career serving Australia in war.

I am relentless in pushing for a just and equitable outcome both in my individual case, and across the system, because I want Australia to have the strongest and best Army it can have.

This submission uses my personal and professional experiences to inform my submission relating to the systematic problems, and possible solutions to abuse in Defence.

I will never accept the message Army's behaviour sends to the current and future members of my family about what to expect if you are gay or lesbian in Australia, and choose a life of service to our country.

Term of Reference:
The accessibility and adequacy of current mechanisms to provide support to victims of sexual and other abuse in Defence

Defence has made no explicit effort to provide support to victims of sexual and other abuse in Defence. There have been no additional resources applied to this area. There has been little to no effort to train the care providers in abuse related issues. It simply does not rank as a priority for Defence to improve this area, through any kind of specific focus on this issue. Commanders use the ADF health service to 'handball' off their responsibilities. There has been little or no additional effort to train commanders in the specifics of supporting victims of abuse. I have seen no effort by Defence Health Services to plan or implement any improvements in the support services for victims of sexual and other abuse.

I have seen no improvements in this area despite working at Joint Health Command headquarters. There is simply no culture of seeing this as a priority issue for Defence Health.

Term of Reference:
Whether an alternative expedited and streamlined system for the resolution of disputes relating to the support rehabilitation, treatment and compensation for victims in Defence be considered and established, and the constitutionality of such an alternative system.

It is essential that the system for support rehabilitation, treatment and compensation for victims in Defence be reconsidered. Given that there has been a finding that Army has systematically failed to manage the abusive elements of its culture, it is essential that the victims be protected on the basis of a presumption that the system will continue to fail, and will also fail to consider appropriate rehabilitation, treatment and compensation.

Compensation issues are used as a weapon against complainants. The characterisation of complainants as money seeking is a key way of undermining legitimate claims of abuse. Even a former Chief of the Defence Force has made such comments.

Victims cannot be seen to seek any kind of compensation for career detriment or career problems caused by their abuse, because to do so lead to derogatory characterisations of their motives. Compensation planning need to be actively managed by an agency external to Defence.

Moreover, government often only changes when it is forces to recognise the monetary cost of its actions. It is clear that were an independent agency to actively manage the costs of abuse, and were these costs to be public and affect Defence, that stopping abuse would be a higher priority for ADF commanders. Where the career and health

costs are borne by victims of Defence abuse, little intrinsic motivation has been shown by ADF commanders. Passing reference as been made to me that were all abuse victims to be fully compensated, the government would not have a surplus.

Term of Reference:

The effectiveness and timeliness of the Government's processes for assessing, investigating and responding to allegations of sexual or other forms of abuse, including:

i. whether a dedicated victim's advocacy service ought to be established.

A dedicated victim's advocacy service ought to be established.

It is clear to me that victims of abuse in Defence require a service to advocate in their interests. Such a service is required to advocate for victims as a whole and victims as individuals.

Abuse victims in the ADF workplace face unique problems in advocating their case. Unlike any other Australian worker, they are part of an organisation that has its own laws restricting their freedom to speak out combined with its own police force, courts, and detention centres to enforce these laws.

The consequence of this is that Defence members are reliant upon family members to speak out publicly when abuse occurs, and particularly when reported abuse is mismanaged. Defence members are obviously reluctant to drag family members into the fray. This places extraordinary pressures on families, and the fear of repercussion is strong.

> *ILLUSTRATION:*
> *In my particular circumstances my family spoke to Army and said that they would publicly ask for accountability for its complete inaction on my report of abuse. As an immediate and direct consequence of that assertion that public accountability would be sought, my family member was told that such an*

action would result in a formal report that they were threatening the children of a Defence member. This action was taken in full knowledge of the intimidatory effect that such false allegations have on both the family members of abuse victims, and on the member that continues to serve in the military. This false allegation of 'threatening children' continues to be repeated in my workplace, most recently this year when I cam to my new workplace. When I lodged a complaint of this intimidation, I was sent to the medical section for an assessment of whether I was fit to be charged or court-martialled, amongst other retributions such as being refused a proper annual report necessary for promotion.

Term of reference:

ii. systematic and cultural issues in reporting and investigating sexual and other forms of abuse, and

The length of time allowed for investigations is inordinate. The resourcing of investigations is completely inadequate, and it has been personally put to me by a General that the Army can't afford more resources for these types of investigations, and that prioritising abuse investigations would mean that equipment budgets would be affected.

Victims fear complaining because they fear that they will not get future employment. They fear that they will have to explain to a potential future employer that they left the Army because of an unresolved complaint of abuse by a colleague. Employers are understandably wary of employing 'complainers' and only when Army admits in writing that the complainer was justified in making their complaint, can an abuse victim explain this to a future employer. Even when, as in my case, investigations run more than a year, Army will not admit fault in the delay, administration, or in any way support members to obtain any type of career support.

Timeliness is a key issue. From what I can see Defence is systematically incapable and unmotivated to manage abuse issues in a timely fashion. There is an inherent reward to Defence in drawing out abuse investigations, in that it deters people from making claims, it encourages people to withdraw complaints or not complain about

the mismanagement of complaints, and it allows Army to retain the service of abusers while investigations drag on. In my case, I'm convinced that some of those accused of abuse continued to serve for more than a year, deployed on operations to Afghanistan for months on end, and came home and / or quit before Army managed to complete the investigation. It was put to me that if Army stood down all those facing allegations of abuse, that Army could not function properly.

The failure to manage abuses in a timely manner is a key problem for the mental health consequences of abuse in the ADF. Most people can accept a timely outcome that doesn't seem quite fair. They struggle most with the unending rollercoaster of hoping the ADF will act, and despair that it will not. This pattern reflects the finding of the Senate Inquiry into the military justice system.

The culture and policy in Defence is to maintain victims in the workplace with their abusers while investigations are occurring. These investigations, as in my personal case, can extend well beyond a year. Victims, as in my case, are often asked or pressured to limit their exposure to work that may bring them into contact with their abusers, while abusers face no such limitations. Defence argues due process for abusers, but does not place the same weight on timely 'due process' for victims.

Unlike any other reasonable Australian workplace, Defence continues to maintain a policy of retaining abusers in the workplace alongside those that they abuse. For example, in my work at Army Forces Command Headquarters I was asked to comment on a case I recall as involving an Army member that was convicted of sexually assaulting a colleague. As I recall, the perpetrator was retained in Army, and the victim felt repeatedly compelled to move units (which can involve moving the family to a different city) to avoid contact with the perpetrator. The victim's inability to cope with this workplace lead to their resignation. Explicit discussion followed as to Army's potential liability consequent to its management practices causing this sexual assault victim distress. It was forcefully put that if she felt hard done by she should pay her own lawyers and sue – that Army had no further responsibility to her since she felt the need to resign.

ILLUSTRATION

In my case there are members of Army that have admitted joining and commenting on a hate site targeting me personally, that was part of a broader campaign of terrorising my family with death threats and other intimidation – and I have been asked to consider provide training and services to these people.

Defence has publicly put, including advising Defence Minister Smith to write to parliament, that I am happy not to have to work with these people. This is a misleading characterisation. This is typical of Defence hierarchy and Defence media covering up the distress of abuse victims, and ordering the abuse victim not to publicly contradict this. I can only speak now under parliamentary privilege. I certainly don't want to have to provide services to these people – but how then do I deploy to the Middle East with the units they are in, or provide training. Just this week my junior officer is being sent to provide such training, rather than me, consequent to this abuse. As a mental health practitioner I should be able to work with every Army unit, but simply cannot. Defence argues that my workplace is my office away from the abusers and refuses to be explicit about whether it expects me to provide services to my abusers, and the implications for my career if I do not.

The expectations placed on victims to go on working with abusers is not appropriate, and Defence frequently 'manages' the victims out of serving in the ADF to solve the dilemma.

The ADF will always resist any intervention into the management and disciplinary powers of commanders. They do this by invoking the operational analogy. That the ADF consistently argues that the command management and disciplinary procedures that are necessary in overseas operations must be practiced here in Australia. This argument lack substance or evidence. There is no evidence that ADF commanders cannot integrate the requirements of non-Defence agencies to the Australian workplace, with adjusting management practices in operational environments. The direct analogy is with Workplace Health and Safety requirements. No ADF

commander would publicly dare to argue that they should be excused Workplace Health and Safety requirements here in Australia, or that improving safety here, means commanders mismanage it on operations. Any agency external to Defence empowered to investigate abuse in Defence workplaces in Australia will capture the bulk of Defence abuse cases, without affecting the management of abuse in operational environments. In fact, the setting of an abuse management standard by an independent body here in Australia, will inevitably assist operational commanders to judge the appropriate response.

My case only illustrates the hopeless position of frontline soldiers that are abused. There is no hope for them in the current internal system, and they see that. They see that if a Senior Officer like me can be publically vilified by scores of colleagues, the case directly oversighted by the most senior Generals of the Army, and still end up with the perpetrators unpunished and the case management a multi-year mess, there is no hope for them in reporting abuse.

Defence has established no consultation whatsoever with currently serving Army Navy and Air Force victims of abuse about how to proceed. None of us have been asked what we would like as follow up to the DLA Piper enquiries. We fully expect the government and Defence to throw its hands up in the air at the huge quantity of abuse, and refuse to appoint a Royal Commission, even though the government has done so for child abuse. Defence invited no comment in response to the DLA Piper findings – all it did was say that if you were distressed by them you should seek mental health treatment.

There is no support group for current or past victims, as there are for abuse in other parts of society. ADF members are not authorised to start such a group, and Defence has shown no interest in supporting victims in this standard method. In my case I was directed by a General not to speak or support the other victims targeted on the hate site alongside me.

It is very clear that the internal systems have failed for years and continue to fail. Even in the light of multiple inquiries ordered by the Defence Minister, no new systems have been implemented.

Exemplar failings in my case:

- *Army failed to let me know it had been informed a hate site had been established, despite awareness death threats made. Only admitted this under Senate questioning. More Army members joined hate site, until I discovered site and reported it.*
- *Failed to lodge the Initial Complaint Report for 18 months (required in 7 days)*
    - *Exclusion of Fairness and Resolution oversight through this method*
- *Failed to lodge any Interim reports approximately (12 required)*
- *Failed to lodge the Final complaint report (for 6 months, until redressed)*
- *Failed to conduct the Quick Assessment (for two months, required to complete in 24 hours)*
- *Failure to provide secure work location following workplace explicit death threat (took 3 months to provide)*
- *Failed to oversight investigator – investigator replaced after 8 months and investigation restarted*
- *Order, using powers of Provost Marshal, not to contact Human Right Commission about complaint, with explicit intent that complain not become public.*
- *Failure to manage complaint in timely manner (took 22 months, required to complete in 3 months)*
- *Issuing a determination that joining a public hate site targeting colleagues does not constitute "unacceptable behaviour"*
- *Media campaign with falsehoods and misdirection, including Chief of Army publicly stating falsely that respondent has been issued Formal Warnings (used ADF disciplinary procedures), despite being personally appointed in writing to rectify mismanagement of my case.*

- *Responses by Defence Minister Smith to Green's Senate Questions on Notice that were false. In particular responses that indicate Army had applied its formal disciplinary measures when in fact, Army had decided both not to apply its disciplinary powers, and had declined to determine joining internet hate sites as unacceptable behaviour. Other responses to Senate Questions also wrong, compared to what Army has provided to me in writing.*
- *False response to Senate Question on Notice regarding abuse reporting responsibilities of ADF members.*

Term of Reference

iii. whether data and information collection and dissemination of data and information in relation to sexual and other forms of abuse in Defence is adequately maintained and appropriately acted upon and, if not, any alternative mechanisms that could be established;

Defence may assert that it has Fairness and Resolution centres which can act in an advocacy role. Fairness and Resolution centres do not have this function. Fairness and Resolution centres do not advocate for individuals or for victims as a group. Fairness and Resolution do not act independently of Defence, and in fact are an intrinsic part of the ADF and Defence abuse management system which has so woefully maintained a culture of abuse across so many decades. ADF members have no capacity to influence the actions of Fairness and Resolution, and it is beholden to ADF commanders particularly when those ADF commanders actively resist allowing Fairness and Resolution to become involved.

ILLUSTRATION:

In my case, the then Chief of Army LTGEN Gillespie personally directed in writing that LTGEN Morrison (currently Chief of Army, then MAJGEN and Army Forces Commander) rectify failures and deficits in the management of my report of abuse, and thereby personally ensure proper oversight of my case. At the time of my report of abuse I worked in LTGEN Morrison's

headquarters, and spoke to him personally about my case. My understanding is that my case is the only case of reported abuse that LTGEN Morrison was directed in writing to personally oversight.

Defence commanders are under a compulsion to report unacceptable behaviour reports to Fairness and Resolution, to ensure oversight of their management, within 7 days of an ADF member lodging such a report. The form for lodging such a report with Fairness and Resolution, (the Initial Complaint Report) is annotated with explicit instructions of 4 possible means of doing so, in prioritised order.

Despite my numerous ongoing requests both verbal and in writing that the administration of my August 2010 complaint be actioned appropriately, it was only this year (2012) that I received and email that informed me that Fairness and Resolution had finally been notified of the existence of my abuse report "in May". The delay was so egregiously long I had to ask in writing for Army to clarify which May they meant May 2011 or May 2012. It was May 2012.

My personally engaged legal representative attempted to inform Fairness and Resolution of my complaint, but was rebuffed with the reply that Fairness and Resolution rejects notifications both from ADF members themselves, and their legal representatives – only a commander can do this. When your commanders refuse to notify Fairness and Resolution there is no hope for the Army member that any oversight will occur.

Fairness and Resolution made no efforts to check about my abuse, despite the fact that it had been front page news of both the Sydney Morning Herald and Melbourne's Age newspapers, public comment by Chief of Army, and other repeated media comment.

Fairness and Resolution acted in a completely passive and inactive manner.

Fairness and Resolution maintains a database of those that have acted with unacceptable behaviour. Defence has undertaken a public media campaign to

assert that respondents to my complaint were issued Formal Warning – formal military discipline that would be recorded and if the respondents were to act in a similar manner in the future that it would be detected.

However this media campaign was one of falsehoods and misdirection to the Australian people, and explicitly covered up the fact that the respondents were authorised not to be on the database of those issued Army Formal Warnings, kept at fairness and Resolution.

I had to force a long delayed draft reply out of Minister Smith's office to my family complaint about Defence's media disinformation campaign. He admitted that Defence's media campaign was not consistent with the facts. My family that day sat reading that admission while we watched the Chief of Army LTGEN Morrsion appear on the 7.30 Report, and when specifically questioned about inaction in my case, he falsely claimed to the nation that the respondents had been issued Formal Warnings – formal Army discipline, when in fact they had not.

After years of death threats, public hate groups, retribution for complaining, written guarantees from the most senior ranking Army Generals in the country, national media coverage, and admissions from Minister Smith that Defences media reporting about my case was inaccurate – my family had to sit and watch the Chief of Army, the officer directed in writing to personally oversight my case, mislead the public that Formal Warnings, formal Army discipline, had been issued, when this was a patent falsehood. This needs to be understood in the context that ADF abuse victims are under direct orders not to publicly contradict statements about their abuse by Defence media or Defence commanders, and that repercussions will flow if they do so.

It make me personally physically and mentally sick to contemplate trying to get the Chief of Army to do the right thing in my case, accurately describe what they decided, be accountable for the decision not to use Army discipline systems, and investigate the mismanagement. Every step is actively resisted.

Defence actively mischaracterised in the media letters to the respondents which restated Defence policy while informing them they would face no consequence for the actions of admitting to joining the hate site. They wanted to cover up the fact that they had decided this behaviour was not unacceptable, that it therefore didn't warrant Army Formal Warnings or any other disciplinary proceedings.

Every Army member is "warned" not to abuse others every year – Army repeatedly tried to characterise this sort of 'warning' as they way it punished abusers in my case.

While saying to the media and Parliament through the Defence Minister that it had used Army discipline procedures, in fact it had not. Army had in fact written to the respondents explicitly stating they would not face Army discipline procedures.

Moreover, Fairness and Resolution made no effort to obtain any of the approximately 12 Interim reports required of my commanders (which they simply refused to complete) nor the Outcome or Final report. They made no effort to speak to me about these failings, they made no effort to rectify any deficit by any commander involved, or correct the falsehoods and deficiencies listed in the reports that were lodged.