

E-LETTER OF TRANSMITTAL

Dear Dr Dermody and SFADT Committee Members,

The following is a précis of results from expert based assessments of the DLA Piper Review, containing summary notes on abuses perpetrated and perpetuated by senior Defence officials on others. These include first hand experiences which, not surprisingly, parallel and mirror those of other Australian citizens. Some of these citizens made submissions to the Review. Some of these were considered in scope while others, subjected to the same abuses, were considered out of scope.

In the interest of full disclosure, I called the DLA Piper Hot Line and, after briefly outlining my background, was given a reference number and told to expect to receive a "confidentiality/consent form" and the relevant documentation for reporting the abuses by Defence personnel to which I had been subjected. Then followed a somewhat tortuous and confusing process and, before any details had been provided on the Five Defence Matters relating to the abuses perpetrated then perpetuated on me, my family, our small to medium enterprises and their employees, I was abruptly told, "*Mr Goon ...you are out of scope*". Following our assessment of the DLA Piper Reports, we concluded our exclusion was due to the misinterpretation of the Terms of Reference that was subsequently corrected (see Section 1.6 of the Volume 1 Supplementary Report). In keeping with the Terms of Reference, our exclusion from the DLA Piper Review process along with our assessment of that process have been referred to the Minister for Defence for his consideration and, we trust, proactive support and action. Meanwhile, we have contacted the Task Force Hot Line and await to receive the documentation that was promised last week would be eMailed to us.

Suffice to say, just thinking, let alone reading, about the abuses perpetrated then perpetuated by senior Defence Portfolio personnel is toxic. Revisiting them in detail for the purpose of this submission far more so, to the point of being debilitating. Consequently, this submission has taken much longer than expected to complete. I trust the Committee finds it helpful to the challenge of fixing what ails and is broken in Defence, today, once and for all.

Cordially,

Peter Goon

Peter Goon

Principal Consultant/Advisor

Head of Test and Evaluation

Co-Founder, [Air Power Australia](#)

"Our job is to be so capable and so well prepared that the other guy just wants to stay neighbourly."

"The pivotal role of Defence is the maintenance and sustainment of peace in our region."

Australian Defence Force Leadership prior to 2000

SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE
Submission to the Senate Inquiry into *The report of the review of allegations of sexual and other abuse in Defence, conducted by DLA Piper, and the response of the Government to the report*

**PRECIS OF RESULTS FROM EXPERT BASED ASSESSMENTS OF THE DLA
PIPER REVIEW
AND
ABUSES PERPETRATED AND PERPETUATED BY SENIOR DEFENCE
PORTFOLIO OFFICIALS ON OTHERS**

References:

- A. DLA Piper Review Report Volume 1 dated 11 October 2011
- B. DLA Piper Review Supplementary Report to Volume 1 dated 17 April 2012
- C. Courage, Abuses and the Current Culture in Defence, of 17 June 2012 (Copy Attached)

PREAMBLE

Back in 2004, the following question was posed to the Senate Inquiry into the Effectiveness of the Military Justice System:

“How can and what will it take to fix what ails and is broken in Defence, today, once and for all?”

I trust this précis of work by subject matter experts will assist the Parliament, the Government, the Ministers, along with their advisors, and the Defence Department in this endeavour.

The Concise Oxford Dictionary defines an “*expert*” as:

“...a person who is very knowledgeable about or skilful in a particular area; having or involving a great deal of knowledge or skill in a particular area...”

Armed with the knowledge history provides, especially that of the past decade or so, even a casual read of the many submissions to various Parliamentary Committees; to successive Defence Ministers; and, to senior departmental officials, past and present, demonstrates that my associates and I are experts in what the former Secretary of Defence, Dr Allan Hawke, referred to as *Defence Matters*. Subsequently, and for reasons that now should be obvious to all Members of the Committee, we have become experts in many if not most of “*the other abuses*” reported to the DLA Piper Review.

While sexual abuses of the kind the Media and others would want us all to focus our their attention are heinous and despicable, warranting stern and decisive action on the part of the Ministers and the Government and the Australian legal system, the aggregate of sexual abuses, as reported by the Review, make up around 11% of the total number of abuse complaints received and accepted by the Review as being in scope.

Therefore, this submission, purposefully, focuses on “*the other abuses*” and, importantly, endeavours to highlight what eradicating the attitudes and resulting behaviours that have led to these “*other abuses*” perpetrated and perpetuated on people/organisations who have had the courage to stand up for what is right will do to vastly improve the defence of Australia.

The following are some of the key conclusions and recommendations drawn from the expert assessments from which this précis is derived.

Conclusions:

1. The DLA Piper Review and resulting reports (References A & B) are exemplary pieces of work which demonstrate, inter alia, the DLA Piper Review Team are well on the way to understanding the makeup and psychopathy of abuses in organisations and institutions like those that come under the Defence Portfolio.
2. All abuses perpetrated on others by Defence personnel result from the misuse and abuse of power, authority and trust.
3. These abuses are often if not always perpetuated by the perpetrator and other Defence personnel as well as non-Defence personnel through the misuse and abuse of power, authority and trust as well as the specific abuses of ‘*denial of a fair go*’ and the all-too-common ‘*ignore the message & shoot the messenger*’ a.k.a. *Blacklisting, Send to Coventry, Stereo type as serial complainant/dissident/nutter/unhinged/traitor/etc..*
4. The perpetuation of abuses and the apparent systemic nature of perpetuation of abuses observed in the Canberra based elements of Defence over the past decade or so is the result of seriously flawed and broken governance at all three levels of governance and is due, in the main, to the internal and external ‘*checks and balances*’ systems becoming moribund/dysfunctional, and, thus, totally ineffective.
5. The origins of failed governance in the Canberra based elements of Defence can be traced back to what is now euphemistically known as “*the Great Purge in Defence of 1999-2002*” which had its prelude in the Defence Reform Program (DRP) which was the Defence civilian bureaucracy’s response to the Defence Efficiency Review (DER)
6. As exemplary works, the DLA Piper Review and resulting reports could benefit from a broader appreciation of the issues and make up of ‘*Conflicts of Interest*’; the equal importance that needs to be given to “*the other abuses*”; the damage that some of “*the other abuses*” have caused to the defence and security of Australia and its sovereignty; and, how the data and information gathered under the DLA Piper Review can, using standard problem solving and management techniques, aid in identifying and eradicating the root cause/s and causality chains that led to the perpetration and perpetuation of abuses occurring in the first place.
7. Any recourse to and application of ‘*Statutes of Limitation*’ is highly likely to present significant impediments to the ‘*Task Force on Abuses in Defence*’ achieving its stated aims, both in relation to the abuses perpetrated by Defence personnel and those abuses used to perpetuate them on their victims, such as the abuses that result in “*cover ups*” and “*denials of a fair go*” through to “*turning a blind eye*”.
8. The apologies by the Minister and the CDF as well as the supporting statement from the Opposition on Monday, 26th of November 2012, specifically excluded, despite what is stated in Section 1.6 of Reference B, groups of Australian citizens who have been subjected to abuses perpetrated and/or perpetuated by personnel employed or engaged by Defence, in the course of their duties within or on behalf of the Defence Portfolio.

Recommendations:

1. Apologies with the same gravitas be made to those groups of Australian citizens excluded from the apologies of the Minister and the CDF as well as the supporting statement from the Opposition provided to Defence personnel (past and present, military and civilian) on Monday, 26th of November 2012.
2. Any and all '*Statutes of Limitation*' in relation to any abuses in Defence be put aside and all attempts to apply or use '*Statutes of Limitation*' as a defence against allegations of abuse in Defence be deemed impermissible.
3. Standard problem solving and management practices of Root Cause Analysis and Assessment (RCAA); organisational Performance Assessments (PA); and, Risk Management (RM) be undertaken by independent subject matter experts with the demonstrated backgrounds, knowledge, training, experience and expertise in Defence Matters, on the abuses in Defence and the supporting culture of the Canberra based elements and the effects these have had on their functions within the Defence Portfolio. (See Enclosure 2).
4. Recognition of the roles and contributions successive Ministers, Governments and Parliaments have made to the currently failed state of Defence governance is considered and recommended as vital if what ails and is broken in Defence, today, is to be fixed, once and for all. Don't ignore the message or shoot the messengers.
5. In informing itself fully about abuses in Defence, the Task Force include within their ranks and seek expert assistance and advice from one or several of those who have demonstrated (1) they are experts in these matters; (2) have experience "*on both sides of the divide*"; and, (3) have demonstrated a powerful focus on the best interests of Defence and the Australian Nation. Though there is no guarantee of his accepting, the most eminent individual for supporting the Task Force in this regard is AVM (Rtd) Peter Criss AM AFC, whose integrity and loyalty to Australia is above all others with whom I have served while in stark contrast to those responsible for the abuses perpetrated and perpetuated on others.
6. The information and knowledge gained from the DLA Piper Review be used to inform and for the benefit of the Royal Commission into the perpetration and perpetuation of child sexual abuse in institutions.

PRECIS OF RESULTS OF EXPERT BASED ASSESSMENTS

DLA Piper Report

The referenced and exemplary DLA Piper Review Reports conclude with the following:

Chapter - Concluding remarks

The review calls on the ADF, the Government and the Parliament to give proactive support to those in the ADF who have the courage to stand up for what is right when others in the ADF do, or have done wrong. (page 199 – 200)

"From what we have seen it takes enormous courage in the ADF to 'Jack' on your mates. That courage needs proactive support from the ADF, the Government and the Parliament."

"Standing up for what is right when your 'mates' do the wrong thing should be regarded as being essentially Australian."

DLA Piper Review Report Vol 1, Section 9, Concluding Remarks, page 200

Reference A is a salutary read, far more than any other reports into *Defence Matters*. Reference B even more so. The concluding remarks acknowledge what it means to be Australian while the abuses in and by Defence Portfolio personnel reported therein are an anathema to and the antithesis of being an Australian.

“Abuse is the misuse of power.”

DLA Piper Review, Section 2.2, Preconditions for Abuse, page 12

“People will be more likely to abuse a power which they have over another person, if they believe that there will not be any risk of adverse consequences for them on account of inflicting that abuse.”

DLA Piper Review, Section 2.7, No Adverse Consequences for Abusive Behaviour, page 20

“The corollary of the emphasis on the importance of good leadership is that when leadership is weak or even corrupt then there is a higher risk of abuse.”

“Of course, if the leader is prone to inflict abuse on others, then the Chain of Command aspect makes being under the Command of that leader a particularly high risk for abuse.”

DLA Piper Review, Section 2.7.4, Reliance on leadership to ensure power is not abused, page 23

Abuse is all about power. That some who have held or still hold high offices of power, authority and trust in our land could have been and could still be complicit as perpetrators and/or perpetuators of such abuses mirrors the kinds of behaviours and failures in duty now evident in the cover ups being reported domestically and globally. The seminal and defence specific Nimrod Review by Mr Charles Haddon-Cave, QC, is preeminent in exposing the nature and some of the principal causes for and methods of the cover ups being observed in Defence, today.

Cover ups are the converse of good management. They are signs of poor, weak and, at times, corrupt leadership. The means of cover ups include systemic omission (e.g. individuals and the organisation just fail to act) often with denial/avoidance behaviours or people just not doing their job. Then there is the use of misrepresentation and misinformation as well as misdirection, deception and distraction – all techniques of [Information Warfare](#). The level of ‘*information asymmetry*’ that exists in relation to Defence and what it does along with the ‘*closed shop*’ code of silence nature imposed on the organisation by senior officials within the Defence Portfolio, often inappropriately, create the perfect environment for employing such techniques for covering things up. Obfuscation, procrastination, dissembling and delay while maintaining an appearance of operating in good faith is an all too common employed suite of cover up methods, particularly when “*time is of the essence*” (e.g. statutes of limitation apply). This art form has been turned into accepted practices known as the Scheme of Compensation for Detriment caused by Defective Administration (The CDDA Scheme – and scheme it is) along with referrals to the IG-ADF and the Defence Force Ombudsman. A ploy often adopted is the use of trite argumentation devices such as logical fallacies. More sinister techniques include ‘*normalising deviance*’, ‘*false & misleading statements*’, ‘*sophistry & spin*’, along with deceit and outright lies. Methods that have become increasingly prevalent are centred around what Professor Harry G Frankfurt, of Princeton University, determined is a bigger threat to society than the lies of liars; namely: “*a total indifference to what is real*” a.k.a. bullshit!

However, what makes those who abuse believe there is little if any risk of adverse consequences for them? It is said a fish rots from the head.

“I cannot and will not do anything that would embarrass former Service Chiefs or Chiefs of Defence Force”.

ACM Allan Grant ‘Angus’ Houston, CAF (20 Jun 01 to 04 July 05) CDF (04 Jul 05 to 04 Jul 11)

Cover ups are damaging for organisations while having far more damaging implications for victims. The recent stark examples of the Lance Armstrong Doping Affair and the Sir Jimmy Savile OBE KCSG / BBC Scandal clearly demonstrate how cover ups and requisite failures in duty by persons in positions of power, authority and trust that elevate them to the status of eminent citizens can lead to what the DLA Piper Review has now finally exposed in Defence.

An Industry Perspective

The attached list (Enclosure 1) from the DLA Piper Review highlights some of the abuses perpetrated on me and my small-to-medium enterprises. We provided employment for upwards of 50 fellow Australians for some 15 years and, over that time, generated export earnings, actively supported those who defend our nation, and contributed substantively to making Australia a better place. We epitomised the essential Australian SME – always caring for our mates, clients and Industry colleagues, alike; believed in and practiced the ethos of a fair go; communicated openly and plainly with no beating around the bush; practiced critical thinking (a.k.a. ‘thinking outside the box’) to provide our clients, including Defence, with innovative, cost effective solutions to meet their needs; and, rightly, had a strong and irreverent intolerance of bullshit, in keeping with the essentials that make Australia the great nation it is.

We and others in Industry know through bitter experiences that the abuses perpetrated on ourselves and others in Industry stem from and are then perpetuated by unacceptable behaviours that have their roots in attitudes like the following, so starkly demonstrated in evidence to the Australian Parliament:

Mr Dunstall: Normally in Commonwealth negotiations it is the Commonwealth against the little guys.

Senator MARK BISHOP: The Commonwealth against???

Mr Dunstall: The little guys. There is the big Commonwealth and 'if you want to do deals with the Commonwealth you basically accept our terms and conditions or you do not do business'.

*Senate Inquiry into Defence Procurement Procedures
Hansard Transcript, 07 October 2011, Page 10*

It is this very attitude that leads to the abusive behaviours highlighted in the attached list as well as other abuses which flaunt if not breach the rule of law of Australia and the very essence of the Australian ethos of “*a fair go*”.

This particular attitude is also at the root of the abuse by senior Defence Portfolio officials of the good faith, openness, honesty and trust necessary for healthy, effective and beneficial relations between Defence and Industry. The policies adopted by Defence and the DMO over the past decade have generated such a toxic and dysfunctional environment that Australian owned Defence Industry is now at the top of the endangered species list.

Importantly, there needs to be recognition and acknowledgement of the fact that, for the perpetration and perpetuation of abuses reported by the DLA Piper Review to occur in Defence, the ‘*checks and balances*’ systems within the Defence governance structure would have to have been seriously and repeatedly compromised and, thus, broken.

A longitudinal analysis of submissions to and the reports arising from over a decade’s worth of Parliamentary Committee Inquiries into Defence Matters; all the other Inquiries and Reviews by Independent Agencies and Consultants; as well as the many and varied Reviews/Inquiries by Defence, itself, shows most if not all contain this observation as an ever present and common theme.

For example, from the Inquiry Into the Military Justice System Report dated June 2005 referred by the Senate to the Committee in October 2003 and which received 71 public submissions, 63 confidential submissions, and many supplementary submissions as well as held eleven public hearings and seven *in-camera* hearings:

“Conflict of interest and the lack of independence of the investigator and the decision maker was one of the most corrosive influences eroding the principles of natural justice and one of the most commonly cited concerns. Many witnesses called for an independent adjudicator so that a neutral and unbiased investigation could take place free from contamination by self-interest or third party influence.”

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“The committee accepts that, on face value, there is 'a system of internal checks and balances, of review and counter review'. The overall lack of rigour to adhere to the rules, regulations and written guidelines, the inadequate training of investigators, the potential and real conflicts of interest, the failure to protect the most basic rights of those caught up in the system and the inordinate delays in the system rob it of its very integrity. The committee believes that measures must be taken to build greater confidence in the system and most importantly to combat the perception that the system is corrupted by its lack of independence. The committee is recommending a major restructuring of the administrative system, in particular the establishment of a statutorily independent grievance review board.”

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Meanwhile, the Senate Report is replete with clear evidence of that all too common form of cover up (a.k.a. *denial behaviour*) within the senior leadership of Defence, such as:

“10.67 Indeed, General Cosgrove was of the view that 'significant progress continues to be made to improve the openness and external scrutiny of the administrative system, including inquiries.'⁶⁶ He regards the current system of internal checks and balances, of review and counter review, of appeal and counter appeal as 'extraordinarily resilient.'”

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More recent Hansard Transcripts continue to be replete with many examples that demonstrate *denial behaviour* remains a tool of choice when it comes to constructing cover ups in Defence.

As to why this is so, the existence of 'conflicts of interest' is one of the major contributors. For example, the terms “*conflict of interest*” and “*conflicts of interest*” appear 60 times in the body of the Senate Report, often times linked to evidence of the many witnesses and submissions provided to the Committee citing such conflicts as both prejudicial and central to their experiences and the conclusion many if not most have determined that the governance structure of the Military and Administrative Justice System in Defence is broken is not only irrefutable, but self evident.

Recognition by the Minister, the Government and the Parliament of this conclusion and the preceding arguments that lead to the same conclusion is considered vital if the DLA Piper Review and follow up implementation actions of the Task Force are to be effective.

The DLA Piper Review and Reports are Exemplary but there is more work to be done . .

⋮

Our own experiences with the DLA Piper Review in 2011 were grossly unpleasant, extremely frustrating, and most disappointing, to say the least, especially when viewed through the prism of the abuse of “*denial of a fair go*”.

However, based on our assessment of the reporting in Volume 1 and the Supplementary Report to Volume 1, the work done by the Review, overall and so far, is exemplary, if not superbly outstanding.

In our experience working for the courts as Expert Witnesses, engaged by and opposite other law firms, these works of DLA Piper go well beyond the levels of quality, veracity, integrity and critical thinking we have come to expect based upon what we have seen produced for the all-too-often outrageous fees the vast majority of the legal fraternity charge.

However, three overarching considerations provide some balance to this exemplary assessment and the supporting observations.

Firstly, these works have obviously been extremely well informed by (and would not be the exemplary, defining works they are if it were not for) the many who have displayed the courage to do what is right. Noting these people – those who have displayed the courage to do what is right - have yet to receive any form of substantive let alone proactive support, or any form of closure let alone compensation for the damages they have endured, or even acknowledgment let alone payment for their efforts which have significantly benefitted the DLA Piper Review and, thus, the Government and the Parliament, it would be a travesty of monumental proportions as well as a huge opportunity lost not to do what is right and what is best for them, the Defence Organisation, and Australian society by eradicating, once and for all, all such abuses and what causes them.

Equally, despite the sensationalism-driven attraction of the Media and others to focus on sexual abuses which, not surprisingly and no doubt intentionally on the part of some, distracts from and diminishes the importance of “*the other abuses*”, there is a need to maintain a searing focus and ever present vigilance on “*the other abuses*” for a very simple but extremely important reason.

The perpetration of abuses through the misuse and abuse of power, authority and trust as well as their perpetuation through the same means, along with the abuses of “*denial of a fair go*” and “*ignoring the message and shooting the messenger*” are the engines that drive inappropriate behaviours in Defence, particularly at the senior levels in the Canberra based elements.

Examples of such inappropriate behaviours, inter alia, fuelled by the misuse and abuse of power, authority and trust include:

- The plethora of false, misleading and often times deceptive representations made by senior Defence officials that can be found in the submissions from Defence and evidence to Parliamentary Oversight Committees over the past decade or so.
- Specific examples of these can be found in the representations made to the Australian Parliament by successive Chief Executives of the Defence Materiel Organisation, along with Secretaries of Defence, Chiefs of Defence and various Service Chiefs, since inception of the DMO in 1999, that pertain to the following (which is not an exhaustive list, by any measure):
 - The Collins Class Submarine and, more recently, its sustainment
 - The Wedgetail AEW&C Project, its acquisition, sustainment and upgrade
 - All Helicopter Projects since 1998 (not just the Super Sea Sprite Helicopter Project)
 - The premature retirement of Australia’s F-111 strike capability
 - The Battlefield Air Lifter Project, in all its guises, since 1998
 - The Amphibious Ships capabilities
 - The Bridging Air Combat Capability
 - The New Air Combat Capability and, specifically, the JSF

- The decisions made and directions adopted by key members of the senior Defence Committees at the time of release of the Defence 2000 White Paper that were contrary to the strategic directions and Government policies promulgated in that White Paper.

Secondly, as exemplary as they are, these works are not without shortcomings. For example, much time and effort seems to have been spent on considering then discussing in the report, particularly in Section 2 of Reference A, a multiplicity of causes and, interestingly, the notion of ‘risk factors’ leading to both the perpetration and perpetuation of abuses in and by Defence. However, as seen in most if not all of the independent inquiries and reviews into Defence Matters and those by Defence itself, there is an absence of any form of Root Cause Analysis with the requisite determination of any chains of causality or causal hierarchies, let alone any requisite derivation of the Root Cause/s. Similarly, there is no indication of any form of Risk Analysis or Risk Assessment (as defined under Australia’s world’s best practice Risk Management Guidelines) having been done, though the term ‘*risk avoidance*’ does appear, again in Section 2. A contextual analysis of Reference A shows that the terms ‘*cause / causal / caused*’ appear, collectively, some 30 times in the document (however this includes Section Headings, page Headers and Footers, the Table of Contents, Glossary and the Bibliography) but appear only three times in the sense of ‘*causality/cause of an effect e.g. problem*’. The term ‘*risk*’ appears some 254 times in the document while ‘*risk factor*’ is mentioned some 39 times – some 14 times in the Pre-amble and Executive Summary sections and some 24 times in Section 2 (again including Section Headings, as well as the page Headers and Footers) and once in Section 5.2 of the Report.

In summary, though much of the data, facts and other material for informing Root Cause Analysis (RCA) and the closely associated Performance Assessments (PA) as well as Risk Analyses & Assessments (RAA) has been gathered and compiled through the exemplary work of the DLA Piper Review Team, no evidence can be found that demonstrates these analyses have, in fact, been done. The same can be said for most if not all the many and varied reviews and inquiries , internal and external, into Defence Matters over the past decade or so.

Multiple Root Cause Analyses performed by independent domain experts have determined that what ails and is broken in Defence, today, stems from the “Great Purge in Defence of 1999-2002” wherein the Dunning Kruger Effect was institutionalised in the Canberra based elements of the organisation such that Professor Janis’ ‘Groupthink’ became dominant, driving all decision making within the Department.

“In order to meet the wishes of the Minister for a conforming and compliant Defence organisation, some 40 per cent, if not more, of the senior leadership group, mostly on the Military side, will have to be changed out or shed”.

Dr Allan Hawke, SecDef 1999-2002

In keeping with Management Best Practices, the results of such analyses are essential if the problems arising from abuses in Defence are to be resolved and fixed, effectively, so (1) they don’t re-occur and (2) organisational learning and the implementation of the solutions are to result in the fixes becoming self actualising. This is work for independent subject matter experts with the demonstrated backgrounds, knowledge, training, experience and expertise in Defence Matters, particularly relating to abuses in Defence.

Thirdly, another shortcoming that is crucial; was made abundantly apparent by contributors at the start of the Review; but, has clearly been ignored, is the matter of “conflicts of interests”. Though Reference A and, further, Reference B touch on this matter in relation to the law firms, DLA Piper et al, and members of the Review Team (e.g. Professor Pearce), the Review fails to consider the matter of conflicts of interests of other organisations and incumbent individuals, especially the ones that are named in submissions pertaining to abuses and,

especially, when this is often - for example: Defence Legal and all its previous manifestations, under the stewardship of Mr Mark Cunliffe and Dr David Lloyd, et al.

A prudent, but not necessarily exhaustive list, of areas in the Canberra based elements of the Department of Defence where there are both perceived and real conflicts of interest would include:

- Defence Legal, The Defence Legal Service (TDLS) and all its previous forms
- Complaints Resolution Agency (CRA) and latter forms
- The IG-ADF
- The Defence Force Ombudsman, The Commonwealth Ombudsman
- Defence Senior Leadership Group

In fact, this list is not exhaustive since there are other Canberra based elements of the Australian public sector that have been associated with abuses perpetrated and perpetuated by Defence personnel to the detriment of the victims of such abuses.

CONCLUDING REMARKS

In line with the classic three tier governance model with Executive, Directing and Oversight levels, the organisational bodies listed above, as well as the senior officials responsible for their workings, function at the Executive Level of Governance either as Executive Functionaries (those responsible for implementing the directing policies of Government) or advisors to Executive Functionaries (close coupled or otherwise).

However, for a governance structure to be so compromised that it is broken either partially or fully, both the Directing Level of Governance (in this case, successive Defence Ministers, Ministerial Advisors and Governments) and the Oversight Level of Governance (i.e. successive Parliaments and their instruments for oversight) would have had to have had significant influence in the creation of this outcome, either directly, indirectly or, as often is the case, by omission.

As unpalatable and as unpopular this may be to those presently holding appointments in the organisations and groups listed above, the courage to face these realities and do what is right is needed, nay essential, if what ails and is broken in Defence, today, is to be fixed, once and for all.

The other obvious and huge conflict that arises is between the basic ethos of Australian values; namely, the provision of '*a fair go*' to the victims of abuses, versus those whose names appear, some repeatedly, in victim submissions to the DLA Piper Review as perpetrators and/or perpetuators of abuse. Some of these latter group would almost certainly be recipients of national honours and awards while others would now be regarded as eminent Australian citizens and the mates of people in high places in Australian society.

Understandably, this latter conflict, in both its perceived and real states, brings into sharp focus the significant challenges and threats to the defence and security of Australia that the DLA Piper Review findings confirm have arisen by permitting the culture in Defence that gives rise to such abuses, in particular the abuses of trust, authority and power to continue ostensibly unabated and, in the main, go unchecked.

The significant constraints placed on any organisation and incumbent body of people by the attitudes and resulting behaviours that form such a culture should not be understated nor be ignored, especially when the goals are to be a learning organisation; one that recognises the strength in diversity; and, one that strives for excellence in all that it does and can do.

Therefore, like all risks when properly managed, the DLA Piper Review presents Government and the Parliament, on behalf of the Australian people, the greatest opportunity, ever, to fix what ails and is broken in Defence, today, enabling Defence to establish a true pathway for change and set the standards for any similarly effected entities in our society.

Let us hope all the members of both institutions – the Government and the Parliament - agree there is a way to fix what ails and is broken in Defence, today, and, more importantly, they have the personal, professional and political will to do it.

What was provided in the last submission ([Vol II APA-2005-1 dated the 26th of January 2005](#)) to the Senate Inquiry into the [Effectiveness of the Military Justice System](#) rings as true today as it did back then:

It may take the political will of the whole of the Parliament, both Government and Opposition, to not only put this cancer into remission but to cure it once and for all, with appropriate and continuing diligence to ensure it never, ever returns. However, for the sake of the present and future generations of Australians, such a unity of purpose is well worth the effort. Our men and women of the ADF and the hardworking people within the Department deserve nothing less as well do our children.

"I believe ... each generation of Australians is obliged to leave our country in better shape than they found it."

Prime Minister John Howard, July 2004

Finally, over 590 principal consultant man hours were consumed in the foreground research and analysis involved with and for production of this submission (*some 160 man hours more than originally estimated*), along with over \$1,300 in disbursements.

Coordinated, Researched, Authored, and Approved by:

Peter Goon

Principal Consultant/Advisor

Head of Test and Evaluation

Co-Founder, [Air Power Australia](#)

Peter Goon and Associates

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"Our job is to be so capable and so well prepared that the other guy just wants to stay neighbourly."

"The primary role of Defence is the maintenance and sustainment of peace in our region."

Australian Defence Force Leadership prior to 2000

ENCLOSURES

Enclosure 1: Categories of Abuses

Enclosure 2: An Advisory to the Ministers for Defence for Fixing What Ails and is Broken

Enclosure 1: Categories of Abuses

Categories of Abuses Perpetrated and Perpetuated on Australian Flight Test Services (AFTS) & Managing Director, Peter Goon (Highlighted and Appended)

Appendix 10 Allegation categories

Allegation categories for purpose of initial assessment

Categories of offences and crimes	Subcategories
1 Sexual assault	To be broken down against gender; male/female; male/male; female/male Rape Molestation Indecent assault Sexual or physical contact such as touching, slapping or kissing
2 Physical assault	Threats to assault
3 Other unacceptable behaviour	Intimidation Retribution Abuse of power Inappropriate workplace relationships Conflict of interest
4 Harassment	In addition to bullying, sexual harassment, discrimination, intimidation and retribution (the list is not exhaustive and can include the following): <ul style="list-style-type: none"> • insulting comments or teasing about physical characteristics, abilities or mannerisms of a person • disparaging or unnecessary comments about a person's work or capacity to work • spreading of malicious rumours • interference with a person's work place, work materials, equipment or property • exclusions of a person from normal conversation, workplace activities or work related social activities • offensive pictures, screen savers, emails, SMS text messages, written or electronic material • making a vexatious or malicious complaint against a person • causing detriment to a person because they've made the complaint in good faith.
5 Sexual harassment	Discrimination and harassment on the grounds of sexual orientation or identity Offensive pictures, screen savers, emails, SMS text messages, written or electronic material in the workplace or staff areas that is sexist, sexually explicit, homophobic etc. Offensive gestures, suggestive behaviour, staring and/or leering Jokes bases on sex, pregnancy, marital status, sexual orientation, transgender etc. Sexual propositions or asking for sexual favours Unwanted invitations for dates Insults or taunts based on a person's sex or sexual orientation Intrusive questions about one's private life or body
6 Bullying	Physical behaviour—aggressive intimidating body language Verbal abuse—abusive, insulting and offensive language, humiliation through sarcasm, criticism, insults, persistent teasing and taunting, belittling a person's opinion, unjustified criticism, criticism delivered by yelling and screaming. Inappropriate or unfair work practices such as—giving a person much greater proportion of the menial work than given to others, constantly making a person the brunt of practical jokes, checking a person's work or whereabouts without reasonable cause Undermining or sabotaging another person's work or reputation Excluding, isolating or marginalising others Threats of dismissal or disciplinary action for trivial mistakes or shortcomings

Categories of offences and crimes		Subcategories
7	Discrimination	<p>Any distinction, exclusion, or preference that has the effect of impairing equality of opportunity or treatment in employment or occupation.</p> <p>Sex (subject to some exemptions—e.g. women in combat roles)</p> <p>Marital status</p> <p>Pregnancy/potential pregnancy</p> <p>Family responsibilities (e.g. carer, parent)</p> <p>Race</p> <p>Religion</p> <p>Sexual orientation</p>
8	Hazing/Initiation	<p>Harassment</p> <p>Bullying</p> <p>Physical or sexual abuse</p> <p>Degradation</p> <p>Violent acts</p> <p>Forced alcohol consumption</p> <p>Sleep deprivation</p>
9	Complaints handling	<p>Perceived conflict of interest</p> <p>Partiality/ bias</p> <p>Lack of transparency</p> <p>Denial of procedural fairness/natural justice</p> <p>Failure to speak to witnesses</p> <p>Not satisfied with outcome</p> <p>Subject of the complaint handled the complaint</p>
10	Other—criminal	<p>Causing intentional injury</p> <p>Causing injury recklessly</p> <p>Common assault</p> <p>Stalking</p> <p>Extortion</p> <p>Kidnapping</p> <p>False imprisonment</p>
11	Other—non criminal	<p>Negligently causing injury</p>

Enclosure 2: An Advisory to the Ministers for Defence on Fixing What Ails and is Broken in Defence, Today

From: Peter Goon [<mailto:the.firm@internode.on.net>]
Sent: Sunday, June 17, 2012 12:45 PM
To: 'the Hon Stephen Smith, Minister for Defence'; jason.clare.mp@aph.gov.au; 'Senator Mark Furner, Chair'; 'Dr Dennis Jensen MP'; senator.eggleston@aph.gov.au; senator.stephens@aph.gov.au; Senator David Fawcett; 'Senator Mark Bishop'
Cc: _____
APA Peer Review Group _____
Subject: Courage, Abuses and the Current Culture in Defence

Dear Ministers and Senators/Members of the Defence Oversight Committees:

Subject: COURAGE, ABUSES AND THE CURRENT CULTURE IN DEFENCE

The DLA Piper Review Executive Summary ends with the following:

Chapter 9-Concluding remarks

The Review calls on the ADF, the Government and the Parliament to give proactive support to those in the ADF who have the courage to stand up for what is right when others in the ADF do wrong.

Obviously, the first set of questions that all “*who have the courage to stand up for what is right*” would wish to put to senior Defence Portfolio officials, those holding the Defence Ministerial appointments, the Government and the Parliament is a simple one.

Unfortunately, many who have had the courage to stand up for what is right are now unable to ask even this set of questions due to the abuses perpetrated and perpetuated on them, not the least being the one that has also resulted in the parlous state of communications that has existed with the Defence Portfolio since the Purge in Defence (PiD) of 1999-2002. We have all seen it and pondered, “Why is it so?”, particularly since Australians are noted, around the world, for speaking up for what is right and plain talking.

As one of the many whose communications have been so diligently ignored and often with extreme prejudice, please permit me this “*once more into the breach*” attempt to establish communications with you and ask this first set of simple, straightforward questions:

Do you, individually and collectively, acknowledge and respect the courage demonstrated and are you prepared to reciprocate by answering the call?

If so, please tell us what, when, how and through whom your proactive support will be forthcoming?

What is needed to fix what clearly ails and is broken in Defence, today?

In the interests of good communications as well as the Australian heritage based traits of plain talking and “*not beating around the bush*”, we look forward to seeing your answers to these questions at the earliest, particularly since time is of the essence.

Also, to assist in your answers to the last question, the following is offered for your consideration, deliberation and feedback comments.

Having observed, researched and proffered advice on the current culture in Defence and, inter alia, the abuses arising from it for over a decade (as well as being one of the many victims of abuses originating from within the Defence Portfolio), I am well placed to provide expert opinion (in keeping with the Rules of Evidence of all Australian Courts of Law) on the subject and to do so in an objective, proficient and professionally effective manner which, hopefully you will see, the following point notes more than adequately demonstrate.

- Over the past two decades or so that have been studied, the mention of “*Culture in Defence*” and the need for change often resulted in the eyes of those of the political persuasion glazing over because of the perception that cultural change takes a long time and, as such, would likely exceed the beholders’ purview and time in Government, let alone the Parliament. However, this is not necessarily nor should it be so and as the current Defence Minister, the Hon Stephen Smith is to be congratulated for having the ticker to at least put the “*Culture in Defence*” on the table. Also, for tackling some of the socially more onerous issues directly. However, continuing to take counsel from senior Defence Portfolio officials imbued with the current Defence culture is high risk and will further complicate achieving what is right and what is best.
- An organisation’s culture takes some time to develop since it is the consequence of developing attitudes and their resulting behaviours which, if fraught and allowed to go unchecked, entrench and become doctrine, often unwritten but opposite to the organisation’s stated aims, objectives and goals.
- Put simply, culture is a consequence, not a cause.
- Attempting to change or even evolve a bad culture is akin to trying to make a silk purse out of a sow’s ear. “*If you are trying to turn a sow’s ear into a silk purse, it is best to start with a silk sow!*” – Norm Augustine.
- As advised to the Senate FADT Committee on Tuesday last (12 June 2012), the recently published strategy called “*Pathway to Change*” doesn’t even identify let alone address the root cause; is just more of the same; and, presents with the risk that it will almost certainly result in deeper entrenchment of more of the same.
- Standard problem solving, if it is to be effective and ensure the problem/s don’t re-occur, requires the root cause to be determined, along with the penultimate root causes and causal chain back to the identified fault/problem and its initiating cause. Standard root cause analysis and assessment (RCAA) along with performance assessments (PA) are the means of deriving the causal chain and determining the penultimate and root causes.
- Risk management (RM) is the means to identify and mitigate against threats in the future that could undermine, subvert or prevent adherence to the organisation’s stated aims, objectives and goals as well as the culture required to assure adherence.
- PARCAA and RM require the application of competencies and skills at the expert level with the wisdom that comes from extensive experience in and knowledge of the subject.
- None of the many inquiries, reviews and studies by Defence and the many highly paid consultants engaged by Defence and successive Governments to look into these matters have produced reports containing anything resembling the professional application of PARCAA and/or RM principles and disciplines.

- Implementing changes in the attitudes within an organisation are straightforward management tasks, especially in an hierarchical, vertically integrated organisation that follows the principles of strategic management (SM), particularly when accountabilities have not been diffused or distorted by, say, mythological matrix management morphology and memes which only confabulate, complicate and confuse as well as form estoppels to the generation of good management outcomes.
- As every parent knows, attitudes need to be designed, encouraged and, if necessary, enforced to engender the desired behaviours which, in turn, generate the right cultural characteristics and, thus, the requisite culture being sought and in order for the desired behaviours and the originating attitudes to become self actualising and self sustaining.
- The following examples represent just two of a range of the attitudes consistently demonstrated, and persistently, over the past decade or so, that have been contributory, in a causal sense, to the perpetration and perpetuation, by individuals and/or groups in Defence, of “*wrong or improper use or treatments of*” (a.k.a. “abuses”) towards individuals and organisations working in and/or for Defence:

“I cannot and will not do anything that would embarrass the former CAF or former CDF (a.k.a. former serving military senior Defence Portfolio officials) of the Australian Department of Defence.”

ACM Allan Grant ‘Angus’ Houston, CAF (20 Jun 01 to 04 July 05) CDF (04 Jul 05 to 04 Jul 11)

###

Mr Dunstall: . . Normally in Commonwealth negotiations it is the Commonwealth against the little guys.

Senator MARK BISHOP: The Commonwealth against?

Mr Dunstall: The little guys. There is the big Commonwealth and 'if you want to do deals with the Commonwealth you basically accept our terms and conditions or you do not do business'.

*Testimony of Mr Harry Dunstall, General Manager Commercial, DMO
Senate Inquiry into Defence Procurement Procedures
Hansard Transcript, 07 October 2011, Page 10*

- Former serving military senior Defence Portfolio officials are almost certainly subject to the DFDA if they are on the Reserve List.
- Clearly, the Defence governance structure is broken. More importantly, so too are the ‘*checks and balance*’ functions; that is, the organisational feedback loops. These are supposed to inform the executive and directing levels of governance, in a timely manner (preferably in or close to real time), of any need for adjustments to keep Defence ‘*on track*’, in keeping with the organisation’s stated aims, objectives and goals.
- By definition, good governance incorporates feedback functions that work. In the case of Defence, this would ensure the organisation and those within it would be deserving and far more than just “*trusted to defend, proven to deliver and respectful always*”.
- **Abuse and Abuses:** A rather insidious and rampant situation exists within Defence in relation to abuses and how particular abuses evolve and morph, over time, into a chain of multiple and various abuses. There are the abuses that are perpetrated on individuals/organisations. Otherwise known as the “*initiating abuse*”. Then there are the subsequent abuses that are perpetuated on individuals/organisations that have been abused. The latter are often if not always the result of fraught and entrenched attitudes like the examples above. A lexicon of such abuses, other than sexual and physical abuses, is attached. Many if not most of these are also perpetrated and perpetuated on those who have been sexually and/or physically abused, particularly if they seek redress.

This lexicon was provided to the DLA Piper Review and senior Defence Portfolio officials at the time the final terms of reference (ToR) for the Review were being formulated.

As advised previously, the abuses in Defence on which the Review has reported so far are but a symptom, albeit a big, ugly and cankerous symptom (though no less important to the victims), of a much bigger set of issues and problems that are evident in many if not most of what past Defence Secretary, Dr Allan Hawke, described as “*Defence Matters*”.

Why these are much bigger issues and problems is because they present real and present dangers to the defence and security of the sovereignty of Australia and the Australian national interests. What is alarming though not unexpected is these dangers share a number of the same elements in their causal chains as the matters investigated by the Review, including one of the same penultimate root causes.

I would also like to take this opportunity to introduce and, in most cases, re-introduce you to some of the other experts (see Cc Addressees) who have the wisdom that comes from extensive experience in and knowledge of Defence Matters and to the following which is one solution to the cultural dilemma in Defence which we, collectively, recommend as worthy of your consideration:

- What is required is adopting a new and better approach to developing, maintaining and sustaining the right culture. This approach mirrors, to some degree, the approach that long passed Service Chiefs used to take in order to “*raise, train, sustain and maintain Defence capabilities*” for which they used to have full accountabilities. However, it goes somewhat further by establishing the governance structure in which such accountabilities can be applied effectively.
- In relation to the approach for getting the right culture in Defence, this starts with addressing the attitudes and the resulting behaviours at the top and within each of the three levels of governance of the organisation; empowering and aligning each level of governance with a common set of aims, objectives and goals.
- Worthy of note is, currently in Defence, these three discrete terms – Aims, Objectives and Goals – are quite often used interchangeably with each other and, thus, become some of the most confused and confusing terms in management. Importantly, these terms should be clearly and unambiguously defined with regard to what they mean and, more so, how they are to be applied.
- A Test and Evaluation (T&E) style feedback loop should be established for all three levels of governance. The T&E discipline has been chosen because it (1) fulfils the requirements for providing the requisite feedback, (2) is a well established discipline with well documented doctrines, procedure and tools in the public domain, and (3) is a well resourced though currently uncoordinated and poorly applied discipline in Defence.
- We have reported on this extensively. The results are simply summarised in the attached overview of the T&E Model and the “*essential needs for effective feedback loops*” previously provided to senior Defence Portfolio officials such as the current CDF, as well as to successive Defence Ministers, Governments and Parliaments over the past decade.
- Employ this feedback loop to rationalise, realign and reinvigorate the currently broken systems that are supposed to provide relevant “*checks and balances*” in and to Defence;
- Employ this feedback loop to introduce the disciplines and principles of Strategic Management (SM), PARCAA and RM into Defence with the purpose being to make the associated attitudes and behaviours self actualising and self sustaining.

Fixing what ails and is broken in Defence, today, is a challenging but not impossible task and, besides, **it must be done**. *Qui audet adipiscitur*. As has been demonstrated over the past decade or so, there is a group of experts in Defence Matters who stand ready and prepared to assist in this regard.

All you have to do is acknowledge this fact and engage with them.

To this end and to encourage you to do so, there is strength in diversity and countervailing views particularly if the contestability that comes from such diversity/countervailing views has the common aim of achieving what is right and what is best, despite the odds. This is especially so in Defence Matters since, as Eric Arthur Blair, writing as George Orwell, said:

“In times of universal deceit, telling the truth will be a revolutionary act.”

Finally, for your convenience, an Adobe PDF version of this communiqué is attached.

Yours Sincerely,

Peter Goon

Peter Goon

Principal Consultant/Advisor

Head of Test and Evaluation

Co-Founder, Air Power Australia

Peter Goon and Associates

Phone:

Mob:

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"Our job is to be so capable and so well prepared that the other guy just wants to stay neighbourly."

"The pivotal role of Defence is the maintenance and sustainment of peace in our region."

Australian Defence Force Leadership prior to 2000

Attachment 1 – Lexicon of Abuses and Scorecard for Determining if In Scope

Submission to Ministerially-Directed-Review-of-Abuses-in-Defence-Portfolio

ABUSE LEXICON AND SCORECARD

Types of Abuse Observed as Prevalent in the Defence Portfolio	DLA Piper Review of Abuses in Defence Portfolio				
	DLA/Defence Legal ToR Descriptors			In Scope	Out of Scope
	Bullying (1)	Harassment (2)	Intimidation (3)		
'Abuse of Office' (Misfeasance in Public Office)	✓		✓		
'Abuse of Authority'	✓		✓		
'Abuse of Market Power'	✓	✓	✓		
'Denial of Natural Justice'	✓	✓	✓		
'Abuse of Process including abuse arising from dishonesty, fraud, theft, bribery and related offences'	✓	✓	✓		
'Abuse of Trust'	✓		✓		
'Abuse of Rank'	✓		✓		
'Ad Hominem Abuse'	✓	✓	✓		
'Abuse under FMA Audit Category of Fraud, Waste and Abuse of Commonwealth Resources'	✓	✓	✓		
'Professional Abuse/Denial of Professional Standing'	✓	✓	✓		
'Defamation and/or Libel'	✓	✓	✓		
'Victim Blaming'	✓	✓	✓		
'Blacklisting' and 'Being Sent to Coventry' Abuse	✓	✓	✓		
Abuse Arising from Flawed and/or Defective Administrative Process	✓	✓	✓		
'Corporate Abuse'	✓	✓	✓		
'Economic Abuse'	✓	✓	✓		
'Abuse arising from False or Misleading Statements or Misrepresentations'	✓	✓	✓		
'Abuse arising from Official or Professional Misconduct and/or Professional Negligence'	✓	✓	✓		
'Whispering Campaign Abuses'	✓	✓	✓		
'Abuse of Parliamentary Privilege'	✓	✓	✓		

Definitions of Abuse in the DLA Piper Terms of Reference based on Defence Minister the Hon Stephen Smith statement: *"..independent review into sexual and other abuses (such as bullying, harassment and intimidation) and related matters"*

1. Bullying: *the process of intimidating or mistreating somebody weaker or in a more vulnerable situation*
2. Harassment: *behaviour that threatens or torments somebody, especially persistently*
3. Intimidation: *to frighten somebody into doing or not doing something, e.g. by means of violence or blackmail; to create a feeling of fear, awe, or inadequacy in another*

Oxford Dictionary Definition:

1. *wrong or improper use or treatment of anyone or anything.*
2. *unfair, cruel or violent treatment of somebody - (also see <http://www.encyclopedia.com/topic/Abuse.aspx#5>)*

Attachment 2: AFTS Test and Evaluation (T&E) Model (as provided to General David Hurley et al)

A DEFINITION AND MODEL TO DESCRIBE THE FUNCTIONS AND ROLES OF TEST AND EVALUATION (T&E) - AN INTEGRAL PART OF THE LIFE CYCLE PROCESS

© May 1991, 1993, 1996 - 2006 ⁽¹⁾

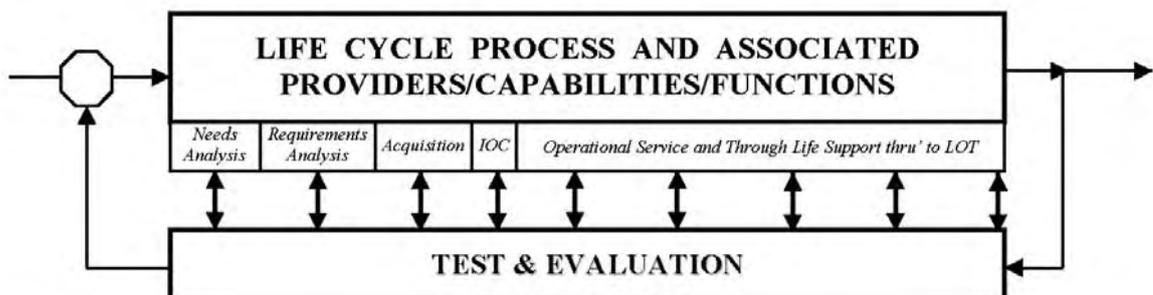
What is T&E ? – T&E is an Engineering Discipline. A simple definition follows:

Test and Evaluation (T&E) is the “*feedback loop*” to the *Life Cycle Process*. It is applicable to all stages of the process, and embodies a range of roles and functions, including:

- T&E is a “*Womb to Tomb*” philosophy and an important *technology enabler* that not only *sharpens* but *hones* the technology, the resulting capability, and the processes used to *produce, support* and *operate* them.
- T&E provides oversight and the proof that a *product* or a *system* complies with and conforms to the specification and, moreover, meets the *needs* of the end user.
- T&E is a means of “*maximising return on expenditure*” (according to a former President of ITEA⁽²⁾, ADM Pete Adolph (USN), “*T&E is about getting the best bang for your bucks!*”).
- T&E is an integral part of the process for achieving “*cost effectiveness*” and “*value for money*”.
- T&E rigour and processes are employed by *domain experts* to provide the *objective data* needed to achieve *compliance, conformity, probity, accountability, transparentness* and *fair dealings* in life cycle activities.
- T&E assists the customer to be a “*smart buyer*” and obtain “*value in process*” through the application of *applied learning techniques* eg. *lessons learned*.
- T&E is a broad set of activities and functions, including the following :
 - Systems Testing eg. Flight Test (Developmental, Certification, Acceptance, Production)
 - Certification, Classification and other Regulatory Functions/Activities
 - Developmental Test and Evaluation (DT&E)
 - Acceptance Test and Evaluation (AT&E)
 - Operational Test and Evaluation (OT&E)
 - Independent Verification and Validation (IV&V)
 - Risk Analysis & Risk Assessment & Risk Planning (eg. System Safety Analysis)

“To be effective, T&E needs to be integrated with but independent of the Life Cycle Process and the associated providers and their capabilities.”

A Simple Model to Describe T&E “the feedback loop for all stages of the Life Cycle Process”



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⁽²⁾ ITEA - International Test and Evaluation Association