



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**THE SENATE**

**PROOF**

**ADJOURNMENT**

**Australian Defence Force**

**SPEECH**

**Tuesday, 22 November 2016**

BY AUTHORITY OF THE SENATE

---

## SPEECH

<p><b>Date</b> Tuesday, 22 November 2016</p> <p><b>Page</b> 93</p> <p><b>Questioner</b></p> <p><b>Speaker</b> Lambie, Sen Jacqui</p>	<p><b>Source</b> Senate</p> <p><b>Proof</b> Yes</p> <p><b>Responder</b></p> <p><b>Question No.</b></p>
--	--

---

**Senator LAMBIE** (Tasmania) (20:55): The questions I asked this morning of the government and the short five-minute speech I delivered taking note of the minister's answers relating to the New South Wales police investigation into the 'Jedi Council' scandal and the appalling mistreatment—indeed, criminal treatment—of former members of the Australian Defence Force veterans retired Lieutenant Colonel Dubsy and retired Commando Mick Bainbridge were just the entree to the main meal, which outlines deep dysfunction and corruption in the Australian Defence Force Investigative Service and other areas of the military.

I brought to the attention of the Senate this afternoon the stories of retired Lieutenant Colonel Dubsy and retired commando Mick Bainbridge and in doing so made the observation that the New South Wales Police Force in separate cases had made comments and decisions which raised serious questions about the integrity and honesty of Australia's military justice system. Indeed, the police comments in their secret Strike Force Civet report relating to the Jedi Council scandal did more than just raise questions. The Strike Force Civet report identified a lot of official cover-up, crime and misconduct within the senior ranks of our military justice system, without stating a remedy for it—except to say that if the New South Wales police were to conduct future investigations into and with the Australian Defence Force as a whole and the Australian Defence Force Investigative Service as a body, they 'must be viewed with caution and concern'.

It is extraordinary, and very depressing, that the New South Wales police, because of their experiences investigating the Jedi Council crisis, so famously and skilfully brought to the Australian public's attention by former Chief of Army David Morrison, have such a low opinion of the general's Army. Isn't it extraordinary that the New South Wales Police Force do not trust the Australian Defence Force Investigative Service and military justice system as far as they can kick them?

This federal government knows about the New South Wales police report's damning findings. This government knows about the extraordinary findings indicating cover-up, crime and official corruption in the military justice system. What have they done about it? Nothing—absolutely nothing. Indeed, there is evidence that this government has been complicit or aided in the cover-up, though the Attorney-General's Department and the Commonwealth Director of Public Prosecutions.

The fact that there is such dysfunction, corruption and lack of justice in our military now begins to explain why our veteran and defence suicide rates are so high. It explains why so many resilient, honourable, courageous and intelligent men and women have become broken after being betrayed by a military justice and compensation system whose first priority is to protect the public reputation of the organisation and its famous leaders, at the expense of the lives and wellbeing of the real heroes—the diggers who put themselves in harm's way.

Retired Lieutenant Colonel Karel Dubsy and retired commando Mick Bainbridge are two of about 700 former members of the Australian Defence Force who have asked me for help and to provide them with a voice. It is my and my staff's honour to help them in their battles for justice. Firstly, I turn to retired Lieutenant Colonel Dubsy's matter, which became linked to the so called Jedi Council crisis. A report by the New South Wales Police Force from Kings Cross detectives, Strike Force Civet, has come into my possession. It confirms beyond any doubt that deep dysfunction and corruption exist in the Australian Defence Force Investigative Service and other areas of the military. In fact, so damning are the comments and findings by the New South Wales police of the Australian Defence Force investigative and judicial system that no reasonable person could ever trust any Australian Defence Force investigation into any serious criminal or misconduct matter.

Perhaps that is why the Chief of Army has instigated his own special investigation into the culture and activities of Australia's special forces. Although that special forces investigation is also open to claims of dysfunction and corruption because it has no independent parliamentary oversight. Ultimately, even though former judicial officers are being used, it will just be another case of Army investigating Army, with predictable results expected.

As New South Wales police's Strike Force Civet proved, when a credible, independent law enforcement body investigates the actions of the ADF Investigative Service and its military justice system the stench of entrenched dysfunction and official corruption quickly emerges. Strike Force Civet, consisting of New South Wales police in Kings Cross, was established on 23 July 2012 to investigate:

The actions of Hastings Frederickson for the offence of the Use Carriage Service to Cause Offence on ADF network.

You may recall that an Army Reserve member Hastings Frederickson's illegal use of the ADF email system started what become known as the 'Jedi council sex scandal'. Offensive images, emails and one video depicting sexual acts were found on Hastings Frederickson's civilian work computer as part of routine security checks. Further checks indicated that these offensive images, emails and video were disseminated, according to New South Wales police, to at least 10 serving members of the Australian Defence Force.

Retired Lieutenant Colonel Dubsky was one of those members who received two emails from a man he met twice in 12 years. These emails were deleted and never opened. Nonetheless, the then Chief of the Army David Morrison wrongly accused Dubsky of being a participant of a 'Jedi council'. This created a horrific chain of events which saw Lieutenant-Colonel Dubsky's name illegally leaked by the military to Channel 7 and the subsequent public humiliation and destruction of his good name, family life and military career.

Tonight I will share with the Senate quotes from the secret New South Wales police report which clearly prove that the Australian Defence Force Investigative Service, ADFIS, and the senior officers which command it cannot be trusted. Under 'Kings Cross Detectives, Strike Force CIVET' it said on page 74:

It is the belief of SF CIVET that the actions of a number of ADFIS staff and other sections of the ADF to deliberately lie, withhold evidence, fabricate information and support the conduct of criminal and serious internal offences without any identification let alone sanction or rectification from the body charged with such duties, then the conduct of future investigations into and with the ADF as whole and ADFIS as a body must be viewed with caution and concern.

It said on page 59:

It would appear to be a distinct difference in the findings of the original ADFIS investigation which concluded no service offences and undertook no action, to the subsequent NSWPOL/ADFIS investigation which identified 100 persons of interest committing 400 service offences and 3 persons charged with 9 counts of Use of Carriage Service to Cause Offence and 1 count of supply prohibited drug.

This is important when the basis of the majority of these finding were available to the original ADFIS investigation and had a clear opportunity to identify this behaviour and prevent further identified criminal and service offence offences.

The findings of Brigadier Dunn are contrary to the findings of SF CIVET.

It said on page 62:

It is the belief of SF CIVET that a number of the conclusions and methodology outlined in IGADF Inquiry 28/13 raise serious concerns about the transparency and accuracy of information provided to NSW Police. This could and should impact on future similar investigations in which the sections of the ADF may be required to be dealt with as a partner organisation.

... ..

As previously outlined, after request for all relevant documents from the ADF and IGADF, investigators were required to execute a Search Warrant on the ADF to obtain all documents. The wording of the Search Warrant was very specific and was provided to the ADF and IGADF—

the Australian Defence Force and Inspector General of the Australian Defence Force—

prior to its execution in order to facilitate the collection and dissemination of the relevant ADF and IGADF documents.

It said on page 60:

IGADF Report 31/13

This was the first time that SF CIVET became aware of the existence of a previous IGADF Inquiry Report which in the words of the Brigadier DUNN was a "related IGADF Inquiry (28/13)".

Even in the most conservative interpretation of the items listed in the Search Warrant, the failure to not only identify the existence of, let alone provide the documents as specified, is indicative of a complete failure to understand the most basic of legal requirements or a deliberate willingness to withhold or deny the existence of material being subject to a lawfully obtained and executed search warrant.

The process that led to the failure of the identification and service of IGADF Report 28/13 cannot be determined by SF CIVET. Concerns must be raised of an organisation such as the ADF in general and the IGADF in particular being unable or unwilling to comply with search warrants issued and executed by agencies such as the NSW Police Force without the need for unannounced and physical searches and actual ADF office space or locations.

It said on pages 77 to 78:

ASSESSMENT: While Army Headquarters personnel had been told of a group of Army members calling themselves the 'Jedi Council', they did not understand its significance and they did not brief the CA—

Chief of Army—

on the issue.

IGADF Report No.28/13 Page 7

ASSESSMENT: CA first became aware of the Jedi Council, and its possible significance, on 2 April 2013.

IGADF Report No.28/13 Page 8

The nature of these "Assessments" must raise serious concerns about the conduct of the review as they are patently false or deliberately misleading. These assessments are further contrary to the evidence obtained by Brigadier GAYNOR in its own investigation.

They are in fact contrary to the conclusions drawn by Brigadier GAYNOR in his own summary of his own investigation in which he clearly states the following:

01 August 2012: CA was informed that a reservist W02 is under investigation by NSW Police for offences relating to inappropriate ICT use dating from early 2011. CA was not informed of the 'Jedi Council'.

It would be clear that the NSW Police would not be undertaking any investigations pertaining "ICT" offences which are clearly internal ADF issues. The investigation would only be criminal in nature.,

It is clear that the rationale for the assessment of Brigadier GAYNOR is that although the Chief of Army was advised on 1 August 2012, that a failure for this briefing to be complete or understood is subsequently interpreted as being not advised.

This is very selective logic and would be more indicative of a pre-determined outcome rather than an evidence-based outcome.

It says on pages 98 to 99:

It is clear that on the evidence of Colonel FENWICK and Colonel WILTON that the Chief of Army was notified on approximately 1 August 2012 and this was recorded in the "Daily Summary" for this day.

It again should be noted that this Daily Summary was never supplied under the search warrant.

The findings of the report that NSW Police do not appear to have explained the significance of the "Jedi Council" to LT Col FENWICK is wrong. At the time of notification by NSW Police to the office of the Chief of Army NSW Police had been in possession of the documents pertaining to SF CIVET for one month.

ADFIS had been in possession of these documents for just short of two years and had an extensive period of time to conduct its investigation.

There is enough evidence in the New South Wales police secret report to indicate that then Chief of Army General Morrison, now Australian of the Year; and then Chief of Defence Force General Hurley, now Governor of New South Wales, in order to protect themselves from charges of inaction or cover-up attempts, misled the Australian people about the timing of when they were made aware of investigations and incidents associated with the 'Jedi council'. They need to answer questions—and, if they want to be thought of as decent and honourable, they need to apologise to Lieutenant Colonel Dubsky and his family.

I now turn to the matters surrounding former commando Mick Bainbridge. His grievance is best summarised in a letter I recently sent to the defence minister, which reads:

Dear Minister Payne,

Reference: meeting with Michael Bainbridge

Thank you very much for agreeing to meeting with Private Michael Bainbridge in my office on Wednesday, 12 October 2016.

I was impressed by the care and attention that you showed to Private Bainbridge as he recounted his disturbing experiences with the Army's Individual Welfare Board. (IWB)

Your staff members and Andrew Hocking, the Deputy Chief of Staff to the Commander of the Army, must also be complimented for their respect and thoughtful attention they gave to Private Bainbridge.

I think you'll agree that Michael Bainbridge is an extraordinary Australian. Surely he displays all the best qualities of our original ANZACs?

He's polite, respectful, unassuming, funny, courageous and motivated by a strong love of Australia, his family and fellow special-forces soldiers.

Mr Bainbridge, as you would expect of a Green Beret Commando and bodyguard to some of Australia's highest ranking military officers in a war zone, to me is also credible, balanced, very intelligent, resourceful, resilient and honest.

Mr Bainbridge's exceptional character, personal and professional qualities (3rd year law student) now pose some very serious problems for your Government and the Australian Army.

If your investigation into Mr Bainbridge's formal complaint and disclosures to you and the Deputy Chief of Staff to the Commander of the Army proves that Private Bainbridge has not provided a misleading sworn statement, then it's likely that a crime or crimes have been committed by CO LTCOL Lawson and others.

It's also likely that a high level cover up of those crimes may have occurred.

These crimes could:

1. Involve a senior army officer knowingly making false claims to civilian police in order to take reprisal action against a whistleblower.
2. The official medical records of that whistleblower being fraudulently altered to cover up the abuse of office and false claims.

Unfortunately this is not the first time credible reports of fraudulent alteration of personal defence records have been brought to my attention.

If Mr Bainbridge's sworn Statutory Declaration is accurate and the raid on his home on the 24th of July (while his wife and child were present) by 10 to 12 armed Tactical Police dressed in body armour, then I can only draw the conclusion that CO LTCOL Lawson either deliberately and maliciously or incompetently and negligently, caused this unfortunate event.

Of course this police raid, allegedly instigated by CO LTCOL Lawson, and coming a day after her decision to, in controversial circumstances, take \$42,000 per year away from Mr Bainbridge's Special Forces disability payments is one of the most extraordinary public interest disclosures I have ever heard from a military whistleblower.

The only other act I can compare it to was the incident where high ranking members of the military sent 28 images of an autopsy of Army Veteran Mr Saltmarsh's best friend (Mr Jones) to Mr Saltmarsh despite being instructed not to.

Private Bainbridge has disclosed to me following our meeting that the trauma he experienced as a result of the armed police raid on his family home was greater than all his experiences of battle against Australia's enemies in the Middle East.

And making that comparison—as you will no doubt agree after reading Private Bainbridge's distinguished and long military record—gives you a small sense of the deep hurt and betrayal that this great Australian now feels.

Private Bainbridge after joining the ADF just after high school has been in the thick of action for many years against the Taliban and other enemies. He has described to me extraordinary bloody events in the Middle East that would challenge the imaginations of most ordinary Australians.

I find it extremely sad that he is ready to return all his service medals and dreads the thought that one day his young son could grow and want to join the Australian Military.

I also worry about the trauma and hurt that has been caused to his wife and son, by what was a potentially criminal, vindictive, malicious or careless action by senior ADF officers.

How do you propose to remedy that hurt?

Understandably, Mr Bainbridge and myself are very nervous about the military investigating itself when such serious charges have been levelled at senior officers.

Unfortunately, my experience shows that a culture of cover up and official corruption is beginning to emerge in the senior ranks of the ADF.

Therefore we are happy to have independent law enforcement officers investigate this matter, if that is your recommendation.

In closing, I would also request that CO LTCOL Lawson be stood aside on full pay pending the results of your independent investigation which should be broad enough to review all the Individual Welfare Board decisions that this senior officer has made.

Only a royal commission will be able to repair this military mess. And only a royal commission will bring to justice those high ranking, criminal officers who cover up official misconduct and hide behind the official secrets legislation.

**Senate adjourned at 21 : 15**