**AUSTRALIAN ARMY**
**DEFENCE COMMAND SUPPORT TRAINING CENTRE**
**DEFENCE INTELLIGENCE TRAINING CENTRE**

Kokoda Barracks, CANUNGRA QLD 4275

**2011/1057016**
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22/4

**QUICK ASSESSMENT (QA) 013/13 FOR COMDT DCSTC**

**HARRASSMENT BRIEF – MAJ B. GAYNOR AGAINST CDF**

**Direction**

1. I, s47F WGCDR A.H. Kitchen, have been tasked by XO DIntTC to conduct a Quick Assessment (QA) following the submission of a harassment brief by MAJ B. Gaynor received 15 Apr 13.

**Incident**

2. On 15 Apr 13 MAJ Gaynor submitted a brief to CO DIntTC alleging instances of religious, political and sexual harassment against himself and other like minded members of the ADF based on CDF's approved participation of uniformed ADF members in the 2013 Sydney Mardi Gras.

3. Additionally, he draws attention to instances of unfair bias by the ADF towards himself following statements he made in the media highlighting his desire not to have homosexual teachers instruct his children and the favourable support another member of the ADF (LTCOL Morgan, lead officer of the Mardi Gras ADF parade contingent) made in the media regarding his harassment by members of the ADF. He claims this bias, which has resulted in a decision to not allow MAJ Gaynor to parade at DIntTC, forms the basis of his complaint against CO DIntTC. He will be handling this separately.

4. MAJ Gaynor outlines a number of actions in his brief that if CDF undertook, he would accept as addressing the issues he raises; this includes CDF's resignation. He does not provide an indication of his future actions should his redress not be addressed.

**Parties interviewed**

5. During the conduct of this QA, I interviewed XO DIntTC and established that disciplinary actions are being considered against MAJ Gaynor.

6. Additionally, XO DIntTC advised there is a limited amount of Reserve funding available that has also had an impact on the employment of DIntTC Reservists. However, this is not the primary reason for MAJ Gaynor's lack of employment, which is his tendency to espouse values and behaviours contrary to current Defence policy regarding homosexuality in the ADF and his pursuit of political office.

7. MAJ Gaynor was interviewed at DIntTC at 1400 hrs on 19 Apr 13. He requested and was given approval to record the interview.

8. MAJ Gaynor was given the opportunity to expand on the details in his brief and endorse any further actions he would like taken in order to address the concerns he raised. He repeated the main points already covered in the brief a number of times and imposed no new requirements. MAJ Gaynor was again prompted to ensure he had no further concerns or desired outcomes and on this additional prompting did request that each member of the parade be individually dealt with as performing acts of unacceptable behaviour. On review of his brief, this requirement is actually stated at paragraphs 7. and 8. As such, MAJ Gaynor does not appear to have any other concerns that are not already covered in the brief.

9. When it was pointed out the members were marching with the CDF's approval, MAJ Gaynor saw this as no defence. He likened it to the inability of using command authority to perform any other illegal act.

10. In relation to the information provided at paragraphs 7. MAJ Gaynor was asked why he specified the names of the individuals listed and whether he had additional information supporting his claims of religious, political and sexual harassment by those individuals. He stated he did not, and when prompted as to why those individuals were listed he said it was because he was able to draw their identity as being involved in the Mardi Gras from searching the web. HTML web links are provided in the notes of his brief that show the sourcing of those names.

11. MAJ Gaynor was also asked what his actions would be should his expectations not be met regarding the outcome of his submission. He stated he hadn't really considered this as the evidence provided so clearly supports his claims under Australian common law, workplace law and Defence law he fully expected the outcomes listed in the brief to be met.

**Actions taken to date**

12. Other than review the brief and interview MAJ Gaynor, no other actions have been taken at this time. The 26 page brief is quite detailed and clearly identifies the MAJ's concerns.

**Conclusions**

13. MAJ Gaynor's brief contains a lot of personal opinion based around the views of an individual with strong Catholic beliefs. He generalises all 'Christians' as having his point of view and of their being offended at the ADF participation in the Mardi Gras. He describes the actions of the more 'radical' elements of the parade and by association, suggests ADF support for behaviour that includes gay marriage, bondage and other 'perverted' sexual acts including the performance of sexual acts in front of children. Though clearly not CDF's intent he does raise other concerns that will need to be carefully considered. These issues include:

a. The ADF traditionally avoids overt support of specific political viewpoints. By allowing official participation in the 2013 Mardi Gras by uniformed personnel the ADF could be seen as now being comfortable in supporting politically polarising issues.

b. If a uniformed member were to support a gathering that insulted strongly held beliefs of a religion other than Christianity (to use his example, vilifying Islam with 'Mohammed is Gay' signs vs the 'Jesus is Gay' signs in the Mardi Gras) that member would be severely dealt with. In the case of the Mardi Gras, the opposite occurred.

14. A key component in the assessment of unacceptable behaviour and harassment is that it must be judged '... having regard to all of the circumstances'. The circumstances in this case were based on the CDF showing official and public support to homosexual members of the ADF. MAJ Gaynor provides no evidence directly linking parade members to any of the other groups or actions of groups that may be considered below the standards of the ADF. The Mardi Gras is a communal event bringing together disparate groups and with widely varying opinions to push. The management of this linking of the ADF to 'radical' gay groups and their opinions will be important in addressing MAJ Gaynor's concerns. The rules regarding lampooning, parody and satire as they apply to the Mardi Gras will need to be considered in mitigating the offensive nature of some acts and comments.

**Recommendations**

15. Based on the information provided, the following recommendations are made:

a. Due to the direct allegations against CO DIntTC of bias DCSTC, as the superior authority, should proceed with the further management of this issue. HQ ADF should be advised of this issue concurrently to CMDR DCSTC as time is of the essence. Agreed. Complete as for 1st draft of this report.

b. A qualified legal review and supporting brief should be undertaken of MAJ Gaynor's brief for the purposes of providing definitive advice on the issues he has raised. Noted. Completed separately.

c. MAJ Gaynor has some standing with national media and could possibly raise this issue to a more public level. He is also manages an active web log and twitter account in which he has covered most of these issues. Finally, if this item enters a 'Hot Issues Brief', news agencies will become aware of the submission. A media risk assessment and management plan should be prepared. Noted. Agreed

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Defence HQ to be advised

d. No further investigative action is recommended as MAJ Gaynor claims to have no further information regarding the events of the Mardi Gras or Defence personnel involved, unless the legal review advises otherwise. Agreed.

Based on written complaint and outcomes of interview none of the complaints of VB against any of the potential respondents can be substantiated as valid complaints against DI(G) 35-3.

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Apr 13

**Attachments:**

1. HARRASSMENT BRIEF. COMPLAINT AGAINST ADF INVOLVEMENT IN THE 2013 MARDI GRAS

**Commandant DCSTC Comments**

Member to be advised in writing of my conclusions above. Specifically:

- Complaint of VB against ADF – unsubstantiated
- Complaint of VB against named ADF members as participants in Mardi Gra IAW Defence Policy – unsubstantiated
- DLA complaint of VB – unsubstantiated
- CO DIntTC complaint of VB – unsubstantiated

In none of these cases are there grounds for administrative inquiry.

The officer is to be advised that I agree his concerns WRT the Mardi Gra participation constitute a disagreement with Defence policy rather than people's behaviour. Should he feel that current Defence policy is such that he can not work within its bounds, he should reflect on his ability to continue in such employ~~RESTRICTED~~. The chain of command remains available to support him with such matters. CR 22/4

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Apr 13