

Court Martial.

Although this topic seems to have died down a bit lately, for a while there we received a huge amount of correspondence on it as a lot of people are not happy with the Army's (in general and Brigadier Lyn McDade's in particular), decision to prosecute the 3 soldiers for their actions in the war zone in Afghanistan

One soldier is facing a manslaughter charge, a second has been charged with failing to comply with a lawful general order, and a third, currently travelling overseas, will be formally charged when he returns to Australia.

Brigadier Lyn McDade (right) was born in Adelaide but has spent much of her career in the Northern Territory where she became the deputy coroner in 1997. She had worked as a prosecutor for the Northern Territory Police Prosecutions Unit, at the same time serving in the army reserve as a defending officer doing courts martial and defence force magistrates trials.



Just who is Brigadier Lyn McDade?

She is a former civilian lawyer who has no previous combat military experience but who was brought into the new military justice system to aid in efficiency and effectiveness.

She is also a person who described the treatment of David Hicks, who a lot of people describe as a 'jerk' - as abominable.

McDade is a long-time barrister and a mother of two Defence Force personnel and has served in the army, as a regular soldier and reservist, since 1983. Shortly after her appointment in 2006, she told the ABC: "I'm independent and try as they might, things may not necessarily go the way that people might like to think.

We don't have or offer an opinion on this matter one way or the other, we find that normally things happen for a reason and perhaps it would be better to wait for the trial when all the facts will be made public. That is the time to form an opinion, not now when we only hear part of the story.

Statement.

This is a statement made by Brig McDade, giving reasons why she is taking the action against the 3 soldiers:

Re the 12th February 2009 civilian casualty incident in Afghanistan.

I have decided to charge three former members of the Special Operations Task Group with service offences arising out of a compound clearance operation conducted on 12 February 2009 in Afghanistan.

As a result of that compound clearance operation, six people died and up to four people sustained injuries.

The operation was the subject of an investigation by the Australian Defence Force Investigative Service, which was subsequently referred to me for consideration in November 2009. I requested further investigations be conducted by the Australian Defence Force Investigative Service and I received the answers to my requests for further information throughout 2010.



On 19 July 2010, I invited the Vice Chief of the Defence, a superior authority, to represent to me under section 5A of the Defence Force Discipline Act 1982 the Defence Forces interest in relation to charges being considered by me. On 1 September 2010, I received a response from the Vice Chief of the Defence Force representing the Defence Forces interest in relation to charges being considered by me.

After careful, deliberate and informed consideration of the available evidence, some of which was only received recently, and the representations to me made pursuant to s 5A of the Defence Force Discipline Act 1982, I have decided in accordance with my prosecution policy to charge three former member of the Special Operations Task Group with service offences.

The accused persons will be charged with various service offences, including manslaughter, dangerous conduct, failing to comply with a lawful general order and prejudicial conduct. I will not make further comment, particularly in relation to the evidence or the merits of the cases, at this time.

*Brigadier Lyn McDade
Director of Military Prosecutions*

Alan Price, (right) the Queensland president of the 4th Royal Australia Regiment (4RAR) Association, says the prosecution is mostly a "public relations exercise to satisfy [the] ego" of Brigadier McDade and will give "the Taliban another weapon to fight our soldiers with".

Alan has written an open letter to the Governor General, Quentin Bryce, and you can read it [HERE](#)





We are also in receipt of another letter which was written to Brig McDade by SQNLDR (Ret'd) Bill Murray JP TPI, (left) and you can read that one [HERE](#).

Below is a synopsis of the many emails we received:

Brig Lyn McDade is a non-combatant, desk bound warrior who decided to prosecute frontline combat soldiers for doing their job under WAR conditions.

To charge these soldiers for reactions in the heat of battle when being fired upon is obscene. If the Government and the Army are going to prefer charges against every soldier for his actions on the battlefield then the core of Army discipline will fail. A soldier being fired upon on the battlefield and his commanders may hesitate before retaliating, that hesitation may cost him his life. Will the female Brigadier proffering the charges be the one to carry his body from then battlefield, will she be the one to inform his family that he will not be coming home, because of a precedence that she imposed? I very much doubt it. She will say that she is only following orders but it was she who decided to prosecute based on the evidence before her; evidence that must be considered circumstantial and totally unsupported.



A soldier in East Timor who, in the heat of battle kicked an opposing soldier to make sure that he was no longer a threat as his fellow warriors continued the assault, was subjected to a courts martial and found not guilty. His actions and those of the three warriors on the battlefield in Afghanistan are Standing Operational Procedure under Rule 5.56 of warfare. (It used to be Rule 3.03 but times change.)

This decision to prosecute is wrong. It is the Army now attempting to appease a family who lost lives at the instigation of actions and tactics initiated by and deliberately employed by the Taliban and by which Australians soldiers were forced to retaliate to defend themselves on the battlefield. It is the Taliban leaders who should be charged with war crimes, that of deliberately exposing and using innocent civilians as human shields.

The doctor was lecturing a class on sex. He asked, "Do you know what the first oral contraceptive was?" A coed said, "No."The doctor replied, "Exactly"

In war nobody wins; people get killed and injured on both sides, that is a fact of life that must be accepted when we send our warriors to defend our nation or our allies. In more simplistic terms, one must expect a bloody nose when confronting a bully. The Taliban do not care who they kill. Our Australian soldiers do their best to ensure that civilians are not injured and are prepared to accept a bloody nose in doing so!!!! They are however not expected to die when civilians are being used as human shields to allow the enemy to attempt to kill them.

If it was discovered after the fire fight from after-action reports that the three soldiers had broken the Rules of Engagement and deliberately killed civilians, why were they not arrested on the spot and confined? Why has it taken some 18 months of investigation to determine to proceed with charges and why were they allowed to remain on the battlefield to continue serving honourably as soldiers.? Why? Probably because the episode of "JAG" referring to similar cases had not been aired on TV and the Army had no idea of what direction to take until our legal team had seen the show, perhaps they should have stayed awake to watch the end of the show when the accused were found not guilty. A ridiculous statement I know, but no more ridiculous than proceeding to charge these warriors with war crimes.

Our soldiers are asking, "Why are we to be placed in this predicament, when all that we did was to attempt to protect the innocent on the orders of the Australian Government and by succession at the behest of the Australian people? " I ask the same question, why, why, why?

Will future appreciations, plans and orders for military operations in a war zone include a "What If" addressing possible court martial proceedings for retaliatory actions? We had better believe it. We have tied the hands of the Australian soldier behind his back and more families will possibly lose a son, brother or father because of it. Stop this nonsense now and release these soldiers without prejudice. God knows they will forever be tainted by the threat of a courts' martial. They have been hurt enough by the people they swore to protect!!! Keep in mind that it is also the responsibility of our Commander in Chief, the Governor General and her generals to, protect our soldiers.

A petition was being circulated and it attracted over 8,000 signatures in its first 5 days, but it seems to have been withdrawn. It was here: <http://www.gopetition.com/petition/39006.html>

There have been many letters to the editors of our major newspapers on this matter too, you can read some from the West [HERE](#).

Smoking is one of the leading causes of statistics.

How to.

If you've recently purchased an ex RAF Vulcan bomber or a second hand Concord aircraft, and need a bit of assistance to fix a few things, fear not, you can now buy the workshop manuals.

Get one [HERE](#)

Pacific Sun

The Pacific Sun is a cruise ship that will operate out of Fremantle in the West from early next year. She is described as Australia's favourite cruise ship and operates alternatively from Fremantle, Newcastle, Sydney, Brisbane or Auckland. She was built in 1986 and recently had a major refit. She is 223 metres long, 47,000 gross tonnes in weight and will carry 1,900 passengers on 9 decks.



On the 30th July, 2009, she was caught in a severe storm off the coast of New Zealand. At the time there were 1,732 passengers and 671 crew on board.

Click [HERE](#) to see what it was like – glad I wasn't on the brute!!!



Residential Circumstances and your pension.

Selling Your Home.

If you're a DVA pensioner and intend selling your family home, there are a few points you have to consider. Your pension may be affected by the sale and it is imperative that you keep DVA informed throughout the exercise.

Your principal home is an exempt asset while you're living in it. If you sell your home, whether your pension is affected or not depends on what you intend to do with the money.

A. If you do not intend to buy another home.

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If you do not intend to buy a new principal home with your sale proceeds, then the money from the sale of your home will be treated like all other financial assets. This means that income will be deemed to have been earned on the money under the income test. It will also be counted as an asset under the assets test.

B. If you intend to buy another principal home

If you intend to buy another home or have another home built within 12 months of selling your old home, then the portion of your sale proceeds which you intend to use to buy or build your new home will not be counted as an asset for 12 months, or until you buy or build your new home, whichever happens first. Although this portion of your sale proceeds is not counted as an asset, the income test continues to apply to these funds. This means that the deeming provisions will apply to any part of the sale proceeds that is invested, until such time as the funds are used to acquire a new home.

Example: A pensioner couple sells their home for \$200,000 and intends to buy another house for \$150,000. The couple decides to put the \$200,000 in their bank account until they can find a home. Under the income test, the \$200,000 will be added to the couple’s other financial assets and deemed to earn income. Under the assets test, only \$50,000 will be counted as an asset as the couple intends to use \$150,000 within 12 months to buy their new home. The \$150,000 will not be counted as an asset for pension purposes for 12 months or until they acquire their home, whichever happens first.

Note: If you are experiencing delays beyond your control and the initial asset exemption will soon expire, the exemption may be extended for up to an additional 12 months

C. If you intend to make progress payments for a home to be built

If you intend to have another home built within 12 months of selling your old home and will be making progress payments, then the portion of your sale proceeds which you intend to use to build your new home will not be counted as an asset for 12 months, or until you complete your new home, whichever happens first. If the proceeds of the sale are used to purchase assets that will be used to construct a home, for example land and building materials, they are also exempt from the assets test for that period. Although this portion of your sale proceeds is not counted as an asset, the income test continues to apply, meaning that the deeming provisions will apply to any part of the sale proceeds that are invested in financial assets.

Example: A pensioner couple sells their home for \$100,000 with the intention of using the total proceeds to build a new home within 12 months. They decide to put the \$100,000 into their bank account and make progress payments to build the new home. Under the income test, the \$100,000 will be added to their financial assets and



deemed to earn income. Under the assets test, the proceeds allocated for the new home will not be counted as an asset for 12 months or until they complete the home, whichever happens first.

The pensioner uses part of the \$100,000 to buy a \$40,000 block of land where he intends to build his new home. Under the income test, the amount in the pensioner's bank account is reduced, from \$100,000 to \$60,000. The remaining \$60,000 continues to be classified as the pensioner's financial asset and deemed to earn income. The \$60,000 will decrease as the pensioner makes further payments towards building his new home. Under the assets test, the \$60,000 remaining funds and the \$40,000 used to purchase the land will not be counted as assets. The exemption will apply for 12 months or until the pensioner completes his home, whichever happens first.

Note: If you are experiencing delays beyond your control and the initial asset exemption will soon expire, the exemption may be extended for up to an additional 12 months.

D. If you initially intended to acquire a new home, but you later change your plans

If you initially intended to buy or build a new principal home, but your intentions later change or cease, you need to notify DVA. This is because your changed intentions may impact the asset test exemption of your home sale proceeds and may also affect your pension rate.

Examples of changed intentions include:

- you no longer intend to build a home and have instead moved in with family
- you may later decide to acquire a smaller property which will require less of the sale proceeds than you had planned
- your building costs may have increased significantly and you now need to use more of the home sale proceeds than you initially thought.

E. What if you pay rent while you are looking for another home?

You are still regarded as a homeowner during the 12 month period in which you are looking for another home or are waiting for another home to be built. This means that you will still be subject to the lower asset value limit that applies to homeowners. However, you may be eligible for rent assistance if you pay rent during this period. To apply for rent assistance, contact DVA and send us a current rent receipt or a copy of the lease.



F. What if you live in a second property you own while looking for another home?

If you live in another property you own while looking for a replacement for your former principal home, then the second property becomes your principal home. Consequently the new principal home is exempt from the assets test and your home sale proceeds cannot also be exempted.

G. What if you sell your home to move into a retirement village?

The same assessment rules will apply to the proceeds of the sale of your former principal home when you move into a retirement village. However, your status as a homeowner and your eligibility for rent assistance may change, depending on the amount of entry contribution you are required to pay for the right to live in the retirement village.

H. If you are experiencing delays in acquiring your new home.

If your home sale proceeds assets exemption will soon expire, but your new home is not yet acquired, you may apply for an extension of the asset exemption for up to an additional 12 months.

To be granted an extension you must be able to satisfy these requirements:

- you still intend to buy or build a new principal home;
- reasonable attempts have been made to acquire a home;
- these attempts were made within a reasonable period after the home sale; *and*
- you are experiencing delays beyond your control.

The extended exemption will cease when the new home is acquired or 24 months after the former home was sold, whichever happens first.

Example A pensioner sells his/her home with the intention of using all of the sale proceeds to build a new home within 12 months. He/she has used part of the proceeds to purchase a block of land and obtained development approval for the new home. However, due to construction demands in the area, he/she cannot find a builder available to commence work until the tenth month and the building work is expected to take five months to complete. The pensioner contacts DVA, asks for an extension of the initial 12 months exemption and is able to provide documents verifying that he/she has commenced efforts to acquire a home, but is experiencing delays beyond her control. The extended exemption will now apply for up to an additional 12 months (i.e. 24 months from date of home sale), or until the pensioner completes his/her home, whichever happens first.

If this scenario affects you, you can obtain further details [HERE](#)

A wealthy old gentleman decides to go on a hunting safari in Africa, taking his faithful, old dog named Killer along for company. One day the old dog starts chasing rabbits and before long, discovers that he's lost. Wandering about, he notices a leopard heading rapidly in his direction with the intention of having lunch.

The old dog thinks, "Uh, Oh! I'm in deep doo-doo now!" Noticing some bones on the ground close by, he immediately settles down to chew on the bones with his back to the approaching cat. Just as the leopard is about to leap, the old dog exclaims loudly, "Boy, that was one delicious leopard! I wonder, if there are any more around here?"

Hearing this, the young leopard halts his attack in mid-strike, a look of terror comes over him and he slinks away into the trees. "Whew!", says the leopard, "That was close! That old dog nearly had me!"

Meanwhile, a monkey who had been watching the whole scene from a nearby tree, figures he can put this knowledge to good use and trade it for protection from the leopard. So, off he goes, but the old dog sees him heading after the leopard with great speed, and figures that something must be up. The monkey soon catches up with the leopard, spills the beans and strikes a deal for himself with the leopard.

The young leopard is furious at being made a fool of and says, "Here, monkey, hop on my back and see what's going to happen to that conniving canine now! The old dog sees the leopard coming with the monkey on his back and thinks, "What am I going to do now?", but instead of running, the dog sits down with his back to his attackers, pretending he hasn't seen them yet, and just when they get close enough to hear, the old dog says..."Where's that damn monkey? I sent him off an hour ago to bring me another leopard!"

Moral of this story...

Don't mess with the old dogs...age and skill will always overcome youth and treachery! BS and brilliance only come with age and experience.