

## **Australian Government must ensure cases of sexual assault against Australian women by U.S. marines in NT are investigated thoroughly and the perpetrators face Australian courts**

*SBS News has uncovered three cases of sexual harassment/assault on women in the NT by U.S. marines. The cases have not been thoroughly investigated and there has been no trials in Australian courts. The Australian Government's SOFA Treaty with the United States Government gives Australian authorities the right and duty to deal with such alleged assaults by U.S. marines in Australian Courts. The Australian Government should ensure this is done.*

A recent SBS News report has uncovered, through documents obtained via FOI, that three women claim to have been sexually assaulted by U.S. marines in Darwin. In all three cases, the alleged perpetrators have not faced an Australian Court. The investigations have either remained within the ADF and been buried, initially investigated by NT police but not pursued or the alleged perpetrator left to the U.S. military authorities to investigate and take action.

Such crimes of assaults on women by U.S. troops stationed in foreign countries is unfortunately all too common and now with the Australian Government allowing U.S. marines to be stationed in Darwin every year, these crimes are now taking place in Australia. According to the SBS news report in 2020, a US Department of Defense [report](#) documented 888 reports of sexual assaults against non-service members, including 35 foreign nationals, and a further 6,290 sexual assaults within US military ranks. The report estimates as many as 20,500 sexual assault cases happened that year due to under-reporting by survivors. In regard to recent alleged sexual assault crimes in Darwin by U.S. marines, the SBS News report states:

“One woman woke to find a US marine assaulting her in her bed, another was taken to hospital after having her drink spiked at a military barracks, and a third believed a US marine grabbed her and tried to sexually assault her at a bar. All the incidents took place in Australia's Northern Territory, but the investigations into them were either handed over to US authorities, stalled, or dropped.”

The U.S. marines are stationed in NT under the Force Posture Agreement between the Government of the United States and the government of Australia and signed in Sydney on 14<sup>th</sup> August, 2014. This Agreement does not include a clause dealing with who takes responsibility for dealing with criminal conduct by U.S. marines whilst in Australia. Presumably the Status of Forces Agreement (SOFA) Treaty signed by the Australian and United States' government in 1963 applies for such cases. This Treaty is still in force. It is typical of the SOFA's in place wherever U.S. forces are stationed on foreign soil and there are many of these.

Clause 8(b) of that Treaty states:

“the authorities of Australia shall have jurisdiction over members of the United States Forces and of the civilian component and dependants with respect to offences committed within Australia and punishable by the law of Australia.”

This clause makes it crystal clear that Australian authorities are responsible for investigating and taking to court U.S. military personnel about whom criminal behaviour is alleged.

The SBS News report states that: "In one incident, a female member of the Australian Defence Force (ADF) said she woke to find a male US marine sexually assaulting her in her bed..... She called a friend in the ADF to remove the men from her home.

"The incident was reported to the ADFIS, which alerted NT Police, but the woman told SBS News she was verbally discouraged from pursuing it by senior officers within the ADF. She also said she felt betrayed by what she felt was an inadequate punishment for the marine. The documents indicate no further action was taken by the Australian military investigators or the NT Police and the incident was handled through the US Marine Corps trial. NT Police released jurisdiction to the Australian military which then released jurisdiction to the US authorities despite the crime happening in the Northern Territory and not on a military site. "

"In a second case, a civilian woman visiting a friend in the ADF at Robertson Barracks in Darwin had to be taken to hospital after having her drink spiked by what was later identified as a substance commonly used in sexual assault cases in the US. .... Her condition was so serious that she was then transferred to the larger Royal Darwin Hospital..... The case was passed on to NT Police, which took charge of the investigation, to consider whether it warranted a criminal investigation "due to jurisdictional concerns". .... After close to two years, there is no update on the case according to the documents obtained by SBS News. The woman also said she has not received any new information."

" In a third case, a woman serving in the Australian military said a man she believed was a US marine grabbed her by the neck and tried to kiss her in a Darwin bar, and also put his hand up her skirt.... The documents state the ADF's deputy director of military prosecutions closed the case because the complainant was "unable to identify the offender and does not wish further action taken". They state that after the woman had discussed the matter with ADFIS, "she did not wish to make a formal complaint ... and does not want it to be investigated".

The SBS News sought comment from the NT police and the Defence Minister Peter Dutton. Neither were prepared to comment but received the following comment from the Defence Department: "it is "committed to supporting those affected and to holding perpetrators to account," and the ADF "expected US military personnel to not break Australian laws while serving on Australian soil".

In all three cases it can hardly be said that the ADF supported those affected and held the perpetrators to account. Likewise the NT police, where they had responsibilities, failed the women concerned.

Every woman in NT (indeed everywhere in Australia) has the right to be free of such harassment and assaults and it is clear that there was a reluctance by the ADF and police to treat these matters with the urgency and priority they deserve.

The Australian Government has committed to a Treaty which clearly puts responsibility for investigating cases such as these with the Australian authorities and if the perpetrators are found guilty, for the Australian Courts to provide appropriate sentencing. The Australian Government must act to ensure this is so.

This submission is made to the IPAN Inquiry as such crimes arise as a consequence of Australia's close military alliance with the United States and are yet another reason for turning away from this alliance, cancelling the Force Posture Agreement which facilitates the deployment of these U.S. marines to Australia and pursuing an independent foreign policy with an Australian self defence force geared to territorial defence and not to expeditionary wars in league with the United States.