

**ROYAL COMMISSION INTO INSTITUTIONAL
RESPONSES TO CHILD SEXUAL ABUSE**

**Public Hearing - Case Study 40
(Day 197)**

Level 17, Governor Macquarie Tower
1 Farrer Place, Sydney

On Thursday, 30 June 2016 at 10am

Before:

The Chair: Justice Peter McClellan AM
Commissioners: Mr Robert Fitzgerald AM
Professor Helen Milroy

Counsel Assisting: Mr Angus Stewart SC

1 THE CHAIR: Yes, Mr Stewart?
2
3 MR STEWART: Your Honour, I call Raymond James Griggs
4
5 <RAYMOND JAMES GRIGGS, sworn: [10.06am]
6
7 <EXAMINATION BY MR STEWART:
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9 MR STEWART: Q. Vice Admiral Griggs, would you state
10 your full names and occupation?
11 A. Raymond James Griggs. I am the Vice Chief of the
12 Defence Force.
13
14 Q. Do you have available to you a copy of your statement
15 prepared for the Royal Commission dated 9 June 2016?
16 A. I do.
17
18 Q. Do you confirm it is true and correct?
19 A. To the best of my knowledge.
20
21 MR STEWART: I tender the statement, your Honour.
22
23 **EXHIBIT #40-043 STATEMENT OF RAYMOND JAMES GRIGGS**
24 **DATED 9/06/2016**
25
26 MR STEWART: Q. As you said, you are the Vice Chief of
27 the Australian Defence Force and, as I understand it, you
28 have held that position since 30 June 2014; is that
29 correct?
30 A. That's correct.
31
32 Q. Two years today?
33 A. I hadn't realised, but yes.
34
35 Q. Amongst your responsibilities as Vice Chief of the
36 Defence Force, or VCDF, as I understand you refer to it as,
37 you have two key roles; is that right?
38 A. You could boil it down to two key roles.
39
40 Q. As you identify in your statement in paragraph 7, you
41 say primarily, you are deputy to the Chief of the Defence
42 Force?
43 A. That's correct.
44
45 Q. And then you say you also lead the Vice Chief of the
46 Defence Force Group; is that right?
47 A. That's correct.

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Q. And that has various responsibilities including --
A. It has a range of responsibilities.

Q. Also, though, as part of your responsibilities, you have, within your sphere of responsibility, the Australian Defence Force Cadet Services; is that right?
A. I have the branch that administers the policy for cadets.

Q. And that is under delegated authority from the chief?
A. From the chief.

Q. In your statement you set out in some detail an acknowledgment that you make on behalf of the Australian Defence Force for sexual abuse and, in particular, child sexual abuse that has occurred or taken place within the Australian Defence Force or within the different cadet services. I ask you now to state what acknowledgment you do make on behalf of the Defence Force in that respect?

A. Your Honour, if you will indulge me, I would like to turn towards the survivors in the room. Thank you for the opportunity for me to acknowledge the courage and the strength of the survivors who have come forward and told their story, not only those who have come forward to this Commission but those who have come forward to the Defence Abuse Response Taskforce and to Defence more generally.

Your stories are changing the ADF and they have strengthened the resolve of the senior leadership of the ADF to stamp out abuse in all its forms and, in particular, child sexual abuse.

People and systems have failed you and they have put others at risk and that is simply not good enough. I am deeply sorry for what has happened to you. No-one who pulls on the uniform of this country and no child who is under our care should ever have had happen to them what has happened to you. I would particularly like to acknowledge the partners, the families and the carers of survivors and those who carry the memory of survivors who have passed away. I know you are as impacted by the consequence of abuse as much as the survivor themselves. I know you carry this for many decades and in many cases for your life.

I also know that there are many survivors who have told their stories who simply would not be here today

1 without you, and I think your role is not recognised
2 anywhere near enough.

3
4 We have made some significant changes to our culture.
5 We needed to. We are trying to move away from the culture
6 that excludes and allows what has happened in the past to
7 a culture that includes. Strangely, the senior leadership
8 has been very publicly criticised for this approach.
9 I want to reassure you that, to a person, we will not be
10 bowed by this criticism and we will continue vigorously to
11 pursue a path where we have a culture that is diverse and
12 inclusive. We will strive to make children's interactions
13 in Defence safe. We will try and build on the thousands of
14 volunteers and defence members who are committed to that
15 today and are working towards that reality. Your stories
16 are tragic, but they are transformation, and I thank you
17 again for your courage in bringing forward these stories.

18
19 And your Honour, I thank you and the Royal Commission
20 team for the work that you do.

21
22 Q. Vice Admiral, I understand that you have had the
23 opportunity to either follow live or, where you haven't
24 been able to do that, to catch up on the evidence that has
25 been led over the last two weeks; is that right?

26 A. I have probably seen about 90 per cent of the
27 evidence.

28
29 Q. You will agree that the evidence that we have heard as
30 to people's experience of child sexual abuse in different
31 institutions over different periods of time has been
32 particularly confronting.

33 A. It has.

34
35 Q. And particularly upsetting. I want to move first to
36 deal with Leeuwin and Balcombe and just some of the
37 evidence that emerged there. You would doubtless have seen
38 or read or been informed that Geoffrey Curran, a divisional
39 officer at the relevant time at Leeuwin, described
40 nuggeting as part of a rite of initiation. You understand
41 that?

42 A. I do.

43
44 Q. Are there circumstances in the modern ADF where
45 nuggeting would be tolerated?

46 A. I don't know of any circumstances where it would be
47 tolerated and I don't know of any instances of it in the

1 recent past.

2

3 Q. Is there any sort of initiation or hazing that is
4 tolerated within the ADF?

5 A. Well, I differentiate "initiation" and "hazing".
6 Hazing in any form is not tolerated in the ADF.

7

8 Q. I will ask you to explain what the difference is or
9 where you draw the line so we can understand that properly?

10 A. From my perspective, rituals and traditions that
11 celebrate achievements or welcome people in a positive way
12 are good things to happen and they occur across every
13 culture and just about every organisation and profession,
14 but anything that damages people physically, sexually,
15 psychologically is simply not acceptable.

16

17 Q. And so, on the one hand, you categorise those positive
18 and celebratory ceremonies as initiation; is that right,
19 and on the other, those that are destructive as hazing?

20 A. I would characterise them as rites of passage, yes.

21

22 Q. Do I understand you to say, then, that in the way in
23 which you have characterised it, that hazing in no form is
24 tolerated within the ADF today?

25 A. No, it is not.

26

27 Q. You have spoken about cultural change and you will
28 appreciate that there has been, over a long period of time,
29 hazing of different descriptions and types within the
30 organisation, and it has included, at times, sexual abuse
31 and where it has involved minors, of course, child sexual
32 abuse; you appreciate that?

33 A. I do.

34

35 Q. What is it that you are doing to ensure that cultural
36 change takes place so that hazing is not tolerated within
37 the organisation?

38 A. Well, I think as with all cultural change, it starts
39 with leadership commitment. Not just top leadership
40 commitment, but leadership commitment down through the
41 organisation. I don't think that can be stressed enough,
42 how important that is, and I think you have seen, from the
43 senior leadership of the ADF, sustained and very public and
44 very strong commitment to that change, commitment that has,
45 in fact, as I mentioned earlier, brought criticism for
46 doing it.

47

1 Then what is needed is clear, strong and concise
2 policy statements so that in a large geographically diverse
3 organisation that message can be filtered down, and I use
4 those words "clear", "strong", and "concise", very
5 deliberately and no doubt we will get on to a discussion
6 about where that is not the case.

7
8 Then it is about having the appropriate structures
9 built around the nature of what you do and if I go to the
10 cadet case, that's one of the reasons why we have the
11 director-generals and permanent and reserve members of the
12 ADF in supporting roles of the different cadet arms to
13 support those volunteers who don't necessarily have some of
14 the experience and skills that those permanent members
15 have.

16
17 Then it is about training. It is about getting the
18 message across in a way that resonates and that is
19 something that I'm not convinced that we've done
20 particularly well. We heard the phrase yesterday "not
21 teenager friendly". I think that's a very relevant point
22 in making sure that the messaging that takes some of these
23 important concepts down through the organisation has to be
24 messaging that resonates, not just with our soldiers,
25 sailors, airmen and airwomen, but our cadets and the
26 officers and instructors of cadets.

27
28 Q. I take it that an aspect of the cultural change or
29 ensuring the cultural change is to acknowledge when hazing
30 has taken place or when abuse has taken place, to
31 acknowledge that?

32 A. Yes, and in fact when I was in my previous job as the
33 Chief of Navy, in I think it was late 2013, we had an
34 incident at sea which we very publicly came forward with
35 and I publicly went out to the rest of the Navy stating my
36 position and also encouraging others to come forward and
37 report if there had been similar incidents in the recent
38 past, and we had two further incidents reported as
39 a result, a direct result of that messaging.

40
41 Now, while I was not happy that we had had another two
42 incidents, I was very happy that I got the response that we
43 did, that people were prepared to report.

44
45 Q. You have said that the commitment to cultural change
46 that you identified has been subject to some criticism.
47 Two questions arise from that. What is the nature of the

1 criticism? What it is said that you are doing wrong and
2 why?

3 A. The criticism is that we are too focused on diversity
4 and we're being politically correct rather than focusing on
5 our core business.

6
7 Q. And you say that you don't accept that criticism?
8 A. No, I don't.

9
10 Q. Why is it that what you are doing and what you are
11 committed to doing is, in your mind, supportive of your
12 core business?

13 A. Well, it's fundamental to our core business. We
14 operate, whether it be a ship, an infantry battalion,
15 a squadron in the Air Force, a cadet unit - we operate as
16 a team. In the ADF our main aim is to fight and win and
17 you cannot fight and win if you don't have a cohesive,
18 inclusive team. If you have a team that ostracises certain
19 members of it, your combat effectiveness is diminished, and
20 that's why, for us, it is not about political correctness,
21 it is absolutely about capability and, in particular,
22 effective combat capability.

23
24 Q. My second question about the criticism is what is its
25 source, by which I'm not asking you to identify
26 individuals, but in some other way are you able to identify
27 where is this coming from?

28 A. It's mainly in segments of the press. It has been
29 quite public.

30
31 Q. And within the organisation itself?

32 A. No, no, I don't believe so; it is external to the
33 organisation.

34
35 Q. It would be surprising if there weren't some pockets,
36 at least, of resistance within the organisation?

37 A. There will be scepticism, we are aware of that, but
38 what I'm saying is that the voicing of criticism has not
39 been from within the organisation. I am absolutely alive
40 to the fact that there will be those who are cynical within
41 the organisation in pockets, no doubt about that at all.
42 It is a large organisation.

43
44 Q. Peter Sinclair, who was formerly the executive officer
45 at Leeuwin and I've read his letter in this morning's
46 Sydney Morning Herald, but with reference to his evidence,
47 he said that there's no reason to stop initiation if it

1 doesn't involve, in his words, bastardry and abuse and
2 physical abuse and denigration and that sort of thing.
3 What is your response to that?

4 A. Well, as I said, I think rituals and traditions that
5 celebrate achievement and welcome into communities and
6 there are a large number of different communities within
7 the Defence Force, I think they are fine, but I'm talking
8 about graduation ceremonies. I'm talking about the award,
9 for example, of this Principal Warfare Officer's pin at the
10 end of a 12-month course. They are the sorts of things
11 that I'm talking about. I think that's why I'm very
12 deliberate in the words, because I would not like to see
13 those sorts of things disappear, because I think they are
14 healthy and they reward and encourage and build a sense of
15 esprit de corps.

16
17 Q. You would have also heard Peter's Sinclair's evidence
18 with regard to his experience joining the Navy in 1948.
19 You, of course, joined a long time later, HMAS Creswell in
20 1979; is that right?

21 A. That's correct.

22
23 Q. What was your experience as a young man in the Navy
24 and how things had changed in that period?

25 A. Well, there was effectively no - there were no
26 ceremonies and hazing rituals at Creswell when I joined.
27 I was in the second intake of what was known as
28 a short-service commission, a nine-year commission. That
29 course had previously done its training down at
30 Westernport, HMAS Cerberus, in Victoria, and while there
31 was a distinction between what was called the general list
32 officers, the full-time life-career people and ourselves,
33 there was nothing of that nature.

34
35 Q. To what do you ascribe that apparent change?

36 A. I think it was an evolution and I think
37 Admiral Sinclair alluded to that himself. There was a key
38 incident in 1964, the night that HMAS Voyager was sunk off
39 the coast of Jervis Bay, when 82 men perished. At the
40 college that night there was apparently - and I don't know
41 the details of it - some sort of initiation ceremony, the
42 first for some years, apparently. The next day, the
43 captain of the college, who was dealing with organising
44 rescue efforts and dealing with survivors coming ashore
45 during the night and all through the night, found out about
46 this ceremony and I think the way I describe it is that he
47 shamed the senior class into realising that there was

1 a bigger picture and to think about what they were doing
2 when others around them were doing what they were doing.

3
4 Q. So is it your understanding that from that time, there
5 was, if I can put it like this, at least a disapproving
6 approach to hazing within the organisation?

7 A. I think the important point that has been made
8 subsequent from people who went through Creswell around
9 that time and afterwards was that that was - that
10 self-generated within the cadets themselves. From my
11 understanding, there were no significant events after that
12 time.

13
14 Q. Mr Curran also gave evidence that, in his view, it is
15 part of Australian culture to not dob, as it was referred
16 to, and for that reason, he accepted it at Leeuwin. Does
17 the ADF today recognise and encourage this civic duty to
18 report wrongdoing?

19 A. We encourage it. I think at no time in our past have
20 we had more diverse mechanisms to do so, in terms of
21 confidential, anonymous reporting, a very strong culture of
22 encouraging people to report, but there is an element of
23 truth to that evidence, that culturally that exists, and
24 one of the things that we - you know, from about 2000
25 onwards we, all three services, moved to having a set of
26 values. They are different for each service but the effect
27 of them is the same and when I was the Chief of Navy,
28 I would go around and talk about those values to our
29 sailors, and my point was that we didn't really have a very
30 sophisticated discussion around values, because some of
31 them actually, in their minds, set up internal conflict -
32 honesty versus loyalty, for example - and it doesn't take
33 much to twist or have a slightly skewed view of what
34 loyalty means to not be honest. So they were the sorts of
35 discussions that I would have to try to bring out some of
36 those issues and reinforce what we meant by loyalty, and it
37 didn't mean walking past something that was unacceptable.

38
39 Q. Because it is a difficult tension, isn't it, at one
40 level, at the level of minor infractions, and so on, that
41 the loyalty, I suppose, would be regarded as part of
42 building the esprit de corps. It is part of the
43 camaraderie you owe your peers, is not to tell on them, but
44 on the other hand, as soon as things cross a particular
45 line, there is a civic duty to report because that is what
46 is going to make the organisation better; is that right?

47 A. Well, I agree, that there is a tension there,

1 absolutely. As with many things, it is about where is the
2 line, and obviously in some cases it is absolutely clear,
3 but in other cases, for some people, it's not.
4

5 Q. Of course, it is absolutely unambiguous when it comes
6 to the question of child sexual abuse that, firstly, there
7 is a duty to report. Do you accept that?

8 A. Absolutely.
9

10 Q. Secondly, that the organisation must instill an
11 understanding of that duty?

12 A. I agree.
13

14 Q. And create the space and the environment where people
15 feel that they can report?

16 A. I agree.
17

18 Q. And where, if they do report, that they are protected
19 from any repercussions that there might otherwise be from
20 any of their peers?

21 A. Indeed.
22

23 Q. I suppose, in addition to that, that there are clear
24 processes by which people can report and that they know
25 those in advance and have access to them?

26 A. Yes.
27

28 Q. We have also heard evidence of the use of belittling
29 terms, like "new grubs", "grubs", "shits", "top shits",
30 "sprogs", and so on, being used at Leeuwin and Balcombe and
31 at least tolerated by the authorities for a time. To what
32 degree is the use of similar terms tolerated in the ADF
33 today?

34 A. Well, it's not, and I would say - I'm focusing on
35 naval examples because I know them best, but I would say in
36 Navy, in the early 1990s, when we - we've had women at sea
37 since about 1984, but in the early 1990s we started to send
38 more women to more ships and we had a considerable issue of
39 integration at that time, where there was a lot of
40 terminology that was inappropriate and offensive and there
41 was a significant effort in about 1992/1993 to expunge that
42 and since that time that has held pretty well.
43

44 Q. I am happy to restrict this discussion to the Navy, if
45 that's where your experience is. Is it the case that it's
46 actively part of this cultural change to ensure that that
47 continues, in other words, that belittling terms are not

1 used?
2 A. The core of the Defence cultural change program,
3 Pathway to Change, the core of New Generation Navy, which
4 is Navy's own program, and the core of the Army and the Air
5 Force programs is respect. That is, if there is one word
6 that sums up these programs, it is respect. And if you
7 have respect, and show respect, then these things (a)
8 should not happen, (b), if they do, should be addressed
9 immediately by peers, not just by those in authority.
10
11 Q. So I take it then that you wouldn't agree with
12 Mr Curran's evidence where he referred to the use of these
13 terms as "just boys being boys"?
14 A. I think that evidence is said in the context of the
15 late 1960s and early 1970s. I do not agree with it today.
16
17 Q. And I suppose you would say the same in respect of
18 Mr Sinclair's evidence when he said he saw it as doing
19 little harm?
20 A. I think that the sorts of - anything that belittles or
21 damages in any way is not acceptable.
22
23 Q. I take it that is because belittling and humiliating
24 conduct, even if it is only in the form of words, is
25 conducive to an environment where other and serious abuse,
26 including sexual abuse, can take place; is that right?
27 A. Yes, and again, it goes back to my point earlier about
28 our combat capability. Team cohesion cannot exist without
29 respect.
30
31 Q. You accept in your statement that there was
32 significant - and you didn't use these words - and
33 widespread abuse at Balcombe and Leeuwin with reference to
34 numbers and so on. Do you accept the words "significant
35 and widespread"?
36 A. Yes, I do.
37
38 Q. Do you accept that there was a failure of management
39 in those institutions that allowed that to take place?
40 A. Yes. In fact, when the DART report on Leeuwin came
41 out, I was - it was my last month as Chief of Navy and
42 I went on the public record saying that, in my view, the
43 Navy of the day failed in its duty of care.
44
45 Q. Yes. In that communiqué you described the report, to
46 quote you, as "confronting and disturbing"?
47 A. Yes.

1
2 Q. And you said that you want as many members of the Navy
3 to read that report as possible?
4 A. And also to incorporate the report into our leadership
5 and promotion courses so that we can learn from those
6 lessons.
7
8 Q. And did that take place?
9 A. To the best of my knowledge. As I said, it was in my
10 last month, but that's the direction I gave before I left.
11
12 Q. And do you accept that the systems of supervision of
13 the recruits and apprentices at Leeuwin and Balcombe
14 respectively was inadequate?
15 A. Well, I think the evidence would show that that was
16 the case.
17
18 Q. And it was that inadequacy that enabled that abuse to
19 happen?
20 A. I think it was a factor, yes.
21
22 Q. Do you accept that each boy who was sexually abused at
23 Balcombe and Leeuwin was let down by the Army and the Navy
24 respectively?
25 A. Yes.
26
27 Q. The Australian Defence Force Academy, of course, has
28 been the subject of much exposure of sexual abuse; do you
29 accept that?
30 A. Yes, it has.
31
32 Q. It has not been the focus of this inquiry at all, but
33 you will be aware that the DART report identified
34 significant sexual abuse at ADFA and, in particular, during
35 the 1990s?
36 A. Yes.
37
38 Q. There are, of course, minors, people under the age of
39 18, although in relatively small numbers or small
40 percentage, at ADFA; is that right?
41 A. That's right, and generally for about six months, the
42 first six months of each year.
43
44 Q. And the DART report found, in any event, and it would
45 stand to reason, that some of those minors were the victims
46 of sexual abuse at ADFA?
47 A. I can't remember the exact wording in the report but

1 that - I accept that.

2

3 Q. DART recommended that a royal commission be
4 established to investigate sexual abuse at ADFA. Now, of
5 course, I know you are not responsible or don't have powers
6 to appoint a royal commission, but are you aware of what
7 has become of that recommendation? Has it been rejected or
8 is it still in consideration? Do you have any knowledge of
9 that?

10 A. I don't believe there are any active plans to pursue
11 that. I think part of that is because of the DART reports
12 themselves and what they have provided in terms of
13 evidence, the referrals from the DART to the Chief of
14 Defence Force for action against perpetrators who may still
15 be serving, and the significant cultural change that has
16 occurred at ADFA in the last 10 or so years. In fact, if
17 there is a place where the cultural change has been -
18 I can't think of anywhere else in the ADF where the
19 cultural change has been more significant than ADFA, for
20 very good reason.

21

22 Q. Some would say it started from the lowest base?

23 A. As I said, for very good reason.

24

25 Q. I am going to move on and deal with the cadets. The
26 place to start is at tab 329, which is the CDF Directive 7
27 of 2014 dated 26 May. I will ask that that is brought up
28 on the screen. We can scroll that down a little. You will
29 see there is the reference "A" there, the CDF Directive
30 2/2013 which is a delegation to the Vice Chief of Defence
31 Force of power in relation to the administration of the
32 Australian Defence Force Cadets of 13 February 2013. Do
33 you see that?

34 A. Yes.

35

36 Q. That is, as I understand it, the delegation under
37 which you, as the VCDF, have responsibility in relation to
38 cadets; is that right?

39 A. That's correct.

40

41 Q. If I can refer you to, in this document, the third
42 page - it is Ringtail 1019 - under the heading
43 "Organisation of the Cadet Forces", in paragraph 7 it
44 references the Cadet Forces Regulation of 2013 and then
45 goes on and says:

46

47 *The service chief is responsible for: ...*

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And then it carries on. So just to understand, the service chief, that would be the Chief of the Navy, Chief of the Air Force, Chief of the Army; is that right?

A. That's correct.

Q.

The service chief is responsible for the organisation, maintenance, regulation and control of the Cadet force and the discipline of its members.

Is that still the position that pertains today?

A. Until tomorrow.

Q. And that's because a new regulatory regime commences tomorrow; is that right?

A. That's correct.

Q. I am going to come to that in a minute. So in the period we have been looking at, which is essentially over the last 15 years or so, the position has changed, but at least from May 2014 to now it has been under this directive; is that right?

A. That's correct.

Q. It is provided there also, in paragraph 8:

Each Cadet force is divided into formations and units authorised by the service chief.

So just to understand, what would the reference to "formations" and "units" be? Is there any particular --

A. How that particular cadet force is structured. You have heard about squadrons over the last few days. Training ships is how --

Q. So just to deal with that, so would a squadron be a unit and a wing a formation?

A. Yes. So in Navy cadet terms it would be a flotilla is a formation.

Q. Then in paragraph 9 it provides:

The service chief must appoint ...

And then there are various categories that are set out

1 there. I take it, as it says then, we should understand
2 that at least in the period since this directive has been
3 operative, it is the service chiefs in each of the
4 different service-related cadet forces who have been
5 responsible for the appointment of these people set out
6 here?

7 A. That's right.

8
9 Q. And so that includes, if one looks further down, (c)
10 and (d):

11
12 *(c) an officer, or an ADF officer, to*
13 *administer each formation; and*

14
15 *(b) an officer, an instructor or an ADF*
16 *officer, to administer each unit.*

17
18 From which are we to understand, taking the Air Force
19 Cadets, for example, that the commanding officer of
20 a particular squadron is appointed either directly or by
21 delegation, under delegated authority, by the service
22 chief; is that right?

23 A. That's correct.

24
25 Q. Then in 10 the ranks are identified, "The ranks in the
26 ADF Cadets are", and it is set out per different cadet
27 force. It is worth looking at those. They are at
28 page 1034, that is the annexure A that is referred to. One
29 sees there in each of the cadet forces - the Navy cadets,
30 the Army Cadets and the Air Force cadets - their ranks for
31 the cadets, their ranks for instructors and ranks of
32 officers. Do you see that?

33 A. Yes.

34
35 Q. Those ranks all have the authority of or the
36 foundation of their authority in this directive?

37 A. Yes. This used to be included in the 1977
38 Cadet Forces Regulations but it has migrated out of the
39 regulations into this directive.

40
41 Q. And that is for the reasons of course set out in the
42 directive. I am reading paragraph 2 of the directive which
43 says that the main purpose of the CFR13 Cadet Force
44 Regulations in 2013 which repealed the CFR77 was to
45 minimise the possibility that persons appointed as officers
46 or instructors in the ADF Cadets might be held to be
47 national system employees within the scope of the Fair Work

1 Act and to ensure that only suitable persons are appointed
2 or reappointed as officers or instructors of the ADF
3 cadets.

4 A. That's correct, because there had been some confusion
5 around the status of instructors and officers of cadets as
6 employees or volunteers and the aim was to clearly
7 articulate that they are volunteers.

8

9 Q. It is sort of to do two things which reflects
10 a tension which I will come to in more detail in a minute,
11 but that's, on the one hand, to say that they are not
12 employees of Defence, but, on the other hand, to maintain
13 sufficient control to ensure that only suitably qualified
14 and appropriate people are appointed in those positions?

15 A. And this is a fundamental tension around having
16 a civilian voluntary - a volunteer organisation within the
17 umbrella of the ADF.

18

19 Q. So where we have got to so far in relation to this
20 directive then is that the structure, the key appointments
21 and the ranks of the cadet organisations are all under the
22 control of the CDF either directly or under delegation to
23 the VCDF; is that right?

24 A. In this case, to the service chief.

25

26 Q. And the service chiefs?

27 A. My responsibilities are for policy, not for the
28 organisation of the individual cadet organisations
29 themselves; that's the service chief's responsibility.

30

31 Q. Getting directly into that, if we take a look at
32 tab 328, which is the VCDF Directive 3 of 2014, which deals
33 specifically with the subject of "Child Protection -
34 Australian Defence Force Cadets" - it will come up on the
35 screen in a moment - that's a policy initiative, is that
36 right, from VCDF?

37 A. Correct.

38

39 Q. This one in particular was published or promulgated by
40 your predecessor; is that right?

41 A. About a month and a half, two months before he
42 finished in the job.

43

44 Q. At least until tomorrow - and we will talk in a moment
45 about what's going to happen in the future - if I might put
46 it like this, it is the primary or foundational document
47 for the cadet organisations' approach to the question of

1 child protection; would that be right?
2 A. It is the definitive policy statement on child
3 protection in Defence.
4

5 Q. If we can look at page 2 of that document,
6 paragraph 4. It is identified there, and just to recap,
7 that this directive was dated 2 May 2014, as you have
8 pointed out, just two months or slightly less before you
9 commenced in the VCDF position. It identifies there that:

10
11 *Joint ADF Cadets policy covering Child*
12 *Protection is in the course of development*
13 *by the Cadet, Reserve and Employer Support*
14 *Division (CRESD) in consultation with the*
15 *services and Cadet forces for incorporation*
16 *in the Defence Youth Policy Manual*
17 *(YOUTHPOLMAN).*
18

19 That policy manual is still in the process of development;
20 is that right?

21 A. It is in the process of being reorganised. There are
22 parts that still have not been completed and there has
23 been, since that directive was written, and particularly
24 that time line there, which I think was optimistic, we have
25 undergone a number of changes. One significant change in
26 the department was a fundamental rethink about how we put
27 out policy in the department. We had a system of Defence
28 instructions, a very, very complex system of prescriptive
29 Defence instructions, hundreds of them throughout the
30 organisation, and in late '14, around late '14, there was
31 a decision made to completely restructure and in fact there
32 is now - theoretically, we are in the process of getting
33 rid of all of those Defence instructions and they are all
34 being incorporated into manuals, such as the Youth Policy
35 Manual. That caused a slowing down of the process. We
36 were in the throes of developing a defence instruction on
37 child protection to be part of YOUTHPOLMAN, but to have the
38 weight of a defence instruction, which had more weight from
39 a compliance perspective inside the organisation.
40

41 We then changed course and, to be honest, the reason
42 we changed course was the work of this Commission, and we
43 wanted to go for something that was contemporary and that
44 could use the learnings from the Commission, which is why
45 we have worked with Ernst & Young and Bravehearts in the
46 child place [sic] initiative to develop our Youth Safety
47 Framework, which the four overarching policies are now in

1 place, and a range of tools to assist people, covering
2 things like risk management, screening, incident
3 management, code of conduct guidance. They are all
4 literally in the process of being finalised as we speak.
5

6 Q. Am I to understand that the YOUTHPOLMAN is designed to
7 cover all circumstances in which there are youth involved
8 in or engaged with the ADF in its various formations?

9 A. That's correct. So part 1 of the YOUTHPOLMAN is the
10 general approach, so covering our work experience program,
11 for example, Young Endeavour Youth Scheme, where we have
12 minors go to sea in 'Young Endeavour' - all of those
13 interactions which I have - actually, I think there is an
14 annexure to my statement which lists all of those
15 interactions that we have. Part 2 is cadet specific.
16

17 Q. So the YOUTHPOLMAN then will be where the joint ADF
18 cadets policy covering child protection will be found in
19 due course; is that right?

20 A. Yes. And, look, we did - we had a significant
21 discussion around whether we should accelerate the
22 conclusion of that chapter, but I decided against that,
23 because I wanted to - first of all, I didn't want it to
24 appear that we had just done it to tick the box before we
25 appeared here, and second, I was very keen that we take any
26 of the learnings from this case study and make sure they
27 are incorporated, and there are already some significant
28 issues I think which will be going in - you know, special
29 care, for example, is obviously a glaring omission at the
30 moment and that will be absolutely explicit in that
31 chapter.
32

33 Q. In paragraph 10 - if we can just scroll it down a
34 little bit further - of this VCDF directive, your
35 predecessor records:

36
37 *My end state will be confirmed when:*
38 *(a) the ADF Cadets Child Protection Policy*
39 *has been published in YOUTHPOLMAN ...*
40

41 Are we to understand from that that once that occurs then
42 this directive will fall away or be repealed?

43 A. It will be cancelled.
44

45 Q. If we can take a look at paragraph 12 on the next
46 page, the directive in paragraph 12 acknowledges the
47 obvious, I suppose, but it needs to be acknowledged:

1
2 *Interaction with cadets involves risk for*
3 *cadets and for ADF Cadets and Defence,*
4 *Defence personnel, OOC and IOC.*

5
6 Then it says:

7
8 *The main risks for cadets are physical*
9 *abuse, sexual abuse, emotional abuse, and*
10 *neglect.*

11
12 I am going to come back to this question of risk in a
13 moment, but while we're on this document I'd just identify
14 there - I assume you accept the good sense and truth of
15 this as it is said?

16 A. Yes.

17
18 Q. Addressing the question of structural change and what
19 will change from tomorrow, 1 July, you talk in your
20 statement about the First Principles Act which takes effect
21 tomorrow, or there are amendments to that Act which take
22 effect tomorrow; is that right?

23 A. That's correct. Well, it is an amendment to the
24 Defence Act.

25
26 Q. Yes, to the Defence Act. Thereafter, what will the
27 relationship be or how will it be structured between the
28 ADF and the volunteer cadet organisation?

29 A. So the main effect of the change is actually at the
30 senior leadership level. There has been a view, and a
31 strongly held view, by the successive Chiefs of Defence
32 Force that the way the Defence Act was structured, in
33 that it - in some ways it's a relic, parts of it are
34 a relic of the way the individual services were structured
35 prior to the advent of the Australian Defence Force in
36 about 1976. We used to have three different departments of
37 state. The Defence Department was formed in the early
38 1970s. The ADF as an entity did not exist before 1976, it
39 was just the three services, and it's a really important
40 point because it has driven so much of some of the
41 challenges that we have had in trying to get centralised
42 joint policy on many things.

43
44 So successive Chiefs of Defence Force have felt that
45 they, because of the structure of the Defence Act, have not
46 been able to exercise as much command over the three
47 services as they felt necessary, and the area that this has

1 manifested most significantly has been in cadets. Because
2 it is a civilian volunteer organisation that is under the
3 umbrella, it is mentioned in - there are Cadet Forces
4 Regulations and whatever, but it has caused successive
5 Chiefs of Defence Force to feel that they haven't had the
6 lever that they would like to pull from a central policy
7 perspective.

8
9 With the amendment, with the change in the Act that
10 takes effect tomorrow, the statutory nature of the service
11 chief appointments is removed and the only two command
12 positions in the ADF that are referred to in the
13 Defence Act is the Chief of Defence Force and myself, or my
14 position.

15
16 We believe that now gives absolute clarity to the
17 ability to pursue joint policies across the board and the
18 reason that it has come out of the first principles review,
19 which was conducted in 2014, I think it was, that review
20 identified across Defence that it was a very fragmented, at
21 times loose federation and central control, paradoxically,
22 in a sort of hierarchical military organisation, was weak.
23 And the review talks about strengthening the strategic
24 centre, which has been one of the things we have been doing
25 over the last 12 months or so, and this is part of that
26 strengthening, to give the CDF, and any powers that he
27 delegates to me, the authority to be able to realise what
28 we are trying to achieve here in terms of joint policy.

29
30 Q. How does that relate specifically to the volunteer
31 cadet organisation? What will change there with
32 relationships?

33 A. There has been - his Honour talked about "struggle",
34 yesterday, in getting these things together. There has
35 been a struggle. There has been some resistance to that
36 centralised policy primacy; this removes it.

37
38 Q. So it gives, as you put it, policy primacy to the
39 centre over the different volunteer organisations,
40 service-based volunteer organisations; is that what you are
41 saying?

42 A. It gives very clear guidance to the service chiefs
43 that the policy that I promulgate is to be followed.

44
45 THE CHAIR: Q. Vice Admiral, I have the sense from what
46 you are saying that you accept that there are some what
47 I will call cultural issues which exist in part because of

1 the relationship of a military structure to a volunteer
2 organisation that is dealing with children on a large
3 scale; is that --

4 A. I think that's fair, your Honour.

5

6 Q. And some of those have been talked about over the last
7 few days. Should we understand that the restructure that
8 is about to happen will enable you, or someone holding your
9 position, to actually prescribe the structure which will
10 manifest in the appropriate culture going forward; is that
11 what we should understand?

12 A. I think we heard yesterday, your Honour, of the
13 mountain of policy and its degree of penetrability, or lack
14 of. At present, my position is really confined to
15 top-level policy. My interpretation of post-tomorrow is
16 that we will be able to condense, streamline and thin out
17 a lot of that policy which leads, in my view, to confusion,
18 which creates space and opportunity and increases risk.

19

20 Q. One of the issues that has emerged clearly is this
21 question of the responsibility of an adult in the
22 organisation in their relationship with the children in the
23 organisation. You are aware of what I'm talking about
24 there?

25 A. Yes.

26

27 Q. That is a cultural issue. How will that sort of issue
28 be more effectively addressed going forward?

29 A. I think, for me, it is how do you reach
30 a geographically disparate group of volunteers with vastly
31 different experience levels and skills and with a range of
32 world views, which are in some cases not always our
33 organisational world view. I think the only thing we can
34 do is to continue with having unambiguous, clear and strong
35 leadership; unambiguous, clear, strong policy, and training
36 commensurate to back that up.

37

38 It is the biggest - for me, this is one of the biggest
39 challenges with cadets, is the nature of the organisation.
40 I think far too often people just assume that it's an arm
41 of the ADF, and it's not. It is a civilian, volunteer,
42 youth development organisation that has the trappings and
43 the appearance of the ADF; it has many similar approaches.
44 It is, in large part, funded by Defence and the policy
45 framework is set by us. The nub of the issue for me is
46 that tension and how do we particularly connect with the
47 volunteers in a way - you know, we can do it with our

1 sailors, soldiers, airmen and airwomen, because we have
2 a captive audience 24/7. It is a much more difficult
3 challenge in the volunteer world.
4

5 Q. But the fact that you exist and that, for good reason,
6 the organisation exists but is, as it were, a product of
7 Defence gives you particular responsibilities?

8 A. Absolutely. Absolutely.
9

10 Q. And obviously, the community is looking to people like
11 you to ensure those responsibilities are discharged, as
12 they may not have been in the past?

13 A. No, I agree. I think, yes, one of the outcomes of the
14 First Principles Review for Defence writ large was an
15 approach called One Defence, made up of many different
16 parts but with one unifying purpose. Over the last two
17 weeks - and I've discussed this with the Chief of Defence
18 Force in the last 24 hours or so, where we need to go with
19 cadets is One Cadets. A unifying purpose in the centre of
20 that has to be the safety of the child.
21

22 COMMISSIONER FITZGERALD: Q. Vice Admiral, there is
23 a principle that applies in children's services or services
24 that affect children and young people and it is entrenched
25 in the United Nations Convention on the Rights of the Child
26 and that is the notion that you act in the best interests
27 of the child as a foundational principle. I was wondering
28 whether or not that principle, given you were reviewing the
29 YOUTHPOLMAN, is, in fact, a principle that is being looked
30 at in terms of both the Defence Forces and the cadets
31 themselves?

32 A. Yes, Commissioner, it is.
33

34 Q. In what way do you think that the amendments to the
35 YOUTHPOLMAN actually will give practice to it or give, in
36 fact, a sense of reality to the notion of acting in the
37 best interests of the child?

38 A. Well, I think that the challenge at the moment, when
39 you look at the policy, is that there is a lot of implicit
40 things there. The trend in policy is to keep it principles
41 based and not be prescriptive. I think this is an area for
42 us which is a particular challenge, because I think in
43 terms of how we deal with youth, while we need overarching
44 principles, we actually need to be fairly prescriptive,
45 because, clearly, the discussion and issue of blame that
46 took place yesterday, that needs to be explicit and
47 unambiguous. So I think what we will see is the rest of

1 the department, from a policy perspective, heading down
2 where it is headed, but in this particular area I think we
3 need to be quite prescriptive and quite explicit on
4 a number of issues - special care, issues of blame and
5 reinforcing the primacy that the purpose here is the
6 protection of the child.

7
8 Q. Just related to a question and you have just referred
9 to it again is the special care provisions. Mr Stewart
10 mentioned that a little while ago. You may be able to help
11 me understand this. The issue of special care provisions
12 has been around for some time and they have been
13 illustrated in the cases that have been looked at in this
14 particular case study. You indicated that one of the
15 glaring omissions, even in the redrafting of the
16 YOUTHPOLMAN at this stage, is in fact dealing with special
17 care provisions. You might be able to assist. I don't
18 understand how it is possible for the Defence Forces to
19 have done so much work on its child protection policies and
20 yet, that particular area, which is a significant area for
21 organisations such as yourself, is still missing. Can you
22 give any enlightenment as to why that particular very
23 important policy area has been overlooked consistently by
24 the Defence Forces for some considerable time?

25 A. No, Commissioner, I can't. Since I think
26 Counsel Assisting in his opening statement raised the
27 issue, I have been searching through everything I can find
28 to see if it is explicitly mentioned anywhere in any of our
29 documentation or policy. The closest it comes to talking
30 about the concept is actually on the next page,
31 paragraph 18 of that directive, but it is still not -
32 I mean it acknowledges that there are differing ages of
33 consent, it acknowledges the position of power and
34 authority, but it does not make specific mention of it.

35
36 I think what has happened here is there is an
37 overarching position that, or policy prescription that
38 there should be no intimate relationships between officers
39 and instructors of cadets and cadets, and I think people
40 think that is enough, and that should be enough, and it
41 clearly is not, and particularly the legal implications of
42 that have to be explicitly spelt out, and I can assure you
43 they will be.

44
45 Q. Just given yesterday's evidence, Mr Stewart took
46 I think Mr Delahunty to some of the errors that were in
47 some of the policy documents and one of those errors was in

1 relation to the age of consent and that error had persisted
2 for over eight years. It raised in my mind what is the
3 sort of vetting that is taking place in relation to
4 policies. In fact, who vets those sorts of documents over
5 time, because they are fundamentally fairly glaring, they
6 are not even subtle errors.

7 A. I think that comes to the point that Air Commodore
8 Green made about the mountain of policy and the teams that
9 support the director-generals of cadets are relatively
10 small teams, and one of the things that I think the
11 legislative change coming into effect tomorrow will do will
12 enable a shrinking of the mountain. That is certainly what
13 I want to try to do so we can get it to a manageable level
14 so that the review and updating process can be done
15 effectively.

16
17 MR STEWART: Q. Vice admiral, can you explain where do
18 the school cadets fit into this cadet system, if at all?

19 A. The school-based units still come under the structure.
20 If they are an Army cadet, for example, most of them are
21 Army, they are Army cadet units, they are school based
22 units but they're still part of the structure.

23
24 Q. So they won't be part of the squadrons and so on that
25 we have heard about, as I understand it from what you are
26 saying, but they will still come under the service chief?

27 A. That's my understanding. I will correct that if I'm
28 wrong, but that's my understanding.

29
30 Q. It just hasn't been clear in the documentation and it
31 is not something we have focused on, but it's something we
32 would like to get to the bottom of, just to understand
33 where they do fit in.

34 A. Sure. It's certainly - there was a period there in
35 the 1970s where it was quite ambiguous and a number of
36 schools continued to have cadet units outside of the system
37 as it was then.

38
39 Q. Are you familiar with, as I understand, a volunteer
40 organisation called the Australian Air League?

41 A. I'm aware of it, yes.

42
43 Q. Does that fit in or have any relationship to --

44 A. No, not as far as I'm aware; the same with the
45 Sea Cadets. The Sea Cadets is not part of the - part of
46 our structure.

47

1 Q. Coming back to the question of risk that I said
2 I would come back to, there are characteristics, it would
3 appear, common to these cadet organisations, and I wish,
4 with your assistance, to try to identify some of them.
5 One, would you agree, is that there is a continuous
6 progression by those who are involved from being supervised
7 or instructed through to being instructors or supervisors?
8 A. Yes.
9
10 Q. And the consequence of that is that someone may move
11 from being a peer amongst cadets to being an instructor of
12 cadets, to being a staff member responsible for cadets; is
13 that right?
14 A. Over time, yes.
15
16 Q. And it's relatively continuous?
17 A. It can be.
18
19 Q. Or can be, yes. Another characteristic would be that
20 there is a close proximity in age between those who are
21 supervised or instructed and those who are instructing or
22 supervising; is that right?
23 A. That's right and I see that as both a potential
24 advantage and a potential risk.
25
26 Q. The ages at which that progression takes place cover
27 the ages of sexual development through to maturity; would
28 you agree?
29 A. Yes.
30
31 Q. The hierarchy of the organisation which is, as we have
32 identified, linked to the military, with progression up the
33 ranks being a professed aim, it requires approval from
34 those in higher ranks; do you agree?
35 A. Yes.
36
37 Q. Of course, the organisations also hold regular
38 residential courses?
39 A. Yes.
40
41 Q. Do you agree that those factors or characteristics
42 that I've identified present special risks with regard to
43 child protection to the cadet organisations?
44 A. Yes, and I would add a couple more.
45
46 Q. Please do.
47 A. The fact that it is a nationally dispersed

1 organisation, I think that is a key element in terms of
2 communicating and messaging down through to the unit level.
3 The large number of volunteers, you know, it is around
4 5,000, I think, that are involved, so inherently in a large
5 number you are going to have a range of people. The sheer
6 hierarchical structure, as you mentioned, and I think
7 another risk is - frankly, comes back to the policy piece,
8 the amount of policy and how clear it is at the coalface,
9 both from a staff and a cadet perspective.

10
11 Q. If those characteristics, as we have identified,
12 present special risks, of course, you would accept that
13 they demand then special care and attention to alleviate
14 those risks; would you agree?

15 A. Yes.

16
17 Q. I wish to take the case of LAC Adams in particular as
18 illustrative. You understand that at the time that he was
19 involved in the sexual acts which have been partly the
20 subject of this inquiry and which led to his conviction, he
21 was in his early 20s?

22 A. Yes.

23
24 Q. Do you understand that he had recently been a cadet
25 himself? He had moved up through the ranks from being
26 a cadet to then a staff member; do you understand that?

27 A. Yes.

28
29 Q. And the consequence of that was that he was relatively
30 a peer with and certainly friendly with the cadets that he
31 had been with and he had progressed up ahead of them?

32 A. Yes.

33
34 Q. Do you understand that? And he had authority - that's
35 structural authority - and power over them?

36 A. Yes, a position of authority, yes.

37
38 Q. And he was also regularly away at residential camps
39 with them?

40 A. Yes.

41
42 Q. The consequence of those factors was that his
43 opportunity for grooming young cadets and being a sexual
44 predator in relation to them was profound?

45 A. Yes.

46
47 Q. And as a consequence of that, that he needed to be

1 supervised just as much as the minors, the cadets in the
2 organisation needed to be supervised; do you agree?

3 A. I think that's a fair conclusion.
4

5 Q. Yet, we are to understand from the evidence of
6 Ms O'Donnell that, in effect, the way in which supervision
7 occurred on the camps was that the adult instructors had
8 their duties and they did their duties in relation to
9 supervising the cadets, but otherwise, the adults, when not
10 on duty, did their own thing. Do you understand that?

11 A. Yes.
12

13 Q. Many of the cases we have looked at, and in the case
14 of [CJE] and [CJG] and, indeed, Aaron Symonds, are cases of
15 young instructors who had themselves recently been cadets
16 preying on, in a sexual way, the cadets who were coming up
17 from below them. Do you understand that?

18 A. I do.
19

20 Q. That suggests - and I ask for a response to this -
21 that there is a case to be made for a period of separation,
22 possibly five years, for example, but a period of
23 separation between when one ages out as a cadet and when
24 one is able to return as a staff member in the
25 organisation?

26 A. I would suggest that that is one path you could
27 follow. You could also follow a path of probation, where,
28 you know, having highlighted this risk, as this case study
29 has done, we follow a concept where young, particularly
30 young instructors or officers of cadets who have just come
31 out of the cadet system, go through some period of
32 probation where the surveillance of them is heightened.
33 Because I think the problem is that as soon as someone
34 becomes an instructor or an officer of cadets, they are
35 assumed to be competent to do the job and the detachment
36 commander, or whatever, is focused on running the camp,
37 for example. So that could be another approach, rather
38 than forcing a separation of a period of time, but it's
39 something that we will go away and look at. It's clear
40 that that is something that is not - it is a risk factor
41 that I don't think is adequately addressed at the moment.
42

43 Q. One of the aims of cadets, as I understand it, is to
44 encourage careers in the ADF; is that right?

45 A. Well, it is a secondary aim. The primary aim is for
46 youth development. There have been sort of three phases in
47 cadets since the early 1900s. The initial phase was all

1 about preparing them for entry into the militia. There was
2 no other purpose at that time. Then it went to a phase
3 where it was about preparing them for entry into the
4 Defence Force as the primary role and, really, since 2000
5 the emphasis has really shifted towards the youth
6 development aspect rather than a recruiting source for the
7 ADF, but it still is a strong recruiting source, because
8 clearly, the vast majority of children who go into the
9 cadets go in because they have some sort of affinity with
10 one of the services.

11
12 Q. You have accepted it is the secondary aim and
13 I suggest that must be an aim, whether you call it
14 secondary or give it higher priority, because if youth
15 development was the ADF's only interest in relation to the
16 cadets, it might just as well be supporting surf lifesaving
17 clubs or a whole range of other volunteer organisations
18 that have a focus on youth?

19 A. Yes, and I'm not saying it isn't, I'm just saying that
20 that aim having - that recruiting aim having prominence
21 I think is actually inconsistent with a youth program, in
22 the sense that you start putting the emphasis on the wrong
23 things.

24
25 Q. The reality of course is that a significant proportion
26 of recruits into the ADF services themselves have come
27 through the cadets; is that right?

28 A. I'm not - well, I think it's of the order of 10 to
29 12 per cent.

30
31 Q. 12.5 is the currently published percentage?

32 A. Yes.

33
34 Q. And 20 per cent of entrants to ADFA have come through
35 cadets?

36 A. Yes, there is a higher percentage of entrants to ADFA,
37 yes.

38
39 Q. From that can we take it that one of the reasons why
40 it is important to deal properly with questions of
41 organisational culture and child protection in the cadets
42 is to ensure that bad practices and approaches are not
43 carried through into the lower ranks of your military
44 organisation?

45 A. I would absolutely agree with that.

46
47 Q. You mentioned what has been described as the rule

1 against fraternisation. The core object of that rule,
2 I suggest, is to avoid child sexual abuse; would that be
3 right?

4 A. I think the core aim for us is to protect the child
5 and to avoid the environment where child sexual abuse can
6 occur.

7

8 I think one of the problems with lumping it all into
9 fraternisation is - and I think it has been very clear in
10 the evidence that I've watched in the last two weeks, that
11 there are two concepts that keep getting mixed in here:
12 fraternisation between cadets versus illegal and
13 unconscionable behaviour by adults against children.
14 I think it doesn't serve us well to have them mixed in
15 under a heading. In fact, one of my learnings from this
16 case study is that we actually need to - again, it goes
17 back to the explicit nature of articulating things - break
18 that apart and make it absolutely explicit what we are
19 talking about in terms of intra-cadet fraternisation and
20 what are we talking about in terms of adult-child
21 relationships.

22

23 Q. And they are quite different --

24 A. Well, I think they are.

25

26 Q. -- objects at their core?

27 A. Yes.

28

29 Q. And the purpose of the rule insofar as
30 instructor-cadet relationship is concerned is to protect
31 the cadet?

32 A. Absolutely.

33

34 Q. And I think you said this earlier, but just to be sure
35 about it, you would accept then the rule should not be used
36 to punish the cadet?

37 A. And that is again one of the explicit things - if you
38 look through the policy, I don't think it's explicit. It's
39 implied but it's not explicit and it needs to be explicit.

40

41 Q. Where an adult has engaged a cadet in the breach of
42 the rule, it should then be accepted that it is the adult
43 who bears the fault and responsibility?

44 A. Yes, I agree.

45

46 Q. And you would agree that that is actually a central
47 lesson from the Eleanore Tibble experience?

1 A. Yes.

2

3 Q. Do you agree also that it has taken a long time to
4 learn that lesson?

5 A. Far too long.

6

7 Q. I will show you why I make that point. If I can ask
8 that you are referred to tab 1 in the cadets bundle, which
9 is the Stunden Report, at page 0043, you will see that this
10 is the investigating officer's findings. It says in
11 relation to Wing Commander James, but if I can show you
12 finding (i), which is the fourth one on that page, you see
13 it was said that:

14

15 *... James should have initiated the*
16 *appropriate administration process*
17 *immediately he became aware of the cadet's*
18 *identity.*

19

20 In case we were in doubt whether that is a reference to or
21 would include the administration of Cadet Sergeant Eleanore
22 Tibble herself, over the page at (11), you will see that it
23 was said:

24

25 *There was no valid reason to delay the*
26 *administration of CSGT Tibble.*

27

28 Even the investigator in that case was saying that
29 Cadet Sergeant Tibble should herself have been subject to
30 some administrative process. Do you see that?

31 A. And I think that was borne out yesterday, that that
32 view pervaded at the time.

33

34 MR STEWART: Might that be a convenient time?

35

36 THE CHAIR: Yes. We will take the morning adjournment.

37

38 **SHORT ADJOURNMENT**

39

40 MR STEWART: Q. Vice Admiral, you expect, of course, the
41 policies and information which are promulgated or published
42 at the level of the Australian Defence Force Cadets as
43 a whole to be accurate, I take it?

44 A. Yes.

45

46 Q. And to be relied on?

47 A. Yes.

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Q. You have referred already to the evidence yesterday where I took the director-general to some of the Air Force Cadets' policies?

A. Yes.

Q. I am going to take you to some of the ADFC materials and I may as well tell you in advance, you will see some of the same or similar errors. Tab 358 is the first one. You will see this is an Australian Defence Force Cadets behaviour policy information booklet. It was apparently published in 2004. Are you aware of what its current status is?

A. No. I'm not sure who published it; it's not obvious from that front page.

Q. If we look at the next page, you will see that it is published by the Department of Defence, the Directorate of Defence Force Cadets, towards the foot of the page, do you see that, 2004?

A. Yes.

Q. On the face of it, it is aimed at instructors and cadets. In particular, I refer you to page 0059, which deals with sexual offences. You will see there there is what appears to be intended as a PowerPoint slide and then some notes under it, and the slide says:

It is a sexual offence, and will be reported to the civilian police and to parents if:

. there is any sexual activity that occurs without consent.

. there is any sexual activity with someone under the age of 16 years, even if they consent to it.

You will immediately appreciate that that is deficient in a few respects?

A. Yes.

Q. No mention of special care provisions - do you accept that?

A. Yes.

1 Q. And also no mention that in two of the States,
2 Tasmania and South Australia, the age of consent is
3 actually 17?

4 A. Yes.

5

6 Q. At page 0064, under the heading "Inappropriate
7 relationships in Cadets", there is some introductory stuff
8 about relationships and connections and so on, you will
9 see, but in the middle of the page, what is now at the
10 bottom of the screen, it says:

11

12 *These relationships are okay.*

13

14 *But, some relationships are not appropriate*
15 *in Cadets, for example:*

16

17 *. sexual relationships between adult*
18 *cadets/volunteers and cadets under the age*
19 *of 16 (this is a criminal offence).*

20

21 The same deficiencies again, do you accept that?

22

23 A. Yes, I accept that.

24

25 Q. Firstly, it is certainly misleading, do you agree?

26

27 A. It is wrong.

28

29 Q. Yes, so it is deficient; it is wrong?

30

31 A. It is wrong.

32

33 Q. Yes. I take you to tab 359. You will see this is
34 a set of slides, Australian Defence Force Cadet training
35 slides, and the next page you will see shows that they deal
36 with acceptable behaviour. I take this to be the
37 introduction of what this course is meant to be:

38

39 *To make the ADFC a safe and fair place - we*
40 *need Cadets and staff to behave in an*
41 *acceptable way.*

42

43 The next slide identifies the outcomes of the training that
44 are intended, including understanding key points, the code
45 of ethical behaviour and so on, but in particular, I take
46 you to page 0016. Like the document we saw beforehand in
47 dealing with sexual offence, it says that, in effect, the
age of consent is 16 and it says nothing about special care
provisions. It suffers the same defects, doesn't it?

48

49 A. Yes, it does.

1
2 Q. Some may say that this may have come about because
3 there are too many lawyers in Canberra, others might say
4 there are too few, but this shouldn't have happened,
5 should it?
6 A. No, it shouldn't.
7
8 Q. It is embarrassing to your organisation?
9 A. It is wrong; it is not good enough.
10
11 Q. At tab 361, there is a pamphlet which is, you will
12 see, "Australian Defence Force Cadets Behaviour Policy.
13 A Guide For Cadets". Do you see that?
14 A. Yes.
15
16 Q. I take it from that that this is aimed to guide cadets
17 - would that be fair?
18 A. Yes.
19
20 Q. In contrast to the next one I'll show you in a moment,
21 but this one aims to guide cadets. If we go to the next
22 page, which is the reverse of the pamphlet, you will see
23 there is a foreword by BJ Dunlop who was then Air Vice
24 Marshal Head Cadets Policy, Australian Defence Force
25 Cadets. With reference to that, are you able to date when
26 this pamphlet was?
27 A. I think that's back in the mid 2000s.
28
29 Q. The mid 2000s?
30 A. Yes.
31
32 Q. You will see in the bottom right-hand side of that
33 page, in the right-hand column, "Sexual Offences"?
34 A. The same thing, yes.
35
36 Q. The same problem.
37 A. Yes.
38
39 Q. And there is also a pamphlet very similar which is
40 aimed at staff and other adults working with cadets, which
41 is the next tab 362. You will see it is said to be a guide
42 for staff and other adults working with cadets. Do you see
43 that?
44 A. Yes.
45
46 Q. It is across all three organisations. Over the page,
47 in the middle, you will see there the same problems again,

1 save you will see here there is an effort to deal with
2 special care provisions. It says:

3
4 *Sexual activity with a person under 16*
5 *years of age is a criminal offence even if*
6 *they agree to it.*

7
8 The trouble with that is it leaves out the States where it
9 is 17:

10
11 *If you are a teacher, relative or someone*
12 *who is looking after a young person under*
13 *the age of 16, it is an offence to touch*
14 *them in a sexual way ...*

15
16 That should say 18, of course --

17 A. Yes.

18
19 Q. -- where there are special care provisions?

20 A. Agreed.

21
22 Q. You accept, of course, that providing this incorrect
23 information to people could have serious consequences for
24 them?

25 A. Yes, and I think that point was made very strongly
26 yesterday.

27
28 Q. With reference back to the VCDF Directive 03 of 2014,
29 one of the things that is said there as part of that core -
30 I forget the word you used - foundational, I think, or
31 policy document, the VCDF --

32 A. Definitive.

33
34 Q. "Definitive", that's the word you used, thank you.
35 The definitive document. One of the things it says is that
36 completion of the SCAP - that's the Safeguarding Children
37 Awareness Package - is compulsory or is made compulsory for
38 all officers of cadets and instructors of cadets having
39 contact with cadets. I can show you where it says that.

40 A. No, no, I acknowledge that.

41
42 Q. You know that?

43 A. Yes.

44
45 Q. At this point, and for some time, in fact, SCAP is
46 a central tool or - I will withdraw that and I will put it
47 slightly differently, a very important tool in your

1 child-protection policy?
2 A. Yes. In fact, I undertook SCAP last week, following
3 your opening statement, to see if I could - well, (a) I was
4 interested to see what was in it and what was covered, and
5 I was specifically looking for whether special care was
6 addressed, and it isn't, but it will be in our five levels
7 of youth safety training that we are developing in
8 conjunction with Bravehearts and Ernst & Young at the
9 moment.
10
11 Q. You did it online, I take it?
12 A. Yes, I sat down and did the training, yes.
13
14 Q. There are lots of links where you can go and look at
15 different things; is that right?
16 A. Yes.
17
18 Q. And the link, the specific link to age of consent,
19 doesn't deal properly with age of consent?
20 A. I don't think so.
21
22 Q. I won't go through the process of the various links,
23 but I will show you the document where one gets to, it is
24 at tab 366. If we can just scroll it slightly up and it
25 can be enlarged slightly. It does say that each State and
26 Territory has its own legislation. It stipulates the age
27 of consent for young people to consent to sexual activity
28 and in the block it sets out what it is - 16 years in
29 certain places; 17 years in South Australia and Tasmania;
30 but again, nothing about the special care provisions?
31 A. No, and you can also complete the training without
32 going to that link, so you could easily complete the SCAP
33 without seeing that page.
34
35 Q. You have put much emphasis on the YOUTHPOLMAN and
36 I just need to explore how it is going to work. Firstly,
37 it has been developed in part but there are certain
38 chapters that are still under development; is that right?
39 A. That's right.
40
41 Q. Once it is all developed, it will be really the
42 complete suite of policies dealing with youth within the
43 ADF in various ways; is that right?
44 A. Part 1, as I said before, is general across all
45 interaction with youth; part 2 will be cadets.
46
47 Q. It is worth looking at the contents because that

1 identifies what is going to be in it. That is at tab 369
2 and in particular starting at page 3473. There is what
3 appears to be an introductory chapter, chapter 1. Then
4 there is part 1 and it has a series of chapters; is that
5 right?

6 A. That's correct.

7

8 Q. Then part 2 deals with a number of other matters, on
9 the next page one will see it, including ADFA, Air Force
10 Balloon, Army Reserve Traineeship and Apprentice Program
11 and so on. Do you see that?

12 A. Yes.

13

14 Q. Then ultimately, part 3, which is on the following
15 page, gets into Australian Defence Force Cadets, chapter 1
16 of which is governance, chapter 2 of which we can see there
17 is policy development framework and so on. That's the
18 structure, is it?

19 A. That's the current structure. What we are moving to
20 is a two-part structure, where part 3 becomes part 2, and
21 parts 1 and 2 are reorganised and some elements will be
22 combined, yes.

23

24 Q. In particular, what is the relationship between or
25 what is it envisaged the relationship will be between the
26 YOUTHPOLMAN and the particular policies of the different
27 cadet organisations?

28 A. This comes, I think, to the core of the issue around
29 the mountain of policy. My view, and what I will be taking
30 forward from tomorrow onwards, is that there is a large
31 range of policy that is applicable right across the three
32 different cadet organisations and does not need to be
33 re-promulgated and reissued. That is the first step
34 I think into reducing the mountain. And if those guides
35 that you showed earlier on - I think they were an early
36 attempt to try to provide cross-cadet guidance from the
37 centre and trying to provide the guidance, in a sense, that
38 is easily digestible by both cadets and instructors. So
39 that, for me, is the nub of this and there has been
40 a culture of "We will take the top-level policy and then we
41 will re-promulgate", and then what tends to occur is there
42 are then nuances put in which some believe are necessary
43 for their particular cadet organisation.

44

45 I think there is a range of issues - and child
46 protection being one of them - where there are no nuances
47 required for the different cadet organisations and we need

1 one piece of policy that is correct and then not replicated
2 through the system.

3

4 Q. Am I to understand from that that it is envisaged
5 there will be an ADFC-wide suite of policies and then not
6 individual policies that replicate it in any way?

7 A. My aim is to minimise the replication unless it is
8 absolutely necessary.

9

10 Q. You see, a cynic may point to the many inquiries and
11 reorganisation initiatives and so on that have taken place
12 over time?

13 A. Yes.

14

15 Q. And ask the question, "Well, when you say you are
16 going to get this right now, why should that be accepted or
17 believed at face value when there has been the opportunity
18 to get this right many times in the past?"

19 A. Well, that is a fair question. What I can - all I can
20 answer is what I intend to do and I now have additional
21 legislative cover, if you like, to enable me to do that.
22 And frankly, I have this case study and there is an
23 incredible moral authority in this case study for us to
24 make the changes we need to make.

25

26 Q. Since YOUTHPOLMAN began being published in 2013 and
27 different parts that have been added and today the position
28 has been and is that there are matters that are duplicated,
29 in other words, that exist in YOUTHPOLMAN, which apply to
30 the cadet organisations and which are then, in subject
31 matter at least, replicated in the individual
32 organisations.

33 A. Yes.

34

35 Q. And you accept that that creates an environment that
36 is confusing?

37 A. I think it's absolutely at the heart of why it is
38 confusing.

39

40 Q. And at times there is even inconsistency between what
41 is said in YOUTHPOLMAN and --

42 A. Well, this is why I've talked about the nuance,
43 I think, because that's where the inconsistency comes from,
44 when people start to put interpretations on it that they
45 believe are necessary for their particular organisation.
46 There are some topics where that is probably legitimate,
47 but when it comes to some of these core issues,

1 particularly around child protection, I just don't accept
2 that there should be any difference across all three and
3 across the rest of Defence's interaction with children.
4

5 Q. I can cite an example and we can look at it but it's
6 probably not necessary. That is the social media policy
7 and that is of interest to what we are looking at, because
8 it has a relationship to child sexual abuse. There is
9 a social media policy in YOUTHPOLMAN and there is a social
10 media policy in the Manual of Management for the Air Force
11 cadets and they are not quite the same.

12 A. And, in fact, you have - Air Force and Navy Cadets
13 have similar implementation of social media policy and Army
14 has a different one and that is replicated across a number
15 of areas. That is, again, one of the things, as I've been
16 going through a lot of the material and asking questions
17 that have arisen in my mind out of evidence that has been
18 provided in the last two weeks, that has really brought
19 that into very sharp relief.
20

21 Q. If one has a look at the next page of this contents
22 for YOUTHPOLMAN, you will see that the next chapter deals
23 with the next subject, "Officer of Cadets and Instructors",
24 and so it goes on. I take you to page 3481, which is still
25 part of part 3 - in other words, the part that deals with
26 cadets. You will see there at chapter 13 - do you see
27 that - "Australian Defence Force Cadets: Behaviour Policy.
28 This chapter is under development". You will see
29 chapter 21 a bit further down, "Complaints and Resolution",
30 also under development. That, I take it, would be the
31 chapter dealing with the policy on a complaints process, in
32 other words, how complaints of unacceptable behaviour or
33 other matters are to be dealt with; is that right?

34 A. Yes.
35

36 Q. And so, in the meanwhile, in any particular cadet
37 organisation, I take it it would be the organisation's own
38 policies and rules --

39 A. That's correct.
40

41 Q. -- that would govern these subject areas; would that
42 be right?

43 A. That's correct.
44

45 Q. So on complaints we would go to, for example, the
46 AAFC --

47 A. Yes.

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Q. -- complaints chapter in their Manual of Management; would that be right?

A. Yes. And as of tomorrow there will be an Incident Management Guide issued, which is literally in the process of being promulgated as part of the tool set that is going with the Youth Safety Framework.

Q. And of course, the next page, chapter 23, shows that the child protection chapter is also under development, and you gave evidence earlier explaining --

A. Yes.

Q. -- why that has been delayed.

A. Yes. And the only comfort that I have got in that is that I think the VCDF Directive from May of 2014 is very clear and comprehensive, as you have heard evidence from Professor Devereux and Air Commodore Green about that.

Q. In the work that the Royal Commission has done, it has identified some principles that one might look to to guide an organisation to be what we refer to as a child safe organisation. Are you familiar with those principles at all?

A. Yes. Could I recite them? Our Youth Safety Framework is based on the National Framework for Protecting Australia's Children 2009-2020, that's what underpins it, and I think there are six principles in that which we are working to.

Q. I am going to refer you to two of the principles that have been identified in the work of the Royal Commission, for a child safe organisation. One is that there should be child safe policies and procedures and that is given further substance as follows:

Policies and procedures should be publicly available and accessible. They should be reviewed and embedded in training and education and specify clear processes, obligations and responsibilities for all involved in the organisation.

You will accept that that is a good principle?

A. Yes.

Q. Would you accept also, given what we have just been

1 through, that the ADF Cadets is deficient in this area in
2 certain respects?

3 A. In that all policies are not publicly available?
4

5 Q. In that some of the policies are misleading and
6 incomplete?

7 A. Yes. Well, I've accepted that.
8

9 Q. And there is duplication and lack of clarity with
10 regard to just what applies. And then a second principle
11 is that there should be a child focused complaint
12 procedure, and that is given some content by saying that
13 there's a need to have clear and detailed policy and
14 procedures about how to respond to complaints, including
15 concerns, suspicions, allegations, disclosures and
16 breaches, and that staff and volunteers must be aware of
17 their reporting obligations and responsibilities. You
18 would accept that that is an important principle?

19 A. Yes, and we earlier - earlier this month the Defence
20 Youth Safety Responding and Reporting chapter, or policy,
21 was promulgated into the YOUTHPOLMAN, and, as I said, today
22 or tomorrow the Incident Management Guide will be
23 published.
24

25 Q. In the meantime, of course, since the publication of
26 the Youth Safety Responding and Reporting chapter of
27 YOUTHPOLMAN being published earlier this month, there is
28 now a duplication between what it says and what an
29 individual cadet organisation policy on that subject says?

30 A. That's correct, and that is going to be an issue over
31 the next few months as we transition.
32

33 MR STEWART: I have no further questions.
34

35 COMMISSIONER MILROY: Q. Vice Admiral, this is more of
36 a general question, and although Defence Force families
37 aren't the specific interest in this particular case study,
38 clearly, a lot of children come into contact with the
39 Defence Force through their families, either living on
40 bases or Defence Force establishments. I am just wondering
41 whether you wanted to make any general comments about how
42 effective the child safe approaches are for those children
43 who do come into contact, in view of their families?

44 A. Well, I think they are effective. We take
45 a risk-based approach to who needs to undertake Working
46 With Children Checks and that largely depends on their
47 particular role, do they interact with work experience

1 programs, do they interact with cadets, but that -
2 you know, that's the approach we take to that issue. I'm
3 not aware of any significant other issues in that area in
4 relation to families. We have community centres on bases,
5 we have childcare centres on bases, but they are fairly -
6 well, they are regulated. Certainly the childcare centres
7 are regulated through the civil system, but we do have
8 a risk approach to how people - you know, if there is
9 interaction with children, what level of checks are
10 required.

11
12 THE CHAIR: Does anyone else have any questions?

13
14 MR O'BRIEN: Yes, I do.

15
16 **<EXAMINATION BY MR O'BRIEN:**

17
18 MR O'BRIEN: Q. Vice Admiral, my name is O'Brien and
19 I represent [CJB], [CJU] and [CJG], from each of the
20 Leeuwin, Balcombe and AAFC tranches of this case study.
21 Did you have the opportunity of listening to their
22 evidence?

23 A. Most of it, yes.

24
25 Q. In relation to [CJB], he was, you will recall,
26 physically and sexually abused at Leeuwin in 1971 at the
27 age of 15. [CJU] was, likewise, physically and sexually
28 abused, but at Balcombe, in 1977/1978 at 15 and 16 years of
29 age. In relation to their stories, you have, I think, in
30 answer to Mr Stewart's questions, already acknowledged that
31 the ADF failed in its duty of care to those particular
32 survivors of Leeuwin and of Balcombe; is that the case?

33 A. Well, I've said publicly that I think the Navy of the
34 day failed in its duty of care in respect to Leeuwin; and
35 I would make the same sort of observation, based on the
36 evidence that has been presented, in regards to Balcombe.

37
38 Q. In relation to the Army's duty of care to those
39 apprentices at Balcombe?

40 A. The Army of the day, yes.

41
42 Q. You have also recognised in your opening statement at
43 the outset of your evidence that the abuse that those
44 children suffered all those many decades ago has been
45 something that has, as you have heard in evidence, been
46 carried with them for many, many years, and still exists -
47 the pain and suffering still exists to this very day. You

1 have acknowledged that in your opening and obviously you
2 would accept that that is the case?

3 A. And not just based on the evidence, but based on my
4 interactions through the Restorative Engagement Program
5 with survivors and their carers. So I have seen it
6 firsthand as well as heard the evidence.

7
8 Q. Does it stand to reason, flowing from that, that the
9 ADF continues to have an obligation to assist and support
10 those survivors of child sexual abuse that occurred all
11 those decades ago?

12 A. Well, the government does that through the Department
13 of Veterans' Affairs. That's the division of labour, if
14 you like, within government. But we have clearly willingly
15 participated in activities like the Restorative Engagement
16 Program, which I think are incredibly powerful for
17 survivors and equally powerful from an institutional
18 perspective.

19
20 Q. You have heard, no doubt, during this case study that
21 there have been significant legislative and regulatory
22 impediments to people seeking adequate redress and
23 reparation for the harm that they suffered as children of
24 sexual abuse within the armed forces, haven't you?

25 A. Yes.

26
27 Q. And it has been, it would be fair to say, I think you
28 would accept, very, very difficult in many instances for
29 these survivors to achieve appropriate compensation in
30 relation to what happened to them; do you agree with that?

31 A. I think the evidence is clear that there have been
32 difficulties, yes.

33
34 Q. Do you believe, then, that the ADF has
35 a responsibility to ensure that those sorts of impediments,
36 the regulatory environment which restricts the ability of
37 survivors to be properly compensated for the wrongs that
38 occurred to them - that you, as a part of the leadership of
39 the ADF, can assist in sorting those limitations out?

40 A. Well, I think we have a role in advising government,
41 which is what we do, on issues such as this, and working
42 collaboratively, as we do, with other departments of State,
43 such as the Department of Veterans' Affairs.

44
45 Q. Practically speaking, then, what have you been doing
46 or what do you intend to do, given what you have heard
47 about the very significant difficulties that these

1 survivors have had in accessing appropriate not only
2 services but reparation in terms of compensation and
3 payments of damages?

4 A. Well, I think if you look at the approach - it is not
5 an ADF issue, it is a Defence issue more broadly. The
6 approach that Defence has taken to these sorts of claims,
7 and I think Mr Donaldson articulated this in his evidence,
8 that there has been a massive shift in the approach that
9 Defence has taken towards dealing with these claims. Now,
10 you know, I'm not qualified to talk about the nuts and
11 bolts of the claims, but what I would say is that we are
12 not going to shy away from our responsibilities.
13

14 Q. I don't expect for a moment for you to be talking
15 about the specifics of any particular case, but when you
16 say you are not going to shy away from your
17 responsibilities, the ADF's responsibilities, that is to
18 say that you would expect that survivors of child sexual
19 abuse might come to the ADF for assistance into the future
20 for what has happened to them in the past?

21 A. I think that that is happening today and will continue
22 to happen.
23

24 Q. And you would do whatever you could, I expect, vice
25 admiral, to assist those claimants in that process?

26 A. I think - as I said, I think there has been
27 a fundamental shift in the way that we approach these sorts
28 of issues - fundamental.
29

30 Q. And that has fundamentally changed to benefit the
31 survivors of child sexual abuse?

32 A. To be acutely aware of the impact of the abuse that
33 has been committed on the survivors and, wherever possible,
34 to get the best possible outcome for them.
35

36 Q. I, of course, have focused on my two clients who were
37 at Leeuwin and at Balcombe, but of course, I have another
38 client who was an AAFC cadet, who I think it is fair to
39 say, was the survivor of a fairly woeful measure of how the
40 organisation dealt with what had happened to her. Do you
41 accept that?

42 A. Yes.
43

44 Q. And, likewise, if she sought redress, she could expect
45 to be supported by the ADF?

46 A. As I said, I think we will not shy away from our
47 responsibilities.

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MR O'BRIEN: Thank you for your evidence. Thank you, your Honour.

THE CHAIR: Does anyone else have any questions?

<EXAMINATION BY MS DAVID:

MS DAVID: Q. My name is David and I represent Glen Greaves, [CJT] and also Susan Campbell, the mother of Eleanore Tibble. Just a few questions. Just whilst on the issue of, perhaps, the compensation in relation to DART, as you may have heard the evidence of both the survivors that I represented that had been at Leeuwin, they were unaware at the time of the DART process whereby they could make a claim. You are aware of that?

A. Yes.

Q. Both of them were somewhat, if I could say, disappointed that they were unaware of it and that they had missed the deadline. Would you accept that they might have a justifiable sense of grievance by reason of not having been aware of that?

A. I can understand why they would feel disappointed, yes.

Q. Just on that, are there any measures or is there any process in place that might redress that, by reason, for example, of opening up the response or another response to enable claimants such as the survivors I've represented and other survivors in the same position?

A. There has been a lot of discussion around what exists post-DART. That is not just a Defence issue but obviously a whole of government matter that is under consideration at this time. It has not been agreed by government yet.

Q. One of the complaints, if I could put it like that, or one of the issues that appeared, that affected them, was that even though one of them is quite involved in many organisations relevant to former service people, so he was very associated in ways that one might think he would have heard of DART and the possible of claiming, and yet he didn't, so in the future, if such a process was opened, you would see that it would be important to ensure that it was very widely and clearly publicised to those who might wish to claim?

A. My view is it was widely publicised, but that doesn't

1 mean that everybody is going to - just because it is widely
2 publicised it doesn't mean that everyone is going to pick
3 it up.

4
5 Q. I appreciate that. But it appeared that even though
6 one of them, Mr Greaves, was a member of organisations who
7 you would think --

8 A. Ex service organisations, yes.

9
10 Q. Yes, but he nevertheless remained unaware and believed
11 that many of his colleagues remained unaware, so there
12 appeared to be a breakdown, clearly, in communicating that
13 process. Just in relation to the issue of the Eleanore
14 Tibble case, I wanted to ask you a few questions about
15 that. Firstly, in relation to James, you would be aware
16 that the Stunden Report in relation to Wing Commander James
17 recommended that Wing Commander James - that there were
18 serious deficiencies in the way in which he handled those
19 complaints and it recommended that there should be a formal
20 process to terminate his tenure. Did that occur?

21 A. I am not fully across the details but my understanding
22 is no.

23
24 Q. That appears to be the position, that he wasn't
25 terminated. Clearly, that would be something that would be
26 of considerable embarrassment to the organisation; would
27 you agree?

28 A. Well, what I would agree is that without understanding
29 why that recommendation wasn't followed, you know,
30 I wouldn't offer a view, other than I can't, on the face of
31 it, understand why it wouldn't be followed.

32
33 Q. In circumstances where it is clear that an
34 investigation was warranted and it was undertaken, what is
35 the process now, or what measures are going to be set in
36 place to ensure that there is a follow-up of investigative
37 recommendations?

38 A. Well, there is a cell that works directly for the
39 Chief of Defence Force that manages follow-up on key audits
40 and commissions of inquiry and those sorts of reports.

41
42 I would say that the culture of audit and inquiry
43 recommendation follow-up over the last 10 years or so has
44 moved on considerably. I think it is fair to say that
45 probably - certainly around the time of the Stunden Report,
46 the follow-up was nowhere near as diligent as it is now.

47

1 Now, I'm not sure whether this is a case of not being
2 followed up or the executive decision-maker making
3 a decision not to follow a recommendation, which the
4 executive decision-maker, for whatever reason, is entirely
5 permitted to do. They are recommendations from an
6 inquiry - but I don't know the context in this case.
7 I don't know what action the Chief of Air Force or his
8 delegate took in respect to that. I don't know the detail.
9

10 Q. If the Commissioners and his Honour considered that
11 was something that would be of interest to them, would you
12 be able to provide that material as to what the outcome of
13 this particular inquiry was?

14 A. We would be able to - I think we would be able
15 certainly to ask the question as to, you know, was there
16 any recorded decision-making around why that was not
17 followed up or why that was not enacted - was it a lack of
18 diligence in following up a recommendation or was it
19 a deliberative act by a decision-maker to say, "No, I don't
20 agree with that recommendation."
21

22 Q. One would expect, though, if there was a deliberate
23 decision, that there would be a record of it, would you
24 not?

25 A. One would hope.
26

27 Q. When you say you would hope - sorry, just to be clear,
28 who would follow up on those recommendations or who would
29 make that decision following the recommendations?

30 A. Well, it depends on who the report was addressed to.
31 I don't have the Stunden Report there, but it would be
32 addressed to somebody.
33

34 Q. As I understand it, Director-General Personnel Air
35 Force, Air Force Headquarters?

36 A. Okay.
37

38 Q. So you would expect that if they had made a decision
39 there would be a record of that?

40 A. Yes.
41

42 Q. This comes back to the start of that investigation.
43 The way that the investigation came about was by reason of
44 the persistence of Susan Campbell. It was her approaches
45 to the Military Justice Audit Team for a review that
46 prompted such an investigation. Would you agree that given
47 the particular circumstances of that case, it is

1 unacceptable that it took the efforts of the mother of the
2 deceased young woman to ensure an inquiry was undertaken?
3 A. Look, I think this whole case was the most diabolical
4 tragedy, and there are staggering aspects to it.

5
6 Q. Just on that, again, what measures are now in place or
7 are you putting in place that would ensure that there is
8 a review of any investigation whereby someone may be
9 discharged, or, sorry, the process that Miss Tibble was
10 subjected to - are there any processes to ensure a review?

11 A. There are review mechanisms available, yes.

12
13 Q. How are they enforced?

14 A. I would say it varies, and it depends on who seeks the
15 review. So the individual can seek the review, and that
16 happens much, much more than it has in the past. I think
17 that's an aspect of our culture that has changed
18 significantly. Or the organisation can review certain
19 decisions.

20
21 Q. For example, in this particular case, Ms Campbell was
22 desirous of actually having a review of her daughter's
23 situation that was prior to the death of her daughter. She
24 was seeking a review, as was her daughter, but did not know
25 what to do or where to turn. It was clearly - there was no
26 response. So is there now in process or are there now
27 measures set in place to ensure that the parents, for
28 example, have a clear idea of what process they could
29 undertake to initiate a review of a particular situation if
30 it involved a young cadet?

31 A. Well, I think that is primarily due to - well, our
32 provision of support and support personnel is the primary
33 mechanism to make sure that occurs.

34
35 Q. I understand from some of the evidence given that now
36 there is child safe information given to the parents of
37 cadets, for example; that they are informed about what may
38 be inappropriate or appropriate behaviour. In that, are
39 they also advised of complaint mechanisms or review,
40 whereby they can raise issues of concern?

41 A. I'm not a hundred per cent sure on that.

42
43 Q. Is that something you would think would be of
44 assistance, to ensure that there is an open and clear
45 process that they may engage in should they, themselves,
46 see concerns?

47 A. Yes. I think with our Youth Safety Responding and

1 Reporting policy, which I mentioned had been previously or
2 recently published, earlier this month, and the Incident
3 Management Guide, these are tools that will be publicly
4 available for parents.

5
6 COMMISSIONER FITZGERALD: Q. Vice Admiral, just
7 following on from Ms David's questions, what is the role of
8 the Inspector General of ADF in these matters, then, is
9 that part of the complaint handling process where a person
10 is dissatisfied with the way in which an investigation is
11 held? Your statement in 181 and 182 deals with that, but
12 I am just not clear from that as to where the Inspector
13 General role is in relation to these sorts of matters that
14 Ms David has raised with you?

15 A. In relation to cadets, the Inspector General has no
16 jurisdiction in cadets, unless it is the action of a member of
17 the ADF that crosses over into a cadet issue. But if it
18 is purely a cadet issue, as Ms David has suggested, the
19 Inspector General has no jurisdiction there.

20
21 Q. Is there any particular reason why the Inspector
22 General's role could not, in fact, be extended to cover
23 cadet activities or cadet investigations or complaint
24 handling in relation to those matters?

25 A. Look, without understanding all the legal intricacies
26 of his position as a statutory --

27
28 Q. I'm sure it can't at the moment, given what your
29 statement says, but is there any other reason, other than
30 that the current regulatory arrangements don't permit it,
31 that it wouldn't have coverage beyond that which it already
32 has?

33 A. On the face of it - I'm speculating - I can't see why
34 not, and it would be purely a resource issue if there was
35 no legal impediment to this.

36
37 MS DAVID: Q. Just proceeding on in relation, again, to
38 lessons that come from Eleanore Tibble's case, in this
39 particular case, the instructor, Harper, resigned in an
40 informal way - you are aware of the circumstances of his
41 resignation?

42 A. In terms of the evidence that has been presented.

43
44 Q. The evidence reflects that he, if I could say, spoke
45 to a flight officer and resigned. At that time there was
46 a belief, and an incorrect belief, but nevertheless
47 a belief, that he had been engaged in very serious sexual

1 misconduct at that particular stage, yet he was allowed to
2 resign without any action taken against him at that point.
3 My first question is: is it the case that by reason of him
4 submitting his resignation, he can avoid an administrative
5 response to what may have been, at worst, serious sexual
6 misconduct or may have otherwise been some inappropriate
7 behaviour?

8 A. Yes, and I think this - I mean, this comes to the
9 heart of the nature of cadets in terms of being a civilian
10 volunteer organisation. There is no legal basis for us to
11 stop a volunteer from not being involved with the
12 organisation if they choose not to. So in the case of an
13 ADF member, we can decline to let someone resign, and we
14 often do, particularly in these sorts of cases, until full
15 action has concluded. But in the case of instructors of
16 cadets and officers of cadets who are volunteers, the Cadet
17 Forces Regulations clearly articulate that the resignation
18 is automatic the day after it is submitted. There just is
19 no legal basis to prevent them from resigning.
20

21 Q. Is it possible to look at some kind of, if I could
22 say, contractual arrangement, whereby if somebody does
23 become a member of the cadets, that they would accept some
24 obligation in relation to their resignation? Is that
25 a matter that has been looked at or could be looked at in
26 the future, to ensure that this very unsatisfactory
27 situation doesn't occur again?

28 A. Well, I think it has been looked at and remains
29 a point of tension. If you look at the administrative
30 sanctions that are available within cadets, they broadly
31 mirror those that are available to an ADF member. The ADF
32 is obviously anchored around the Defence Force Discipline
33 Act, which doesn't apply to volunteers, and in cadets it's
34 anchored to the code of conduct. So the issue, then, comes
35 down to a reliance on civil proceedings and reporting the
36 matter to the police, and we have seen over the course of
37 the case study the difficulty, at times, in getting matters
38 to be either taken up or pursued by the police, for
39 whatever reason, allowing this hole to appear where people
40 can walk away from cadets. If there is no action taken by
41 the police and there is no conviction recorded, that person
42 is then free to interact in some other way with children in
43 other organisations. It is a very, very unsatisfactory
44 position. I think we would absolutely agree that that is
45 an unsatisfactory position. But, again, not just a Defence
46 issue, right across the spectrum of voluntary organisations
47 and people who interact with children.

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Q. Just a more practical aspect of the investigation in relation to Eleanore Tibble was the fairly, I would have to say, appalling manner in which notes and records were taken during the course of that investigation. I appreciate, again, that there are the difficulties that you raised by reason of it being a volunteer organisation over a large geographical space and with a variety of cultural attitudes, but is there some mechanism by which you can ensure, particularly in a matter which indicated the possibility of a serious issue, that the recording of any conversation - the proper recording, including electronic recording of conversations - could take place, so that the records are more accurate than appears to have been the case during the course of this investigation?

A. It goes back to my earlier evidence about explicit - the explicitness of the some of the things that we need to put into procedures and policy. But you can be as explicit as you like - and I think we should, I'm not saying we shouldn't - but I think we have to be realistic, that there will be times when people, for any number of good reasons, don't keep the records that they should.

Q. But, again, to try to --

A. But as a principle, I agree with you completely.

Q. And to ensure that there is a lot of effort to implement such principles in practice?

A. Yes.

Q. Just, again, coming back, you have talked about the mountain of policy in this area of child protection and child safety in the cadets and other forces. For example, in the cadets, you acknowledge - I think, to use your words - difficulty in changing the culture in a geographically disparate volunteer group. You have given that evidence earlier today. And you would agree that by reason of those facts - and you have talked about it as well - there are very different interpretations by the various groups as to what would be inappropriate behaviour?

A. I think that is one of those risk factors that Counsel Assisting was talking about earlier, yes.

Q. One measure, and I don't know whether this is part of the measures, but I'm just asking you whether you consider that some committee that is well advertised might be available, they may be volunteers or whatever, but a fairly

1 reputable, if I can say, experienced committee might be set
2 up to digest all that policy information and to be there to
3 give guidance and even rulings in particular instances
4 about what behaviour is or is not inappropriate? Do you
5 agree that some committee, such as that, that could be
6 consulted by these volunteer groups, would be of assistance
7 to ensure that mistakes are not made by reason of lack of
8 action or misinterpretations of the policy?

9 A. I don't know that a committee solves that problem.
10 I think when it comes to matters of child protection, it is
11 pretty clear what is acceptable and unacceptable.
12

13 Q. It is very clear, I would suggest to you, in relation
14 to activity or behaviour which constitutes criminal
15 offence, but the terms "fraternisation" and "other
16 behaviour", it is less clear as to what is inappropriate?

17 A. You heard me talk about the line and at times the line
18 is very clear and at times it appears to move around in
19 some people's minds, but I don't think a committee is the
20 answer. I think we have a fairly strong, within the ADF
21 a very strong values program which is reflected into the
22 cadets and it's the sorts of discussions that need to occur
23 at the unit level on a regular basis and that need to occur
24 in courses like the Executive Development Course that
25 Air Commodore Green discussed yesterday. It has to be that
26 face-to-face messaging.
27

28 If I could go back to earlier evidence where I talked
29 about, in my mind, the need to differentiate between
30 fraternisation as an intra-cadet under 18 issue, versus the
31 adult-child issue.
32

33 Q. Yes, but I'm talking about the person responsible for
34 complaint handling procedures down in the regions, as
35 occurred in the Eleanore Tibble case, for example. If that
36 person was unsure of whether something was inappropriate,
37 that there be somebody that they could consult;
38 for example, the Bar Association has an ethics committee,
39 so if you have an ethical issue that you need to talk to
40 someone about, you can ring up the Bar Association and
41 avail yourself - they will give you a number of names who
42 you could consult to get some guidance. Now, that, to me,
43 is a very helpful process.

44 A. Yes.
45

46 Q. I am talking about some similar process whereby people
47 who, if I could say, are repositories of knowledge, who

1 have digested the mountain of policy you have referred to,
2 that they are available to give such guidance in those
3 situations?

4 A. We have a couple of organisations. We have the
5 Fairness and Resolution Branch within the Defence personnel
6 policy area which provides advice on those sorts of issues.
7 In the Navy cadets they have a Fairness and Resolution
8 Agency which has about 20, I think it has about
9 20 full-time - well, 20 volunteers who man that who also
10 can provide that. I think that model is a very good model,
11 particularly for the cadet case, and one of the items that
12 I have on my list at the end of this case study is to look
13 at and talk to the service chiefs about replication of that
14 model, that approach, across the three cadet organisations.
15

16 Q. And to even take it a step further, to ensure some
17 consistent approach in complaint handling, that it might be
18 a condition, before any complaint is resolved, that there
19 has been some consultation with such a committee and
20 a ruling even?

21 A. And I think what that reflects is, as we discussed
22 earlier, the variable level of skill and experience across
23 the volunteers; so it helps to mitigate that to some
24 extent.
25

26 MS DAVID: Thank you.
27

28 **<EXAMINATION BY MS THOMPSON:**

29
30 MS THOMPSON: Q. Vice Admiral, my name is Thompson and
31 I appear in the interests of [CJE]. I only have two or
32 three questions to ask you. You referred in your evidence
33 today to the introduction tomorrow of an Incident
34 Management Guide. Are you confident that with the
35 introduction of that guide, what occurred in [CJE]'s case
36 will not occur in the future; that is, the person
37 conducting the investigation is untrained, inexperienced
38 and that cold calls are made to the cadet and her family?
39 Are you confident that the management guide, the Incident
40 Management Guide, will cover off on those issues?

41 A. I'm confident the guide will cover off on those
42 issues. Am I confident that it won't happen again? It
43 will not just be the guide that determines that, it will be
44 that level of cultural change that we are talking about.
45

46 Q. Yes, and that will take some time with the training
47 that you have outlined and other measures?

1 A. (Witness nods).

2
3 Q. The new approach that has been taken - I just want to
4 ask this - in the case of [CJE] and [CJG], the
5 investigation by the AAFC was first suspended and then
6 abandoned once the police investigation started. Under the
7 new approach that is being taken will there be a process
8 for the AAFC to carry out its own investigation into any
9 incident involving sexual abuse of a child for the purpose
10 of determining how robust its own policies and procedures
11 are and whether they can be improved or adjusted in any
12 way?

13 A. This is an issue that has bedevilled not just the
14 cadet area but across Defence and I gave evidence to the
15 Senate inquiry last year, or the year before, I can't
16 recall exactly when it was, about the fact that culturally,
17 we had given primacy to the outcome of a police
18 investigation or a court process, and so if someone - if it
19 didn't proceed to charges and a trial or they were
20 acquitted, culturally, we, in the past, just accepted that
21 and we have seen examples of that over the last two weeks.
22 That has shifted. From an ADF perspective, the ADF
23 Investigative Service spent a lot of time liaising with the
24 civil police on how can we - and they advise us in an ADF
25 sense - continue with an administrative inquiry to get at
26 those issues that you talk about, and the adequacy of our
27 policies, whether there is a systemic issue around
28 a particular thing, without getting in the way of and
29 jeopardising a police investigation. And we did that very
30 successfully in - I mentioned earlier the case of
31 HMAS Ballarat when we had a hazing incident, which was
32 a sexual assault, and we were able, through some very
33 careful negotiation with the police, to continue with our
34 inquiry, because I was particularly concerned about whether
35 it was isolated or systemic within that unit, whether there
36 was a broader cultural issue, but obviously to go and
37 investigate that, you had to cross into aspects of the case
38 itself. So at an ADF level, I think we are now much, much
39 better at that. We have got to translate that across into
40 the volunteer domain.

41
42 Q. Because, of course, if there is a gap with the police
43 investigation and you are waiting two or three years for
44 a completion of that, that is leaving at risk, perhaps,
45 other children because of some deficiency in some existing
46 procedure?

47 A. I simply don't accept that we have to stop just

1 because there is a police investigation. We need to work
2 with the police because, clearly, we do not want to
3 jeopardise that process, but we have seen examples of where
4 we have successfully been able to negotiate around that,
5 keeping clear of the main part of their investigation and
6 still being able to satisfy ourselves of other issues that
7 are important to us.

8
9 Q. In terms of future policies being developed or old
10 ones being reviewed with new eyes, depending on the outcome
11 of this Commission and other inquiries, what consultation
12 does the ADF envisage in terms of the development of
13 cadet-specific policies and procedures? Will it include,
14 for example, parents, existing cadets or previous cadets?
15 A. I would hope, at a minimum, all of those plus others,
16 so an organisation like Bravehearts, you know, who are
17 established and respected in that field.

18
19 Q. And I take it your earlier response to Mr O'Brien's
20 question about support for [CJG] equally applies to [CJE],
21 that she will be assisted?

22 A. Yes.

23
24 MS THOMPSON: I have no further questions. Thank you,
25 your Honour.

26
27 MS McLEOD: I have three matters, your Honour. It will
28 only take a couple of minutes.

29
30 THE CHAIR: Let's continue then.

31
32 MS McLEOD: I am just seeking some instructions about the
33 Incident Management Guide too.

34
35 **<EXAMINATION BY MS McLEOD:**

36
37 MS McLEOD: Q. Vice Admiral, I have three topics - the
38 first concerns the appointment of a cadet as a staff member
39 and you are aware there is some criticism in the evidence
40 this week concerning the refusal to appoint a cadet to
41 a staff position within the first 12 months of her
42 completion as a cadet. This morning, Counsel Assisting
43 suggested to you there should be a period of separation of
44 some five years and your response was to suggest, instead,
45 a period of probation. Can you say why?

46 A. Well, to be honest, I was responding to the question
47 and looking for an alternative path other than such

1 a significant gap, because a large number of instructors of
2 cadets are relatively young and I think, as I said to
3 Counsel Assisting at the time, that brings both
4 opportunities and it brings risks, and the opportunities,
5 if you put a five-year separation in, would be lost, and
6 I just was trying to think of a mechanism that would result
7 in greater surveillance and supervision but not lose those
8 opportunities.

9
10 Q. The second issue concerns the age of consent. You
11 were taken to a number of policy documents, brochures and
12 other online information and tools, and the specific
13 provisions about age of consent. You are obviously aware
14 of the variation between State and Territory laws about the
15 age of consent. How important is it for Defence as
16 a national organisation that these provisions be
17 harmonised?

18 A. I don't think we can stress how important. I mean,
19 it's critical. It would take this issue off the table, it
20 would take the potential for confusion off the table. You
21 know, as we saw yesterday in evidence, in certain States
22 people would not have been convicted. I just think it's
23 fundamental.

24
25 Q. And my last question is about culture. There was
26 a discussion with Counsel Assisting and the Commissioners
27 about values and leadership, policy, structures, training,
28 things of that nature, and the encouragement of reporting
29 and respect as aspects of culture. You touched this
30 morning on the impact of the DART, so can I ask you this:
31 what impact has the DART restorative justice process had
32 upon the culture and reform of Defence?

33 A. Over 350 senior officers in the ADF have undertaken
34 restorative engagement activities; some one, some seven or
35 eight, I've done six. You simply cannot - you cannot sit
36 there and engage and listen and - you know, I've both
37 laughed and cried in those sessions. It just completely
38 changes your outlook and the powerful thing from an
39 institutional perspective, from my perspective, is that the
40 most senior leadership of the ADF, for the next decade or
41 so, have been through that process, and I think that is,
42 from an institutional perspective, a very powerful legacy
43 of the DART.

44
45 MS McLEOD: Thank you, Vice Admiral. I have nothing
46 further.

47

1 MR STEWART: Your Honour, I have no further questions for
2 the Vice Admiral. I have just a couple of housekeeping
3 matters which will take a moment or two.

4
5 THE CHAIR: Thank you, Vice Admiral, that concludes your
6 evidence and you are excused.

7
8 THE WITNESS: Thank you, your Honour.

9
10 <THE WITNESS WITHDREW

11
12 MR STEWART: Your Honour, firstly, in relation to
13 Carrol James, I reported yesterday that he was abroad. All
14 that I have more to report at this stage is that he has
15 been abroad for some two months and we don't have any
16 information as to when he is planning to return.

17
18 Secondly, your Honour, we have prepared a summary of
19 the statistics or figures as to allegations or reports of
20 child sexual abuse within the ADF Cadets. I tender that
21 but noting that it is subject still to ADF Cadet
22 confirmation of the accuracy of the figures. This is what
23 we have prepared. Can I tender it on that basis. It may
24 be that it is subsequently replaced with a slightly varied
25 document, although I hope not.

26
27 THE CHAIR: We will make that document exhibit 40-044.

28
29 **EXHIBIT #40-044 SUMMARY OF STATISTICS AS TO ALLEGATIONS OR**
30 **REPORTS OF CHILD SEXUAL ABUSE WITHIN ADF CADETS**

31
32 MR STEWART: In the last 20 minutes or so in the evidence
33 there has been mention of this incident and reporting
34 guide; I may have the name slightly correct. My intention
35 would be to tender that too as soon as it is available.

36
37 MS McLEOD: I will follow that up, your Honour.

38
39 MR STEWART: I am not sure whether your Honour would give
40 it a number now or --

41
42 THE CHAIR: No, I will give it a number when it arrives.

43
44 MR STEWART: As your Honour pleases. Finally,
45 your Honour, there is the unusual question of directions
46 with regard to submissions. A direction has been prepared.
47 It envisages --

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THE CHAIR: Is it agreed?

MR STEWART: I am not sure that it has been canvassed with everyone, so it is not agreed, no. It provides for six weeks for Counsel Assisting, six weeks thereafter for everyone else, and then two weeks thereafter for anyone else to respond to anyone else, which I understand is relatively standard.

THE CHAIR: Does anyone want to say anything to the contrary?

MS McLEOD: We accept that, your Honour.

THE CHAIR: Very well, I will make that direction.

MR STEWART: Your Honour, as far as I'm aware, that is the end of business.

THE CHAIR: Very well. Can we thank everyone for their assistance in this very important case study and we will await the submissions in due course and we will adjourn.

AT 1.10PM THE COMMISSION WAS ADJOURNED ACCORDINGLY

#	1970s [3] - 20027:15, 20035:38, 20040:35	3473 [1] - 20052:2	absolutely [15] - 20023:21, 20023:39, 20026:1, 20026:2, 20026:5, 20026:8, 20034:30, 20038:8, 20044:45, 20045:18, 20045:32, 20053:8, 20053:37, 20065:44	20055:38
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