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Subject: AUSTRALIAN DEFENCE FORCE ACADEMY ADVENTURE TRAINING
INCIDENT (FEBRUARY 2010) - LEGAL PROCEEDINGS 15-16
NOVEMBER 2010

Comment:
Action Area COM-ADFA

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HOT ISSUE BRIEF ADFA 01/10 – UPDATE 2

**ISSUE: AUSTRALIAN DEFENCE FORCE ACADEMY ADVENTURE TRAINING INCIDENT
(FEBRUARY 2010) - LEGAL PROCEEDINGS 15-16 NOVEMBER 2010**


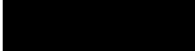
SENSITIVITY: High. The Australian Defence Force Academy (ADFA) officer cadet, who was injured in an adventure training boating incident, is the son of a current serving politician; therefore media interest is probable during the forthcoming trial of the boat's coxswain.

KEY ISSUES:

- An ADFA Army officer cadet was seriously injured in a boating incident on Lake Burrinjuck on 14 February 2010 during an Adventure Training activity. He underwent surgery and convalescence, and has subsequently resumed his training and academic studies at the Academy.
- The Royal Australian Navy (RAN) Petty Officer who was coxswain of the boat that struck the officer cadet has been charged by NSW Maritime and will face trial in the Yass Local Court 15-16 November 2010. He is receiving Commonwealth-funded legal assistance for the court proceedings.
- NSW Maritime has subpoenaed 10 ADFA midshipmen and officer cadets and two staff members as Prosecution witnesses for the trial. The Petty Officer's lawyers have

requested that three staff act as witnesses for his defence. All witnesses are receiving legal briefings and pastoral support in the leadup to the trial.

- The incident is also the subject of ongoing investigations by NSW Maritime, Comcare, and the Australian Defence Force Investigative Service. The Commandant ADFA has also concluded an inquiry into the matter.

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BACKGROUND:

The RAN Petty Officer who was coxswain of the boat has been charged under the *Marine Safety Act (NSW) 1998* with Operating a Commercial Vessel Negligently Causing Grievous Bodily Harm and, in the alternative, Operating a Commercial Vessel Recklessly Causing Grievous Bodily Harm. He has pleaded not guilty to both charges.

The Petty Officer is receiving Commonwealth-funded legal assistance following approval by the Director of Litigation in Defence Legal. The Director of Litigation did not approve indemnity of any imposed fine or financial penalty, but this will be considered upon application should such a penalty be imposed.

TALKING POINTS

- **An Australian Defence Force Academy (ADFA) Army officer cadet was seriously injured in an Adventure Training boating incident in February 2010.**

- The officer cadet subsequently spent six weeks recuperating in the Canberra Hospital and one week in the Duntroon Health Centre.
- In May 2010, the member resumed his academic studies and military training at ADFA. His recovery continues.

Proceedings against RAN sailor:

- The RAN sailor in charge of the Rigid Hull Inflatable Boat (RHIB) at the time of the incident has been charged with two offences under Section 13 of the *Maritime Safety Act 1998 (NSW)*.
- Defence can confirm that the RAN sailor is receiving Commonwealth-funded legal assistance, following approval by the Director of Litigation in Defence Legal.
- Defence will not disclose the specific amount of funding allocated for the RAN sailor's defence in his trial.
- The member is still employed by the RAN.
- If convicted, Defence will review the sailor's future service in the RAN. A significant factor that will affect this decision will be whether the sailor's penalty is imprisonment.
- Comcare, NSW Maritime and ADF Investigative Service investigations:
- ADFA takes these matters very seriously and will carefully consider the findings and recommendations of the reports emanating from the Comcare, NSW Maritime and ADFIS investigations.

- **Commandant ADFA's primary concern is the safety and well-being of his people, therefore he also commissioned an Inquiry to examine potential systemic safety issues that might have been contributing factors in the incident.**
- **Some of the recommendations in the Inquiry Officer's report have already been implemented.**

If pressed:

- **The RAN sailor has been charged under the *Marine Safety Act (NSW) 1998* with Operating a Commercial Vessel Negligently Causing Grievous Bodily Harm and Operating a Commercial Vessel Recklessly Causing Grievous Bodily Harm.**

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