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Subject: AUSTRALIAN DEFENCE FORCE ACADEMY ADVENTURE TRAINING  
BOATING INCIDENT (FEBRUARY 2010) – VERDICT IN CRIMINAL  
TRIAL OF BOAT COXSWAIN - 21 DECEMBER 2010

Comment:  
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HOT ISSUE BRIEF ADFA 01/10 – UPDATE 3**

**ISSUE: AUSTRALIAN DEFENCE FORCE  
ACADEMY ADVENTURE TRAINING BOATING  
INCIDENT (FEBRUARY 2010) – VERDICT IN  
CRIMINAL TRIAL OF BOAT COXSWAIN - 21  
DECEMBER 2010**

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

**KEY ISSUES:**

- The Royal Australian Navy (RAN) Petty Officer who was coxswain of the boat that struck an ADFA officer cadet during an adventure training accident in February 2010 faced trial in the Yass Local Court on 15-16 November 2010.
- The Magistrate presiding over the trial is expected to deliver her verdict on 21 December 2010.
- The Petty Officer is receiving Commonwealth-funded legal assistance for the court proceedings.

- The incident remains the subject of investigations by NSW Maritime, Comcare, and the Australian Defence Force Investigative Service. The Comcare investigation report is likely to be submitted to Defence shortly. Commandant ADFA has also concluded an inquiry into the matter.

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**Date issued: 16 December 2010**

**BACKGROUND:**

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 RAN Petty Officer who was coxswain of the boat was 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 pleaded not guilty to both charges, and was tried in the Yass Local Court in November 2010. The Magistrate who presided over the trial is scheduled to hand down her verdict on 21 December 2010.

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 – TRIAL OF RAN SAILOR  
FOLLOWING ADFA ADVENTURE TRAINING INCIDENT**

- **An Australian Defence Force Academy (ADFA) Army officer cadet was seriously injured in an Adventure Training boating incident in February 2010.**
- **In May 2010, the member resumed his academic studies and military training at ADFA. His recovery continues.**

### **Proceedings against RAN sailor**

- **The incident is the subject of ongoing investigations by NSW Maritime, Comcare, and the Australian Defence Force Investigative Service (ADFIS). The Commandant ADFA has also concluded an inquiry into the matter.**
- **The RAN sailor in charge of the Rigid Hull Inflatable Boat (RHIB) at the time of the incident was charged with two offences under Section 13 of the *Maritime Safety Act 1998 (NSW)*.**
- **A trial was conducted on 15-16 November 2010 in the Yass Local Court. The presiding Magistrate is scheduled to hand down her verdict on 21 December 2010.**
- **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.**

#### **Comcare, NSW Maritime and ADF Investigative Service investigations**

- **ADFA takes these matters very seriously and will carefully consider the findings and recommendations of the investigative reports emanating from Comcare, NSW Maritime and ADFIS.**
- **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:**

- **If the sailor is convicted, Defence will review his future service in the RAN. A significant factor that will affect this decision will be whether the sailor's penalty is imprisonment. A penalty will be imposed on 21 December, in order to give the sailor's legal representatives an opportunity to prepare sentencing submissions. The matter will be adjourned until early 2011, when the submissions**

**will be presented to the court and a penalty imposed.**

- **If the sailor is found to be not guilty, the RAN might still consider taking Administrative action against him, however it is premature to speculate on this matter.**

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