

**Crime and Cowardice ... or should it be the six Cs as in the
Culture of Crime, Cowardice, Childishness, Complacency and Covering Up:**

**Crime at the Australian Defence Force Academy 1986 to 2012 ... Estimates of
the Scale and Diversity of Crime Types**

*Speech by Dr Mark Drummond at the
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[show slide 1] Good morning ladies and gentlemen, and thanks especially to Dr Ben Wadham, Professor Andrew Goldsmith and Professor Mark Halsey of Flinders University here for doing such a great job in organising this symposium on military crime and justice, and for giving me and others the opportunity to talk. I feel extremely honoured to be here and able to share thoughts with everyone else who is here, so thanks very much again to Ben, Andrew and Mark, and everyone who has come along.

[show slide 2] In my talk today I'd like to cover several interconnected matters related to the scale of crime at the Australian Defence Force Academy over its history from the start of 1986 till the end of 2012, to cover ADFA's first fully completed 27 years of operation, where my talk particularly focuses on the quest to build up to what might eventually become a comprehensive set of estimates of the frequency of occurrence of various forms of crime that have been especially prominent at ADFA, these being: firstly, rapes and other forms of sexual assault; secondly, indecent assault and other indecency type crimes falling short of sexual assault as generally understood; thirdly, false imprisonment type crimes occurring when cadets have been locked in cupboards and rooms and forced to sit or stand out – often very dangerously – on ADFA accommodation block window ledges, for example; and finally, crimes arising when ADFA cadets were forced to consume so-called "animal brews" or "horror brews" following commonly held "morals trials". As I'll further explain later, "morals trials" involved a group of cadets finding another cadet guilty of some sort of offence, such as a male cadet having a romantic relationship with a female considered unacceptable in some way, and a typical "sentence" or punishment for this sort of offence was the forced consumption of an "animal brew", where animal brews were concoctions of foods and drinks which were intended to be horrible or ghastly in flavour, but which were also sometimes known to contain cleaning and other chemicals never intended for human consumption and in worst cases poisonous.

My speech will also touch on the Australian Defence Force's obligations under workplace health and safety laws to provide safe and healthy working environments for its employees, including its ADFA officer cadets, and criminal offences that may arise when employers negligently, recklessly or intentionally fail to keep their people safe and healthy, which in worst cases can reach the scale of corporate manslaughter.

[show slide 3] When thinking about the title of my speech here today, the words "Crime and Cowardice" came to mind as a title with a ring to it much like the title of Jane Austen's famous novel "Pride and Prejudice" – which, by coincidence, was first published in 1813 almost exactly two centuries ago. And whilst I admit that it's pretty small-minded to fixate on and exaggerate the significance of a speech title, I nevertheless felt these "crime" and "cowardice" words were significant enough to use as the title of my speech today. But I've also formed the view that some

other words starting with the letter C also fitted the bill, so the title of my talk here now has a sort of preamble that reads:

Crime and Cowardice ... or should it be the six Cs as in the
Culture of Crime, Cowardice, Childishness, Complacency and Covering Up:

The heart of the title, then, is:

Crime at the Australian Defence Force Academy 1986 to 2012: Estimates of the Scale and Diversity of Crime Types

It's obviously self-evident that serious crimes are bad to the point of unacceptable, and that officers who have committed crimes at ADFA should be removed from the ADF as soon as their crimes are confirmed, but it's also self-evident that many of the crimes committed by ADFA cadets against others, and probably a majority, have been committed by males against females over whom the perpetrating males have a significant physical strength advantage, or by two or more perpetrators acting together against a targeted, often ambushed and effectively defenceless individual victim, in ways that can only be considered the epitome of *cowardice*.

The rapes and many of the other crimes carried out at ADFA have been far too serious to be labelled as merely "childish", but many of the crimes perpetrated by ADFA cadets against their fellow cadets have been things like locking cadets up in rooms and cupboards, and forcing cadets to drink the ghastly and sometimes poisonous concoctions known as "animal brews" or "horror brews", as mentioned earlier, and woofing – in which a male cadet's genitals are sucked by a vacuum cleaner, and sending a cadet to run naked outside the bounds of ADFA in an activity called the "running man". And what all of these crimes have in common is their utter craziness to the point of being grossly stupid and immature – the antithesis of maturity and substantive adulthood; things one would expect from a delinquent child, rather than someone supposed to be developing adult leadership qualities.

An officer cadet who has been unable to maintain self-control and self-discipline, to the point of succumbing to peer pressure or otherwise becoming involved in these crazy and grossly childish activities, couldn't *possibly* be considered mentally stable enough or reliable enough to be allowed to remain an officer in the ADF even if these activities weren't of criminal gravity, and when the criminal gravity is factored in, the retention of childish criminals within ADF officer ranks can only be considered scandalous.

The word "complacency" appears in the speech title here according to the rationale that Government and Defence leaders responsible for ADFA and Australian national security more broadly since ADFA began operations in 1986 can be judged to be utterly complacent by allowing crime, cowardice and childish stupidity to occur on such a widespread systemic scale, when it is blatantly obvious that officers who have been criminals, cowards and childish clowns at ADFA can't possibly be relied upon to have the sound judgement, stability and integrity of character to support Australian national security in any substantive sense. At best, officers with such defective backgrounds constitute unacceptable risks to Australian national security and the ADF's organisational culture and integrity.

The reference to covering up in the speech title needs little elaboration in view of the massive body of evidence that has emerged in recent years about significant numbers of crimes at ADFA, efforts to sweep these crimes under the carpet, and comprehensive failures to properly address these crimes, but it's worth adding that acts of covering up invariably compound the suffering of victims, and can again be considered cruel and cowardly in the extreme.

[show slide 4] I'm now going to provide my own estimates of how many rapes and sexual assaults have taken place at ADFA since it began in 1986, with utmost respect and sympathy to all direct victims of these horrid sex crimes and other crimes I'll be talking about today, and also to indirect victims of these crimes, including the families and friends of direct victims and witnesses who have suffered through their attempts to assist victims and the pursuit of justice.

The table shown on the PowerPoint slide [slide 4] that is now being shown provides estimates I came up with in a December 2012 submission to the Senate Inquiry into the report of the review of allegations of sexual and other abuse in Defence, conducted by DLA Piper, and the response of the Government to the report.

Table 1: Estimated Numbers of ADFA Sexual Assaults from 1986 till 2012

		Number of Perpetrators		Totals
		single perpetrator	multiple perpetrators	
Gender of Victims	female victim	30 to 200	10 to 100	40 to 300
	male victim	10 to 100	30 to 600	40 to 700
Totals		40 to 300	40 to 700	80 to 1000

As I stated in paragraph 12 of my December 2012 Senate Inquiry submission, my 28 January 2004 submission to the 2004 Senate Inquiry into the Effectiveness of Australia's Military Justice System included as follows in paragraph 16, so here goes – I said in 2004 that ...

My estimation is that there have been between 10 and 100 or so gang rape victims at ADFA alone since it began operations in 1986, and many more victims of physical and sexual abuse and intimidation that falls short of rape as such – in addition to numerous other crimes. I'd guess that many gang-rapists must still be serving within the ADF and believe these need to be identified and handed over to the police and courts without further delay.

As I stated in paragraph 13 of my December 2012 submission, when I look back at my 2004 submission, including the extract as above, I admit that I could have worded many parts of that submission better. As one example of this, I could have included estimates for *all* forms of sexual assault by ADFA cadets against other ADFA cadets, not just gang rapes against female victims. Table 1 as shown on the slide here [slide 4] contains my current estimates of the numbers of sexual assaults perpetrated against ADFA cadets by other ADFA cadets from 1986 to 2012, based on what I was already aware of in 2004 and information that has come to light since, including through the DLA Piper Report and associated processes. My 2004 estimate only contained the 10 to 100 estimate shown in the female victim row and multiple perpetrator column in Table 1 here, but Table 1 now contains estimates broken down by victim gender and perpetrator numbers, where the widespread practice known as "woofing" accounts for the majority of the male victim cases in the estimates presented here.

I'd now like to just briefly return to an explanation of how I came up with the estimate that there'd been between 10 and 100 gang rapes of ADFA cadets as stated in my 2004 Senate Inquiry submission, this being the estimate that Defence Minister Robert Hill tried to shoot down in a Senate Additional Estimates Hearing [show slide 5] on Wednesday 18 February 2004 in which Minister Hill stated that:

... Mr Chairman, I am deeply concerned about the path the Committee appears to be taking. ... The Committee, for example, agreed to publish a submission which claims that there have been anywhere between 10 and 100 victims of gang rape at ADFA and that the perpetrators of these crimes are still within the ranks of the ADF. The claim was completely unsubstantiated.

Even the author of the submission acknowledges his estimate is based solely on rumours he had heard almost 20 years ago. ... In fact, Mr Chairman, there have been no reported allegations I am advised of gang rapes in the 18 years of its existence.

Well as the author of the 2004 submission that Minister Hill had such a problem with, as above, I completely reject the Minister's absurd suggestion that my estimate was "based solely on rumours [I] had heard almost 20 years ago". At ADFA in 1986 and 1987 when I was a Navy cadet, or midshipman as we were known, I heard five or so proximate and quite vivid and detailed accounts of horrible gang rapes, where I acknowledge the possibility that some of these accounts may have overlapped, such that I may have heard five different accounts of just three or four separate gang rapes. I have also kept a very detailed folder of newspaper clippings relating to military justice matters from the 1990s onwards, having read multiple newspapers on most days throughout the 1990s. I began a PhD at the University of Canberra in 1999, and to support my PhD research I thoroughly read *The Canberra Times* and *The Australian* newspapers nearly every day these papers were published from 1999 till 2004 when Minister Hill attacked my submission and credibility as he did on 18 February 2004.

I attended ADFA full time in its first three years of operation from 1986 to 1988, and again in 1993 and 1996. I also attended ADFA part time in 1992, 1994 and 1995, though my attendance in 1995 was close to full time. So by the end of ADFA's first 11 years of operation, at the end of 1996, I'd attended ADFA for eight of these 11 years, and full time for five of these years, so very few other ADFA graduates would have spent more actual working days at ADFA than I had.

By 28 January 2004, when I sent my submission in to the Senate Inquiry into Military Justice, my wife and I had also separately heard further accounts of females being gang raped at ADFA in various work and social settings. We've since heard even more accounts of ADFA gang rapes that occurred before 2004.

[show slide 6] Now paragraphs 4 and 5 on pages 3-4 of my 28 January 2004 Senate Inquiry submission included complete transcripts of a 5 August 2003 ABC radio news report titled 'Naval officer tells medical inquiry of gang rape', which is still today in 2013 available on the ABC website as shown in the slide now being shown, and a 6 August 2003 Australian newspaper report titled 'Naval officer alleges gang rape at academy'.. [show slide 7] And as shown in the slide I'm now showing here, the ABC report stated that a "Lawyer for Doctor McKenzie John Ley ... asked the Lieutenant Commander if she had been gang raped by a group of male cadets in 1986. The naval officer replied yes." This ABC report also stated that "The Lieutenant commander said she had made a formal complaint about the rape." [show slide 8] And as this next slide shows, the 6 August 2003 Australian newspaper report similarly stated that "A SENIOR female naval officer was gang-raped by a group of cadets at the Australian Defence Force Academy, a medical board inquiry heard yesterday", and "The officer, whose name has been suppressed, told the hearing in Perth she had filed a complaint after being gang-raped in 1986."

Now both of these ABC and Australian newspaper reports had been online for Minister Hill and Defence media monitors and the rest of the world with access to the internet to view continuously from 5 and 6 August 2003 respectively, and these reports were certainly able to be viewed online on 18 February 2004 when Minister Hill made his claim in Senate Estimates that "there have been no reported allegations I am advised of gang rapes in the 18 years of [ADFA's] existence".

[show slide 9] In addition to these August 2003 media reports, my 28 January 2004 submission that Minister Hill attacked so strongly on 18 February 2004 was also made in the knowledge of a detailed report by Brett Martin titled 'Ranks close on academy rape claims', which appeared on page 24 of the 14 October 1997 edition of *The Bulletin* magazine, as part of a broader Cover Story titled 'Rape, Loot & Pillage'. [show slide 10] So we can see that this report says that:

A female naval cadet's claims of pack rape and a subsequent cover-up could trigger a major shake-up at the prestigious Australian Defence Force Academy in Canberra. Internal RAN documents obtained by *The Bulletin* show senior officers are aware of the allegations but have failed to hold an inquiry. The documents focus on the case of a woman who claims to have been sexually assaulted in her room in the academy in 1991. The woman provided a statement to naval investigators in March 1996. Her statement says the rape was perpetrated by three senior army cadets. She claims she reported the attack to a senior officer at the time and was examined by a sergeant in the sick bay, but that no further action was taken. According to the statement, she then decided not to press her allegations because of an atmosphere of intimidation which prevailed at the academy, and which affected other female cadets as well as herself. **Suicide:** "This often happens to females at the academy but there is a code of silence inherent throughout ADFA," she claims, adding that she and "other victims" feared they could damage their careers by making formal complaints, or be branded as "sluts" if they tried to make trouble. She said she believes one of her friends who had committed suicide was "a victim of this behaviour". The cadet also gave investigators the names of four other female cadets she believed knew details of other assaults. Present while she made her statement were a number of senior officers, including a member of the Command Legal Office who is quoted in the documents held by *The Bulletin* as saying: "... she was aware of several such incidents at ADFA but would need details to establish if this incident was one she was aware of".

...

Bronwyn Bishop, the minister for defence science and personnel, has called for a full report into the allegations raised by *The Bulletin*.

[show slide 11] I obtained a copy of the report in *The Bulletin* I've referred to just now after reading the article 'Blokey forces still deter women', by Rachel Hawes, Michael Bachelard and Misha Schubert, which appeared in The Australian newspaper on 13 June 1998, on page 7. This report, which I have kept in my newspaper clippings folder since 1998, included as follows:

Late in 1996, three navy trainees aged between 17 and 21, some at the Australian Defence Force Academy, complained of sexual assault and harassment. **PACK RAPE AT ADFA**
A female navy cadet complained in 1996 of a rape she said happened at the Defence Force Academy in 1991, according to a story in *The Bulletin* late last year. The magazine quoted internal navy documents, which reported that the rape was perpetrated by three senior army cadets.

[show slide 12] A Cover Story by Janine Perrett on Channel Nine's *Sunday Program* on Sunday 23 November 1997, titled 'Sexual Harassment in the Military', covered cases overlapping those referred to in Brett Martin's 14 October 1997 *Bulletin* Cover Story as above, and the following summary transcript of this story has been available online at least since 2004 when I confirmed its existence online, so I'm sure this summary transcript would have been available online for Minister Hill to view on 18 February 2004 when he attacked my 28 January 2004 submission and claimed that that "there have been no reported allegations I am advised of gang rapes in the 18 years of [ADFA's] existence". This summary transcript states that:

Following several disturbing claims and threatened lawsuits, the government last month ordered an inquiry into sexual harassment at the Australian Defence Force Academy in Canberra. This week, a number of women reveal what happened to them and talk about their cases, some of which prompted the inquiry. One reveals: "He raped me...in my room." Another says, "Two men came into my room and one put his hand on my thigh and then moved it up to my vagina." Two women who have never spoken out before also talk about their experiences.

[show slide 13] I became aware of the 23 November 1997 Sunday Program Cover Story, as above, after reading about it in a Monday 24 November 1997 article titled 'Rapists in Ranks, General Admits', by Matthew in *The Daily Telegraph*, on page 18, that I've again kept in my clippings collection since 1997. This article, as shown in the current slide here [slide 13], says that:

ONE of Australia's top soldiers has admitted the Defence Force is harbouring rapists in its ranks. ... Defence Science and Personnel Minister Bronwyn Bishop launched an investigation into claims of sexual harassment and abuse in the Defence Force after several harrowing complaints from servicewomen. One, from the elite Australian Defence Force Academy, said her claims that she was raped by cadets were ignored by senior officers.

The 1997 and 1998 media reports as above make it very clear that Minister Hill's parliamentary and Liberal Party colleague Bronwyn Bishop, as Defence Science and Personnel Minister, "launched an investigation into claims of sexual harassment and abuse in the Defence Force after several harrowing complaints from servicewomen", this being the investigation carried out by Bronwen Grey and others. It is also clear that these 1997 and 1998 media reports refer to ADFA gang rape cases in 1991, and possibly other years shortly before or after 1991 as well, so these cases couldn't have been any of the cases I heard accounts of at ADFA in 1986 and 1987, and therefore must represent additional cases over and above those I knew of from 1986 and 1987.

[show slide 14] So based on my own recollections of proximate accounts I heard at ADFA between 1986 and 1996, and especially in 1986 and 1987, and the media reports I'd seen, I knew damned well that there'd definitely been at least 10 gang rapes of female ADFA cadets by males cadets by early 2004 when I sent in my Senate Inquiry submission that Minister Hill attacked with such frenzied zeal, so I felt extremely confident in my use of 10 as a lower limit of my estimation range, and I offered 100 as an upper limit that was a single decimal order of magnitude more than the lower limit of 10, just trying to use round figures.

Minister Hill's attack on my submission and his grossly inaccurate claim that "there have been no reported allegations I am advised of gang rapes in the 18 years of [ADFA's] existence" clearly indicated that Minister Hill was intentionally, and with reckless disregard for the actual truth, turning a blind eye to what my 28 January 2004 submission actually contained, and the public record generally, which included significant media reports from 1997, 1998, 2000 and 2003, as shown on slides just now, and the wealth of knowledge held by Bronwyn Bishop, Bronwen Grey, Peter Dunn and others, not to mention numerous documents held on file within ADFA, the Defence Department and the Australian Federal Police (AFP).

So Minister Hill could easily have and clearly should have ordered the Defence Department to collate together all documents held at ADFA and throughout the ADF which contained allegations of sexual assaults and other serious ADFA crimes, and he could have cooperated with the police to further enhance the accuracy and completeness of such records and information, but he instead chose to display wilful blindness, and lead a significant cover-up which has had the disastrous effect of delaying justice for victims by seven or eight years or so, all else being equal. Minister Hill could have used my 28 January 2004 submission and other sources of the truth readily available to him to do all the things in 2004 that Minister Stephen Smith has done in 2011 and 2012. Some victims have probably died over these intervening seven or eight years, through suicide or otherwise! Many must have suffered horrendously, in numerous ways.

[show slide 15] Anyhow, to cut a long story short, I'm pretty confident in the accuracy of these estimates shown again in this Table 1 on the slide here [slide 15], and I've recently spoken to some people involved in the ongoing investigations that have followed the DLA Piper review who have

told me that my estimates can be viewed as quite modest and mild, and that there may well have been even more than the numbers indicated here.

[show slide 16] But the estimates shown in this Table 1 only relate to rapes and other serious sexual assaults at ADFA which are in most or all cases crimes with maximum prison sentences of 10 years or more. And for every one of these serious sex crimes that has taken place at ADFA, it's extremely likely that there's been between one and ten or so lesser sex crimes carried out at ADFA in the form of indecent assaults and other acts of indecency, where this range of estimates is certainly backed up by the increasingly deepening public record of evidence of what has happened at ADFA throughout its history, and also by criminological research and statistics, and common sense perspectives also, which very strongly suggest that the frequency of lower level crimes is generally much higher than that of higher level crimes.

So Table 2 on the slide now being shown [slide 16] extends beyond Table 1 on rapes and other sexual assaults to also include indecent assaults and other forms of crime which I'll soon discuss further. And I should just explain that the estimates in this Table 2 include, firstly, overall estimates for the full 27 years from the start of 1986 till the end of 2012; secondly, estimates *per year*, found by dividing the overall number by 27; and thirdly, and finally, estimates *per year per division*, where the divisions were the ADFA cadet subdivisions aligned with ADFA's accommodation blocks, and throughout ADFA's history there has been about 20 divisions in existence., so these "per division per year" crime number estimates are the "per year" estimates divided by 20 for each set of crimes shown in Table 2.

I've felt that these "per division per year" estimates are important as current and past cadets could probably best relate to what has happened in their own divisions during their time at ADFA.

[Table 2 and more of the speech follows on the next page]

Table 2: Estimated Numbers of Selected Crimes at ADFA from 1986 till 2012

Classes of Crime	Examples of Crime Described as Generally Described or According to ADFA Culture Jargon	Maximum Prison Sentence	Estimated Numbers Over the 27 Years From 1986 to 2013 = <u>E1</u>	Estimated Number Per Year = <u>E2</u> = $E1 \div 27$	Estimated Number Per Year Per Division = <u>E3</u> = $E2 \div 20$ = $E1 \div 540$
Rape and Other Sexual Assaults	rape, gang rape, "woofering"	10 years or more	80 to 1000	3 to 37	0.15 to 1.9
Indecent Assault and Other Indecency Related Crimes Short of Sexual Assault	indecent assault, "running man" (previously known as "beaming" at Duntroon, in pre-ADFA times prior to 1986)	10 years or less	500 to 5000	19 to 185	0.9 to 9
False Imprisonment or Forcible Confinement	locking a person in a cupboard or room, or forcing them out on to an accommodation block window ledge	Would vary depending on the danger to health, but certainly 10 years or more for worst cases	500 to 5000	19 to 185	0.9 to 9
Forced Consumption of Toxic or Otherwise Hazardous Chemical	forced consumption of a "horror brew" or "animal brew" following a "morals trial"	Would vary depending on the danger to health of the chemicals consumed, but certainly 10 years or more for worst cases akin to assault occasioning grievous bodily harm or reckless endangerment	500 to 5000	19 to 185	0.9 to 9

In relation to the estimated numbers appearing in Table 2 here, I've used the same 500 to 5000 estimates for all three of the crime categories listed in the bottom three rows of this table, so these estimates are clearly only very tentative, and I'd readily accept better estimates as they may emerge from future research and analysis efforts, and I'd personally like to do a much better job with these estimates in the future. So I won't discuss these admittedly very tentative and far from substantively based estimates any further. I *do*, however, wish to clarify how the various ADFA crimes listed in Table 2 here line up with specific sections of Crime statutes, and I'll specifically refer to the Australian Capital Territory (ACT) *Crimes Act 1900* for purposes of illustration here, noting also that ADFA is located within the ACT.

[show slide 17] In relation to false imprisonment type crimes that certainly seem to have been committed when cadets have been locked in cupboards or rooms, or have been forced out on to accommodation block window ledges one or two stories above ground level, and so on, the Australian Capital Territory *Crimes Act 1900*, in Section 34 on **Forcible Confinement**, states that "A person who unlawfully confines or imprisons another person is guilty of an offence punishable, on conviction, by imprisonment for 10 years", and the case law in relation to this type of crime seems to make it clear that Courts have very broadly interpreted the words "confines" and "imprisons" or similar wording in different statutes, and have focused on the *intention* to deprive the victim of freedom of movement in a substantive way. So the main point here is simply that locking people up in rooms and cupboards, and forcing them out on to window ledges, and so on, really can be viewed as *very* improper to the point of criminal levels of culpability. ADFA's leadership could also be viewed as negligent – and possibly criminally negligent – in view of workplace health and safety laws, for allowing and not doing enough to eliminate the occurrence of inherently dangerous practices like locking cadets in confined spaces and forcing cadets out on to window ledges.

[hold up Bruce Moore's blue covered *Lexicon of Cadet Language* book] With respect to crimes associated with the forced consumption of a "horror brew" or "animal brew", the highly significant 1993 book, and here it is [show the book], called *A Lexicon of Cadet Language: Royal Military College, Duntroon, in the Period 1983 to 1985*, by Dr Bruce Moore, describes an "animal brew" as 'tea' or coffee' made with nasty extra ingredients such as "rotten milk, vegemite, butter, peanut butter, detergent, or washing powder", so "whatever was in the ... cupboard that could be assumed not to kill".

[show slide 18] Bill Cowham's also very significant 1987 dated pamphlet titled *Lego Lingo: the Cadets' Language* similarly defines an "animal brew", [show slide 19] as shown near the bottom of the slide here, as "A brew that contains anything and everything, from different forms of alcohol through to any type of edible or inedible food. Everything is mixed together and you are either thrown into it on your birthday, or forced to drink it as a punishment at a morals trial". [show slide 20] And Bill Cowham defines a "morals trial", as shown about mid way down the slide that's now showing, as "A public trial full of invented evidence that punishes a sinner who has committed an atrocity, usually with a Denthor Argabag", [show slide 21] where a "Denthor Arabag", is defined by Cowham as a civilian female considered ugly by nasty cadets, where I hope everyone here shares my outrage that any cadet would ever consider it fit and proper to label any female – or male for that matter – as ugly under any circumstances. [show slide 22] Cowham goes on to explain that "the verdict" in these morals trials "is left to the gathered masses who inevitably find the sinner guilty", and "A typical punishment is cleansing by drinking an animal brew".

[show slide 23] So how do these animal brews line up against crime laws? Well in the Australian Capital Territory *Crimes Act 1900*, Section 27 on "**Acts endangering life etc**" states that "A person who intentionally and unlawfully ... administers to, or causes to be taken by, another person any ... poison or any other injurious substance likely to endanger human life or cause a person grievous bodily harm ... is guilty of an offence punishable, on conviction, by imprisonment for 10 years."

Section 28 of the ACT Crimes Act, on "**Acts endangering health etc**", then states that "A person who intentionally and unlawfully ... administers to, or causes to be taken by, another person any poison or other injurious substance with intent to injure or cause pain or discomfort to that person ... is guilty of an offence punishable, on conviction, by imprisonment for 5 years."

My own recollection from when I was an ADFA Midshipman in 1986 and 1987 is that cleaning agents like Ajax and Brasso certainly occasionally made their way into these animal brews, and there was a general tendency for cadets to recklessly push boundaries by adding substances the dangers of which were less well known. So this comes back to Bill Cowham's claim that animal

brews could contain "whatever was in the ... cupboard that could be assumed not to kill". At face value, Cowham's description indicates that chemicals that could cause bodily harm, or grievous bodily harm might be permitted in animal brews, just as long as they wouldn't kill.

So a hugely important point here, in line with the legal notion of recklessness, is that there has *never* been a cadet in ADFA's 27 year history who, whilst still a cadet at least, was a formally qualified and recognised expert on food toxicity, and the risks and dangers to life and health arising through the consumption of any and all of the myriad foods, drinks and other chemicals not intended for human consumption that made their way into these animal brews, to the point of being able to judge safely what could and couldn't be assumed to kill. Furthermore, no cadet passing through ADFA would ever have had complete knowledge of the medical histories of cadets forced to consume these animal brews to the point of being sure that the animal brew being consumed was safe for those individuals. ADFA's formal leadership knew of morals trials and animal brews, or should have known of them, but again did far from enough to eradicate this scandalously reckless practice, and again could be considered negligent, to the point of criminal negligence, and indeed vicariously reckless, for allowing these highly risky and reckless forced animal brew consumption activities to carry on as a common part of ADFA's cadet culture.

[show slide 24] I'm just about out of time now, and I'm glad I've had a chance to offer some estimates and perspectives which I personally think are relevant and important to Australian military justice generally, and in relation to ADFA in particular, but I'd like to close with some statements by Neil James, the Head of the Australian Defence Association, as shown on the Four Corners program titled 'Culture of silence', first shown on TV on 11 June 2011. Neil James stated, in relation to bastardisation at the Royal Military College, Duntroon, that:

My golden rule when I was at Duntroon, I had several golden rules, and one was you never did anything to anyone else that wasn't done to you. There had to be a military point to it and the person who was on the receiving end had to see the humour of it. And if you couldn't fulfil those three golden rules, you didn't do anything to anyone. Not everyone followed ah those type of golden rules. ...

In line with the threads of thinking I've attempted to emphasise in the past few minutes, Neil James, when a Duntroon cadet at least, couldn't possibly have been perfectly accurate in his assessments of whether someone on the receiving end of some form of bastardisation could "see the humour of it", and I'd love to hear Neil's justification for bastardisation on the basis of the "military point to it" that he claims was always there whenever he dished it out. Neil James wasn't an expert in emotional responses to various forms of bastardisation, or hazing, carried out at Duntroon. He had no formal qualifications or expertise in judging such emotional responses, and it was reckless of him to presume to be able to accurately judge such emotional responses. Some cadets might have acted as if they saw humour in something being done to them just to get it over and done with, but may really have felt badly violated by what was being done to them, with the risk of serious delayed adverse impacts to their health and mental health, and possibly even the dangers they could project on to others, with Julian Knight, the 1987 Hoddle Street mass murderer, providing chilling proof that these concerns can never be validly dismissed.

Further on the Julian Knight situation, just briefly, well many of us have often said that the ADF obviously needs to rid itself of deviants and criminals, but, at the same time, cases like the Julian Knight case and other similar cases in America and elsewhere highlight just how critically important it is to handle every stage of due process properly with military justice matters, including the stage of separating people from the ADF back into the civilian community in a state of psychological, financial and overall wellbeing that is stable enough to the point where they're unlikely to endanger community members as Julian Knight did so lethally and tragically on the 9th

of August 1987. These transition challenges can apply to people who have been perpetrators of crime or victims, or both, and need to be addressed seriously through carefully designed rehabilitation processes whether or not a person spends time in prison after they separate from the ADF.

[show slide 25] To finish off, I'd just briefly like to refer to the "running man" activity that ADFA cadets were forced to undertake as punishments following the crazy "morals trials" I referred to earlier, where the "running man" activity involved a male cadet running around naked outside the bounds of ADFA, usually to a prescribed location, such that the cadet was required to risk being seen naked by other members of the public.

Section 392 of the *ACT Crimes Act*, in Section 392 on "**Offensive Behaviour**", states that "A person shall not in, near, or within the view or hearing of a person in, a public place behave in a riotous, indecent, offensive or insulting manner", and that this offence carried a maximum penalty of a \$1000 fine. The victim of this running man practice was obviously not the person with the principal intent to run around Canberra naked, so the people who intended for it to occur are the ones who appear to be carrying the criminal intent and liability for this practice, but I just mention this in the context that ADFA cadets clearly seemed to have a pervasive "above the law" or "complacent disregard of law and societal norms" mentality such that they seemed blissfully unconcerned with the offensiveness and apparent criminality of behaviours that formed an all too regular and normalised part of ADFA's culture and day to day life.

Well that's my speech, so thanks for kindly listening to what I've tried to present, and I'd be happy now to answer any questions in relation to my talk here.