



Defence Abuse Response Taskforce

ASSESSMENT NOTE

Name: Julian KNIGHT

DOB: 4 March 1968

CMS: 2013/1350

TRIM Record Number: D13/7518

Summary

PLEASE NOTE: This complaint contains out of scope allegations.

This complaint contains one case:

Case 1, which involves allegations of physical abuse and workplace bullying and harassment occurring at RMC Duntroon between January and July 1987.

Case 1

Date of incident(s): January – July 1987

Rank/position of subject of abuse: Staff Cadet

Location of incident: RMC Duntroon and various 'nightclubs' in Canberra

Alleged abuser(s) (including rank): SCDT Dale BURNSIDE; CPL William YATES; SCDT James MUNTZ; CPL Matthew THOMSON; LCPL Craig THORP; SCDT Nicholas EVERINGHAM; CSM Phillip REED; SCDT Robert HAMBURGER; WO2 Siegfried REMIN

Witness(es): Various 3rd class cadets in 15 Platoon, Kokoda Company, including SCDT Steve RIDD; CAPT Sue STONES; MAJ VERCOE

Brief description of matter:

The complainant alleges he was targeted specifically for 'bastardisation' by 2nd and 1st class cadets while he was a 3rd class cadet at RMC Duntroon. The complainant notes that some of the conduct alleged was "*minor and vexatious in nature*", but occurred on a daily basis, making his "*tenure at the college unviable.*" Main elements of the conduct alleged by the complainant include:

- Regular repeated 'Show Parades'. On one occasion, the complainant alleges SCDT Dale BURNSIDE required him to conduct Show Parades until 0200 hours (the complainant notes this was against Standing Orders).
- Leaps and Jumps – during one session of leaps, the complainant alleges he was punched twice in the stomach by CPL William YATES.

- Being yelled at in corridors, sent on nonsensical/impossible errands or given extra duties which were designed to delay the junior cadet and get them in trouble, including being charged for being 'absent from duty'.
- Regular theft of personal property and articles of clothing – the complainant notes one example where a 1st class cadet, SCDT James MUNTZ, stole his cummerbund because his was dirty, which meant the complainant could not attend the dinner Mess for a week.
- Orders for the complainant to take off items of clothing the 1st and 2nd class cadets objected to – for example, a jumper while on local leave, and trouser braces during a sports carnival.
- Having his room bished, including having his room hosed, and 'bombed' with cocoa/flour/shaving cream.
- Being bashed (repeated punches, kicks and knees to the head and body) by five senior cadets from Kapyong Company after the complainant tackled a Kapyong Company senior cadet to prevent him from bishing his room during March 1987.
- Being singled out for 'special treatment' by 1st class cadets CPL Matthew THOMSON, LCPL Craig THORP and SCDT Nicholas EVERINGHAM – including being 'harrassed' whenever the complainant crossed their paths, for example verbal abuse and attempts at tripping the complainant as he passed them in the hallway. On one occasion, LCPL THORP poked the complainant in the chest with a bayonet and verbally abused him for disregarding an order from SCDT EVERINGHAM the previous night.
- SCDT Robert HAMBURGER 'constantly' harassed the complainant during parade rehearsal, by verbally abusing the complainant and kicking his heels throughout the rehearsal. On another occasion, SCDT HAMBURGER grabbed the complainant by the front of the shirt, and pushed him into the wall after the complainant attempted to walk away from SCDT HAMBURGER yelling at him. The complainant notes SCDT HAMBURGER, while holding the complainant against the wall, repeatedly threatened – *"I oughta' punch you in the head. I oughta' punch you in the fuckin' head."* The complainant notes: *"I believed I was going to be attacked at any moment."* The complainant eventually pushed SCDT HAMBURGER away from him.
- A group of 3rd class cadets, at the instigation of senior cadets, allegedly held the complainant down in his room and completely shaved off his sideburn on the right side of his face.
- As retaliation for stabbing CSM REED (see Out of Scope allegations, below), the complainant notes senior cadets disabled his car by removing essential engine parts and stole \$250 worth of army-issue uniforms and equipment from his rooms.

The complainant also alleges some abuse by instructors at RMC Duntroon, including the following incident:

- Threatened with physical abuse by WO2 Siegfried REMIN – on being caught cheating on a written exercise, WO2 verbally 'abused' the complainant, who noted that if the complainant failed to improve, the complainant would be taken on one of WO2 REMIN's walks, where *"the person who's with [WO2 REMIN] falls down and breaks their nose and [WO2 REMIN] grazes [his] fist and knee helping them up."*

Are parties involved in other complaints? Yes No

Detail: Dale BURNSIDE is identified as an alleged abuser in the complaint of N [REDACTED], and is involved as a referee in the complaint of [REDACTED]

Is this case in scope? Yes No

Reasons

Did the alleged abuse occur on or before 11 April 2011? Yes No

Was the matter reported to the Taskforce before 31 May 2013? Yes No Date: 24 April 2013

At the time, was the subject of the alleged abuse a member of Defence? Yes No

If yes, please tick appropriate box:

- satisfied because other document(s) clearly confirms service at that time (eg Defence medical records, copies of transcripts, results of DFDA proceedings, or other Government records).
Details: Certificate of Service, provided by complainant (see TRIM ref D13#316678DOC)

At the time, was/were the alleged abuser/abusers a member/members of Defence? Yes No

If yes, please tick appropriate box:

- confirmed by service record

- SCDT Dale BURNSIDE (see TRIM ref D14#97550DOC)
- CPL William YATES (see TRIM ref D15#11205DOC)
- SCDT James MUNTZ (see TRIM ref D15#11204DOC)
- CPL Matthew THOMSON (see TRIM ref D15#11185DOC)
- LCPL Craig THORP (see TRIM ref D15#11186DOC)
- SCDT Nicholas EVERINGHAM (see TRIM ref D15#11191DOC)
- CSM Phillip REED (see TRIM ref D15#11193DOC)
- SCDT Robert HAMBURGER (see TRIM ref D15#11199DOC)
- WO2 Siegfried REMIN (see TRIM ref D15#11197DOC)

Is there sufficient connection with employment in Defence? Yes No

The abuse alleged is:

- sexual abuse
- physical abuse
- sexual harassment
- workplace harassment and bullying

Detail: It is noted that the complainant has provided an account of his entire experience at RMC Duntroon, between 13 January 1987 to 10 July 1987, and includes some details of incidents post his discharge from Defence. Elements of the complainant's account, therefore, have been accepted as context or alleged impact rather than separate allegations of 'abuse'. For example, the complainant details a number of performance management discussions, and course ratings he received during his time at RMC and following certain RMC exercises. These elements are considered context to his overall allegations of 'abuse' at RMC Duntroon.

Other allegations, which would not be considered 'abuse' on their own, are taken as part of the overall campaign of alleged bullying and harassment by 1st and 2nd class senior cadets. For example, the complainant alleges senior cadets "went as far as sexually harassing my [civilian] girlfriends" while the complainant was on local leave. While it is noted this allegation would otherwise be out of scope, due to the complainant's girlfriend not being a member of Defence, the incident is taken as part of an overall practice by RMC Duntroon senior cadets to target / 'pick on' the complainant while on base and during local leave in Canberra.

Finally, it is noted that the complainant's account of his involvement in the Hoddle St shootings, and the subsequent police investigation and *R v Knight* hearing, is considered context.

Is the account of abuse plausible (has the appearance of reasonableness)? Yes No

If yes, for the following reasons:

- the complainant has provided the personal account of abuse by statutory declaration
- the complainant has provided details of the alleged abuse, including for example, names of alleged abusers and witnesses, locations and times of the alleged abuse
- Defence records confirm the complainant and identified alleged abusers were serving in Defence at the time of the alleged abuse (see **Defence Service Records**)
- media reports containing similar allegations corroborate the complainant's allegations of abuse (the complainant has provided several media articles, dated November 1988, which make references to the complainant's allegations of 'bastardisation' at RMC Duntroon. The complainant also alleged the ABC Documentary 'Hoddle St', aired 14 December 1988, included an interview with MAJGEN Murray BLAKE, Commandant of RMC Duntroon, who allegedly conceded the complainant "had been subject to two acts of 'bastardisation' whilst at RMC"- see Personal Account)
- while the complainant did not report the abuse, the complainant has provided a reasonable explanation for not reporting the abuse at the relevant time (see **Personal Account**)
- the complainant names witnesses to the abuse who could corroborate or verify the complainant's account of abuse if asked (see **Personal Account**, and TRIM ref **D14#87081DOC**)
- documents or information provided to the Taskforce describe abuse that is consistent with the complainant's allegations (see **analysis of locational abuse at TRIM ref D14#105067DOC**)
- the complainant has advised that documents are available to be obtained by/provided to the Taskforce, which describe the abuse consistently with the complainant's allegations to the Taskforce (see **Personal Account, DLA Piper sheet/information, Correspondence to the Taskforce, Record of conversation with the complainant**)
- other complainants to the Taskforce allege similar abuse at the same location during a similar timeframe (see **analysis of locational abuse at TRIM ref D14#105067DOC**)
- other complainants to the Taskforce have alleged abuse of a similar nature by an alleged abuser (Dale BURNSIDE) identified by the complainant (see **complaint lodged by [REDACTED]**)
- the account of abuse does not contain any significant inconsistencies
- the documents available to the Taskforce do not suggest that the account is untrue

Defence management

Brief description:

The complainant notes after the assault by five Kapyong Company senior cadets, he presented to CSM REED and asked how to press charges for assault, showing his injured hand. According to the complainant, CSM REED detailed SCDT Peter EDWARDS to escort the complainant to 5 Camp Hospital for treatment. However, on being treated by CAPT Sue STONES, the complainant reported he had sustained the injury by falling over in the barracks, due to "a mixture of loyalty towards fellow cadets and a fear of retribution from senior cadets if the actual cause of my injuries was reported." The complainant notes he was later advise the senior cadets involved were "spoken to" by the Kapyong Company cadet CSM, UO Michael FULHAM.

The complainant additionally alleges Defence were aware of the practice of 'bishing' at Duntroon, and the risks it posed to junior staff cadets, two days prior to the complainant's room being bished, and his subsequent assault (see TRIM ref D14#77340DOC). According to *Smith v Department of Defence (unreported, Supreme Court of NSW, Sperling J, 6 April 1998: BC 980 1079)*¹, Staff Cadet Kelly SMITH fell down some stairs on 16 March 1987, which had been made wet through the nearby rooms being bished the night before. As she sustained injuries to her back, the incident was reported, including role of 'bishing' in leaving the stairs slippery. As the complainant notes, this report was taken two days prior to the complainant being subject to bishing and an assault.

During the wall incident with SCDT HAMBURGER, the complainant notes his platoon sergeant, SGT Gary STONE and his section leader, CPL Peter CRANE, were present during the altercation and did not attempt to intervene. The complainant was later disciplined by CSM REED over the incident, as the complainant had assaulted a superior in pushing SCDT HAMBURGER away from him.

According to the complainant, a fellow 3rd class cadet in his company made a report of abuse to MAJ VERCOE. In response, the complainant alleges all 3rd class cadets in Kokoda Company were 'harangued' for half an hour by 4-6 senior cadets, in particular LCPL NOBLE, as a warning not to go to the authorities with complaints of abuse or they would "get in the shit."

Does the complaint raise plausible mismanagement by Defence of a plausible actual or constructive report of abuse? Yes No

If YES - there was plausible mismanagement by Defence because:

There was plausibly a 'constructive' report/complaint about abuse and Defence plausibly mismanaged the constructive report, on the basis that:

- the abuse was witnessed by a person in a position of seniority or higher rank to the complainant at the time the abuse occurred, and the witness failed to take any steps to stop the abuse occurring
- the abuse was effected by a person in a position of seniority or higher rank to the complainant, to whom the complainant would, or could otherwise, have reported the abuse
- information available to the Taskforce suggests Defence was aware, or ought to have known, the existence of a pattern or practice of abuse, of a similar nature to that alleged by the complainant, at the same location, during the relevant period, prior to the complainant's abuse occurring, and Defence failed to take appropriate management action to stop or prevent further similar abuse continuing/occurring (see analysis of locational abuse at TRIM ref D14#105067DOC)
- following the abuse, the complainant presented to a person in Defence, in a position of seniority or higher rank to the complainant, with physical or psychological signs of injury that ought reasonably have given rise to concern that the complainant was being, or may have been, abused, but the person in the position of seniority or higher rank failed to make any enquiry about it

AND

I have assessed that the report and the mismanagement of the report are plausible on the basis that:

- similar complaints of abuse to the Taskforce suggest the existence of previous reports of similar abuse and/or a constructive report of similar abuse due to the plausible existence of

¹ http://www.austlii.edu.au/au/cases/nsw/supreme_ct/1998/101.html

a relevant pattern or practice of abuse witnessed or perpetrated by persons in a position of sufficient seniority and higher rank

- the complainant provided the personal account by statutory declaration

Out of scope allegations

Brief description of matter:

The complainant has included a number of incidents in his account which do not form part of the overall campaign of alleged abuse by senior cadets and staff at RMC Duntroon. These include:

- Being disciplined for various misdemeanours. The complainant accepts partial responsibility for these, but notes a few occasions where he believes he was charged unfairly, including being charged for Absence from Duty three times due to a miscommunication, misunderstanding and the actions of third parties. On another occasion, the complainant notes he was charged for having a loose bayonet even though the complainant's room did not have proper lockable drawers.
- The complainant notes he witnessed a number of senior cadets contravening RMC Standing Orders against the consumption and storage of alcohol – for example, SCDT FITZPATRICK turned up to ANZAC Day memorial service drunk and no action was taken against him.
- The complainant notes he was involved in a number of fights with civilians in nightclubs in Canberra – according to the complainant, he did not instigate these incidents.
- The complainant also notes he, along with other RMC cadets, got into a fight with six ADFA cadets during a night out in Canberra. The complainant admits he initiated the fight (after some verbal sledging), by throwing the first punch. The complainant notes he suffered a broken nose and two chipped front teeth as a result of the altercation.
- During a night out in Canberra on 30 May 1987, the complainant got involved in a fight with CSM REED, LCPL THORP and other 1st class cadets. During the fight, the complainant was punched in the face by LCPL THORP and possibly CSM REED. After the fight was broken up by bouncers and the parties removed from the bar, the complainant returned to the nightclub and was informed CSM REED and LCPL THORP were returning with ten others to bash the complainant, either at the club or when the complainant returned to barracks. Deciding to 'strike first', the complainant subsequently stabbed CMS REED twice in the side of the head with a switchblade knife.
- The complainant details his discharge process during July 1987, and notes he was laughed at by LTCOL Stacey ROPE when he pointed out that he was required to have an interview with a psychologist as part of his discharge procedure. The complainant was allegedly advised: "Don't worry about it. You're not mad, are you?"

Is this allegation in scope? No

Reasons:

Did the alleged abuse occur on or before 11 April 2011? Yes No Date: 1987

Was the matter reported to the Taskforce before 31 May 2013? Yes No Date: 24 April 2013

At the time, was the subject of the alleged abuse a member of Defence? Yes No

At the time, was/were the alleged abuser/abusers a member/members of Defence? Yes No

If no, details: In relation to the complainant's allegations of being involved in fights with civilians, it is noted these allegations are out of scope because the alleged abusers were not members of Defence at the time of the abuse.

Is there sufficient connection with employment in Defence? Yes No

The abuse alleged is:

- Sexual abuse
- Physical abuse
- Sexual harassment
- Workplace harassment and bullying
- Other

Brief details:

The complainant's allegations concerning his being disciplined for various misdemeanours are not considered to contain incidents of 'abuse' as accepted by the Taskforce Terms of Reference. Despite the complainant's submission that some of these charges were 'unfair', from the evidence available it appears these charges were administered and heard according to Defence processes following misdemeanours committed by the complainant.

The complainant's allegations involving the contravention of RMC Standing orders against the consumption and storage of alcohol does not contain an incident of 'abuse' against the complainant, but rather provides commentary of the complainant's account of RMC Duntroon culture at the time of the alleged abuse.

The complainant's allegations relating to his involvement in fights with ADFA cadets and CSM REED/LCPL THORP while on local leave also do not contain incidents of 'abuse' under the Taskforce Terms of Reference. The complainant admits in his account that he largely initiated these fights, and threw the first punch in relation to the altercation with ADFA cadets. It is considered the complainant's account of these events is largely commentary by the complainant of his deteriorating state of mind prior to his discharge from RMC Duntroon.

Finally, the complainant's detail of his discharge process involves Defence administrative procedures and does not involve 'abuse' as accepted by the Taskforce.

RFI Defence

Is further information necessary to assess scope or plausibility? Yes No

Detail: RFI to be sent to Defence to confirm service and current service for named alleged abusers. [Subsequently confirmed via response to RFI 2562 – received 4 February 2015.]

Is further information necessary to determine whether the alleged abuser(s)/people managing report of abuse are still serving in Defence? Yes No

Detail: RFI to be sent to Defence to confirm service and current service for named alleged abusers. [Subsequently confirmed via response to RFI 2562 – received 4 February 2015.]

RFI Complainant

Is further information necessary to assess scope or plausibility? Yes No

Detail: N/A

Complainant Liaison*Impact on complainant:* N/A*Outcome requested:* N/A*The complainant needs to be contacted in relation to:*

- out of scope/not plausible allegations, letter TRIM ref: D15#2971DOC
- outcomes
- obtaining an application for reparation form
- provision of a statutory declaration TRIM ref:
- provision of certified copy of identity document
- consent to refer the matter to the Crime Group for action
- no further action complaint, letter TRIM ref:

Other Referral Action*Is consideration by the Administrative Action Officer required because the alleged abuser(s) is still serving in Defence? Yes No* *If yes, please list name of alleged abusers:*

- MAJ Dale BURNSIDE (Active Reserve Force)
- LTCOL Matthew THOMSON (Standby Reserve Force)
- MAJ Phillip REED (Standby Reserve Force)

Is consideration by the Administrative Action Officer required because the person to whom the alleged abuse was reported (including by constructive report) mismanaged that report and is still serving in Defence? Yes No *If yes, please list name of persons involved in mismanagement:*

- MAJ Gary STONE (Standby Reserve Force)

Other Action

N/A

Assessor: CC**QA Officer:** KT**Date of QA:** 13 January 2015