



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES
COMMITTEE

Reference: Effectiveness of Australia's military justice system

WEDNESDAY, 28 APRIL 2004

MELBOURNE

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SENATE
FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE
Wednesday, 28 April 2004

Members: Senator Hutchins (*Chair*), Senator Sandy Macdonald (*Deputy Chair*), Senators Hogg, Johnston, Marshall and Ridgeway

Substitute members: Senator Bartlett for Senator Ridgeway, Senator Chris Evans for Senator Marshall, Senator Payne for Senator Sandy Macdonald

Participating members: Senators Abetz, Bartlett, Boswell, Brandis, Brown, Carr, Chapman, Collins, Conroy, Coonan, Denman, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Forshaw, Harradine, Harris, Knowles, Lees, Lightfoot, Mackay, Mason, McGauran, Murphy, Nettle, Payne, Santoro, Stott Despoja, Tchen, Tierney and Watson

Senators in attendance: Senators Chris Evans, Hogg, Hutchins, Johnston and Payne

Terms of reference for the inquiry:

To inquire into and report on:

1. (a) the effectiveness of the Australian military justice system in providing impartial, rigorous and fair outcomes, and mechanisms to improve the transparency and public accountability of military justice procedures; and
(b) the handling by the Australian Defence Force (ADF) of:
 - (i) inquiries into the reasons for peacetime deaths in ADF (whether occurring by suicide or accident), including the quality of investigations, the process for their instigation, and implementation of findings,
 - (ii) allegations that ADF personnel, cadets, trainees, civilian employees or former personnel have been mistreated,
 - (iii) inquiries into whether administrative action or disciplinary action should be taken against any member of the ADF, and
 - (iv) allegations of drug abuse by ADF members.
2. Without limiting the scope of its inquiry, the committee shall consider the process and handling of the following investigations by the ADF into:
 - (a) the death of Private Jeremy Williams;
 - (b) the reasons for the fatal fire on the HMAS Westralia;
 - (c) the suspension of Air Cadet Eleanore Tibble;
 - (d) allegations about misconduct by members of the Special Air Service in East Timor; and
 - (e) the disappearance at sea of Acting Leading Seaman Gurr in 2002
3. The Committee shall also examine the impact of Government initiatives to improve the military justice system, including the Inspector General of the ADF and the proposed office of Director of Military Prosecutions.

WITNESSES

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Committee met at 9.04 a.m.

CHAIR—I declare open this meeting of the Senate Foreign Affairs, Defence and Trade References Committee. Today the committee will conduct its fourth public hearing into the effectiveness of Australia's military justice system. The terms of reference were referred to the committee on 30 October 2003, and the report is due to be tabled in the Senate on 5 August 2004. Copies of submissions from today's witnesses have been published by the committee and are available from the secretariat. Today's hearing is open to the public, but I warn the audience that the committee may ask for the room to be cleared to hear evidence in camera if a witness makes that request and the committee agrees. However, the committee prefers as far as possible to hear evidence in public. I should point out that the hearing of evidence in camera does not preclude its later publication by the Senate or by the committee, but witnesses would be advised of such action in advance.

Witnesses are reminded that evidence given to the committee is protected by parliamentary privilege. It is important for witnesses to be aware that the giving of false or misleading evidence to the committee may constitute contempt of the Senate. With regard to the public hearing, if the committee has reason to believe that the evidence about to be given may reflect adversely on a person, the committee will immediately deliberate in private session and give consideration to the hearing of that evidence in private session. Examples of adverse reflection on a person would include allegations of incompetence, negligence, corruption, deception or prejudice. The committee is bound by the procedures laid down in the parliamentary resolutions of the Senate to provide opportunity for a response to such allegations of an adverse nature. It would be most unfair and contrary to the spirit of privilege resolution if specific allegations were discussed in a public forum. Where a witness gives evidence reflecting adversely on a person and the committee is not satisfied that the evidence is relevant to the committee's inquiry, the committee shall give consideration to expunging that evidence from the transcript and forbidding the publication of that evidence.

The media should check with the committee as to whether any evidence given today has been expunged from the record, as the use of expunged words would not be covered by parliamentary privilege. If adverse evidence is given and not expunged, the committee will provide reasonable opportunity for the person to have access to the evidence and to respond to that evidence by written submission. A request to appear before the committee will also be considered. The committee wishes to strike a fair balance between receiving legitimate information that will enable it to fulfil its terms of reference and receiving information that may prejudice individuals.

When witnesses are first called upon to answer a question they should state clearly their names and the capacity in which they appear. Witnesses will be invited to make a brief opening statement to the committee before the committee embarks on its questions. I would like to note the assistance of the Defence Community Organisation and chaplains throughout the committee's inquiry. Officers of the DCO and chaplains are available for defence personnel and their families should the need arise.

[9.07 a.m.]

BODAS, Mr Charles, (Private capacity)

SATATAS, Mr George, (Private capacity)

SATATAS, Mr Richard, (Private capacity)

SATATAS, Mrs Rosa, (Private capacity)

CHAIR—Welcome. Mrs Satatas, your submission has been received as No. 9. Do you have any alterations to that submission?

Mrs Satatas—No.

CHAIR—I understand the secretariat has provided you with information regarding parliamentary privilege and adverse comments. Is that correct?

Mrs Satatas—Yes.

CHAIR—Do you understand what has been put to you?

Mrs Satatas—I do understand.

CHAIR—Do you have any questions on that?

Mrs Satatas—No.

CHAIR—I now invite you to make an opening statement.

Mrs Satatas—I am pleased to have this opportunity to speak to the committee. I wish to confer my feelings and mention in my submission and also ask them to call Van Kampen about the investigation into my son's death. I also want to highlight a number of issues that have since come to hand following the release of the reports into John's death. I went to Holsworthy around 20 May, and I asked to see where my son lived and where he died. The first day I met a person from the Army, and he told me that he would make all the necessary inquiries into my visit to Holsworthy. That took a long time. I had to call many, many times on my mobile and on my home phone so I could be accepted to go. When I went, Major Hawke showed me the place where my son lived, where he died and where he worked and we had a meeting. They offered tea. I had questions to ask because before my son died he rang his brother and told him that he had been abused physically and verbally. My son also said that he put the complaint of abuse in writing. I was informed by Major Hawke that, yes, John really made these complaints but they were ignored as the people who were abusing him had come from overseas and had been at that base for four years. I have a feeling that he wanted to say that they are the bosses and the ones who are there a short time have to listen and, even if that is not correct, they still have to do what the others want. That is what I felt at the time that he confirmed the abuse.

Now after I received the reports there is confusion. They do not recall telling me things like that, yet the Army admitted fault—that John was abused but it was very light, nothing major. My son told me that he had three weeks leave for the Easter period. Just a week before, he called me and said, ‘Mum, I cannot come, because they asked me to stay back as many people are on leave.’ The point is that I also talked about that when I was there. There were seven people in the room and Major Hawke admitted it. His words were: ‘Yes, Mrs Satatas, John and a few friends were asked to stay back.’ Now he denies that he told me that. He says that it is confusion.

I am very disappointed that it is seen as ‘confusion’ when seven people were in the room when it was admitted. Also, I am not very impressed with the person who did the investigations. He told one of John’s friends that my son was a liar. Here in Melbourne he was a loving and caring person and everyone loved and respected him. In the Army he was a different person. I, myself, was also accused by the person who did the investigation, who said that I contacted the people—John’s friends—before they had the interview and told them what they had to say. I have to say in front of all of you that not before or after that did I speak with anyone who was questioned about my son.

I did not have much time to review the investigation papers, as it was two big books, but from what I have seen there are some false or different sayings. Young soldiers said one thing to the New South Wales Police when my son died, but this report says a different thing. It seems like it is fabricated and not the reality. I am disappointed because my son was a very proud soldier until at least two months before his death. He called home a few times a day, and I feel guilty because I did not detect that he was having a problem. Yes, he had a big problem in the area. But I find that the investigation that they did on my son’s death was to find out any little dirt that they could.

I do not know what is really going on because I did not have the opportunity to read the report, as I say. I never believed that my son was as they said, because he was a very strong man and a very responsible person. I have some papers here that were written by his major saying how he was eager and how he liked to achieve in life. Now they have turned everything the other way around. That is very normal, because the Army never want to be at fault. I do not say every identity in the Army does wrong. There is good and bad, like there is anywhere else. They knew that my son was having a problem and they did not do anything about it. This is the point.

If that was just one case—but I have heard from an Army identity that there is as much suicide with young men in the Army as there is outside the Army. Why don’t they do something about it if that is such a big problem? The problem they point to is drinking. There is a big drinking problem in the Army. Why then do they not do something about the drinking problem? My son never drank before he went to the Army. Yet, they reported that he was very drunk at the time. In the report they say that John was very heavily drinking the day of his death and that there is a very big problem of drinking by the soldiers at Holsworthy. Yet, there was no evidence of very heavy drinking detected in John’s body. There was a low amount. They say that the amount of drink he had had was not enough for anyone to commit suicide.

Also, after they found my son the police of New South Wales questioned them, as I got in the report. My son was not hung in a tree. He was found with his feet on the ground, knees bound and a belt around his neck in a tree. From the beginning I had questions. Was my son suicidal? No, because he loved his family very much and he would not have put us through all this pain.

When I read the police questions in the report I felt he was inclined to live. A person who commits suicide does not stay on in this way. He was a healthy person. I do not believe he had to commit suicide just to get away from the problems that he had, but I do not know. I have questions, and I do not know the answers.

It seems like in their investigation they spoke to very few people at Holsworthy, but I am sure there would be some high ranking person questioned. I do not think they mentioned anything like that. We would like to know who the people were who were at the service at the time. These are questions I had before, and I still have because they have not been answered. A person admitted in front of seven people in a room that my son was asked to stay back, as many people were on leave, and now that person says that was confusion. That is not confusion. I heard it myself. There were four Army identities and my husband, my son and me in the room. Finally, I must question the conflict of interest in that it is the military that do their own investigations. I do not think that this is in the best interests of a transparent and open system. There should be someone independent to investigate such matters.

CHAIR—Richard, George, Charles, would you like to add anything at this stage?

Mr Bodas—I do not have anything specific that I want to add. I just want to point out a few other things that were in the report and that my aunt wanted to mention. There were a number of people who were interviewed, and apparently they supplied different information to the police investigation and different information to the military investigators. These people were family friends of Rosa and George, and people with whom they were in semi-regular contact while John was in the Army. These people have since stopped contacting us, and the impression that Rosa has is that they are under pressure from the Army not to contact the family. Furthermore, there are a number of people who Rosa believes should have been interviewed in the follow-up to my cousin's death, and these people were never approached.

The other thing I am sure you are aware of, if you have read some of the reports into John's death, was the writing on his face and arm. He had the words 'Spic' and 'Spiros' written in black texts on his arm. It reminds me of the apparent racism in the Australian military. John certainly was not the first to be subject to such ridicule—as you no doubt have heard during this inquiry—and I doubt he will be the last. I was quite shocked with regard to the allegations of bullying. It is something we have heard in the media time and again with regard to the military. I thought it was something that was being dealt with, but it looks like it has not been. I do not think that this issue of bullying has been dealt with properly. I would like to throw my support behind the idea that there should be some independent body to investigate such matters. It seems to be a real conflict of interest if it is the military that are doing their own investigating in matters such as these, where there are real issues. We need to have someone independent.

CHAIR—Would you like to add anything, Richard?

Mr R. Satatas—Yes. I would just like to touch on the subject of the bullying. My brother was the one that contacted me. I was at my girlfriend's house when he contacted me. He told me that a high ranking officer basically gave permission or turned a blind eye, if you like, to allow other people to pick on him if they had any problems with him. There was an incident where my brother said that he was walking towards the guardhouse and somebody ran up behind him, hit him and hit him with beer bottles. I asked my brother what he was going to do about it, and he

said he was going to go and see someone above those people and try to get those matters dealt with. In the following conversation I had with him he reassured me that he had seen someone and that they had said they were going to look after it.

So I feel a little bit like the Army has let my brother down and it has let me down because I, in turn, trusted the Army to look after and deal with this problem, rather than getting myself or the police involved or something like that. I said that the Army can look after their own and my brother and that there was no reason for me to be worried. My brother reassured me that he had seen someone and that things were going to be dealt with. That is why it hit me and hurt me when I went to Holsworthy and Major Brian Hawke said that the matters were looked into and they decided that no action was needed to be taken because, basically, they felt that it was just horseplay, if you like, and that things like this happened with so many boys all living together on the same base—a bit of tension builds up. But I do not think that is an excuse. I think that, no matter what the situation, the military is a job like any other profession and needs to be taken as such. Bullying is no exception for any workplace, including the Army.

The last time I spoke to my brother was on the Sunday when he apparently went missing. My brother was in a good mood. He told me he was at a friend's house at a barbecue or something like that. He asked to borrow a pair of soccer boots because they had an Army tournament coming up in Townsville, I think, from memory. He said that he and Aaron Pole were going to come down on the weekend. They had the weekend off, because they had been asked to stay back during the week on guard duty—or garden duty or something. I said, 'Yes, that's fine,' and he said he was going to come down but first he was going to stop off in Horsham, I think it was, where Aaron is originally from—Horsham or Shepparton or something. So the last time I spoke to my brother, I was expecting him to come home. He was in a good mood; nothing was wrong. That is basically it.

CHAIR—Thank you. Does anybody else at the table want to say anything?

Mr G. Satatas—As you can see, we are very disappointed with the way the Army conducted the whole thing. There is nothing else I can add to that.

CHAIR—Thank you. I cannot recall whereabouts it is in the submission, but, with regard to the coroner in New South Wales, is there a new inquiry into your son's death?

Mrs Satatas—I do not know. I have been informed by the Army that the report is exactly the same as the one they gave to us. It will be up to them to decide whether or not that is required to be handled.

CHAIR—Who contacted you? Did you contact the New South Wales coroner?

Mrs Satatas—We contacted the New South Wales coroner on the weekend of my son's death. They said that the matter looked very simple but I wanted to go further. About four weeks ago, I think, I received a letter from the Liverpool coroner saying that the matter is now to be handled by the New South Wales State Coroner as there are a few similar matters to be reviewed.

CHAIR—So the New South Wales coroner is reviewing—

Mrs Satatas—I think so.

CHAIR—I am not sure whether we have a copy of that letter from the coroner.

Mrs Satatas—I did not bring it; I am sorry.

CHAIR—If you do not mind, would you supply it to us?

Mrs Satatas—I will.

CHAIR—You have mentioned the term ‘asked to stay back’. Would you elaborate for the committee on the significance of that term.

Mrs Satatas—With respect to my son being asked to stay back in Holsworthy, I was going to Portugal on a business trip for two weeks just before Easter and my son called me, as he always called me. Just before he died, he would call two or three times a day to have a talk. I would say, ‘John, what do you want; are you okay?’ He would say, ‘I’m fine; I just want to talk.’ But I felt that he was very sad. Anyway, he said, ‘Mum, I’ll be back at home for three weeks.’ I said, ‘I’m glad; I miss you so much.’ I had not seen my son since New Year 2003. He left on that day for the Army. I mentioned that I was missing him and he said, ‘Oh, mum’—et cetera. Then he said that he was going to come home, and I said, ‘I’m glad; I’ll see you before I go and I will see you when I come back because you’ll still be here.’ He was happy. At about the time that I was leaving, he called me back and said, ‘Mum, they asked me to stay back in Holsworthy to guard, because there are a lot of people leaving and I will have nearly two months holiday next Christmas; I will spend one month in Melbourne and another month in Queensland.’ When I told this to his major when I was at Holsworthy, he explained to me that the soldiers have only one trip a year paid for to anywhere they want to go, and they encourage the soldiers to stay back because everyone will be going on leave. John and a few friends—those were his words—were asked to stay back to help with guarding. Sometimes my English is not very good and, at the time, I did not understand ‘guarding’. Afterwards, I understood that it was not ‘gardening’ but ‘guarding’—guarding the place.

Senator CHRIS EVANS—How did you find out about John’s death? Did you get a call from the Army?

Mrs Satatas—I was not here, as I told you. I was in Portugal. The Army came to my house late in the afternoon and said they had found John hanged in Holsworthy. A friend of John’s called Gabriella contacted Richard’s girlfriend about 12.30 in the afternoon saying they had found John dead. She thought it was a joke. That was a friend from Holsworthy. All that week, I rang home. On that particular day I called home to say hello to the family, as I did every day. My son told me the tragedy that had happened in our family. Of course I came back straight away. I did not do anything that I had to do. I came back the next day because I could not get a plane the same day. I arrived early in the morning on Saturday and called the Army. I wanted the Army to tell me what had happened because I could not believe what I was told. Major Payne came to my place on Sunday at two o’clock in the afternoon and explained to me what had happened to John.

Senator CHRIS EVANS—Did you get any explanation for why it took three days to find him?

Mrs Satatas—No. At the time they did not give an explanation. They now say that they did not look for him because he was on leave. But one of the soldiers in the police interview said that on Monday morning he saw John's wallet in John's room—he lives just opposite—with all his identification. The soldiers say that John could not go out of the lines without his identification. I have questioned in the report that they asked each other where Satatas would be—that is what the soldiers talked about to each other—but nothing was done for three days. A couple of his friends looked for John—not the Army police or anything like that.

Senator CHRIS EVANS—I will take it back a point. When you made the submission you did not have a copy of the Army report investigating his death. I gather you got that last week.

Mrs Satatas—I got that last week, late on Wednesday. I just read a little of it. I did not have time. It is two big books and I did not have time.

Senator CHRIS EVANS—Sure; I understand. The committee did not know you had the report. Now you have the report so that is good. Are you happy for the committee to get a copy of the report?

Mrs Satatas—Yes. At the moment the report is with my solicitor. I do not mind giving it to you later today.

Senator CHRIS EVANS—If we can get your authority I can probably get the Army to release it to us.

Mrs Satatas—I do not mind.

Senator CHRIS EVANS—Thank you. That would be useful. Looking at the report will obviously help us. I direct this question to anybody: now that the family has seen the report is there any explanation as to where John was for those three days?

Mrs Satatas—No, there is no explanation. I have to mention one of John's friends who was close; every time John was on leave, all the time that John was in the Army, from day one, from 9 October 2001, that person and a few more were together with him all the way through till John's death. This person and others were friends of Richard and Richard's girlfriend, and for the three days that John had disappeared no-one called to find out what had happened, whether John was home or to say they were worried about John. It does not seem like anybody was around. When I came back from Portugal I tried to contact those soldiers—I had their phone numbers because they had been to my place a lot of times—but I could not contact them for a week. The phones were switched off. I could not get in touch with them.

Senator CHRIS EVANS—Now that you have the report, does that help the family to better understand what happened to John?

Mrs Satatas—No.

Mr R. Satatas—It confuses us a little more because it seems as though the report is just a few excuses put together to cover their arses—excuse my language. Our family knew John better than anyone else, and I know for a fact that my brother would not commit suicide. It seems like a

poor excuse for the Army to fall on. I would have imagined that they would at least know who is on base and who is not on base, whether there is a list at the gatehouse or whether it is in their own lines where they have a duty officer or someone who takes a roll call every morning. It seems like they just do not care who is on the base and who is not on the base. For example, there was a girl there who was not in the military and she was drinking with them on the base.

Mrs Satatas—No, she was not drinking.

Mr R. Satatas—She was not drinking, but she was there with them on that Sunday night.

Mrs Satatas—For four days.

Mr R. Satatas—Yes, for four days; yet for my mother to go to see where my brother lived and where he passed away took weeks for them to organise.

Mrs Satatas—It took more than a month.

Mr R. Satatas—So it seems as though they are very unprofessional in the way they handle their soldiers on the base. You would think they would take a roll call or try to make a list of who is going and who is coming, of who is going on leave and where they are going in case they have to get in contact with them. Do you know what I mean? It just seems very unprofessional.

Senator CHRIS EVANS—Yes. In terms of the blood alcohol level, you said that it was not particularly high. Is that in the Army report or is it in the coroner's report?

Mr R. Satatas—No, that is in the coroner's report.

Senator CHRIS EVANS—Did he actually give the blood alcohol level?

Mrs Satatas—Yes, it is here. I have it in the papers.

Senator CHRIS EVANS—I was also interested in how long he had been dead when they found him.

Mr Bodas—That is one of the issues that we are concerned about as well. In the week after John's death we were told one thing and then, as the investigations proceeded, we were told something else, and then something else came out in the report. So we are not sure either. We are just trying to find it in the report for you.

Senator CHRIS EVANS—You have a statement. The coroner did not do a coronial inquest but you have a report from the coroner, have you?

Mr Bodas—It is an autopsy report.

Senator CHRIS EVANS—And that was done immediately after his death?

Mr Bodas—I think so. That is another thing: because it happened at Easter, there were four days between the time that his body was found and the time the autopsy was conducted. In this day and age, even if it is Easter, I think an autopsy should be conducted as soon as possible. I realise that is beyond your control because it is a New South Wales thing.

Senator CHRIS EVANS—But you have a copy of the autopsy report. Does that specify the blood alcohol level and the time of death? While you are looking for those things I will ask a couple of other questions. Mrs Satatas, you said when you spoke to your son on the phone he was a bit sad—I think that was the word you used.

Mrs Satatas—He did not use the word ‘sad’; I used it. He would call a lot of times. The whole family is very close, but my son and I had a good relationship all the time. With Richard I probably fight sometimes but John was always very responsible, and I had nothing to fight with him about. When John called he would ask to talk to me if George answered the phone, or he would ask to talk to Philip, my little son; they were very good friends. John would send a lot of souvenirs.

That was the last time I saw him. As I said, something happened between the end of January and his death. The Army admitted that John was teased; there was verbal abuse and even physical abuse. When they brought the report to me they told me that they would look—

Senator CHRIS EVANS—That is now in the investigating officer’s report, is it?

Mrs Satatas—Yes, they are going to look into these facts in order to make changes. I also have to say—I almost forgot—that when I was in Queensland at the end of September last year, I was with my family on holidays and one of the Army identities called my mobile phone at six o’clock in the afternoon to tell me that a soldier had come forward and that they had a few corporals out of Holsworthy to be questioned. I was happy because at least somebody had come forward. I knew that it was the case that they would find out what had happened to my son. But I was in a public place and there was a lot of noise. I was with my husband having dinner at that time and I could not talk much so when I saw this person I questioned him. I asked him, ‘Can you please tell me the news that you found out?’ He just ignored my questions and said, ‘That was nothing to do with your son. That was a soldier who was mistreated and he came forward.’ If that was nothing to do with my son why did they call me when I was on holidays? They knew that I was on holidays. Why did they call me to tell me that? I think they should tell that soldier’s parents so that they were aware of what was going on—not me, because it was nothing to do with my son. That is the way I felt.

Senator CHRIS EVANS—Did you have any idea that your son might have been teased or bullied? Richard said that he had had that conversation but did he say anything to you?

Mrs Satatas—No, not me. I think my son probably did not want to make me feel sad about what was going on because when he left school at year 10 I was very disappointed with him. I did not know he had started to apply for the Army so early but I found when I went through the papers that he had applied to the Army in March 2000. I was very upset with him because he left school. Of course, every mother wants their children to complete school.

Mr R. Satatas—My brother asked me not to tell my parents and not to worry them when he told me about that incident. Now that we have had the meeting with the officers it has come to our attention that during the time John was at Holsworthy he was picked on and bullied. I think that he was very humiliated. That was when he changed a little bit. Before going to Holsworthy he was the type of kid who would come back home with an armful of Army souvenirs. He brought my little brother plaques and he has a big poster of an SAS commando in his room. It was as if he had completely changed. As I said before, the Army had let him down. It is not as if he hated the Army; he just hated being on Holsworthy.

Senator CHRIS EVANS—You said he was being bullied; did he tell you what he was being bullied about?

Mrs Satatas—In the report there was no explanation for why he was being bullied. With respect to the reason for the teasing, they said that my son and the other soldiers went to New South Wales to a club or something and they confused themselves. Instead of having a lady prostitute they had a transsexual. They did not know that it was a man and when the other soldiers found out that my son made this mistake they teased him all the time. It seems as if everyone knew and nothing was done about it.

Senator CHRIS EVANS—I know other senators want to ask questions, but I just want to ask about the marks found on John's body. How did you find out that he had these little words and phrases written on his body?

Mrs Satatas—Through the police officers and the forensic tests.

Senator CHRIS EVANS—So the police officers told you that he had these phrases—

Mrs Satatas—No, they did not tell me; they put it in the report.

Mr Bodas—It was in the police report. It is not in the coroner's report; it is actually in the police report. The coroner's report just said that there was lettering but did not say what the lettering was; the police report said what the words were. I have information on the blood alcohol level as well. The coroner's report said:

Toxicological analysis revealed a blood alcohol concentration that would be expected to produce only minimal to mild impairment.

That was a blood alcohol level of .105 grams per 100 millilitres of blood. There were blood tests for drugs and so forth, and nothing was found.

Senator CHRIS EVANS—So he was not highly intoxicated or on anything else?

Mr Bodas—No. The coroner said that, in his opinion, there was no natural disease that would have contributed to death; that there was nothing in his system apart from alcohol, which would only produce a minimal to mild impairment.

Mrs Satatas—I also read in the report that my son was confronted by a friend. He was sad and she asked the question: 'Why are you so sad?' He said, 'My life is shit.' She asked: 'Why?'

What happened, John? Tell me what happened.’ He did not want to tell, but at the end he said, ‘I’ve been abused physically and sexually by an Army officer.’ She repeated the question and said: ‘John, can you please tell me if what I hear you saying is true?’ He replied, ‘Yes,’ but said she was not to tell anyone as he could not tell anyone.

Senator CHRIS EVANS—Can I just go back to the words written on John. I gather it was ‘Spic’ and something else.

Mr Bodas—One was on his forehead and one was on his forearm—‘Spic’ and ‘Spiros’.

Senator CHRIS EVANS—Did the family know that those words had been used about him? Richard, you chatted to him.

Mrs Satatas—They said that they used these words as a nickname.

Mr R. Satatas—That is how the military explained it.

Mrs Satatas—But we had never heard those names before.

Mr R. Satatas—They said that they were nicknames, but whenever John’s friends were down from Melbourne I used to spend a lot of time with them—I actually drove them back every weekend when they were at Puckapunyal—and I never heard them use those names. They called him other nicknames. They would shorten Satatas and call him ‘Tats’ or ‘Tatas’ or something like that, but they never called him ‘Spic’ or ‘Spiros’—not his close friends anyway. I do not know what life was like for him on the base. They could have used those nicknames.

Senator CHRIS EVANS—Do you think he would have found ‘Spic’ offensive?

Mr R. Satatas—Depending upon how it was used and who used it. For example, at my work a few blokes call me a wog. I do not mind some blokes using it, but when it is used to hurt you or to offend you—and you can pick up on it—then, yes, it does offend you and hurt you. But when it is just mates mucking around or whatever, you let it fly off your shoulder. I do not consider myself to be a wog: I was born here; I am Australian.

Mr Bodas—It is immediately obvious when someone is using that term—or any terms like that—whether they are using it as a derogatory term.

Senator CHRIS EVANS—If it is a close friend and you are joshing, that is one thing; it is another thing if it is used by someone you do not know so well.

Mr Bodas—Yes, especially if there is an ‘f’ word in front of it. That is when you know that it is derogatory.

Senator CHRIS EVANS—Did you get any explanation as to how these markings came to be on his body or when they had been put there?

Mr Bodas—We were told that they were drinking heavily because apparently they were on stand-down or leave. Apparently they were drinking heavily for a number of days—and, again,

one of the things that people have been telling us is that there was a culture of drinking and whatnot, yet the coroner's report says 'only minimal to mild impairment'. Anyway, apparently they were drinking on the Sunday night and they did it in jest.

Senator CHRIS EVANS—Thank you.

Senator HOGG—Could I clarify that the words were actually on the body—

Mr Bodas—They were written with black texta—I think it was black texta.

Senator HOGG—before he died?

Mr Bodas—Before he died, yes—not by John; they were written by someone else.

Senator HOGG—I accept that. I was just confused about that in the statement. Thank you.

Senator PAYNE—I have two questions but, first of all, Mrs Satatas, Mr Satatas and Richard, I want to say how very sorry we are for what you have been through. Mrs Satatas, these are never easy questions to ask or answer, but can you describe for us the process that you have been going through in trying to get information from the Army and from the other parties involved in the investigation process? From your submission, and from Mr Bodas's submission, it seems to me that, given the tragic circumstances in which you have lost your son, that is what has frustrated you the most. I would like you to describe for us in your own words the processes you have tried to go through to get information.

Mrs Satatas—The process was very slow. I lost my son and I am never going to get him back. The reason I went further was so that they can change the culture of the Army so other mothers have a chance to speak to their children about what is going on. I never had a chance to speak with my son about that because I never knew those things were going on behind the lines. My life has been quite miserable since my son died as I lost not only a son but a friend. He was very close friend as well as a son. I think the Army thought that, because we come from another country and do not speak proper English or anything, we would just leave it, that we would let things go and not care about it any more—my son is dead, so what. To them he was just another number. It took a long time for them to start the investigation in my son's case. I think if I did not pressure them then nothing would have been done on my son's case—I do not know about the other cases. I wanted answers, and I still want answers. I have to tell you that my son was a proud soldier till the last day I saw him. Yet there are still no answers, only confusion. I am confused myself as it is over a year since my son died and they started the investigation very late. They started that because I kept asking questions.

I do not know if there really are any answers in this report because I just went through a few of the pages. I can tell you that some of the statements made there are false—at least those from one of the soldiers. I never fought on the phone with my son John Satatas. One of the soldiers implied that every time I had a conversation with my son we fought. He also said that he had come to my place many times and found that we were a very close family and yet he has made these accusations. He said that I would fight on the phone with my son every time he called me. That is not true. Every time I spoke on the phone with my son I was in my house with my husband and my children around.

Mr R. Satatas—I would like to add something to that. If it were not for the Williams we would not be here today. My mum got in contact with the Williams through a news report or something.

Mrs R. Satatas—A friend of mine saw a report on the television and said that another family was going through what I was going through. I got in contact through Major Payne. I called him and said that I wanted to get in contact with this family because I wanted to ask them some questions. I did not know what happened and I wanted to know more. Mr and Mrs Williams have been really good friends.

Mr R. Satatas—They told us who to contact and in what manner to do it. They have been a great support. They are just another family who have suffered a great loss as well. The military gave us pamphlets on suicide, grief and all of that but they did not show us any doors or paths which would lead to answers. In my view, they were saying, ‘Well, it’s happened. You are going to have to get over it and move on.’ I could not accept that. I lost a brother and I wanted answers.

It is kind of wrong in a way that we have actually had to go through somebody else. They are dealing with their grief and yet we have had to go through them. The military should have an organisation set up to help people. Actually, it should not have because this should not happen. But if it does happen, they should have somebody who says, ‘These are your options. You can go and see these people. You can write letters to these people. We will help you.’ It was not like that at all.

Mrs Satatas—I want to also say that when I said that I wanted very much to go and see where my son had been living I was informed that the costs would be on me. I told the Army straightaway that I would pay all the costs. I just wanted to go there and see where my son had been living. When I went there over a month after my son had died, I was touching what I thought were my son’s things in his bedroom. Then they told me, ‘Your son’s things have already been packed and sent away. They are not here any more. Another soldier lives here.’ I felt like I was let down. Why did they not let me go in and see where my son had lived and where his things were? I asked for that. Did I not have the right to be there as soon as possible? Why did I have to wait over a month and beg them to let me go there when they let anyone go there? I found out in a report that a civilian was there for four days. I feel disgusted with that situation.

Senator PAYNE—Did you say that you have given the report from the Army into your son’s death to your legal representatives?

Mrs Satatas—Yes.

Senator PAYNE—What do you propose to do next? Do you know what you are going to do now?

Mrs Satatas—No, I do not know at this stage.

Senator JOHNSTON—Mrs Satatas, the report that you have been provided with by the Army is a two-volume report. Could you describe how big the report is?

Mrs Satatas—There are two folders both about the same size, with lots of papers—about this big.

Mr Bodas—It is about two lever arch folders full. One is full of interview transcripts and one is the actual report itself, its supporting documents and so forth.

Senator JOHNSTON—Where you surprised by the size of the information in the report?

Mrs Satatas—Yes, I was surprised because I think they went through things that probably were not necessary. They did not focus on the real issue—where my son was the last few months.

Senator JOHNSTON—What do you perceive was the real issue?

Mrs Satatas—I think the real issue is to find out what happened to my son.

Senator JOHNSTON—Is there a particular matter that you think they should have focused upon that they have not focused upon? I know that you have not read the full report.

Mrs Satatas—I have not read the full report yet so I am not sure exactly, but I think they should go into the matter of the time of my son's death because there were questions raised by the police over whether my son hanged himself or whether he was put there. He was not actually hung from the tree. He had his feet firmly on the ground and his knees bound. When I questioned that they said that it was not for the Army to investigate but for the New South Wales Police to do that.

Senator JOHNSTON—Are you saying that the New South Wales Police told you that there was nothing out of the ordinary with respect to that?

Mrs Satatas—No, the New South Wales Police did not tell me anything. I just read in a report what they wrote.

Senator JOHNSTON—What did they write?

Mrs Satatas—They said that John was found with his feet standing on the ground and his knees bound and that raised questions for the police. Yet the military police came and said that it was a hanging, so it stopped there.

Senator JOHNSTON—Okay.

Mrs Satatas—I think the New South Wales Police did not handle the case the way that they should have. If you have questions in a suicide or murder case, you should take fingerprints and examine the things that were around my son, but nothing was done. There are so many suicides in the Army. I have a personal feeling that most of these are not even suicides, they are linked to murders. They do things the easy way. That is my personal feeling.

Senator JOHNSTON—So you also believe that the New South Wales Police were not as thorough as they should have been?

Mrs Satatas—Yes. My son was buried on 29 April, which was a Monday, and the Saturday after that there was a phone call in the morning. My son Philip answered the phone because I was very emotional. The caller identified himself as a police officer from the Liverpool police station who was doing John's investigation. He asked, 'Mrs Satatas, do you want to do any further investigations into John's case?' My answer was, 'Yes, because I believe that my son did not kill himself.' This person told me that he believes in every way that John did commit suicide. When my husband and son came home, I told them about the phone call and they were very upset with me because I talked with this person who could have been anyone. Two or three days after that conversation, the officer in charge of being in contact with us came to my place. I told him about the phone call that I had and he promised that he would find out who called me. But, until now, I have had no answer.

Senator JOHNSTON—You say that John telephoned you on a regular basis from his position in the Army. Did you say he called you once a day?

Mrs Satatas—Sometimes two or three times a day after work. He said, 'Mum, if you ever want to call, call after six because I finish work about 4.30 and then we have dinner, so I am available at six o'clock.'

Senator JOHNSTON—How long had he been in the Army?

Mrs Satatas—He was in the Army from September 2001 until April 2003.

Senator JOHNSTON—About 16 months?

Mrs Satatas—Yes.

Senator JOHNSTON—During that time did he call you every day?

Mrs Satatas—No, because when he was first training they could not contact us or anyone else for 45 days. They could only write letters. He wrote me a letter once because he was not very keen on writing. After that, he would call whenever he could. But the last two to three months before he died he would call more often. Once he lost his mobile phone and he did not call for almost two weeks. Then when he called I said, 'John what have you been doing? Have you been in training?' Because when he was in training, he did not call me. He only called when he was on the base. He said, 'Mum, I lost my telephone and I'm calling from a friend's phone.' He gave me his friend's phone number in case I needed to contact him. When he was in training he would say, 'Mum, we're training for a week in such and such a place so you're not going to hear from me.'

Senator JOHNSTON—You say that in the last two or three months before he died he would call you regularly at least once per day.

Mrs Satatas—Yes.

Senator JOHNSTON—Did you find that surprising?

Mrs Satatas—I thought he was missing us. As I said before, I feel guilty that I did not question him further. As I said, I thought the Army was a great future for my son and I did not know those things existed.

Senator JOHNSTON—Is it fair to say that you noticed a change in his personality?

Mrs Satatas—I did notice a change in his personality, and I said that from the beginning when they came to my place.

Senator JOHNSTON—Mr Bodas, you mentioned with respect to the words that were written on John's body that you had heard how that was done or someone had told you the circumstances with respect to that.

Mr Bodas—What I was told was that they were drinking on the Sunday night and apparently they had been drinking on the Saturday as well. I think they went on stand-down from Friday night. Is that right, Richard?

Mr R. Satatas—Yes.

Mr Bodas—They were at some sort of party and someone did it as a bit of a practical joke or something like that.

Senator JOHNSTON—Who told you that?

Mrs Satatas—It is in the report.

Senator JOHNSTON—That is the two-volume report?

Mr Bodas—Yes. We were told that by—I do not know who it was; it would have been Major Payne, perhaps.

Mr R. Satatas—And his companion as well.

Mr Bodas—And some of his mates as well, I think, yes.

Mr R. Satatas—No, Major Payne's companion—I have forgotten his name.

Mr Bodas—The bloke that came.

Mrs Satatas—Mr Taylor.

Mr R. Satatas—Was it Taylor? Yes, Mr Taylor.

Mrs Satatas—It says in the report that the boys told the New South Wales Police that they wrote all this in fun.

Mr Bodas—It was in the police report as well.

Mr R. Satatas—That is right, yes.

Senator JOHNSTON—Were you given to understand that the police had interviewed the participants in the prank at that party?

Mr Bodas—I do not think so. I think they did just a brief investigation. They were the ones who discovered the body, so they did some follow-up interviews.

Mrs Satatas—The New South Wales Police did not interview any—

Senator JOHNSTON—Army personnel?

Mrs Satatas—They questioned the boys who were with John at the time. They did not interview any officers or anyone else. They only had a few interviews with the boys.

Senator JOHNSTON—Were you at any stage ever given to understand that John was intoxicated on the night of his death?

Mr Bodas—We were told he was drinking heavily, but the coroner's report said it was not that bad.

Senator JOHNSTON—The blood alcohol reading was .10—?

Mr Bodas—It was .105.

Mr R. Satatas—I spoke to John on Sunday and he was drinking. He told me he was at a friend's house on the balcony. I knew Aaron Pole was there. I recognised his voice, because I spoke to him sometimes—or used to, anyway. I recognised his voice in the background. John was drinking but, by the way he was talking to me on the phone, he was not drunk; he was normal. It was just a get-together with friends.

Senator JOHNSTON—You also mentioned, Mrs Satatas, that you had the impression that John's friends were not permitted to talk to you or that the Army was pressuring them. How did you come by that impression?

Mrs Satatas—I came to that impression because, knowing some of the soldiers and what they said in that report, it is all fabricated—it is not reality, because it is not true.

Senator JOHNSTON—Just pause there. You saw what some of the soldiers had said in what report?

Mrs Satatas—Actually, in both. I saw what they said in here—

Senator JOHNSTON—What are you referring to there—the police report?

Mrs Satatas—Yes, the police report, and also what they said in the Army report.

Senator JOHNSTON—So you have looked at the report to that extent.

Mrs Satatas—The soldier that I am particularly talking about says continuously in the Army report that every time I spoke with my son I had a fight with him and at the end of our conversation he would use the ‘f’ word and he would be very upset with me. That is not true. My son would not dare use this word when speaking to me.

Senator JOHNSTON—How is it that you arrive at the impression that the Army is pressuring some of John’s friends not to talk to you from that?

Mrs Satatas—When I came back from Portugal I tried to talk to them because I wanted them to tell me something about my son and for the whole week I could not talk to them.

Senator JOHNSTON—Why not?

Mrs Satatas—Because the phone would be switched off.

Mr R. Satatas—I was actually told by Aaron Pole that the military asked them not to contact us, to let us mourn. That was their excuse. He actually told me that when he came down for John’s funeral.

Senator JOHNSTON—So you perceive that there is something wrong if the Army did tell them not to talk to you. You see that as a problem?

Mrs Satatas—Yes. Two of the soldiers came and stayed at my place for the night. I asked them if they knew anything about John.

Senator JOHNSTON—This was after John died?

Mrs Satatas—Just before John’s funeral.

Senator JOHNSTON—They stayed with you for John’s funeral?

Mrs Satatas—They stayed with me, as they had stayed many times before. I asked them and their answer was: ‘Mrs Satatas, John wasn’t happy in the Army.’ That was one of the answers. They never looked me in the eye. One of the boys was crying all the time. The other one just said, ‘Mrs Satatas, John wasn’t happy in the Army.’ That was his answer and that was the only thing he told me.

Senator JOHNSTON—Had John ever suffered from depression previously?

Mrs Satatas—No.

Senator JOHNSTON—There was no issue to give you any suggestion? Save for those last two months when he was phoning you on a regular basis and you detected a change in his personality, nothing had happened prior to that?

Mrs Satatas—No, I did not even notice John had depression. His officer also said John was very normal. He could not believe that had happened. His major said he never noticed any depression in John. That is what he told me. The thing I question was why I didn't question him about it when he called me regularly. As I said before, I just thought he was homesick.

CHAIR—There being no further questions, I thank you for coming along today.

Proceedings suspended from 10.14 a.m. to 10.26 a.m.

SHOWLER, Mr Keith Douglas, (Private capacity)

CHAIR—Welcome, Mr Showler. Your submission was received as submission No. 3. Do you have any alterations to make to that submission?

Mr Showler—No.

CHAIR—I understand the secretariat has provided you with information regarding privilege and adverse comments. Is that correct?

Mr Showler—Yes.

CHAIR—I assume you understand what was put to you. Do you have any questions about that?

Mr Showler—No.

CHAIR—I invite you now to make an opening statement.

Mr Showler—I would like to thank the committee for the opportunity to present my case. My story is insignificant compared to others you have heard or will hear over the course of this inquiry, as I am able to be present to state my case. Others have not been as fortunate and have taken their own lives as a result of their treatment.

I was a member of the Australian Contingent 5 to the United Nations military hospital in Dili, East Timor, over the period from 16 August 2001 to 21 February 2002. I was an RAAF flight sergeant deployed as the hospital quartermaster. My duties included running the medical and domestic stores. I was also responsible for the hospital morgue. I had five military staff under my control as well as 11 locally employed East Timorese civilians. My immediate supervisor was an Army logistics officer named Major George Georgiadis and my commanding officer was Wing Commander Margaret Hine. I believe my case demonstrates the need for a fully independent review board to study cases of harassment and abuse within the Australian Defence Force.

I also believe the failure to annotate my medical files was a direct result of the actions of the commanding officer, Wing Commander Hine. The fact that the doctor, Commander Doug McKenzie, failed to acknowledge that he had administered scheduled drugs to me on the morning of my breakdown without covering paperwork also suggests a cover-up and disputes the fact that anything had happened to me during the deployment. I still suffer from depression, anxiety and sleep deprivation. I suffered a minor heart attack in May 2003 and have also been diagnosed with a stomach ulcer. All this, I believe, is a direct result of the delays taken during my case.

The failure of the Defence equity system to ensure that my case was handled swiftly has prolonged my case, which still has not been fully resolved. The failure of the office of the Defence Force Ombudsman to act because I am still a member of the Air Force Reserve brings

into question the relevance of the ombudsman's office. I should never have gone through the frustration of the last 26 months by myself. The Defence Equity Organisation should have acted once the documentation stopped flowing. The Defence Force Ombudsman should have acted, no matter what my service circumstances were, and the Chief of the Defence Force should have had the decency to reply to my letters.

I will read to you an item that makes me question the values set out within the military justice system:

These apply to all ranks in the Australian Army.

Bring honour to your country, the Army, your mates and yourself.

Respect and use the Army values of: Courage Initiative Teamwork

Earn the trust and loyalty of your team. Don't let your mates down.

Be accountable for your actions and decisions. Encourage your mates to do the same.

Treat others as you would want them to treat you.

Lead by example. Look after all your people, all the time.

Have the courage to stand up for what is right and stop unacceptable behaviour.

Be honest, always. Respect the differences in others (such as gender, personality, race or religious beliefs).

Make our Chain of Command work.

Use the military justice system; it's there to give you a fair go.

The new equity system called the Defence Whistleblowers Scheme indicates to me that the 'fair go' system failed. In view of my case, who in their right mind is going to be a whistleblower in the Defence Force? As I have asked the Chief of the Defence Force—and I have failed to be given an answer—I now ask this committee: where is my fair go? The paperwork I have supplied today lists in brief point form all actions taken by me over the last 26 months as well as all telephone conversations that took place. Once again, I thank you for this opportunity. I am more than willing to answer your questions.

CHAIR—Thank you.

Senator CHRIS EVANS—Mr Showler, thanks for your submission and for attending today. I take it from reading your submission that, in a sense, in your view the fight for military justice has been almost more demanding than the original incident—that the issue for you now is as much the failure to get redress through the processes as the original anxiety caused by the incident in Dili.

Mr Showler—I think it was the fact that I had to do it—that there was no organisation within Defence that would have assisted me at all. When I wrote to the ombudsman's office I never got a signed letter back. I got a phone call about five weeks later saying, 'You're still in the Air Force Reserve.' I said yes and they said, 'You have to go through the Defence system; you have to get redress through the Air Force.' My argument was that that was the system I was fighting.

Senator CHRIS EVANS—So the ombudsman's office effectively said they would not take up your case because you were still an active reservist?

Mr Showler—Yes.

Senator CHRIS EVANS—Under the new system, of course, everyone will be an active reservist for five years after they leave the service.

Mr Showler—That is right.

Senator CHRIS EVANS—So effectively that will bar the ombudsman from doing anything for anybody, if that is applied, for five years after they finish their full-time service.

Mr Showler—It is a nice way to tie the system up, isn't it? The other thing is that the only correspondence I received back from the ombudsman's office was a full copy of the Defence instruction on redress and a copy of the Freedom of Information Act. My argument is that that was a waste of paper.

Senator CHRIS EVANS—Where do you say you are now in your redress process?

Mr Showler—I wrote two months ago to the chief of staff for Air Force health records, because I was instructed to by Wing Commander Hine, to get the details of my breakdown on 11 February 2002 sent to me. There is a problem here. Also in that paperwork I have supplied to you there is a letter from Commander Doug McKenzie stating that he saw me in September and October of 2001. There is no mention of 11 February 2002, when he forcibly put two tablets down my throat to sedate me for approximately five hours. He has failed to acknowledge that it happened. Two people physically carried me from the mess to the senior medical officers' rooms. I was then forcibly held down and the doctor put those two white tablets down my throat, and to this day I still do not know what they were.

Senator CHRIS EVANS—Are you saying that they are disputing that with you?

Mr Showler—They have failed to acknowledge that.

Senator CHRIS EVANS—You are not necessarily saying that they are in dispute, but they have not as yet acknowledged that particular incident?

Mr Showler—My request to Wing Commander Hine was to have the details of my hospitalisation sent to me so that at least I could go back to Veterans Affairs and say, 'This has happened to me because of this incident.' Having read the letter from Wing Commander Hine with that letter from Commander McKenzie, the incident on 11 February 2002 did not happen because the doctor said he has never seen me—although he did say in it that he did not consider

me to be suicidal. He was not sitting in my room on the night of 10 February with a loaded pistol in his hand, was he? Believe me, Sir, my wife was not that far away from being a widow.

Senator CHRIS EVANS—You have obviously had a very rough time. Your argument now with Defence is partly about issues with Veterans Affairs of compensation, is it?

Mr Showler—No, first of all, it is not about compensation. I asked for an apology from that Army major because I was not told what I could get. The first thing the investigating officer asked me was, ‘What would you like out of this case?’ My first statement was, ‘I would like that man kicked out of the Defence Force because his behaviour is not acceptable.’ The investigating officer said to me, ‘That won’t happen because he is a senior officer.’ I do not care what he is; he abused me for over five months. He harassed me. He made me look like an idiot. Yet this man is an Army major, a senior officer.

Senator CHRIS EVANS—Have you got a copy of the investigating officer’s report?

Mr Showler—Yes, it is in the paperwork there.

Senator CHRIS EVANS—And you were, therefore, unhappy with its findings?

Mr Showler—I was unhappy with the findings because part of those findings was that I was at fault—that it was because of my attitude that the Army major abused me.

Senator CHRIS EVANS—And you sought redress after the investigating officer’s report?

Mr Showler—No, I have not. I literally gave up when I got that—other than having my medical files corrected.

Senator CHRIS EVANS—So your main issue with Defence has been getting your medical files appropriately recorded?

Mr Showler—When I finally agreed to accept a written apology, I requested that that apology be signed by Major Georgiadis. I also requested that his commanding officer sight and sign it. That was agreed to by Wing Commander Hine as a condition of completing this case. I received a one-line apology from Major Georgiadis with no other annotation on it. I sent a letter back to Wing Commander Hine advising her that that was not acceptable and that we had agreed to the requirement of his commanding officer sighting and signing his apology. The next letter I received from Wing Commander Hine basically said, ‘Bad luck. That’s all you’re getting. That’s it.’

Senator CHRIS EVANS—Did you have that agreement with Wing Commander Hine in writing?

Mr Showler—Yes, that is in the paperwork supplied.

Senator CHRIS EVANS—So you felt that they had not fulfilled their part of the bargain?

Mr Showler—Yes. They did not fulfil it. Had I been told of my alternative options—other than a written apology—I believe I could have had the Army major charged under the Defence Force Discipline Act. But I was never told that.

Senator CHRIS EVANS—But you decided that a written apology sighted by the commanding officer would be sufficient to resolve the issue, from your point of view.

Mr Showler—I wanted his commanding officer to know what had gone on.

Senator CHRIS EVANS—You have talked to us about the Ombudsman's office and their ability to respond. That is an issue we will take up with them in terms of what powers and scope they have. You make a number of comments about the equity system. You basically feel that the equity officer and the equity systems failed to deal with your case. Is that fair?

Mr Showler—All correspondence coming from Wing Commander Margaret Hine until 16 October 2002 was directed to the staff officer in reporting incidents at defence equity. I discharged from the Royal Australian Air Force on 4 June 2002. After that letter in October 2002, there was never any further correspondence forwarded to equity. My argument is that defence equity should have had the file to say what the outcome was, because there never was, as far as they were concerned. That was the problem: there was no-one following it up. As you can see, I have put it in brief point form. I was also supposed to be advised every month by the commanding officer of what actions were happening with my case. There were times there when I have gone for four months without any correspondence. The system should have been in place to highlight to defence equity that there needs to be a follow-up each month.

CHAIR—How long were you in the armed forces?

Mr Showler—I was there for 22½ years, and the last six months of those 22½ years were the worst of my life.

CHAIR—What rank did you retire at?

Mr Showler—I discharged at the rank of Flight Sergeant.

CHAIR—Is that what you are in the reserves as well?

Mr Showler—Yes. Although, in the nearly two years since my discharge, I have only done 30 days reserve work.

CHAIR—What brought on this incident in Dili? In the document we have got, it just says you become the quartermaster and then you come under constant harassment and verbal abuse from the major. Had this happened to you before in your 22½ years?

Mr Showler—No, never. To paint the picture for you, we arrived on 16 August 2001. In Dili, approximately 10 days later, they had the elections. The tension in Dili at that time was quite high. We also had the September 11 bombings a month after arriving. We had an Egyptian medical contingent, as well as a Singaporean medical contingent, on our compound. The night of September 11, we had several East Timorese who decided that the Egyptians, being from a

Muslim country, were a fair target. Whilst we had no gunfire, there were rocks and so on being thrown. The quarters of the troops from the Egyptian contingent were right on the compound fence line. We had to move in and shift them out of the way for that night. There were no boom gates or security controls on the front of the compound at the hospital. There were two old boom gates lying in the gutter at the very front, and I instigated my staff to recommission those so that the Portuguese guards that we had at the hospital could control people going in and out.

We also had 21 deceased go through the morgue in my six months. The first was two days after I arrived; the last was two days before I left. I had never been trained in morgue duties. It is a horrible thing when you have to pick up a 12-year-old kid that has been burnt from top to toe and his skin crackles in your hands when you pick him up to put him in a body bag. I will admit it was one of the hardest things I have ever had to do, but it was my job. My stress levels were very high, and having to handle a child the same age as mine and place them into a body bag makes you thank Christ you live in Australia.

Having said all that, the major decided that my performance was unsatisfactory, that I was not doing the job I was supposed to do. What had happened was that when we had the handover/takeover from the previous contingent I was told that I had to run the store like a normal medical store, which I did. I was not informed that I had to supply a report to the Army major on—and this is how ridiculous it is—the serviceable state of all medical equipment on the compound. I found out later that the UN had come back through the ASNCE headquarters—the Australian headquarters—in Dili and put a rocket up the major for not supplying that report. He then put a rocket up me in the form of a record of conversation saying my ability to do my job was unsatisfactory, that my performance would warrant me being returned to Australia if I did not improve. That was actioned in October and it only got worse from there.

Wing Commander Hine knew about it because several times over the deployment she came down to my office and said, ‘I have every great faith in the work that you and your staff are doing.’ If she had ‘every great faith’ in the work I was doing, why was I still there if I was useless? Why did she not do something to the Army major, or why did she not send me home? I did request on 17 October to go home. At that stage I was going downhill. On 10 February 2002, the day before my breakdown, I was ordered by Major Georgiadis, and subsequently by Wing Commander Hine, that my staff and I would work 24 hours a day for the next three days to clean up paperwork that was just impossible for five staff members to do in such a short time. The next contingent was coming in on the Wednesday and we had to make it look good.

CHAIR—Were the staff members all Australian?

Mr Showler—Yes. Two were Army members; the other three were Air Force.

Senator JOHNSTON—With respect to the apology, you say it is not about the money. I can see that that is correct. You have indicated that the apology you received was inadequate in a number of senses. Why do you think it was inadequate?

Mr Showler—The apology is written down for one situation. Major Georgiadis has apologised for his actions in that one and one only incident. There is no mention of all the others. When I advised Wing Commander Hine that that was not acceptable, she said that the investigation was only taken on that one report.

Senator JOHNSTON—The inference is that he was only ever told that there was one incident and that he was, in a cursory way, simply going to apologise for that?

Mr Showler—Yes.

Senator JOHNSTON—Whereas you say the intimidation went on for many months.

Mr Showler—For five months.

Senator JOHNSTON—On 10 February 2002, there was an event. Could you tell me what that event was, with respect to your health?

Mr Showler—When we arrived in East Timor, my staff and I were told that we would be the second last contingent in the UN hospital in Dili. I was asked to check what stores were held in the hospital and what we could return. In our initial investigations, we found that the current stock level in the hospital was over \$500,000 out—in other words, we had \$500,000 worth of equipment that was not there.

Senator JOHNSTON—Was that equipment, or drugs or consumables?

Mr Showler—It was mainly equipment. The drugs were in a separate area, and they were controlled by the pharmacist.

Senator JOHNSTON—What sort of equipment was it?

Mr Showler—Defibrillators, ECG machines and operating theatre equipment.

Senator JOHNSTON—It was the sort of equipment that is not just going to be put in someone's back pocket?

Mr Showler—With most of the equipment, you could not walk out through the front gate without having a very large bulge in your pocket. Our investigation indicated that the contingent before us had returned the equipment to Australia. But you have to understand that, with the SDSS computer system in Defence, it is very hard to track the paperwork if the system is not used properly. The previous contingent had in fact sent the equipment back to Randwick medical depot. Randwick had receipted it in, using the serial numbers. We tracked down nearly all the items that had been returned. When the contingent before us marked the stuff off, they had actually marked it back on. So, instead of having none, we had two. We were working from seven in the morning until approximately 10.30 every night for three months to try and clean this up.

But before that, I went to the commanding officer and told her that we needed to do a full 100 per cent stocktake and that, since all staff would be available in November, that would be the best time to do it. Major Georgiadis was then informed that we were going to do a stocktake. He informed the CO that it would be run on 31 January 2002. We left the hospital on 13 February 2002 to go to Port Hera for our debriefing prior to arriving back in Australia. I believe we effectively had 10 days to get over half a million dollars worth of paperwork done, to investigate these discrepancies and to physically put them through the computer. We walked out of there

with over \$50,000 still outstanding. But, I will tell you now, that was a lie. It was never that much. We never had the chance to investigate everything.

That was the incident that happened on 10 February. I was called up to the stocktake tent by Flight Lieutenant Potter and Major Georgiadis. They informed me that my staff were not working fast enough to get this done and that we had to have it done by Wednesday. He then said—and these were his continual words: ‘It is a CO’s directive. You and your staff will work 24 hours a day for the next three days until it is done.’ My first response to him was: ‘Sir, that is an illegal order. You cannot order me or my staff to work 24 hours a day.’ His argument was: ‘It is a CO’s directive.’ I will not go into the expletives.

Senator JOHNSTON—Was it a CO’s directive?

Mr Showler—He then went and got the CO. She came down and said to me, ‘You will work 24 hours a day for the next three days to finish it.’

Senator JOHNSTON—Did you make note of that in your notice of grievance?

Mr Showler—I did.

Senator JOHNSTON—And what has flowed from that?

Mr Showler—Nothing.

Senator JOHNSTON—Is it denied that that order was issued?

Mr Showler—I hope they do, because I have witnesses.

Senator JOHNSTON—You do not know yet?

Mr Showler—No. That has never been brought up.

Senator JOHNSTON—The issue of that order is the principal subject, the motivating subject, of your notice of grievance, isn’t it?

Mr Showler—The abuse on that day and prior to that, and then my breakdown the following morning.

Senator JOHNSTON—That order strikes me as being the trigger to your breakdown the following day. After 22 years, you know that that order is at best inappropriate. How many witnesses do you have to that order being issued?

Mr Showler—Three.

Senator JOHNSTON—Three witnesses heard the major and then the wing commander confirm that order that you were to work 72 hours consecutively?

Mr Showler—We had been working from seven in the morning until 10.30 at night anyway for the previous three months.

Senator JOHNSTON—That is the principal issue of your complaint, isn't it? That underlines and supports all of the things that have gone before?

Mr Showler—Yes.

Senator JOHNSTON—What is the result of that complaint?

Mr Showler—I have no results.

Senator JOHNSTON—Where is it in the system now?

Mr Showler—It is not.

Senator JOHNSTON—Have you formally done a notice of grievance?

Mr Showler—No, I have not. I have literally walked away from the military now—other than, as I said, in February of this year when I wrote to the Chief of Staff of Air Force Health Records to get a copy of my records that were never written.

Senator JOHNSTON—Just correct me if I am wrong: is there not a formal way of commencing that grievance action? Based upon what you have told this committee, there is a way of getting the ball rolling, is there not?

Mr Showler—In the military you have the redress system. I am a civilian. Yes, I may be in the Air Force Reserve, but I have not done any work in the reserve since 2002. My argument there is that that is why I went to the Defence Force Ombudsman, thinking that he would do something.

Senator JOHNSTON—If it were the case, with respect to that grievance, that you were still subject to the Defence Force military justice system, what would be required to be done? Let us just take it as read that you are back in there. Forget about the current situation as you understand it to be. Let us say you are back in there still working. What do you have to do?

Mr Showler—I would have to put paperwork through my commanding officer and actually redress that system.

Senator JOHNSTON—Save for your understanding now, or your disposition now, what stops you from doing that today?

Mr Showler—I have lived this for the last two years. I nearly did not turn up today. I want to get it over and done with. I have had enough. The only reason I want my medical records updated is that, if I do go and kill myself, my family have got a way of getting back at the bastards that put me here.

Senator JOHNSTON—Have you sought any counselling or advice from within the Defence Force or from within the Air Force as to your situation?

Mr Showler—I was sent to a psychiatrist when I returned. On my discharge those services ceased. I then went back to the same psychiatrist at my own cost.

Senator JOHNSTON—Is that an issue of concern for you? The committee are interested to know whether that is a matter of concern because we want to take that on board, I dare say.

Mr Showler—If my medical records had been annotated, Veterans' Affairs would now be covering the costs of my medication and doctor visits. Like I said, I do not care about the money.

Senator JOHNSTON—It is about your health, though.

Mr Showler—Yes. I am sick of taking tablets that I should never have had to take.

Senator JOHNSTON—What do you perceive is the solution to this situation?

Mr Showler—For my case, I just do not know, but the only way within Defence is to take it off Defence. Do not let them investigate. Do not let them have the ability to turn people away. If you have a senior officer walk up to you, are you going to tell him that the Defence Force sucks? Like hell you are. You are not going to go anywhere near him. You are going to tell him what he wants to hear.

Senator JOHNSTON—Let us see if we can sum up here to some extent. You require the Defence Force to look after you to the extent of your ongoing psychiatric management. That does not seem unreasonable in the circumstances. That would be a step in the right direction.

Mr Showler—I believe so, yes.

Senator JOHNSTON—Secondly, you are seeking some sort of redress with respect to that order and with respect to your treatment.

Mr Showler—Yes.

Senator JOHNSTON—It is unlikely, is it not, that, given your 22 years experience, redress will occur without your setting out a proper formal notice?

Mr Showler—That is correct.

Senator JOHNSTON—So one of the things you would need to do is issue a notice.

Mr Showler—Yes.

Senator JOHNSTON—They are two things. What else is there?

Mr Showler—I do not think there is anything else.

Senator JOHNSTON—If you think of anything, please communicate it to the secretary. It may be that in the hurly-burly of a committee hearing you forget to mention things that occur to you later. I want to thank you for coming along today and I appreciate your frankness in dealing with these very troublesome issues.

Senator HOGG—I have a couple of questions about the appointment of the investigating officer. You note in your submission that the appointment was not made until May 2002, which you say was three months after your return from East Timor. Can you give us the reason for that? Do you know or suspect what the reason might be?

Mr Showler—I know that the actual reason for that happening was that the commanding officer, Wing Commander Hine, said that everyone would be on R and R leave until April or May and that nothing would be done until everyone was back from leave.

Senator HOGG—Do you believe the whole process was put at risk, if I can use those words, by the delay between the event and the appointment of the investigating officer?

Mr Showler—Definitely, yes. I was told by the equity officer at the hospital in Timor that an investigating officer should or could have been appointed within four days. Because we were leaving the country, the CO had decided that it would be done when we returned. The interesting part is that I was interviewed on 4 June by the investigating officer but I received a letter a fortnight later from the CO advising me that the investigating officer had been appointed. I really do not think she knew what she was doing.

Senator HOGG—But this was the same commanding officer whom you received a letter from, I presume, and who, according to you, had refused to commence the investigation in East Timor.

Mr Showler—That is right.

Senator HOGG—The basis of that refusal was purely because you were going back?

Mr Showler—All contingent members were returning to Australia on 21 February and all members were going on a minimum of four weeks leave. I took 12 weeks leave.

Senator HOGG—In your submission, you also said:

On receipt of the Investigating Officers report, I was deeded to have caused the Major to direct the harassment and abuse to me due to my insubordination.

Were any charges of insubordination ever laid against you?

Mr Showler—Not against me, no. I have never been charged.

Senator HOGG—Do you think that your behaviour, if it were inappropriate, should have caused charges to have been laid such that you then had something to argue against? Is that your contention?

Mr Showler—We were in East Timor. It was still classed as a war zone. If I had been insubordinate, as I am sure one of the senior officers behind me could explain to you, I would then have been placed under arrest and put in prison. It is very similar to treason. You were in a war zone—it was still classed as a war zone. If I had been insubordinate to a senior officer, I would have been carted away.

Senator HOGG—According to what you believed, you had not been insubordinate. You had obviously questioned something.

Mr Showler—I had questioned orders that were ridiculous.

Senator HOGG—In your previous almost 20 years of service had you ever been insubordinate on any occasion or had you severely questioned the instructions and orders that had been given to you by your superiors?

Mr Showler—No, I had not. As I say, I was never charged with one offence in my 22½ years.

Senator HOGG—So this was the first case that you had been involved in where your commitment to duty had been questioned in any way?

Mr Showler—It is interesting that in 1999 the Chief of the Defence Force instructed all military members to attend a one-hour DEO video.

Senator HOGG—I remember that.

Mr Showler—It was in the media. We were ordered to go to this one-hour video. When most of us walked out, we laughed about it thinking: ‘What a joke! It does not happen in today’s military.’ I am here to tell you, three years later, that it bloody well does. But I will admit that the people that I was with at that video questioned the man hours wasted watching it. You would not expect to find the attitudes of the people in that video out in the civilian world. Someone once asked me, ‘If you had been a civilian, what would you have done?’ I said that I would have snotted him. I would have been happy. I would have walked away. I only wish to Christ I could have because I could have had closure, finished, gone—I do not care.

When the investigating case started, I went back to some friends that I worked with in Victoria Barracks in Melbourne. One of the blokes said to me, ‘I’ve heard you’ve been a bad boy.’ I said, ‘Why? What have you heard?’ The rumour was that I had pulled my pistol out and pointed it at that Army major’s head and that the RAAF were not going to support my case because of that incident. I could not believe the stupidity of that man accepting the story. If I had pulled a weapon out, where do you reckon I would be at this point in time? I would not be here talking to you; I would still be in Port Phillip Prison because I would have pulled the bloody trigger.

Senator HOGG—Were there problems for any of those people under your immediate control who served with you?

Mr Showler—Two women were abused and harassed by this same Army major. After my incident, I put the paperwork in and I went to them to ask them to also put the paperwork in. One of the girls said, ‘I’ve been a victim once; I won’t be a victim twice.’

Senator HOGG—What did she mean by that statement? Did she explain that to you?

Mr Showler—In other words, she has been abused and harassed by an Army major; she is not going to be abused and harassed by the Defence Force equity system.

Senator HOGG—So you are saying there was a lack of belief in the system.

Mr Showler—Yes, sir. If I had not put in the paperwork to put up my case, maybe I would not have suffered a heart attack last year. Maybe my stress levels would not have been through the roof. But I also knew that Major Georgiadis, on his return to Australia, was going back to a training unit—a training unit with kids. You heard the story this morning: how one kid committed suicide because of the harassment and abuse. The only thing I can hope for out of this committee—whether I get satisfaction or not—is that the Defence Force will look at what is happening and stop it. I did 22½ years; most of these kids are lucky only to do 12 months, but they do not get out. They do not walk out; they are carried out.

Senator HOGG—Can I just ask about the second woman that you have mentioned. I certainly do not want any names, but did the second woman take any action and, if not, do you know why not?

Mr Showler—It is the same story. The interesting part about it—

Senator HOGG—Do you know if either of those women is still serving within the defence forces? Again, I do not want names mentioned.

Mr Showler—I believe that the senior NCO female from Dili is not. I could not tell you about the corporal.

Senator HOGG—All right. I have no further questions.

Senator PAYNE—Mr Showler, I just want to follow up on one or two questions from Senator Johnston in relation to the process of the military justice system and how it works—and perhaps the time taken to address your issues in particular. Had there ever been any indication in your case, from Defence, that it was taking an inordinate amount of time and that matters needed to be progressed?

Mr Showler—I knew it was going to take time on the day that the commanding officer wrote the letter to me in Dili at the UN hospital saying it would not commence until after we had returned home. I knew straightaway that I had been the biggest idiot out by putting in the paperwork.

Senator PAYNE—And, in the months that followed, was there any formal indication from Defence that they were aware that it was taking a long time?

Mr Showler—I suppose, to be fair to Defence, they did not know. The Defence Equity Organisation were receiving information copies, but it never went any further. It was always between me, the investigating officer and the commanding officer.

Senator PAYNE—So the commanding officer did not give you any indication that—

Mr Showler—She did, when I wrote to her.

Senator PAYNE—Right.

Mr Showler—Actually, I had to request, several times, a copy of the investigating officer's report. Each time I got a reply from the commanding officer—as you will see in the correspondence—she stated: 'I have forwarded your letter to the legal officer and will advise.' How many times do you have to make a request to a legal officer if a member is entitled to a copy of the report? The unfortunate part for her was that I knew I was. So why keep going back to the legal people?

Senator PAYNE—In your career, was this your first connection, if you like, with the Defence Equity Organisation or the military justice system?

Mr Showler—Yes.

Senator PAYNE—To go back to the point that you made about the Defence Force Ombudsman, I think you indicated that one of the reasons that the Defence Force Ombudsman's office had told you that they could not become engaged in this process was that you were still a serving member of the Reserve.

Mr Showler—Yes.

Senator PAYNE—Did they also talk to you about the fact that there needs to be a decision made—probably in response to an ROG from you—for them to act upon, and that would be one of the reasons that they probably cannot get involved?

Mr Showler—I am not sure. But my argument there was that, whether or not I am a serving member, I had a problem with the Defence Force. As an ex-service member, there was a problem. I was not going to go back to the system that had already crucified me for those many months to get an answer that I knew was not going to be forthcoming in the first place.

Senator PAYNE—I understand that. I was trying to determine whether in fact in some ways the office of the Defence Force Ombudsman's hands are tied to a certain degree in that area because they need a decision to review as an ombudsman. That goes back to the questions that Senator Johnston was asking you about the redress process and things like that—which you have indicated clearly that you do not wish to engage in.

Mr Showler—I think the Defence Force Ombudsman's office should be given the opportunity to investigate as well. The reason I had written to them was that I was dissatisfied with the time taken. I was dissatisfied with the investigating officer's report. But they literally said to me, 'You have to redress through Defence.' I could not see the sense in that.

Senator PAYNE—I understand your frustration, but I think that—

Mr Showler—'Frustration' is not the word.

Senator PAYNE—I was being polite. Thank you.

CHAIR—There being no further questions, thank you very much, Mr Showler, for coming along today and sharing your experiences with us.

Mr Showler—Thank you.

Proceedings suspended from 11.16 a.m. to 11.33 a.m.

WILLIAMS, Mr Charles Edwards, (Private capacity)

WILLIAMS, Mrs Jan Mary, (Private capacity)

WILLIAMS, Ms Ruth Anne, (Private capacity)

CHAIR—Welcome, Mr Charles Williams, Mrs Jan Williams and Ms Ruth Williams. Your submission was received as No. 17. Do you have any alterations to make to that submission?

Ms R. Williams—No.

CHAIR—I understand that the secretariat has provided you with information regarding parliamentary privilege and adverse comments and that you have been made aware of what that means. Do you have any questions on that at all?

Mrs J. Williams—No.

CHAIR—I now invite you to make an opening statement to be followed by questions from the committee.

Mrs J. Williams—Thank you for the opportunity to address this committee and thank you also for seeing the need to hold this inquiry. We bring apologies from our son Daniel who, due to work commitments, is unable to travel from Western Australia at this time. We are here today as a bereaved family who lost our son and brother just over a year ago at Singleton Army Base. Not only must we cope with the loss of Jeremy, we also lack the peace of mind of knowing that the factors leading to his death have been changed and that the same thing will not happen to another family. We are trying to achieve something worthwhile out of our tragic loss as a legacy to Jeremy. We do not want to see any young man or woman who loves the Army as much as Jeremy did rejected as Jeremy was. In our statement to you today, we would first like to discuss the failings of the Army as they directly related to Jeremy. We will then present some new information which has come to light since we wrote our submission.

Ms R. Williams—As you are aware, Jeremy died by taking his own life on 2 February 2003. In an interview with this committee on 1 March this year, Lieutenant General Leahy said there was no one contributing factor that led to Jeremy's death. But he is wrong. There was one causal factor, and that was the Army. I would like to go through what the investigating officer's report into Jeremy's death concluded were the contributing factors. The first factor cited was excessive alcohol consumption, but we believe that the way the Army treated Jeremy compelled him to drink too much the night he died. To quote the psychiatrist's report in the investigating officer's report into his death: 'He moved into a state where his depressed mood would have been exacerbated by the alcohol.'

The second factor cited was physical problems and the associated change to the concept of self. Jeremy received an injury to his feet and shins whilst undergoing a forced pack march on day 2 of his infantry training. He told us the Army made him feel like scum—worthless and shameful—as a result of his injury. The third factor cited was the inappropriate culture and

environment at Singleton: for once an admission of guilt by the Army. The fourth factor cited was the specific stressful events between 29 January and 1 February.

At this point I would like to recount our version of events over these days because we believe it is crucial to our argument. On the morning of 29 January 2003 my father rang Singleton and spoke to a sergeant at the base. He rang because he was deeply concerned about Jeremy's general state. The night before this phone call Jeremy had been in tears on the phone to my parents and he was convinced that his career with the Army was over. My father's call the next day was the Army's chance to save Jeremy, but the importance of his warning was not heeded. The Army took a flippant approach to this warning and they failed in their duty of care. Furthermore, assurances given to my father that this call be kept confidential were broken. Someone at the base told Jeremy of that phone call, and he said to my parents that evening, 'I was told my parents rang the Army,' and he was angry and inconsolable over this. After his death, the investigating officer was not able or was unwilling to find out who had breached my father's confidence, who told Jeremy of that phone call and why that crucial warning that could have saved his life was not properly heeded.

The fifth factor cited was Jeremy's perception of the nature of his injuries and the likelihood that he would be discharged. He had been told by his superiors that if he failed, either through injury or any form of the course, his career was finished. Therefore, he did have reason to believe that he would be discharged. The sixth factor: the investigating officer highlights the Army's inability to learn from the lessons of the Amos inquiry, which is a crucial confession by the Army. The seventh factor cited was the inappropriate culture and environment at the training centre at Kapooka—another admission of guilt by the Army. Finally, he cites inadequacies of Rehabilitation and Discharge Platoon manning, which is one more way in which the Army let Jeremy down. So the evidence is clear: the failings of the Army led to Jeremy's death—failings that in many cases have not been corrected and for which no-one has been held accountable. The Army has admitted its failings, but where is the justice?

Mr Williams—In the light of the stated aims of this committee, we now offer new information that has come to light since we finished our submission. We want to draw your attention to the commanding officer's hearing which took place on 24 February at Singleton and a letter dated 4 March from Major General Gordon. This hearing was called to consider three charges against a sergeant who served at Singleton. The charges were: making a trainee stand on command duty contrary to his medical condition and restrictions, verbal threats of violence against two trainees, and belittling an inferior soldier. All charges were dismissed.

We ask the committee to consider the conduct of this hearing in the light of the following points. We are informed that the persons acting for the prosecution and defence of the sergeant concerned were warrant officers class 2, which in essence is one rank above sergeant. It is a clear conflict of interest for NCOs of similar rank to defend and prosecute each other. We are further informed that one of the reasons given as to why the charges were dismissed was that one of the victims could not remember the exact date that he was threatened with violence. We are told that this was because on three occasions, to three separate officers, both victims had in fact given statements on the behaviour of this sergeant—yet not one received a copy of his statement. Also, there were witnesses to events who were willing to testify but were never called.

The second victim of this sergeant was never called to give evidence. The reason given for this was that, because the first victim's evidence was considered weak because of his failure to remember the exact date, the second victim's evidence was likely to be similar. Therefore, there was no point in calling him. The first victim was not allowed to stay in the hearing room to hear the evidence given by the sergeant, but the sergeant was present in the room when the young victim was recounting his side of events. The victim told us that the tone of the proceedings was that he was the one at fault. Finally, we would like to point out to the committee that the Chief of the Army described the sergeant's behaviour to me personally on the evening of 7 April as deserving discharge from the Army. This is an outrageous example of how corrupt and dysfunctional the military justice system of today is. We implore the committee to take action.

We raise a separate matter before the committee. Our submission discusses the so-called Amos report—a report into the treatment of another trainee at Singleton in 2000. We have recently obtained a copy of an investigation into why the recommendations of the Amos report were not carried out. We believe that, had those recommendations been implemented, Jeremy would still be alive. Lieutenant General Leahy raised this matter on 26 March in a public update on the investigation into Jeremy's death. He said:

The investigation found that whilst five of eight recommendations from 2001 were fully implemented—

however, the investigating officer's report goes on to say that the five conditions were in fact matters of procedural significance only, and no further discussion took place in the report—

three—

the three core issues—

were not.

He also admitted:

The investigation also found that there were no specific deadlines or reporting mechanisms included in the three recommendations and that there was an inadequate hand over between key staff.

What Lieutenant General Leahy did not tell the public was that the most vital aspect of that investigation was that there be a formal system of monitoring the treatment and management of trainee soldiers. In subsequent correspondence of this report the word 'formal' was removed, and nothing was done. The excuse offered by the Army was 'inadequate handover of key staff'. This investigation also found that there were previous investigations into unacceptable treatment of initial employment trainees and soldiers in the holding platoon at Singleton going back as far as 1996. There were allegations of assault and sexual assault. No-one then and no-one now has been charged over any incident. It is clear that the Army does not care about its trainees. It protects its NCOs and officers, the status quo and the lifestyle—exactly the way General Cosgrove wants it, as he stated in his opening address to this committee. Who and where was the Chief of Army when the report of the Amos investigation in May 2001 came out and the recommendations were to be implemented? The Chief of Army was Peter Cosgrove, and he was carrying out the duties of Australian of the Year.

Ms R. Williams—To show the lengths that the Army will go to cover up, my mother has the report into the investigation as to why the previous recommendations of the Amos report were not implemented. In it are 20 pages of paragraph numbers, and the rest is blank. What is the Army hiding? Again, within the action plan are blank pages that tell us nothing. The investigation conducted by the Army shows that, within the Army, there is a deeply entrenched propensity for covering up and distorting the truth, particularly when there are controversial issues involved. Despite our complaints in this regard, we were told by the Army that the report was described by Colonel Tracey as comprehensive and that, therefore, it must be good.

Is it more than mere coincidence that, despite the evidence, the Army did not find against itself on the more controversial issues, only on those lesser issues where blame could be attached not to an individual but to systemic failure. In a letter to us dated 13 February 2004 Major General Gordon stated: ‘I found that Lieutenant Colonel Roney was not fully aware of the treatment of trainees in R&D Platoon at Singleton.’ We have recently been contacted by a parent of a soldier who was in R&D Platoon towards the end of 2002 and early 2003, so that was at about the same time as Jeremy. This parent contacted Lieutenant Colonel Roney on a number of occasions complaining about the treatment of his son within R&D Platoon. So when Jeremy died in early February 2003, Lieutenant Colonel Roney must have been well aware of the situation within his command, but he did nothing.

Mrs J. Williams—What disturbs us most is that the inept and dysfunctional nature of so-called military justice puts greater blame on the individuals who are dead and cannot defend themselves. How many cases do there have to be before the defence forces will act? We know of eight suicides since 1996 in circumstances hauntingly reminiscent of Jeremy. But Jeremy did leave a message to us as to who he blamed. When he went to take his life he took one thing with him. He took this hat, and that is all he took. That is the end of our statement.

CHAIR—Thank you.

Senator CHRIS EVANS—Thank you very much for the submission. We understand how difficult it is for you to come before us today, but we appreciate the great detail of your submission. Could I start by asking about the call to the base, when I think Charles spoke to someone at the base. Obviously you were worried about Jeremy’s state of mind. Was that the first time you had cause to ring the base to speak to someone privately about Jeremy?

Mr Williams—Yes.

Senator CHRIS EVANS—I do not want you to name who you spoke to but was it someone in the chain of command or someone who had direct with Jeremy?

Mr Williams—No, it was the sergeant in the regimental aid post who had been involved in some of Jeremy’s treatment on recent previous days.

Senator CHRIS EVANS—His medical treatment?

Mr Williams—Yes.

Senator CHRIS EVANS—Had you spoken to this gentleman before?

Mr Williams—No.

Senator CHRIS EVANS—Is that who they put you through to or did you ask for him?

Mr Williams—I asked to be put through to what I expected would be the sick bay and I ended up being put through to the regimental aid post. I wanted to speak to a medical officer but there was none on the base. I wanted to speak to anyone to find out about Jeremy's real situation and get someone to talk to him, reassure him and settle him down, because of his very traumatised state on the previous evening and, indeed, his state on evenings prior to the previous evening. We could see a very dramatic decline in his state of mind and trauma.

Senator CHRIS EVANS—So your call was, in effect, to try and get help for Jeremy.

Mr Williams—Exactly.

Senator CHRIS EVANS—Since all this, have you got a clear understanding? I know you have expressed a concern that the privacy was not respected. Obviously Jeremy came to hear about this and was upset, because you had a subsequent conversation with him. Have you got a sense of what happened in terms of the chain of command and what Army did in response to the call?

Mr Williams—I had a number of explanations given to me, proffered by a number of warrant officers, as to what the likely scenario was on the morning of that day and perhaps later that day.

Senator CHRIS EVANS—Did they take any action to provide that reassurance to Jeremy?

Mr Williams—Yes, Jeremy was actually spoken to by the particular sergeant.

Ms R. Williams—We were told by Roney that somebody did speak to Jeremy. We only had Roney's word for it that this person's impression was that Jeremy was fine. No-one looked into it afterwards to find out exactly what happened. We had only one version of events of what happened. There is no way of knowing what Jeremy's state was at that point.

Senator PAYNE—Mr Williams, may I ask you what you said to the sergeant at the regimental aid post? What did you tell him and what did you ask him to do?

Mr Williams—Certainly. I told the sergeant who I was. I explained to him that I came from a military background. I told him of a very traumatic phone call I had with my son on the previous evening—that he was beside himself, in tears. Above all else, he was immensely fearful and distraught that discharge from the Army was imminent because of his injuries. I explained to the sergeant that I could not persuade or settle my son down in any shape, manner or form. Therefore I made the phone call and asked if he could please assist and reassure Jeremy that he was not likely to be discharged from the Army and that, if he was unfit for infantry, other opportunities may be offered to him. It was basically to reassure him that he would not be booted out of the Army, which is where his heart was.

Senator PAYNE—And this was significant and unusual behaviour for your son?

Mr Williams—Very much so.

Senator PAYNE—Which is what prompted you to make the call?

Mr Williams—Exactly. We had never seen him in the state he was in. That evening was particularly stressful. But we had seen this mindset building over recent previous days.

Senator PAYNE—Because of the injury situation?

Mr Williams—Yes, because of the perception that he held and therefore the consequences of his injury.

Senator PAYNE—What did the sergeant tell you he would do?

Mr Williams—That he would speak to him. In actual fact, the sergeant was not available at the time. He rang me back about 10 minutes later. I think he got his file out. He said that he would speak to him and try and reassure him.

Senator CHRIS EVANS—Did you ask him for confidentiality about your call?

Mr Williams—Absolutely. Having been in the military myself, I know the consequences, particularly among young people, of a phone call from a concerned parent and what peer group pressure might ensue.

Senator CHRIS EVANS—In the subsequent telephone conversation with Jeremy, you learnt that he had obviously found out about your earlier call to the base?

Mr Williams—That phone call took place on the Wednesday morning. We rang him on the Wednesday evening, and the very first words he used when we inquired as to how his day was were, ‘Fine, except my parents rang the Army.’

Senator CHRIS EVANS—And he was upset about that?

Mr Williams—He was.

Senator CHRIS EVANS—Did he say who had told him that you had called?

Mrs J. Williams—No, and unfortunately we did not ask. We wish we had but at that time we did not.

Mr Williams—We could see that he was upset and we did not want to pursue the line of questioning as to how he found out. We were more focused on how he had gone with his reassurance, that he was comfortable with the situation and that there had been an improvement for him.

Senator CHRIS EVANS—In terms of that call, putting aside the fact that he was upset about the fact that you had called, had he been reassured by the discussion with the sergeant?

Mr Williams—No. He said there was no change, in essence, to his position. He spoke of possibly corps transfers, to medical, but essentially there was no change. That was the bottom line.

Senator CHRIS EVANS—I will just move on. You have provided very comprehensive submissions, which are really helpful for us, so I will not try to cover all the issues. One of the things I wanted to ask you about—and it is a concern other people have raised with us—is how you get an investigation into the death. You obviously had your early contact et cetera. Was there going to be an investigation into Jeremy's death before you asked for it? Could you take us through that process—how it came to be that you got an investigation into his death?

Mrs J. Williams—We initially started by writing to the Minister Assisting the Minister for Defence, Danna Vale. We sent at least three or four letters, if not more. We wanted to know why there was not any mechanism whereby, when a death occurs within the military, there is an investigation straightaway. Sure, there is a military police investigation, but that does not go far enough. It then gets turned over to the civilian police—because it is a death and therefore civilian police have to get involved—but the civilian police told us that they were getting very little assistance from the Defence Force as far as their investigation was concerned.

As I said, we wrote to Danna Vale, but it took her months before she even responded. In the meantime, we were getting absolutely nowhere. We then received a phone call from our Army liaison person informing us that Lieutenant Colonel Roney or Major Davidson from Singleton would be coming down to Mildura to deliver to us the military police report, which incidentally is only a bit over a page. They were going to fly all the way down there just to hand us a page that is blacked out, total nonsense, just saying one simple—

Senator CHRIS EVANS—So that page had deletions as well, did it?

Mrs J. Williams—A little bit; it was more that who wrote it was deleted. Anyway, that infuriated us. We did not want to see those two particular people again, never mind having them come all the way down to Mildura. We just asked that it be forwarded by mail. We were so angry as well because we knew the context of it: it was going to simply say 'suicide with no suspicious circumstances'. We knew that there were suspicious circumstances but that was it as far as the Army was concerned—closed shop, finished.

We decided we would write a letter to Lieutenant General Leahy, the Chief of Army, to see whether he would do something and to tell him that we did not want these people coming to us. He was the one who had given the directive that they deliver the report. We faxed the letter to Lieutenant General Leahy. He rang Charles that evening. It was a lengthy phone call. He agreed that he would get an investigation going. At the same time, Danna Vale is claiming that she was the one who got the investigation going. Anyway, that is how we got it done. And that was at the beginning of April.

Mr Williams—What provoked our concern and our desire for an investigation was the appalling situation at Singleton that came to light in the two days that we were on that base—in particular, the interaction we had with the young soldiers of the R&D Platoon of which Jeremy was a member. Clearly things were very seriously amiss at Singleton and in that platoon. There was a culture of denigration and abuse. It was very easy for us to put together a picture of why

Jeremy had despaired to the extent that he did. From there we commenced our efforts to bring about some form of inquiry and ventilation of the system at Singleton. We actually voiced our concerns at a final meeting with Roney in his office on the Wednesday afternoon. His response was that there was nothing wrong on his base and that it was professionally run.

Mrs J. Williams—How wrong he was.

Senator CHRIS EVANS—I want to take you to the investigating officer's report, which we have a copy of. In your opening address today you raised a few of the issues that arise out of that, and I am trying to get an update on what has happened since then. A lot of actions were supposed to be taken following on from the report. First of all, there is the issue of why the recommendations of the report about the incident with a private in the previous year had not been implemented. I am on the record as saying that my chief concern, when we heard about Jeremy's death, was that we had had a similar problem the year before. There had been an inquiry, and a report had made recommendations. Then Army conceded that that report's recommendations were not implemented. So then there was a third investigation, if you like, into the investigation as to why the findings of the first investigation were not implemented. You have a copy of that now, do you?

Mrs J. Williams—It is right here.

CHAIR—Is that the Amos report?

Mrs J. Williams—I will read you the title exactly—

Mr Williams—To quickly answer the question: it is an inquiry into why the findings and directives of the Amos report were not implemented, which is essentially where we are coming from. We are saying that, had they fixed up their act as a result of the first report, the situation that prevailed at Singleton in Jeremy's time would not have been there.

Senator CHRIS EVANS—Thank you. Jan, could you read the formal title of the report so we are clear what Army calls it?

Mrs J. Williams—*Investigating officer's report into the outcomes of the investigating officer's report into the complaint to the minister concerning the management and treatment of X—his number, which I will not read—Pte Amos, formerly RAINF employment trainee Dismounted Combat Division, DCD, Singleton, 1 May 2001.*

Senator CHRIS EVANS—So this is the inquiry into why the Amos report was not implemented. When did you get a copy of that?

Mrs J. Williams—When?

Senator CHRIS EVANS—Yes.

Mrs J. Williams—Probably about a month ago. I could check the exact date.

Senator CHRIS EVANS—That is fine. You have got about a month to go.

Mrs J. Williams—We did not have it at the time of putting in this submission.

Senator CHRIS EVANS—Sure. That is why I am just trying to make sure that we are up to speed. I take it from what you said in your opening submission that certain aspects of that report have been deleted?

Mrs J. Williams—In other reports that we have received, or other correspondence, there have been privacy deletions, including in ours where names have been blacked out and that is about it. Here is page after page of paragraph numbers, and then it has got ‘finding 30’, ‘finding 31’—well, what are they?

Senator CHRIS EVANS—There is blank page after blank page?

Mrs J. Williams—Yes, and all they have got are paragraph numbers.

Senator CHRIS EVANS—Is there an explanation given as to why they have not given this to you? I know you were promised the report.

Mrs J. Williams—Privacy deletions. That is really big privacy!

Senator CHRIS EVANS—Whose privacy, though?

Mr Williams—We do not know. All we can see are these blank pages.

Mrs J. Williams—It then has ‘finding 39’, ‘recommendation 39’. What was the finding? What are they recommending?

Senator CHRIS EVANS—Does your version of the report contain some findings and recommendations that you have been allowed to see, or are they all deleted?

Mrs J. Williams—No, not all. There are some findings.

Senator CHRIS EVANS—A large number have been deleted? Is that fair?

Mrs J. Williams—A large number have been deleted—20 pages.

Senator CHRIS EVANS—We will obviously seek to get a copy of that report for the committee. While I am on that question, one of the things that concerned me in your submission was that you were asked to sign a secrecy agreement in relation to the release of the investigation into Jeremy’s death. Is that right?

Mrs J. Williams—Verbally we had been. But we told Lieutenant Colonel Skowronski that we would not sign anything, that if we were not given Jeremy’s report we would seek it through freedom of information—even if it took months. So we were given a copy. We did not have to sign anything, but we were given the usual authorisation. Would you like me to read that?

Senator CHRIS EVANS—Yes.

Mrs J. Williams—To disclose a copy of the investigating officer's report into the outcomes—

Mr Williams—Basically it was an instruction from Danna Vale. She directed us not to divulge any of the information other than to a solicitor or a close member of the family.

Senator CHRIS EVANS—It is at point 51 of your submission, but I am just trying to be clear: effectively they asked you to sign that it should not be disclosed to any person other than a legal or medical practitioner for the purpose of providing advice. They asked you to sign that as a condition of you getting a copy of the report of Jeremy's death?

Mrs J. Williams—Yes. Originally, verbally.

Senator CHRIS EVANS—And you refused to sign that?

Mrs J. Williams—We said that if they wanted us to sign anything we would not do that.

Senator CHRIS EVANS—But you eventually got a copy of the report into Jeremy's death?

Mrs J. Williams—Yes.

Senator CHRIS EVANS—Did you get a full copy or did you get one with deletions?

Mrs J. Williams—There were heaps of deletions, things blacked out—names mainly. There were paragraphs that had been blacked out, particularly within the action plan.

Senator CHRIS EVANS—You mentioned in your opening statement that there was a legal opinion from Colonel Tracey. You made reference to that in your submission. Did you have a copy of that? When did that occur?

Mr Williams—That particular statement was passed on to us by Colonel Skowronski. It was passed on to me as a result of the concern I had voiced in relation to Jeremy's report being tied up with the legal section for so long. It went to the legal department for six weeks, then it went to another lawyer. It was there for another three to four weeks. I said, 'Why is this taking so long? Why do these solicitors need this report and what are they doing to it?' I was given the response that Colonel Tracey has described the report as very comprehensive. It is therefore a good report and he wants to check it over.

Senator CHRIS EVANS—Did you ever see a copy of what I presume was Colonel Tracey's opinion on the report or review of the report?

Mr Williams—I think there is some comment in the report, but I cannot recall it. I can check into that and forward it on, if there is something there.

Senator CHRIS EVANS—Thanks. It seems that he may have given legal opinion on the report before it was released to you. Is that right?

Mrs J. Williams—Yes.

Mr Williams—We were anxious about the report. We wanted to see whether or not it addressed all the issues that we were aware of and the difficulties at Singleton. We wanted something to come out of the loss of Jeremy—something that would be lasting, something that would represent a meaningful and permanent change. Therefore, the report was something we were particularly anxious to sight. We were also concerned that it was being tied up to the extent that it was with the legal department. We were concerned that it may have been altered.

Senator CHRIS EVANS—In your opening submission you made reference to the disciplinary proceedings on 24 February involving a sergeant. Were the matters that directly flowed out of the report about his treatment of Jeremy or of other trainees?

Mr Williams—Other trainees.

Mrs J. Williams—I would like to add there, if I could, that that particular sergeant was in charge of R&D Platoon. Throughout the investigation into Jeremy's death, we asked the investigating officer could he find out what happened to Jeremy between the Wednesday and the Saturday. And we have never been able to establish exactly what Jeremy was doing, or who he spoke to, on the Thursday and Friday. Did he have duties to do? Who did he talk to? Who did he hang out with? Did that sergeant do anything to him? We have two completely blank days—the last two—in Jeremy's life.

Senator CHRIS EVANS—I suppose the point of your supplementary submission at the start of today's hearing was to highlight the fact that, in your view, no appropriate disciplinary action has resulted from the concerns raised about the treatment of the soldiers at the training base.

Mr Williams—Precisely. There is no emphasis on deterrence. The behaviour of these offenders goes unchecked, as in the case of Luke Amos. He was unlawfully and unnecessarily detained in confinement, yet no action was taken against the offenders.

Senator JOHNSTON—Mr Williams, you mentioned that a sergeant was charged with three matters. How is it that you came to find out about that?

Mr Williams—One of the victims told me.

Senator JOHNSTON—When did one of the victims tell you that?

Mr Williams—Some weeks ago. Subsequent to the—

Senator JOHNSTON—So relatively recently?

Mr Williams—Yes.

Senator JOHNSTON—Until that point in time, you had had no idea that anybody had been charged with respect to an inappropriate treatment of your son, Jeremy?

Mr Williams—Correct.

Mrs J. Williams—It is stated in the action plan that there was an investigation going on. Major General Gordon informed us that an NCO had been charged.

Senator CHRIS EVANS—The investigating officer's report action plan includes reference to following it up.

Senator JOHNSTON—When did Major General Gordon inform you of an NCO being charged?

Mrs J. Williams—I can find that shortly. I have his letter here.

Senator JOHNSTON—Was it contemporaneously with the date of death, or was it many months later?

Mrs J. Williams—It was brought to light during the investigation into Jeremy's death, which commenced in May last year and finished in about August.

Senator JOHNSTON—So it came to light from the report arising from that investigation?

Mrs J. Williams—It came to light during that investigation whereby, unfortunately, that particular NCO was never interviewed for Jeremy's report, because he was already under investigation. He was the prime person in charge of Jeremy at that time, yet he was never interviewed.

Senator JOHNSTON—When the information relating to the conduct of an NCO with respect to Jeremy first came to light, it was not in the circumstances that you now know of, given the report by the victim that recently came to you, Mr Williams. I take it that that is the case, given that you made the opening remarks about this. What I am seeking to understand is that it was glossed over initially in the report, such that you did not realise it had the importance that it did. Is that correct?

Mrs J. Williams—I do not quite understand what you mean.

Senator JOHNSTON—Did you understand that the reference to this particular NCO in the report between May and August was as significant as you now understand it to be?

Mrs J. Williams—We were concerned because, as I said, he was in charge of Jeremy, yet he was never interviewed. The soldiers who have made allegations about this sergeant were in R&D Platoon at the same time as Jeremy, or just after his death. It has now taken over 12 months for this to be finalised. It was when we were at Singleton and we heard about those events that eventually this sergeant was charged. We knew about him in February, just after Jeremy died—when we were there, the soldiers told us.

Senator JOHNSTON—So, very shortly after Jeremy's death, this sergeant was charged.

Mrs J. Williams—He was under investigation.

Mr Williams—He was not charged for some considerable time. I raised the issue because I saw in this sergeant a substantial measure of unacceptable behaviour. It worried me immensely that he was the sergeant in Jeremy's platoon, and it worried me that he may be representative of other behaviour on the base. I therefore raised the issue of his behaviour—the beating allegations. There were, in fact, two NCOs who were charged—another one was a corporal. Both of the charges for both of these people were dismissed.

Senator JOHNSTON—When did you raise those issues?

Mr Williams—I initially raised them in the letter with Lieutenant General Leahy.

Senator JOHNSTON—When?

Mr Williams—That was the day before the first phone call I had with him—I think it was on 7 April—and I told him about this NCO and his behaviour. That was when he told me that he should be discharged from the Army.

Senator JOHNSTON—You mentioned a moment ago that one of the victims informed you of the nature of the three charges—and you were quite detailed in that. Was that a revelation to you at that stage as to what had in fact taken place?

Mr Williams—At what stage? I do not quite follow.

Senator JOHNSTON—You said the victim—relatively recently, within the last one or two months—came to you and told you what had happened with respect to the sergeant. Was that a surprise to you?

Mr Williams—No, I knew about the beating allegations in April of last year. I knew about him making the young kid stand on parade when he was not fit to do so in about May of last year.

Senator JOHNSTON—I may have misunderstood you. Did the conduct of this particular sergeant relate to Jeremy?

Mr Williams—We do not know, and we will never know, what impact or influence he had on Jeremy. I can tell you that one of the victims was one of Jeremy's closest friends. He had three close friends, of which this young man was one of the victims.

Senator JOHNSTON—Have you had a discussion with this young man?

Mr Williams—I have had many discussions with him.

Senator JOHNSTON—Has he said that the sergeant mistreated Jeremy?

Mrs J. Williams—He was not on the base at the time.

Mr Williams—For medical reasons, he was off the base in the week or 10 days that Jeremy was in R&D Platoon.

Senator JOHNSTON—Is there anybody else that you have spoken to who could cast any light upon what happened?

Mr Williams—There is and we have represented the individual's identity to Major General Gordon, who gave us an undertaking on 1 December last year that he would follow this man up. We have heard nothing.

Senator JOHNSTON—So, is it fair for me to say that the principal and ongoing area of concern with respect to your submission—which I thank you for because your contribution has been very important to this committee—is the transparency of what goes on inside this training facility when there are circumstances such as those that occurred with Jeremy.

Mr Williams—To put it more correctly, lack of transparency—

Senator JOHNSTON—That is what I mean.

Mr Williams—and lack of bringing people to account for their behaviour. You must remember that these young men have nowhere to go when they are initial employment trainees. They are entirely in the hands of their NCOs, who have an immense amount of authority and power over these kids. There is no redress for grievance.

Senator JOHNSTON—You mentioned that statements were taken from members of the R&D Platoon.

Mr Williams—Correct.

Senator JOHNSTON—Are you aware of who took those statements?

Mr Williams—It was the investigating officer, as far as I am aware.

Senator JOHNSTON—There were statements taken from the members of the R&D Platoon that bear directly upon those last two days?

Mrs J. Williams—No, they were not asked anything about those last two days. They were only asked about how they were treated within the R&D Platoon. There was one soldier—we are assuming we know who he was, but again his name was blacked out—who said that he had a conversation with Jeremy on the Thursday evening and Jeremy had said to him that he was having a hard time. He was never requested about what Jeremy meant by that or whether Jeremy elaborated on that. We do not know. We asked Major General Gordon to follow this up because we cannot contact this particular soldier; we do not know who he is—well, we sort of do. We do not even know where he is anymore.

Mr Williams—The statement is incorrect or incomplete. Jeremy spoke to his friend whom he visited and said he was having a tough time of it and believed his future in the Army would be over shortly.

Senator JOHNSTON—That brings me to the next point: was he at any stage, to your knowledge, formally advised that he was to be medically discharged?

Mrs J. Williams—He had not been formally advised, no.

Mr Williams—We do not know.

Senator JOHNSTON—Do you have any information to suggest where he got the information from that led him to believe that he was to be medically discharged?

Mr Williams—When I spoke to him on the Tuesday evening, preceding the phone call to Singleton, he was in tears. His statement to me was, ‘Dad, an infantryman lives on his feet. My feet have had it and therefore they’re going to boot me out of here.’ That is when I tried to reassure him. I went to the extent of telling him they had spent a lot of money training him and that the Army should value its human resources. I tried to reassure him.

Senator JOHNSTON—With respect to that, how long had he nurtured the ambition of being an infantryman? Was it prior to joining? Was it his sole focus in life?

Mr Williams—Jeremy comes from a family which has a military background, so we encouraged him to look at the military. He looked at the Navy initially and then chose the Army. There was always, lingering about Jeremy, an aspiration to serve in the Defence Force. Probably in the 18 months before he joined the Army this aspiration became more localised and more directed towards the Army.

Senator JOHNSTON—How old was he when he joined?

Mr Williams—Twenty.

Senator JOHNSTON—So since the age of 18 or 19 he had seriously considered joining the Defence Force?

Mr Williams—Yes.

Mrs J. Williams—Even prior to that. He actually wanted to be a politician. He was in the youth parliament in Western Australia. He represented Western Australia in the youth parliament in Canberra. He often made the comment that a lot of politicians had military backgrounds and often referred to a lot of prime ministers who, as you know had, military backgrounds. There was also the fact that, in Jeremy’s early life, Charles was in the Navy. I had been in the Navy. We had books around the house all the time, so the Defence Force played a major part in our family as he was growing up.

Senator JOHNSTON—How long had he been on R&D Platoon?

Mrs J. Williams—Only a matter of two weeks altogether.

Senator JOHNSTON—Were you aware of his decline with respect to that?

Mr Williams—Only in the immediate days preceding his death. We saw a very dramatic decline that was particularly obvious in that Tuesday night phone call.

Senator JOHNSTON—Do you now know about the severity of his injury with respect to what he thought it was? Did he have any accurate information as to the nature of his injury?

Mr Williams—It would seem not, because he believed that he had stress fractures. This was the constant recurring concern that came from Jeremy.

Senator JOHNSTON—He said that he had stress fractures?

Mr Williams—Yes.

Senator JOHNSTON—Is that in fact what he had?

Mr Williams—No.

Senator JOHNSTON—What did he have?

Mr Williams—I think it is referred to as shin splints. I am sorry, but that is the only phrase that comes to mind.

Mrs J. Williams—He had shin splints and strained feet.

Senator CHRIS EVANS—That is far less serious.

Mrs J. Williams—Yes.

Senator JOHNSTON—With the prognosis being that ultimately he would make a full recovery?

Mrs J. Williams—Yes.

Senator JOHNSTON—Did you have any information in that regard when you had those last phone calls with him such that you could reassure him?

Mr Williams—No.

Mrs J. Williams—We only knew what the sergeant had told Charles.

Senator JOHNSTON—So the sergeant informed you that the prognosis was good—they are my words. But you were given to understand that he would make a full recovery and felt confident that if that was imparted to Jeremy that would be of assistance to him?

Mrs J. Williams—Yes, but what we did not know at the time was that the officer in charge of Depot Company had said, and it is reinforced to the soldiers, that if they get injured they are finished—not necessarily in the Army, but they are finished at Singleton. The statistics certainly back that up. Of the 180 who were injured at Singleton in 2002, not one went back into infantry training. That is in the report into Jeremy's death. The majority were discharged—I cannot remember the figure off the top of my head—and the rest were given corps transfers. So Jeremy

did not have to be given a formal thing. He knew when he got injured: ‘That’s it; you’re finished.’ He was told by the OC of the base and the NCOs were out there yelling at them day and night: ‘You fail, you’re finished!’

Senator JOHNSTON—So failure is a matter of injury, even if it is beyond the control of the particular individual?

Mrs J. Williams—That is right. So how could we tell him differently?

Ms R. Williams—Jeremy was a reasonable, intelligent person, and if somebody had have sat down with him and gone through his medical report properly and said, ‘This is the situation. You will make a full recovery. There is nothing to worry about,’ he would have understood that. He would not have jumped to some conclusion that was not true unless he had real reason to believe that. I want to make that clear.

Senator JOHNSTON—Do you know how many people were on R&D Platoon at that time?

Mrs J. Williams—I am not clear about the exact numbers, but it was about 80 to 90.

Senator JOHNSTON—What was the total complement at Singleton undergoing training at that time?

Mrs J. Williams—I am sorry, I do not know.

Senator JOHNSTON—So 80 or 90 are injured—

Mrs J. Williams—Or are awaiting discharge.

Senator JOHNSTON—Medical discharge?

Mrs J. Williams—Yes.

Senator CHRIS EVANS—I think there are also other discharges. That was part of the point in the Army report—that people who did not want to be in the Army were in the same platoon.

Mrs J. Williams—That is correct.

Senator JOHNSTON—So R&D Platoon is a repository for those who are injured, those who are discharged for any other reason and others who have other problems?

Mrs J. Williams—That is right. They are all grouped together at that time.

CHAIR—In your submission you talk about the culture of denigration. Would you like to comment on the fact that this negative reinforcement seems to occur even when the trainees are fully fit? Is that what you are saying?

Mr Williams—Yes.

CHAIR—So when, for whatever reason, they get injured and go into this sort of misfit R&D Platoon there is an increased amount of pressure on them? Could you explain this term ‘window licker’?

Mr Williams—That refers to the Army recruit school at Kapooka. There was a culture of denigration directed at R&D. They were called lepers, heathen and scum. These descriptors were applied by NCOs and their example was taken up by initial employment trainees who were not injured and in the training platoons.

CHAIR—Do people in this R&D Platoon have a different insignia that they walk around with?

Mr Williams—Not that I am aware of.

CHAIR—And the term ‘window licker’?

Mr Williams—That is a term used by some senior NCOs at Kapooka when they march past platoons of new recruits. I believe it refers to a building called Digger James. Those recruits who have decided, for any number of reasons, during initial training at Kapooka that they do not want to be in the Army and/or those who are considered to be mentally unsuitable to proceed with the Army are billeted in this building called Digger James. The term ‘window licker’ was used when recruits were marched past and told to give an eyes right and look at these window lickers. The term is intended to convey a measure of derangement—that these people who do not want to be in the Army stand up against windows and lick them.

CHAIR—In this platoon are there men—I assume it is men—who are highly motivated, as your son was, along with men who just want to get out, for whatever reason?

Mr Williams—I think we are getting the two confused. The window licker phrase is Kapooka related.

CHAIR—I understand that.

Mr Williams—It talks about initial recruits to the Army. This happens on day 1 or day 2, I understand. The R&D situation at Singleton is to do with people undergoing infantry training who for some reason fail or are back-squadded and then go to R&D. It is the one place not to be at Singleton.

CHAIR—Are there particular NCOs for that platoon?

Mr Williams—I cannot really answer that question with any certainty. I understand that there is interchange between the other platoons.

CHAIR—But those NCOs would not be R&D people anyway, would they? You would not think so.

Mr Williams—If you are talking about platoons like Long Tan, which Jeremy was in, I cannot give you a categorical answer that some of the people in the act of training platoons go to R&D;

I simply do not know. I know that R&D had an inadequate number of NCOs for the staffing and the care of those soldiers who were in R&D. The point I think you are alluding to is that within R&D there are certainly soldiers who have perhaps in a psychological manner contractually ended their commitment to the Army and could therefore have a negative effect on those other members of R&D who still want to pursue the Army and are motivated towards that.

CHAIR—I am just trying to find out whether or not you have people in this group who are motivated and want to stay in the Army, along with the people who do not?

Mr Williams—Yes.

CHAIR—And so everybody in that group was being tarred with the same brush, along with the people who want to avoid hard training.

Mrs J. Williams—Precisely.

CHAIR—So your son was put into this group and then at some point it should have been explained to him that there were other options and he was not that injured.

Mrs J. Williams—Yes.

CHAIR—And that never happened?

Mrs J. Williams—No.

Mr Williams—The term ‘malingerer’ is applied fairly indiscriminately to the R&D people. Perhaps some of them are but not all are.

Mrs J. Williams—Senator Hutchins, you mentioned this negative reinforcement. This is supposed to have been removed from Singleton, according to recommendations put forward by Brigadier Anstey, the investigating officer into Jeremy’s death, and it is in the action plan that this negative reinforcement be abolished at Singleton. The report I am holding is the report into the Amos report. On 22 October last year, six months after Jeremy’s death, the investigating officer of this report went to Singleton. There he found that Rifleman Wing—they are not called Depot Company anymore; they are now called Rifleman Wing—have a separate code of conduct over and above the one issued by Major General Gordon. That leaves the soldiers a bit confused, but nevertheless part of that code of conduct says:

***BE PREPARED FOR DISAPPOINTMENT.** Not everything about the Infantry Corps is going to be as it was stated at Recruiting or at the Recruit Training Centre. You will most probably at some stage fail a component of the course and be required to be retrained and retested.*

Is this the way the Army change things for the better? Is this is how they get rid of this negative reinforcement? You tell me.

Senator HOGG—Just following on from that point, when listening to you this morning I noted down the words ‘recruitment processes’. As a result of your experience, do you believe

there are failures in the recruitment processes that do not necessarily allow for those being recruited to understand what they are actually going into in the defence forces?

Mrs J. Williams—I do not know about that, Senator, so I cannot comment. I do know that Jeremy knew what he was getting into, yes. He studied up on it and he knew what would happen as an infantry soldier.

Ms R. Williams—He did not go in with rose-coloured glasses at all; he knew what was involved.

Senator HOGG—All right. I now turn to what I really wanted to ask you about. At paragraph 2.2.2 in your submission you refer to the fact that you were concerned that the psychologist who assessed Jeremy's state of mind had never met Jeremy. When did you know that?

Mrs J. Williams—That psychologist's report was in the investigation into Jeremy's death. There was a complete psychological profile.

Senator HOGG—I accept that, but when did you know that the psychologist had not met Jeremy?

Mrs J. Williams—Jeremy was dead, I am sorry, and the psychologist did a profile taking all of the evidence given to her.

Senator HOGG—So this was not psychological treatment that had occurred?

Mrs J. Williams—No, this was just her opinion taken from whatever evidence.

Senator HOGG—All right, I am now with you. And the view that was formed by the psychologist in those circumstances was changed, as I understand from your submission, by the investigating officer.

Mrs J. Williams—And used to base his conclusions.

Senator HOGG—Do you have any understanding, or was any reason given to you, as to why that happened?

Mrs J. Williams—No. It was more or less put down as being some sort of typographical error, which is a little bit strange, and we are to get an amendment. We were told in December that we would get an amendment to the investigating officer's report, but we have not received that yet.

Senator HOGG—And that amendment will do what?

Mr Williams—It will change it back to what it was. It is reversing the changes that were made.

Mrs J. Williams—But he is not going to change his conclusions.

Senator HOGG—So we now have a change in a statement in the investigating officer's report—upon which you claim his decisions were made—being reversed, as I understand it, but that will not change the conclusions of the investigating officer's report. Is that correct?

Mr Williams—Yes.

Senator HOGG—That then leads to paragraph 2.8, where you say:

ADF cannot be trusted to carry out investigations. Certain aspects of the investigation into Jeremy's death were changed in order to diminish the Army's responsibility for his mindset.

Your conclusion, you go on to say, is what happened in 2.2.2. Is that correct?

Mrs J. Williams—I am sorry. I did not follow that.

Senator HOGG—You drew the conclusion that certain aspects of the investigation into Jeremy's death were changed in order to 'diminish the Army's responsibility for his mindset'.

Mrs J. Williams—Yes.

Senator HOGG—You then used the example that I have been speaking about in 2.2.2. So really that leaves you in an even more unsatisfactory situation.

Mrs J. Williams—That is right.

Mr Williams—What has concerned us so much about this is that Colonel Skowronski assured and promised me on countless occasions that the investigating officer could not change any aspect of the expert witness or evidence that was submitted to this report, and precisely that has happened. The psychologist's report has been taken, it has been changed, we have drawn attention to this, we have voiced our concerns, they have agreed to change it back to the way it was originally written; yet, as you say, the conclusions have not changed.

Senator HOGG—How would the conclusions change, in your view, with the redress that is now being undertaken?

Mr Williams—One carries the emphasis of alcohol and the other carries the emphasis of a depressed state of mind that was exacerbated by alcohol. One puts the blame for Jeremy's death on alcohol, whereas the other says that he had a depressed state of mind that was exacerbated by alcohol. The emphasis is entirely different. We see that as yet another attempt by the Army to diminish its responsibility for Jeremy and his mind-set. Why did he drink to the extent that he did that night? He drank because he was depressed and he was fearful of his situation regarding the Army.

Mrs J. Williams—I have found the relevant paragraph, in a letter to us dated 13 February, from Major General Gordon. It says:

You raised the issue of the psychologist's statement in Brigadier Anstey's Report. I asked him to explain the inconsistency between the statement by the psychologist and the words in his Report. Brigadier Anstey has advised that the inconsistency was an unintentional transcription error and he has provided a formal amendment to this effect.

Later in the letter it says:

I will shortly be completing a Supplementary Decision Document to promulgate amendments. I will then be seeking Ministerial authorisation to release the Supplementary Decision Document (with privacy deletions) to all recipients of the original Report, including you and the Amos family.

To date, we have not received that, and you can guarantee that it has got to go through all the usual legal people before we get to see it—and it will be blanked out as usual.

CHAIR—Is it the wish of the committee that the letter be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The letter read as follows—

AUSTRALIAN ARMY
HEADQUARTERS TRAINING COMMAND —ARMY
Victoria Barracks, Oxford Street, PADDINGTON NSW 2021
2003/47879/1
E7/HQTC/OUT/2004/180
Mr and Mrs Charles Williams
C/- Post Office Koorlong
KOORLONG VIC 3501

Dear Mr and Mrs Williams,

Thank you for your letter of 15 January 2004. I have looked into your questions and comments.

After reviewing the Investigating Officer's Report, I found that Lieutenant Colonel Roney was not fully aware of the treatment of trainees in Rehabilitation and Discharge Platoon. We have done a great deal since to improve the ability of the Commanding Officer to know what is happening and to supervise his staff. We have re-structured the School of Infantry to reduce the span of command in Rifleman Wing (formerly Depot Company) so that the Officer Commanding has more staff. We have created the Private Jeremy Williams Rehabilitation Centre to give specialist and focussed support to injured trainees and we have reduced the workload on the Commanding Officer. I have given very clear guidance to all of our Commanding Officers about their priorities and that they should not be conducting training until they have enough people to do it safely.

You have also raised the issue of the ongoing role of the Commanding Officer at the School of Infantry. As explained in the Chief of Army's letter to you of 19 November 2003, the Commanding Officer has been relieved of many responsibilities and we are continuing that process. This allows him to focus on leadership of his people and not be so heavily involved in development, base management and other projects. My assessment of Lieutenant Colonel Roney was that he readily accepted the need for an enduring solution to soldier welfare issues. A new Commanding Officer has since marched into the School of Infantry and he will continue the implementation of my Action Plan.

I have now received the Investigating Officer's Report into the performance of the two members of Training Command referred to at Serial 54 of my Action Plan and I will let you know once I have assessed the Investigating Officer's findings.

In early 2002, concerns about the high injury rate amongst trainees at the School of Infantry led Lieutenant Colonel Roney to search for the causes of these injuries and ways to stop them. A Report was finalised in December 2002 using data from the period January to August of that year. I was briefed on that report in November 2002. That Report led to many changes to the training at the School of Infantry. Properly focussed recommendations for change could not be made until analysis of the data had been carried out and I approved all of the Commanding Officer's recommendations. Lieutenant Colonel Roney started implementation immediately, regularly reporting to me the success of the recommendations.

You raised the issue of the psychologist's statement in Brigadier Anstey's Report. I asked him to explain the inconsistency between the statement by the psychologist and the words in his Report. Brigadier Anstey has advised that the

inconsistency was an unintentional transcription error and he has provided a formal amendment to this effect. His Report is comprehensive and detailed and so it is not unexpected that, with the time pressure he was under, small inaccuracies may appear. In spite of the inadvertent error I am satisfied that the integrity of the Report is sound and that the conclusions remain valid. I will shortly be completing a Supplementary Decision Document to promulgate amendments. I will then be seeking Ministerial authorisation to release the Supplementary Decision Document (with privacy deletions) to all recipients of the original Report, including you and the Amos family.

You have asked about disciplinary action against two non-commissioned officers. A sergeant and a corporal are to be charged and it is planned that they will appear before a Commanding Officer shortly. If the charges are tried by a Commanding Officer you will be advised of the nature of the charges and the outcomes once the trial is complete and has been reviewed. If the charges are tried by a Defence Force Magistrate or Court Martial you will be advised and given the opportunity to attend these public hearings.

A total of eleven matters arising from the investigation into the circumstances surrounding Jeremy's death were eventually referred for formal investigation. The Director of Military Prosecutions has provided advice on nine of these eleven matters. Two matters were found to contain sufficient evidence to prosecute (one sergeant and one corporal)—these are the matters referred to in my previous paragraph. Three were found to have insufficient evidence to either prosecute or consider administrative action (one sergeant and two corporals). Four matters will be considered for administrative action (one sergeant and three corporals), although one of these will have to wait for the outcome of one of the prosecutions before further action can be considered (one sergeant). Of the remaining two cases, one investigation has been re-opened after new evidence came to light late in 2003 (corporal) and we are seeking clarification from the Director of Military Prosecutions in relation to the last one (sergeant).

You have asked to receive copies of a number of other investigations. The investigation into the allegations of staff targeting trainees for failure has finished. It is now being reviewed by the Commandant of the Combat Arms Training Centre.

Army Headquarters staff are in the process of seeking Ministerial release of the Investigating Officer's Report into the implementation of the recommendations of the Amos investigation.

My staff have also reviewed a number of investigations into previous incidents. The aim has been to correct any weaknesses in our system of managing endorsed recommendations from such investigations. The intention is to use the information to better inform future commanders of issues requiring monitoring or follow up action requiring their attention.

I hope these explanations amplify my comments at our meeting at Holsworthy and provide you with a better understanding of our progress. As you saw in my Campaign Plan, I am determined to make sure the safety and welfare of our soldiers is my highest priority and that the lessons from Jeremy's death are not forgotten.

I.C. GORDON, AM

Major General

Commander

Tel: (02) 9339 2400; Fax: (02) 9339 2411

Email: ian.gordon@defence.gov.au

13 February 2004

Senator HOGG—This is my last question. You said certain aspects of the investigation were changed and you cited that one particular instance. What other aspects do you believe were changed to diminish the Army's responsibility for his mind-set? Do you have any other specifics that you can give to us? If you cannot do it now, as we have said to other witnesses, you can think about this and come back to us. We would be pleased to know. It seems to me that you are saying that it is not just one, simple issue, as you have cited in this case—there are other aspects to it as well.

Mrs J. Williams—They have tried to blame us even, because we had an angry phone call with him. But why did we have an angry phone call? Because of what they were doing with him.

Ms R. Williams—What other examples do we have?

Mrs J. Williams—All right, I will have to—

Senator CHRIS EVANS—Do not feel under any pressure.

Senator HOGG—You are not under pressure.

Senator CHRIS EVANS—You are not under any pressure. Senator Hogg was just trying to explore an avenue with you. I appreciate it is strenuous. He was just offering that, if you thought of something else you wanted to tell us later, that would be fine.

Mr Williams—We will certainly look at it, but it is hard for us to come up with examples where people's evidence has been changed, because we were not there when they gave evidence.

Senator HOGG—That is as good a reason as any, because, if you say you were not there and in a situation to challenge the evidence that was given, that assists us in coming to our conclusions.

Mr Williams—What we would like to put before you is the methodology of this inquiry. We have complained on a number of occasions about the framework of the questions and about the pro-forma style the questions. You have an investigating officer asking the same questions of a social worker as you do of a private undergoing training. The structure of the questions makes no allowance for the particular individual and the circumstances which they were in. It is a pro-forma thing that is applied broadly to all witnesses.

Senator HOGG—So you are saying that the process is flawed.

Mr Williams—Yes, absolutely. We have been saying this for some considerable time.

Senator HOGG—Regardless of whether it applies in your instance to the death of your son, which is regrettable—it also applies in every other instance as well, you believe? Sorry, that is too broad a statement. I am not trying to commit you to that, but that is your impression?

Mr Williams—Our impression or opinion, from what we have seen of this inquiry and the other two, is that the methodology is fundamentally flawed. Our assertion is that these people who do investigations in the military are not trained to a high enough standard, they have no interface with the judiciary, their methods are unsafe and their conclusions are unsafe and unsound. That is why we are saying that it is time that the military justice and investigative procedures were reviewed and changed.

Ms R. Williams—I think the evidence of that is the fact that no-one is ever made accountable for these kinds of deaths.

Mr Williams—That is the other aspect of it. In the real world of commerce and private enterprise, the individuals we see in the Army that are vested with these responsibilities and authorities, it would be fair to say, would have been prosecuted and sued out of existence long ago. Harassment, bullying and denigration breach occupational health and safety acts and attract very substantive fines out in the real world.

Senator HOGG—Thank you very much.

Senator PAYNE—I will not take very long. You have talked briefly with other members of the committee about the psychologist's report and Jeremy's depressed state of mind. One of the

issues which has come up a number of times in this inquiry is the medical approach in the ADF to mental health issues and to supporting people who have those sorts of problems. In this awful process you have been through since last year I wondered whether you had had any contact with mental health professionals in the ADF and if the ADF had given you any information about how they intend to support young people who find themselves in Jeremy's situation—clearly distressed, clearly traumatised. It concerns me, for example, Mr Williams, that you were not able to find a medical officer when you contacted the base that morning.

Mr Williams—It concerns me greatly that there was in fact no medical officer on the base.

Senator PAYNE—Indeed.

Mr Williams—These kids are shunted about like cattle. They are treated like animals. The facilities up there were appalling.

Senator PAYNE—I wondered if you had any comments you wanted to make in that regard, particularly on the mental health aspects.

Mr Williams—We are very disappointed with the support services in the form of the social worker and the chaplains at Singleton. We believe that these young men were let down very badly over some considerable period of time. We do not believe that they are getting the help and the support that they should be getting. I might point out, very quickly, that the sergeant with the beating behaviour actually applied this behaviour to one of these young men who sought redress of a grievance through the chaplain. The sergeant found out about it and acted accordingly.

Senator PAYNE—What do you mean by 'acted accordingly'?

Mr Williams—He threatened him with a beating because he went to the padre and had overturned a decision of the sergeant. The sergeant then took him into his office and threatened to beat him. Then he said he would take him outside and do another job on him in the unarmed combat area. This particular individual is now prevailing in his career.

Mrs J. Williams—The social worker on the base at Singleton had been in that position for 10 years. She was well aware of the circumstances of Luke Amos in 2000. She actually contacted his family to let them know that he was in a distressed state. Yet, when you talk to the soldiers at Singleton, if they are feeling down, do they see this particular social worker? The answer is no. They will not go and see her because it is seen as a weakness and they will just suffer repercussions, should that happen. It is the same with the padre. If they want to see anybody, they have to sneak out behind closed doors in order to do it. The only way that they can formally go and see the social worker or the padre is to actually apply through their NCO. If you are a soldier and you go up to your NCO and say, 'Can I go and see the psychologist? I've got a problem,' what do you think is going to happen?

Mr Williams—These soldiers have told us categorically and unequivocally that they will not use those sorts of channels. They will not go to their corporal or their sergeant simply because of the denigration and the browbeating they will get. It is seen as a form of weakness and they are treated in that manner.

Mrs J. Williams—The only way they are referred is through medical circumstances. They are then possibly referred to the social worker or the padre.

Senator PAYNE—Thank you for those observations.

Ms R. Williams—I think also the fact that the phrase ‘window lickers’ is used in reference to people with mental health issues just shows the attitude that is shown towards these people.

Senator CHRIS EVANS—As you would be well aware, there has been a lot of publicity concerning this case and Army’s response to the investigation, particularly given the Amos matter preceding it. A number of changes have been implemented by Army and announced by General Leahy. I just want to get your view on whether you think the changes that have been announced go far enough and whether you think that the issues that affected Jeremy and the issues concerning investigations and deaths have been dealt with adequately. Do you think the changes that have been implemented go far enough and meet your concerns?

Mrs J. Williams—I have been showed one change, Senator Evans. How can you trust that the changes are going to work? In that particular case, they were supposed to get rid of this negative attitude, and yet in September last year they had this.

Mr Williams—We have no idea, really, how these changes have been made—if they have been made. We simply do not know. We get these pieces of paper with writing on them telling us about action plans and so forth, but it is simply the Army’s word. Given the track record of the Army with following through with changes—which has been abysmal, to quote from the Amos report—why should we trust them and take them at their word again? I point out to the Senate committee that, when we attempted to lay at the feet of the commanding officer at Singleton over a year ago all the problems he had on that base, he basically shooed us away. He told us that our concerns were baseless and that his base was professionally run. Now we have this inquiry and all these problems that have been there since 1996 have come to light. What are the people doing insofar as running this Army and fixing up these problems? Why should we trust them now, given their track record? Lieutenant General Leahy said to me—and so did Major General Gordon—‘Watch my efforts. Watch my actions.’

Ms R. Williams—I question the point of putting in changes to the code of conduct and making systemic changes when problem individuals are not dealt with and are not held accountable for their actions. If the problem is often how certain individuals within the Defence Force behave and those individuals are never held accountable for their actions, what point is there in making these broad changes? There is just no accountability. If you do not get rid of the individuals that are the problem, then what real change will ever happen?

Mrs J. Williams—Within the action plan it says that ‘Major General Gordon directs that all injured soldiers at Singleton be transferred to the rehabilitation centre at Holsworthy.’ We were at the rehab unit at Holsworthy on 1 December last year and, during an introduction given by a lieutenant—I am sorry, her name escapes me at the moment—she said that soldiers who are injured only go to the rehab unit after six weeks. Here is a directive given in an action plan that all injured soldiers go to Holsworthy and we get there and find out that that is not the case. They are left at their bases for six weeks to see if their injuries are bad enough to warrant them being

sent to Holsworthy. So you have changes, but are they working? We do not know. Have they made the changes? From that example I have given it does not seem to be the case.

As Ruth said, they have this culture and it is the individuals that are causing that whole situation at Singleton. Why is it that not one individual has ever been made accountable? If action was taken against individuals it would be a deterrent. That is the way that it will stop. But, at the moment, you will not have soldiers coming forward to complain about the way they are being treated by an NCO because they now know, as a result of this, that nothing will happen to them. So they will sit in silence and suffer in silence. I do not want to wake up and hear the story of another fellow like Jeremy—no way in the world. But, until it is fixed properly, that could quite easily happen again and again.

CHAIR—Who is the commanding officer at Singleton now? Is it Lieutenant Colonel Roney?

Mrs J. Williams—We do not know. And that was just the normal turnover. It was not that he was taken off the base; he was due to be transferred in about February of this year.

CHAIR—We would like to thank you very much for coming along today. It has been very worthwhile.

Mrs J. Williams—Just fix it.

Proceedings suspended from 12.59 p.m. to 1.44 p.m.

McNESS, Mrs Janice Margaret, (Private capacity)

McNESS, Mr Norman John, (Private capacity)

CHAIR—Welcome. We have received your submission as No. 32. Do you have any alterations you would like to make at this stage?

Mrs McNess—No.

CHAIR—I understand that the secretariat has provided you with information concerning parliamentary privilege and adverse comments. Is that correct?

Mrs McNess—Yes.

CHAIR—No doubt you understand that.

Mrs McNess—Yes, we do.

CHAIR—Do you have any questions on that at all?

Mrs McNess—No.

CHAIR—I now invite you to introduce yourselves to the committee. After that, either or both of you are welcome to make an opening statement which will be followed by questions from the committee.

Mrs McNess—I am Jan McNess, mother of Flight Lieutenant Jeremy McNess.

Mr McNess—My name is Norm McNess and obviously I am the father.

CHAIR—Who would like to make an opening statement?

Mrs McNess—I will make the statement. First of all, thank you for the opportunity to take part in this inquiry. I want to just take a moment to tell you a weeny bit about our son. By any standards, Jeremy stood out. At primary school he was classed as gifted. By the end of secondary school he had topped not only his own school but also the whole district in the HSC exams. He was a talented sportsman—he had a black belt in martial arts. He was a musician, a writer and a computer buff. He topped a number of his courses as he moved through ADFA and his flight training, and ended up dux pilot and winner of the Holt-Noordink Trophy in his F111 conversion course. He was a very funny person. He was quick witted and could tell a great story. We were extremely proud of him. His death was an enormous tragedy for our family.

The worst thing that can happen to a parent is to have a child die or be killed, even a 26-year-old child. We found it difficult, therefore, to be left out of the loop, as it were, following Jeremy's death, as he had married nine months before the accident, so we were no longer next of kin. The outcome of this was that we were not supplied with first-hand information. We believe

that military personnel ought to be given the opportunity to include parents on the next of kin documentation to allow them similar privileges to spouses in the event of an accident or death. Jeremy's widow and I did suggest modification to this document during a meeting with senior RAAF personnel in Canberra in 1994, and it was agreed that in many instances it would vastly improve relations between the ADF and bereaved families.

The major injustice in the investigation into the deaths of our son and his navigator, Mark Cairns-Cowan, was, we believe, the decision made by a senior officer not to hold a board of inquiry, despite the fact that every other flying fatality in the then 73-year history of the Air Force had been followed by one as a matter of course. Without it there could be no legal aspects to the inquiry, no sworn statements, no subpoenaed squadron members or witnesses and no opportunity for questions to be asked—only the more informal procedure of an accident investigation dependent on the goodwill of people to come forward with relevant information. This immediately downgraded the importance of the lost crew and took from them the chance for justice to be done and, importantly, to be seen to be done. In the years since the accident we have learnt from the families of other accident victims that boards of inquiry do not always provide the answers, but at least they do increase the chances of a fair outcome.

Next for us was the devastating decision by the coroner nearly 15 months after the accident not to conduct an inquest, despite the legitimate request by both families that one be held. His explanation that any accident that had cost the Air Force so dearly in loss of life and equipment would have attracted a comprehensive investigation and thus negated his need for further examination was unconvincing, especially in light of the Defence Force's well documented history of in-house and closed investigations. We could not help but wonder what external pressures existed on him at that time. I have my own theories on several possibilities.

Numerous aspects of the actual investigation left us dissatisfied with its thoroughness and intent. These were: the eyewitnesses not interviewed by the Air Force; the rather arrogant attitude of investigators that allowed them to dismiss witnesses as incapable of interpreting what they had seen and heard; the claims of contaminated tank water dismissed summarily; burnt treetops written off as borer damage to a disbelieving farmer of 40-odd years experience; and the possibility of a pre impact fire dismissed too easily when seemingly backed by numerous witnesses and at least one investigator, who was arguably the best qualified on the investigation team. To us it seemed that the investigators had drawn early conclusions and that any information that did not support their theory was of little interest. But there was little we could do. The accident investigation report was presented as a *fait accompli*, and there was no board of inquiry and no real forum for questions to be aired.

Often it seemed to us that too much time was spent trying to find ways to blame the accident on the crew and too little on the systemic problems that led to it, thus affording protection to those within squadron hierarchy and abandonment to those killed. We had no wish to see any one person held responsible, but felt strongly that, unless roles and procedures were closely scrutinised and improved where necessary, similar circumstances would recur in the future and more lives would be lost. Unfortunately, there was another accident 5½ years later, when another F111 crashed, killing two more. Several similarities between the two accidents were immediately obvious. These were the lack of crew currency for the exercise and the lack of crew rapport, both readily recognised by civilian airlines and the Air Force as prerequisites for safe flying.

As these same problems were also apparent in the Black Hawk collision, we wondered what difference it could have made had a board of inquiry followed Jeremy's accident and the defence forces generally been forced to examine their own procedures in high-risk areas. After trying for almost five years to have the Air Force acknowledge to us the systemic problems that existed at the time of the accident and their probable contribution to it, we came to believe that the major stumbling block to military justice was the in-house nature of investigations. Without transparency and the involvement of external parties, questions and suspicions will always remain close to the surface. Within a closed environment, too easily incompetence and errors can be hidden and faulty systems covered, making any hope of a clear overview unlikely, change unnecessary and military justice impossible.

CHAIR—Thank you, Mrs McNess. Mr McNess, would you like to add anything at this stage?

Mr McNess—No, I have nothing to add to that.

CHAIR—At the bottom of page 4 of your submission, in the second sentence, you say:

It was more a break down in systems, insufficient care taken by those higher up the chain of command to ensure procedures were being followed by those lower down and a general relaxing of rules ...

Would you like to expand on that for the committee, Mrs or Mr McNess, and give your impression of what happened?

Mrs McNess—We do understand that the accident happened following several exercises which had taken 1 Squadron, Jeremy's squadron, away—one to Malaysia and one to Darwin, and there was a third one, which may have also been to Malaysia; I have forgotten. Those had been involved with daytime manoeuvres, which meant that the whole squadron was low in, in Air Force terms, night flying currency. Added to that, as I referred to, Jeremy was a computer buff. That was readily recognised by the Air Force and used in his various squadrons because at the time, in 1993, many procedures were still being computerised. So in the squadrons Jeremy turned up in he was usually given work computerising their systems, and that was happening in 1 Squadron.

So Jeremy's flying time had been greatly affected by the squadron's wanting him to keep working on conversions that they were doing. It meant that he was exceptionally low in night flying currency. But the whole squadron was also low, so they were already in a very dangerous situation. I think in civilian airlines if you go for 21 days without instrument flying—night flying—either you have to undergo time in a simulator or you have to have a senior officer fly with you to make sure everything is all right. The Air Force has fairly similar rules, but they are not quite as strict as that. Jeremy had gone for almost five months without a night flight, apart from two very short flights—I think it was an hour and 10 minutes altogether. Even the closest one to the time of his death was still more than six or eight weeks away from it. He was in a particularly difficult situation and a particularly dangerous position.

The squadron were well aware of this. They knew. In fact, that very day at briefing they were reminded of how low they were in night flying currency and, therefore, they were all to be extra aware and extra alert. There was a flight authorising officer who had definite procedures to follow to work out who should be doing what—what sort of exercises should be flown and all

that sort of thing—but every guideline would appear to have been overlooked or ignored. The choice of the exercise just was not commensurate with the general flying currency of the squadron. It was too demanding. On top of it, Jeremy was the pilot of the lead crew that night, which meant he had to brief the squadron for the exercise and then lead off. That means that there is the added pressure of doing things exactly by the book.

He was crewed with a fellow that he had flown with once before, seven months previously. So, taking into account the lack of currency and the choice of exercise, most definitely he should never have been teamed with someone that he had not flown with before—or someone he had flown with seven months before. The whole point of crew buddies and crew rapport is that people get to know one another and get to know one another's style. If one is not up to par, the other one recognises that as soon as the normal patter begins. There was none of that.

So it seemed to us that the flight authorising officer was not doing his job. The executive officer probably should have been keeping an eye on what the flight authorising officer was doing, because that is how the hierarchy goes. The CO was well aware of the fairly difficult position his squadron was in, yet nothing was said there. So it just seemed to us that there was a general lack of following of procedures and that nobody was really watching those beneath them to make sure that their roles were being carried out properly. So, in the end, the most vulnerable—the crews—were in that situation.

Senator CHRIS EVANS—Mrs McNess, we appreciate you making your submission. It is helpful, I suppose, to be dealing with an issue that is a little older in a sense, because what the committee are really about is trying to find ways to improve the system. We do not pretend that we are going to solve any of the mysteries surrounding certain events or provide better outcomes for the people who have been before, but we are trying to learn how we can make the system serve other families or other members of the ADF better. Your situation is interesting in that the ADF tell us they have fixed some of the problems that were identified in your submission.

I would just like to take you back to some of those processes. For instance, one of the things we have had some concerns about or that has been raised with us has been the board of inquiry. Concerns have been raised by some of the families of the crew of the *Westralia* that the board of inquiry is the Navy investigating the Navy and that the culture and the chain of command and those things perhaps do not allow the independence that might be required. Obviously, from your point of view, even a board of inquiry would have been better than what you got. I gather that what you got, effectively, was just an investigating officer's report. That was the investigation of the crash itself, was it? I suppose it was limited in scope in the sense that it was to do with technically what caused the crash rather than some of the issues you have just identified.

Mr McNess—Even in that inquiry they tried to go over how the plane impacted with the ground. They worked on flight paths and things like that, which they had great difficulty with. Help me out here, Jan. You remember that.

Mrs McNess—There was a flight path which was worked out from various bits of information that could be gathered at the crash site. So they brought in an F111 pilot and an F111 to fly the flight path, not to put the plane into the ground but basically to put it into the position where, had it kept going, it would have hit the ground. But with all the information that they could come up with, he could not get the plane into the ground at that spot. Then they said, 'How

about you start in the ground, go backwards and work out a way that you could get a flight path into the ground?' It seemed to us that this was not the way to do it, and it certainly did not fit with what the eyewitnesses around about saw. I annoyed the Air Force so much for nearly five years until I really expected a smart bomb on our house, because there was nowhere to go for answers except to hound people who basically ducked for cover.

Senator CHRIS EVANS—In the last couple of weeks we have had evidence from probably 10 of the most effective advocates of finding your way through the military justice system that I have ever met, so I understand your experience. But do you know why they refused you a board of inquiry?

Mr McNess—We have our suspicions.

Senator CHRIS EVANS—Can you tell me what they told you officially?

Mrs McNess—I will tell you what they told us officially. At the time there was an inquiry into the effectiveness of boards of inquiry and accident investigations. We were told by the very senior officer who made that decision that if they were to hold a board of inquiry it could possibly influence the findings of the inquiry that was already under way into the effectiveness of the two.

Senator CHRIS EVANS—The effectiveness of the two what, sorry?

Mrs McNess—The effectiveness of a board of inquiry and an accident investigation. They were trying to work out whether the two ran parallel or whether they crossed, clashed or whatever. This was how he explained it. So he felt it would be less likely to muddy the waters if they did not bother with a board of inquiry for this when they could get enough information from an accident investigation.

Senator CHRIS EVANS—In terms of your involvement with the accident investigation, you have told us some of your concerns about some of the issues. I guess I just want a sense of whether those concerns developed after the fact. After you got the report, were you concerned that they did not address these issues? Did you have some involvement in the investigating report or is this what you have gleaned after you saw the report?

Mrs McNess—We were very worried from within a week or so of the accident because we were getting such conflicting reports. By that stage we had gone to Brisbane so that we could be there as soon as a funeral could take place. That did not happen until 11 days after the accident. During that time we were out on the base quite a lot. When we first got there people were very open, but by the time the funeral came the squadron had been advised not to talk with us—they might say things they might come to regret later so it was better not to talk to us. Whereas in the first few days we were being told all sorts of ideas of what might have led to the accident, by the time we left there was nothing. It had closed down. The accident investigation report was delivered to us in July of the following year so that was 10 months or so after the accident. In those 10 months it got harder and harder to find anyone who would talk to us. The CO of Jeremy's squadron had left the Air Force—he left within a few months of the accident. He had been our main contact point, but he had gone.

Senator CHRIS EVANS—Did you feel that the investigation report did not deal with a lot of the issues that you thought were relevant? Did you feel that a lot of things that you raised with us in your submission were not dealt with in the report?

Mr McNess—For example, with the business of witnesses, we actually had the situation where we had seen people being interviewed on television who were eyewitnesses. Then, when we eventually got copies of the investigation report, although we had some witness statements—

Mrs McNess—We had all of the eyewitness accounts.

Mr McNess—they did not appear in it. So they had not in fact even interviewed some of these people who had been interviewed on television.

Senator CHRIS EVANS—So you felt that the investigating report did not have the breadth or depth that would be required?

Mr McNess—Even if they thought that those people had nothing to contribute in terms of factual material, we still felt that they should have been interviewed because they were witnesses.

Mrs McNess—They were physically closest to the crash site. Their farm looked at the crash site.

Senator CHRIS EVANS—Did you seek a coroner's report after you got the investigating officer's accident report or was that happening at the same time?

Mrs McNess—It was all happening at the same time. We were advised, certainly within a month to six weeks of the accident—it might have even been while we were still in Brisbane; I am not really certain of that—that we had the right to request a coroner's inquest. Both families felt that it was the best thing to do because it seemed to give the best opportunity for any problems to be highlighted. We felt that an external investigation of some sort would probably help the Air Force to be more diligent in any recommendations being carried out. So we all agreed that it was the best thing to do.

We actually had no say in it because we were not next of kin. Jeremy's wife and Mark's family requested that a coroner's inquest take place. A mentions date was set—I think it was in March of the year after, so that was nearly six months after the accident. On the mentions date the appropriate legal representatives had to be there. The Air Force arrived and said that they were not ready so the coroner said, 'All right, we will set another date.' So he set another date three months later. It was the same procedure—once again, the Air Force was not ready. A third date was set and again they were not ready.

Senator CHRIS EVANS—The coroner was deferring a decision because Air Force were not—

Mrs McNess—The Air Force were not ready. They said they did not have the information ready to take part in the inquest. Eventually, in December of the year after—so that was now 15

months after the accident—our daughter-in-law rang, most distressed. She had just received a letter from the coroner to say that he had decided against holding an inquest.

Senator CHRIS EVANS—That was without a further hearing?

Mrs McNess—There had been no hearing. It never got to a hearing because each time it would just be postponed.

Senator CHRIS EVANS—Did you seek an explanation from the coroner?

Mr McNess—We had a letter in which he virtually said that the Air Force had lost very valuable personnel and equipment and so on and he was sure that they would have done a first-class job.

Senator CHRIS EVANS—I do not quite understand how the hearings for mention were occurring and the active process then suddenly halted. Was there an explanation as to why he had gone through this in the first place if he had already made a decision or was going to make that decision?

Mrs McNess—We had also written to him during that period of mentions coming and going and nothing happening. We had written to him about our concerns, about the things we felt were not being looked into or that we were worried were not being looked into. Until we got the investigation report we could not know with absolute certainty. It had to be partly guesswork from what was being said to us by the officers that we did have dealings with. We did write to the coroner but in the end he just said that he felt that it would be a waste of taxpayers' money at this stage, that the Air Force would obviously have carried out a very thorough investigation, and all he could do was to repeat their recommendations. He said that he had been told by the Air Force that they were already implementing recommendations.

Senator CHRIS EVANS—Given that you know now that there is a change of policy since this and the board of inquiry is likely to be implemented for a tragic death, are you satisfied that that new process would be a sufficient board of inquiry?

Mr McNess—Not if it is completely in-house. I think that there is a need for someone from the public to be involved in that process simply so that there is, as we said before, transparency. I think that is vital.

Senator JOHNSTON—Thank you, Mr and Mrs McNess, for giving us your submission. Have you ever made a submission with respect to Jeremy's death before to any other inquiry?

Mrs McNess—Yes. Senator David MacGibbon asked me a number of years ago to make a submission to—

Senator JOHNSTON—A joint standing committee—or some other committee?

Mrs McNess—I think it was—

Senator HOGG—A joint standing committee.

Mrs McNess—Yes, into military justice. But I did not really hear anything from that.

Senator JOHNSTON—You got a report from the investigating officer. Can you describe how big that report was? Was it thorough? What did it look like? Give me your impression upon receiving it and, when you read it, what was your first thought at the end of that?

Mrs McNess—We were horrified. It was just the worst day, because we opened it at a summary. This was a report that was about 65 to 70 pages long. It was very technical. But I can tell you, I knew it off by heart—I could have flown an F111! The first couple of pages were a summary of the whole report. The whole purpose of the report, to us, appeared to be laying the blame on the crew. It seemed that the systemic problems which existed and were obvious to anyone were very minor. I just felt I was being ripped apart that day, reading this and seeing the way it had gone. As well, I felt it was the way that was least likely to mean that changes would happen.

Senator JOHNSTON—Is it fair to say that you felt the process at that point had been opaque, not transparent, that there were a whole host of questions left unanswered, and that you had not been involved in any of the process with respect to your son's death?

Mrs McNess—Yes, completely.

Senator JOHNSTON—When was that report received?

Mrs McNess—In July 1994.

Senator JOHNSTON—So approximately 10 months after you set about doing whatever you could to obtain information and knowledge of the incident.

Mrs McNess—Yes.

Senator JOHNSTON—You have theories about what you believe occurred or what required further investigation. I am interested in hearing what you think happened. No matter how fantastic or how baseless in fact, I am interested in hearing you as a mother say what you think happened.

Mrs McNess—I feel that whatever happened was greatly influenced by the fact that the crew were put in an extremely difficult and dangerous situation because not only were they both uncurrent for the exercise but also Mark, the navigator, had finished his tour of duty with 1 Squadron, had been posted to 6 Squadron and was leaving two days after the accident to fly to America to undergo the conversion course to the F111G. The accident happened in an F111C—

Senator JOHNSTON—He was a navigator?

Mrs McNess—Mark was a navigator. Mark had been taken off the F111C. The fellows who were being sent to the States—I think there were four for the initial two aircraft that were being brought back—were to completely take out of their minds the configuration of the F111C because an F111G has a different layout in the cockpit.

Senator JOHNSTON—Who was Jeremy's usual navigator?

Mrs McNess—We knew him—Trevor.

Senator JOHNSTON—Why wasn't Trevor his navigator on this occasion? Is there any reason for that?

Mrs McNess—I just assumed he was off base or not well, but who knows?

Mr McNess—I think he might have been on leave, but I am not quite certain.

Mrs McNess—There was something but I have forgotten.

Senator JOHNSTON—I asked you to tell me about your theories because I want to know about the environment in which you are deprived of knowledge, not involved in the process and are left wondering. I want you to tell me what that leads to in your conclusions and in your imagination as to what happened. You mentioned the treetops being burnt, a farmer saying that that was not borer and all this sort of stuff.

Mrs McNess—That is it. We were left with so many questions. I was probably trying to say first off that I think the crew were vulnerable because of the things that were going on. I was going to say that Mark not only was uncurrent but had actively taken out of his head anything to do with the F111C and had been working entirely on converting to the F111G. Then that day, out of the blue, he was asked to fly.

Senator JOHNSTON—Why do you say it was out of the blue?

Mrs McNess—Because he was going on a civilian aircraft a day or so later.

Senator JOHNSTON—You are aware that he was asked to do this operation with very minimal notice?

Mrs McNess—Yes. His family, whose interest had been in Mark and what happened to him, could not believe that he was sent up in a flight that night. The weather was very poor, and banks of storms were blowing in across New South Wales that night. There was lack of currency and lack of crew rapport—these two had no knowledge of one another as crew.

Senator JOHNSTON—Had they never flown together?

Mrs McNess—Once. That was in February, seven months before the accident. I think the scene was set: things would not be good if problems arose. We have found out about all these other things since—like the witnesses who were never interviewed. We have spent time in Guyra. We have stood where they were that night. They have told us exactly what they saw.

Senator JOHNSTON—What did they see?

Mrs McNess—They saw the plane so close. It was hard for us, and for others, to understand that the F111s flew—and still fly—certain routes. For the 20 years that they had been flying,

they had been doing particular exercises in the Guyra area. The farmers love them. The sound of these things hurtling in at almighty speeds, and so low, is their connection with the rest of the world. Their houses shake, and the kids love it. So they know a lot about the aircraft. We stood in these people's yard and at the window where they first saw the aircraft. They told us exactly what they saw. But it does not tally with what the Air Force said.

Senator JOHNSTON—What did they tell you?

Mrs McNess—They showed us where the plane flew. But when we look at the little diagram in the accident report it does not tally with it. I went to the Air Force with this about three years after the accident, still trying valiantly to make them at least talk to these people. Eventually a senior officer did contact them, four years after the accident, just to get me off his back; he rang the woman. He rang me back—

Senator JOHNSTON—How senior was the officer?

Mrs McNess—He was a wing commander, and he was the head of a review committee that was looking at our communication with the Air Force over the accident.

Senator JOHNSTON—So a review committee was established four years after the event?

Mrs McNess—Yes, 3½ years after.

Senator JOHNSTON—That was largely as a result of your continued interest?

Mrs McNess—Yes. I do not know that they would call it 'interest'.

Senator JOHNSTON—The committee comprised how many people?

Mrs McNess—I really do not know that; I was never told.

Senator JOHNSTON—Were you able to observe the proceedings and processes of that committee?

Mrs McNess—No, but we were kept informed of what was happening through letters and a couple of visits.

Senator JOHNSTON—From what you are saying, I take it that, at a particular point, the Air Force's attitude towards you changed and you started to get some response.

Mrs McNess—Yes, you are right. That was with a change in the Chief of Air Force at the time. The new Chief of Air Force was a real people-person, and I felt that he genuinely cared about the state we were in, the lack of information we had, how hard done by we felt and how absolutely lacking in justice we felt the procedure had been.

Senator JOHNSTON—Is that the current Chief of Air Force, or his predecessor?

Mrs McNess—It was the predecessor before that.

Senator JOHNSTON—Two chiefs back?

Mrs McNess—Yes; it was Les Fisher.

Senator JOHNSTON—You were telling me about the witnesses and about the inquiry committee.

Mrs McNess—Are we talking about the review committee or the accident?

Senator JOHNSTON—The review committee, sorry. You were telling me that the committee interviewed some of these witnesses that had not previously been interviewed.

Mrs McNess—They interviewed one, the one that I really felt—

Senator JOHNSTON—Was material?

Mrs McNess—Yes—was so important. I felt that what she and her family had to say could have changed the course of the investigation and the findings.

Senator JOHNSTON—What happened as a result of that? Did they conduct the interview?

Mrs McNess—He rang her and she was completely overawed by him. I did not ever really quite understand it, because I did not feel he was the sort of person who would push her in any direction. Yet, she completely and utterly crumpled. When he rang me to tell me this, he said, ‘She just kept saying, “This is what I thought it was,”’ but he said, ‘I do believe that what she saw was definitely the crash aircraft.’ There was some discussion that maybe people had confused the crash aircraft and the one sent later to look for what had happened. He said, ‘Yes, I do believe that what she saw was the crash aircraft.’ I said: ‘Well, just a minute. You can’t have it. You can’t say that. If you’re going to say it was the crash aircraft then your flight path is wrong.’ And—

Senator JOHNSTON—And?

Mrs McNess—And nothing. He said, ‘I don’t believe it’s enough to warrant reopening.’

Senator JOHNSTON—Did you ever receive the report or recommendation of the review committee?

Mrs McNess—We received a letter from the Chief of Air Force. I suppose by that stage I was so beaten down and—

Senator JOHNSTON—Exhausted?

Mrs McNess—exhausted by it all and overwhelmed with the pain of it all. I had striven to get an apology, but in the end I realised that it was not going to come because an apology had too

many connotations. By that stage we had decided that an acknowledgment—at least an acknowledgment—of the systemic problems that existed would help. Basically, that is what we got. Also, I so badly wanted them to say how sorry they were over the loss of these two young men, and they did do that.

Senator JOHNSTON—What did you receive? Someone came and spoke to you about what you required of the process. You say you received some sort of—

Mrs McNess—The director of the review committee had visited us a couple of times, and I had said, ‘If we are to survive this, we’ve got to have an acknowledgment at least of what happened,’ so he said, ‘I will get that for you.’

Senator JOHNSTON—What did he give you?

Mrs McNess—A letter. Eventually it came by mail, but even this was disappointing. He had said to us that he would send it to us in a draft form so that we could go through it and, if it still did not address the problems that we particularly wanted looked at, we could say: ‘No, sorry. We’re still not satisfied with this.’ That review began in May—

Senator JOHNSTON—May of which year?

Mrs McNess—I think it was 1996 or 1997. In December, when the draft was just completed, he rang to tell me that the draft was completed and that he would be sending it to me. Then, a couple of days later he rang again and said, ‘I’m terribly sorry but the chief is going on leave and he’s not prepared to leave it until after Christmas. I’m sorry, but the draft has to be—’

Senator JOHNSTON—So it was a case of, ‘You won’t get a draft to correct and comment on. You’ll get the final letter’?

Mrs McNess—That is right, yes.

Senator JOHNSTON—What was your response to that letter?

Mr McNess—We were pleased that we had it.

Mrs McNess—Yes, but—

Senator JOHNSTON—Would you like to provide the committee with a copy of that letter?

Mrs McNess—Yes. I think I have a copy.

Senator JOHNSTON—Only do that if you want to.

Senator CHRIS EVANS—It does not have to be right now.

Mrs McNess—We will send it to you.

Senator JOHNSTON—So both you and your husband read the letter. What was your view following that?

Mr McNess—As I remember it, we were prepared to accept it—although we were not completely happy with it because we had not received the draft. We had just got the final letter so we were a bit cross about that. We were pleased at least to have that letter which acknowledged that there were systemic problems which contributed to the accident. We particularly wanted something along those lines because of the way that inquiry reports had been interpreted by the newspapers and the press. We saw the big headlines: ‘Pilot error’. That is not what the report said at all, but that is what the press were allowed to pick up. Really there was a loss of situational awareness—which is the pilot’s idea of where he is in the sky and whether he is upside down, sideways or whatever—which was a major contributing factor, along with these other things, but the press only saw pilot error. So even though we ended up getting a letter from the Chief of Air Force, we are the only ones who know that we got that letter.

Senator JOHNSTON—So the public record is yet to be corrected?

Mr McNess—That is right.

Senator JOHNSTON—And that is obviously of concern to you.

Mrs McNess—I tried to correct that myself in the end by writing the story of Jeremy’s life. I knew that I had to put in the part about the Air Force but I knew that a publisher would not publish without knowing that the Air Force were not going to sue. So I went through the Air Force and they have added a short addendum at the end so that it has passed.

Senator JOHNSTON—Indeed if we were to table your letter and record its contents, that would go some way towards correcting the public record by way of the *Hansard*.

Mrs McNess—Yes, it would.

CHAIR—Is it the wish of the committee that the letter be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The letter read as follows—

From: Air Marshal LB Fisher, AO

Royal Australian Air Force

Russell Offices

Canberra ACT 2600

18 December 1996

Dear Mr and Mrs McNess,

The purpose of this letter is to attempt to draw the matters relating to Jeremy’s accident to a close and resolve the discord that has developed between you and the Air Force and hopefully ease the additional burden that you have been caused to bear. I believe that a significant factor in these matters has been your steadfast belief that systemic shortcomings within Air Force procedures placed Jeremy and Mark Cairns-Cowan at unacceptable risk, but the Air Force has not unconditionally agreed with you and chosen to debate many of the points that you have raised. I agree that the Accident Investigation Team’s report did expose some systemic procedures that could have been applied more vigilantly and that the cumulative effect of a number of factors may have had a significant bearing on events during that flight. I also note that you see the degree of effect of those matters on the flight as clearly being a telling factor in the immediate pre-

accident events but again Air Force opinion tends to disagree. My intention now is to address those matters that have been under review since May 1996 in a manner that may take this current situation to an amicable close.

We remember Jeremy as a striking, well groomed young man who conducted his military officership with a polish and finesse that belied his junior years. During his tour at No. 76 Squadron, Jeremy re-wrote the Fleet Support Section of the Squadron's Tactics Manual and although he was still in a semi-training environment was always quick to help his junior, less experienced mates. His ambition to fly F-111 aircraft was well known, and respected, because he pursued his goal with unassuming diligence. Jeremy's motivation, preparedness and performance shone through on No. 37 F-111C operational conversion course and won him the Holt-Noordink Trophy as dux pilot and laid the cornerstone for a bright future in the Air Force as an officer and an aviator. Tragically, on 13 September 1993, Colleen lost her husband, your family lost a son and a brother to Kathryn and Andrew, and the Air Force lost a fine young officer. Jeremy's loss was deeply felt and we, the Air Force, remember with admiration his testimony to personal and officer qualities.

Regrettably, the post accident inquiry, exposed some chinks in the systemic procedures that may have influenced the course of events immediately preceding the accident. The mission was planned around the auto-TF manoeuvre which is the basic, but demanding, operational application for the F-111. While Jeremy and Mark adequately prepared themselves for the mission, there were a number of latent factors that individually were incidental to the conduct of the flight until tested by the inflight circumstances during the approach to the target near Guyra. Flying supervisors appeared to be focused on regaining night proficiency for the squadron and were less vigilant in regard to the elementary matters of crew and cockpit rapport and the effect that these synergies have on operational efficiency. With regard to circumstances pertaining to the accident, I note that about 19 points have been subject to considerable review since May 1996. However, my intention is not to address each point individually because I believe a satisfactory conclusion may be better achieved by a more generic approach. I hasten to add that you should not interpret this approach as being dismissive of any of those matters that have been raised, but one that allows me to adopt a more personal tenor.

Jeremy's low night currency was tested to extreme by the inflight difficulty which also exposed a link to the pilots' preference to manually fly the auto-TF approach during day operations. Two critical points stem from this factor. First, during the day pilots were able to maintain safe flight without total reliance on instruments because external visual references were available to them. Second, the 'pickle-paddle-pull' sequence at the pull-up point was not practised with every auto-TF flown and therefore did not become instinctive. The effect in Jeremy's situation was that his familiarity with day time procedures prevailed and the TF was not disengaged at the pull-up point. Although the flight profile was not dangerous at that point, his low night currency may not have automatically directed his attention to critical flight instruments. This may have placed Jeremy under additional pressure and could have affected his recognition of the problem and the immediate actions required to rectify the situation. By allowing the crews more time to adjust to night operations before commencing demanding tasks, such as a night auto-TF, and a more rigid adherence to prescribed flying procedures may have alleviated some of the pressures that were brought to bear when Jeremy experienced the handling difficulty. Also associated with this particular point was that the guidance in flying orders could have been interpreted more stringently. Although flying supervisors expressed their concerns regarding the Squadron's low night currency and stressed the need for caution, a less demanding mission may have been a more appropriate opening to the night flying program. Alternatively, the auto-TF could have been flown with a longer high-level leg that allowed crews more time to settle into the night environment before descending for the demanding low-level operations.

I also believe that Jeremy's low night currency was exacerbated by crewing him with a navigator similarly inexperienced in night operations, and one with whom he had not frequently flown. This factor was insignificant during mission preparation on the ground and they adequately briefed the other crews on the conduct of the mission. Their approach to the target was initially uneventful until the critical pull-up point. Jeremy appeared to attempt to resolve the problem himself and the navigator remained fixed on his weapons delivery. The factor of inexperience may have allowed the seriousness of the problem to pass unnoticed because they had not established the rapport and synergy that is critical to cockpit proficiency. The clipped verbal commentary between the two indicated, to some extent, that they had not established the fluency of 'crew-buddies'. I agree with the Accident Investigation Team's finding that the pairing of Jeremy and Mark was ill-advised.

I regret that the matters of post accident investigations and inquiries, clearance of the crash site, the Accident Investigation Team's interviews with eye witnesses and contact with the Air Force have added to your already heavy burden. The decision not to hold a Board of Inquiry was agreed at the time but later proved to be inappropriate. While I remain confident in the AIT's findings and conclusions, I do acknowledge that a Board of Inquiry may have provided you with the opportunity to have your questions answered. The Coroner's decision not to hold an inquiry was taken independently of the Air Force and therefore I am unable to comment. Clearance of the crash site has been explained in previous letters and I intend to leave that matter by expressing my sincere regret with regard to Colleen's visit to the site, and her subsequent grief.

The Privacy Act has added to the difficulty of contact with you. The release of personal information is governed by the Privacy Act and the Air Force's legal obligations to Jeremy's next of kin, Colleen. Unfortunately you saw the Air Force's careful approach as being defensive. With regard to your letters that were unanswered, the recipients felt that they could not help you any further. However, I believe that you should have been extended the courtesy of an acknowledgment and a brief explanation to inform you the matters you raised would not be taken up.

Jeremy's low night currency and his pairing with Mark Cairns-Cowan were the two factors critical to events that occurred on 13 September 1993. Systemic supervisory shortfalls saw a crew, inexperienced in night operations, assigned a difficult but achievable task that later exceeded their individual and collective capabilities when the inflight handling difficulty was encountered. They had not had the opportunity to develop their professional cohesion and as a consequence neither was aware of the potential seriousness of the events that followed the handling problem. Crew rapport, and the inseparable crew confidence, in this case may have turned the course of events and led to a safe recovery. The other factors such as Jeremy's first flight in A8-127, the maintenance history of the aircraft, weather conditions in the target area and their responsibilities as first crew were initially insignificant because their professional training equips them to fly any aircraft in the fleet through bad weather to a target. However, there remains a possibility that these factors may have also affected Jeremy's reactions to the handling problem.

I sincerely regret that on 13 September 1993, the Air Force team lost two key members and that Colleen and your family suffered an irreplaceable personal loss. Jeremy and Mark were striving for the operational proficiency and excellence that the Australian people rely upon to maintain the sovereignty of our country. Jeremy's contribution was conspicuous and reflected his standing as a fine team member. Sadly, the precise and demanding rigours of military flying may have been overloaded by some shortcomings in systemic procedures. I acknowledge that the effect of these factors may have contributed to the accident and once again extend to you, on behalf of the Air Force, our deepest and most sincere regret.

Yours sincerely

Les Fisher

CHAIR—Would you like to make a final statement, Mrs McNess?

Mrs McNess—Yes. I just wanted to say one other thing. You asked before about the burnt trees and that sort of thing. One of the investigators, who had just come back from the States where he had undergone the latest training in accident investigation, was quite certain there had been an in-flight fire. Many of the witnesses also thought this. They believed what they had seen was an aircraft on fire. The treetops on the hill leading to the valley where the crash occurred were burnt. I think the man was something like 800 metres from it but with an absolutely clear view: the house sits on top of the hill and the plane crashed down there. The trees behind his property, which acted as a windbreak, had their tops burnt. Also, something fell on the roof of his house. He believed that it was probably fluid from the plane and that it later washed into his water tank, because it was fed from the roof. He said that his family suffered skin problems for six months afterwards.

When I went to the Air Force with that, the fellow said, 'Come on! Why would they keep using water that was obviously contaminated?' I went back to the fellow and said, 'Why did you keep using the water?' and he said, 'Because every breath we took in that area absolutely reeked of aviation fuel for weeks.' I cannot tell you the exact load of fuel that the plane was carrying.

Mr McNess—About 10 times the fuel load.

Mrs McNess—Something like 10 times the fuel that was spread across that area. So he said, 'We had no idea that there was anything in the water because everything we ate, drank, smelt and breathed was laced with aviation fuel.' We have always felt that not enough attention was given to the possibility of a fire.

Mr McNess—Even today, the people of Guyra are very sceptical about what the Air Force believed happened. A lot of them are still harbouring a grudge in that they were not spoken to.

Mrs McNess—Or that their accounts were just dismissed.

CHAIR—Thank you very much for coming along today and reliving your tragedy with us. We certainly will take that into account as we compile our report.

Mr McNess—Thank you very much.

Mrs McNess—Thank you.

Senator CHRIS EVANS—You are a great advertisement for parents. We appreciate very much you coming along today.

CHAIR—I declare this public hearing of the Senate Foreign Affairs, Defence and Trade References Committee closed and thank the witnesses for their attendance and the recording staff for their assistance.

Evidence was then taken in camera—

Committee adjourned at 3.46 p.m.