

TRANSCRIPT

ENVIRONMENT, NATURAL RESOURCES AND REGIONAL DEVELOPMENT COMMITTEE

Inquiry into the CFA training college at Fiskville

Melbourne — 15 June 2015

Members

Ms Bronwyn Halfpenny — Chair

Mr Tim McCurdy — Deputy Chair

Mr Simon Ramsay

Mr Tim Richardson

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Witness

Mr Michael James, United Firefighters Union of Australia.

**Necessary corrections to be notified to
executive officer of committee**

The CHAIR — We will recommence the hearing. We have at the moment Mr Michael James, but there has been a little bit of a change to the format in that both Mr Watterson and Mr Woodyatt will appear after lunch. Perhaps if I just go through the formalities and then, Mr James, if you introduce yourself.

Welcome, on behalf of the committee, to presenting today. The Parliamentary Committees Act 2003 provides for the committee to take evidence, and the transcript of the hearing will be made public in due course. All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and the provisions of the Parliamentary Committees Act 2003 and is protected from judicial review. Any comments made outside the precincts of the hearings are not protected by parliamentary privilege. All evidence given today is being recorded, and you will be provided with a proof version of the transcript. Following your presentation, committee members will ask you questions relating to the evidence that you provide to us. Thank you. Go ahead.

Mr JAMES — Thank you, Madam Chair, and thank you for the opportunity to address the committee. I have been a professional firefighter with CFA for 27 years, commencing in 1987. I currently hold the rank of senior station officer. Prior to being employed as a professional firefighter, I was a volunteer firefighter with CFA from 1982 until 1987. In September 1987 I commenced employment with CFA as an assistant regional officer. At that time there were two streams of entry into the operational staff of CFA: personnel were either employed as an assistant regional officer, which was a junior operational officer level, or as a firefighter.

Both the firefighter and assistant regional officer streams, at the commencement of employment, completed exactly the same recruit firefighter course at Fiskville, which at that time went for 13 weeks. I was a part-time instructor at Fiskville on numerous occasions from 1987 until approximately 2000. I have also instructed at a number of other CFA training grounds, including Wangaratta, where part of my duties included performing the role of training ground manager for a period of time. I remain an active and endorsed instructor at the Bangholme training ground and still regularly provide instruction at that location to volunteer and career firefighters.

In 1988 I spent three months as a full-time instructor, living and working at Fiskville. During my time as a full-time instructor in 1988, I witnessed and was exposed to unsafe work practices, which I tried unsuccessfully to have changed. One of the practical exercises required me as an instructor to take a group of students inside a two-storey building with a fire burning inside. An objective of the training was to give students exposure to, and an awareness of, the behaviour of smoke and heat inside a burning building. As fire burns inside an enclosed building, it is a normal part of fire behaviour for the smoke from the fire to rise up towards the ceiling. Typically a clearly defined smoke layer will develop below the ceiling. As the fire continues to burn, the smoke layer can lower from the ceiling towards the floor level.

The students' instructions during this particular drill were to observe the lowering of the smoke layer from the ceiling towards the floor as the fire continued to burn. The students were encouraged to be so close to the smoke layer that they could raise an unprotected hand into the smoke layer to feel the very high temperature associated with the smoke. As an instructor I decided that it was unsafe to conduct this drill without the use of appropriate respiratory protection — that is, breathing apparatus.

While practical firefighting activities were occurring on the PAD — that is the practical training area — there were two instructors at all times. Due to my relatively short time at Fiskville, and due to my relatively junior rank, there was always a more senior instructor on the PAD at all times. I very clearly expressed my concern that the drill was not being conducted safely and specifically requested to be permitted to wear the breathing apparatus, which was on site at Fiskville and available for this purpose. I was refused permission to be able to wear breathing apparatus by the senior instructor present at the time. The reasons for refusal were, firstly, the document called the 'PAD brief' did not provide for the wearing of breathing apparatus, and, secondly, as the drill was designed to be taught to firefighters from different backgrounds, including rural volunteer firefighters who had not been issued with breathing apparatus by CFA, then no-one was permitted to wear breathing apparatus.

The appropriate way to raise my safety concerns was via the chain of command — to the senior instructor present. I clearly identified an unsafe practice, advised management via the appropriate method but the unsafe activity continued. I have been advised that this drill was still being taught many years later at Fiskville without the appropriate respiratory protection which I had identified and requested. I was extremely concerned at

possible risks that I faced by being forced to work in the smoke without appropriate and readily available respiratory protection.

I have referred to something called 'PAD briefs'. PAD briefs were Fiskville-specific documents which were designed to standardise the conduct of each practical firefighting drill. The PAD briefs contained teaching points, objectives of the drills and safety requirements. It was expected that an instructor at Fiskville would comply with and follow the PAD briefs. The PAD briefs did not actually restrict the wearing of breathing apparatus at any drill. I formed the opinion at the time that I was only asking to protect myself from known hazards of smoke, but was not permitted to do so.

In the 1980s there was already considerable knowledge of the dangers associated with breathing in toxic products of combustion and therefore the need for breathing apparatus. In my own case, when I was a volunteer rural brigade firefighter I prepared a detailed submission requesting that CFA provide breathing apparatus to the brigade where I was a member. Shortly after becoming a career firefighter in 1987 I prepared further submissions for several brigades to be provided with breathing apparatus by CFA. I have no doubt there was widespread understanding in CFA at that time of the dangers associated with breathing in harmful products contained within smoke and that breathing apparatus was an appropriate way to significantly reduce or eliminate the risk.

I refer again to drills being conducted at Fiskville during my time as a full-time instructor in 1988. One of the exercises involved the burning of what we thought was diesel and what we now know contained mixed and sometimes unknown waste products from industry. The drill involved dealing with a fire in a specially constructed below-ground pit with a low bunded wall. If I may just refer you to the picture on the screen, which is virtually the same as in my written submission. That picture shows the layout of the practical training area at Fiskville as it was during my time as a full-time instructor in 1988. The flammable liquid pits are shown towards the lower section of the photo. There are three of them there. There is a square one, one that looks a bit like a star and a round one. I refer specifically to the round one towards the centre lower right.

If I can refer now to the second picture, please. These are pictures which are freely available in the Professor Robert Joy report. The pit shown to the left of the photo, where the flames are, contained the mixed and sometimes unknown waste products from industry. Fiskville PAD staff ignited the contents of the pit with the assistance of petrol, which was also poured into the pit. Considerable quantities of thick black smoke were produced from the burning material. The exercise involved training in what is now called a two-line fog attack. It is a technique where you have firefighters in a three, five or seven-person configuration with two charged hose lines — that is, hoses full of water — on the outside with a commander in the middle of the two hose lines. Firefighters advance in a tight formation, with the movement of the firefighters being carefully controlled by the commander. As instructor I performed the role of commander during these drills.

In the training exercise the students would follow the voice commands of the instructor in the middle to gain access to a simulated valve to stop the supply of fuel to the fire. In that picture on the screen, just in front of the firefighters is a simulated valve set. Firefighter students needed to be able to approach the valve in multiple situations, including having smoke coming from different directions. The simulated valve was a movable part of the prop set and was often moved around to be in direct line of smoke to give the firefighters a feeling of what a similar real-world situation would be like. The technique could be taught using other props as well. What differed in this particular prop was that the valve was often intentionally placed in a position where firefighters would be in direct contact with the smoke from whatever combustible liquid was being burnt. The water sprays provided some protection from the heat but no protection from the smoke.

Once again I conveyed to several different instructors on separate occasions that I thought the drill was not safe and requested permission to wear breathing apparatus. Once again I was refused permission, for the same reason as the previous drill described — that is, the PAD brief was designed to be taught to a variety of career, volunteer and industry firefighters, not all of whom had access to breathing apparatus on the fireground. Because not all had access to breathing apparatus at their home locations and so as to standardise the drill, no-one was permitted to wear breathing apparatus during the training drill, despite being forced to operate in very thick and possibly harmful smoke.

I was very concerned at the time, and have remained angry and concerned for the 27 years since, that I had been unnecessarily and repeatedly exposed to the smoke from this particular flammable liquid pit. My exposure to this smoke was totally avoidable. The unknown nature of the fuel used in this pit makes it very difficult to

attribute specific health issues with the exposure to this smoke. I last instructed at Fiskville in approximately 2000. Since that time I have battled a number of medical conditions, including morphea, which is a rare and potentially serious skin condition for which there is no known cure; an ongoing respiratory condition which is currently unable to be accurately diagnosed; and ongoing extreme skin sensitivity and high-level full body pain symptoms, currently unable to be accurately diagnosed.

I wonder if there is a link with my medical conditions to the known and unknown chemicals that I was exposed to during my time at Fiskville. My out-of-pocket medical expenses associated with these conditions are several thousand dollars so far. The CFA has so far only provided an optional health monitoring program for a limited time and for a limited number of people. It has been made clear to me that the cost of any treatment or further investigation is at my expense. CFA will not meet any additional medical costs at all.

During my time as a full-time instructor at Fiskville I clearly identified unsafe practices but was refused the opportunity to operate safely. In my opinion the management of CFA and some staff at Fiskville failed in their duty of care to provide a safe workplace and should be called to account for their failings. Compensation should be considered in relation to those who have been exposed through the practices at Fiskville. I would suggest that as a minimum legislation should be introduced to remove the onus of proof from our firefighters not only for occupational cancers but for other medical conditions which may have been caused or made worse as a result of the practices at Fiskville. Thank you, Madam Chair.

The CHAIR — Thank you. Can I just ask on your health issues and what you are saying the CFA is and is not doing, have you approached them? Have you had any discussion with them around any sort of reimbursement for medical expenses, or do they have a standard line on these things? Is it possible to talk to them?

Mr JAMES — CFA provides a number of assistance telephone lines, counselling services and otherwise. However, the primary advice that there will be no further expenses has been provided by the CFA-assigned doctor who deals with the optional health monitoring program. I have now been for two checks with two different doctors, and each of those doctors made it very, very clear that the health monitoring program covers a certain amount, which is basically a series of health checks, and any further investigation, including any treatment, no matter what it is or whatever the cause, is absolutely at my expense. That advice has been specifically provided by the CFA-appointed health monitoring doctors.

The CHAIR — Thank you.

Mr McCURDY — Michael, do you think the claims that you raised were ignored, or was it more of a paramilitary-style culture where those at the top did not listen to those who were down the bottom or halfway up? It was driven by the top, and no other correspondence will be entered into.

Mr JAMES — Back in that time, and to a certain degree now, CFA operates, certainly operationally, as a paramilitary-style operation, certainly on the fireground. It does not operate that way during training or normal activities and did not in that time. As an instructor I was encouraged to identify any issues that I had, even as a junior instructor back in 1988.

What really annoys me was that it was clear to me and clear to anyone I have spoken to since that breathing apparatus should have been available for use during these drills. It is not the fact that it was not made mandatory; it is the fact that I sought it and was refused permission to wear it. I referred to industry firefighters. Some of those industry firefighters that I was training or involved in training at the time came from some of the petrochemical industries. Many of those people had access to breathing apparatus, and as an instructor part of what I was seeking was permission for those students who had raised the issue with me as the instructor to be permitted to wear it. It was not just for the instructor to wear breathing apparatus.

I understand that the exercises were trying to be made available for people who did not always have breathing apparatus or similar respiratory protection at their home locations, but why refuse breathing apparatus or respiratory protection for those who did? Some of the time we were only training industry firefighters, all of whom in some industries had access to breathing apparatus — compatible breathing apparatus, I might add — in those days. Why refuse it?

At that stage we did not know what was in the smoke. We did not have to know what was in the smoke. We have found out since that the products were not what we thought. But even with what we thought they were — combustible products, including diesel — it was well known at the time that you do not operate safely in the smoke. That is not something that has just come about. I have heard comments in the past, and I sat through the last day of hearings and certainly heard questions and suggestions as to whether this was just something that was not known at the time or why did no-one raise it at the time. I knew it. Others knew it. I raised it, it was not actioned.

I am not sure I directly answered your question. But in relation to the culture, there was a culture even then to operate safely. I do not accept that it was bravado. I do not accept that at the time there was just a can-do attitude. There was a can-do attitude in a variety of ways in relation to trying to keep the place running with sometimes limited funding — yes, can do. In relation to safety, I do not accept and it was not my experience at the time that the can-do approach applied to safety. But why when safety was raised was I not permitted to make it safer? That continued for years afterwards for some of those drills.

Mr RICHARDSON — Thanks, Michael, for coming in and sharing your experiences. Just taking you to one of those points you made about the petrochemical industry — we heard from a gentleman at the last public hearing — and the point that you make about breathing apparatus and bringing them to the training. We heard that they would not have done those practices at Fiskville. My question is two-pronged. What at the time were you hearing from the industry and other bodies that were involved at that time in training and other training practices? And in your experiences up to 2000 and the cut-off that we have talked about with Robert Joy's report, what were your experiences up until that point and the safety elements up to that point? Do you think they needed to be further assessed at that time?

Mr JAMES — To take the first part of that question, my experience with the petrochemical industry was limited at that time by my interaction and involvement as instructor providing industry training courses at Fiskville. I would not have had an in-depth knowledge as to what was available in all the different industries. What I do know was what was told to me by students on the PAD at the time by those individuals who expressed their concern. How widespread the practices or the availability were, I am unable to answer. Perhaps if you could just repeat the second question.

Mr RICHARDSON — The second is your experiences over that period at Fiskville are really important in how safety progressed on site. You kept hitting barriers. Up until 2000 what were the practices like at that point? And reflecting on this cut-off time period that Robert Joy's report focuses on. Have they got it to a standard that we could deem anywhere near — —

Mr JAMES — I am unaware of a logical cut-off reason or date to associate with the cut-off date as addressed by the Professor Robert Joy report. That is perhaps one way of answering it. I can think of no logical reason why that arbitrary date was selected.

Mr RICHARDSON — The practices up until that point were not anywhere near what you would deem reasonable at that time up until 2000? Were you still getting — —

Mr JAMES — No, I would not agree with that. Overall the conduct of training at Fiskville, and bear in mind I have been an instructor at a number of other training grounds as well, in my opinion it was generally conducted with a reasonable degree of safety. There was always a desire by anyone I ever dealt with to operate safely as instructors on the fireground. That is somewhat different to the activities of any particular training ground in relation to products that were burnt or a range of other things or the water quality. As instructors I generally believe that they are a committed, knowledgeable and safety conscious group. They were at that time, and they remain that way to this day.

Mr YOUNG — I am just wondering if you can tell us how important you think the Fiskville training site is to the CFA and how you feel about the closing of the site?

Mr JAMES — I recall listening to some evidence on the last day of public hearings which shocked me. It suggested that the extent of contamination was well beyond what has currently apparently been tested. Theoretically I am sure it is possible to totally remediate any site. I do not have confidence that the site can be adequately remediated to the confidence of firefighters. I have absolutely no confidence in that whatsoever.

Mr RAMSAY — I want to refer you to the terms of reference for this inquiry and ask you in relation to the reference that calls for:

... recommendations as necessary to mitigate ongoing harm and to provide justice to victims and their families.

You skated over perhaps some of the work the CFA is doing in relation to medical checks. I would like to ask you what support services, other than what is already being provided, you consider should be made available to mitigate those ongoing harms. Given Fiskville is closed, it is about those whose health was impacted while it was open. Also, in your opinion how do you think justice can be achieved for people who have been affected by Fiskville? Do you have any recommendations to the committee in respect of both of those?

Mr JAMES — In my opinion the health monitoring program needs to change. It needs to be extended beyond the medium/high-risk group that was identified as a result of the reports up until now. There is a range of people who have been potentially impacted by Fiskville who have not really had health monitoring made available to them. That includes, for example, people who were not instructors, people from external agencies and a whole range of other people, some of whom this committee has already heard from. I believe it needs to be extended to a wider group. It needs to be extended for an indefinite period of time, not five years, because some of the health issues which may or may not be identified are long term, certainly for occupational cancers, and some have been referred to. The period of time for detecting those may be many years, many decades even. I believe the health monitoring program should be indefinite for the lifetime of the individuals. It should still be optional.

I also believe there needs to be further opportunity for the costs of further investigation to be borne by other than the individuals involved. I refer to known and unknown chemicals. It is all very well to say, 'Well, we can't find a direct link'. It comes down to how we are going to deal with people in an equitable and just manner. Not every medical issue which pops up in an individual's life will be related to or directly attributed to Fiskville, and certainly for firefighters there is a range of other exposures and a range of other routes.

In my own case, if I can just refer to the morphea as an example, I was advised by my dermatologist that the incidence of morphea, which is potentially very serious, is around one in a million or so. In fact when I go to see the dermatologist for treatment, the other dermatologists come in for a look because none of them have seen a case in their entire careers. My understanding is that there has been more than one instructor or person working at Fiskville who has identified with this one illness alone, this morphea. I refer to the fact that there is no known cause and no known cure. Is it related to Fiskville? How do we know? In my view there needs to be a further evaluation of what is reasonably possible to be attributed to the time at Fiskville. That needs more work, more research, I would suggest, and a compassionate approach.

Ms WARD — Thank you for telling us your story, Michael. You spoke about the challenges you had in trying to get your concerns about having a breathing apparatus addressed. Were you given any safety inductions when you were at Fiskville, and were any OHS officers identified to you for you to approach?

Mr JAMES — The second part of the question first. I was unaware of any OHS officers, and I am not sure that in 1988 there was really a formal structure for that. I think that might have come into place afterwards. Certainly in relation to a safety briefing, yes, at all times there has been a level of safety briefing. Over time they have become more formalised and more sophisticated, covering a range of different activities. But yes, there was a degree of safety induction provided, which was probably appropriate for what was on site at the time.

In the picture I showed earlier, Fiskville was a very, very different place then. There was a fraction of the involvement and development of the current PAD and other facilities compared to what there is now. But even so, it was still quite a complex site with a range of safety considerations. There were more than just the instructors present. If I can perhaps further highlight another way that safety was addressed, as well as the instructors on site there was also a further person, who I think was called a PAD coordinator, who was responsible almost primarily for safety on the site. If that person became aware of any unsafe practice at all — for example, the firefighters were in an area where they should not have been, compatible with the way the PAD brief was set up and the way the drill was meant to be conducted — that person would stop the drill instantly. Those sorts of activities still occur to this day, where the PAD staff and others have access to shut-offs and those sorts of things. There were a range of safety procedures in place relevant to the technology and the set-up of the site of the day.

Ms WARD — Keeping that in mind then, that there was a culture of safety and that there were people who were trying to make as safe an environment as possible for people working on the site, how do you then explain you being ignored and the water testing that we have heard about today being ignored? How would you explain that happening?

Mr JAMES — I have had heartache for a long time over my request for breathing apparatus, and I have focused a fair bit on that. If I can just go back to that, I am unaware why something which appeared reasonable and genuine, raised in the right way, was not addressed. It was not one person; it was raised with several other instructors on several occasions, so it was not as if it was just the thought bubble of one person. No, there appeared to be a reluctance to change from, ‘This is the way we are going to do it’, and a reluctance to change to pick up almost anything, including safety. Safety is not something that has just come about. I do not know why that is the case. I am unable to even question or identify the people that I raised it with, and I specifically have not referred to who it was because I am not 100 per cent sure of who they were. Some of the people whom I believe I raised it with are now deceased, unfortunately.

Mr TILLEY — Historically I just want to explore with you and have a conversation in relation to your earlier days at Fiskville. In the Joy report we saw some things about tasking that was given there, with pouring, mixing, carrying and those types of activities — open containers. Did you participate in any of those activities at all?

Mr JAMES — No. Not only did I not participate in them, I did not directly witness them.

Mr TILLEY — On the PAD, would you be able to provide the committee with some of your sensory perceptions — you have seen heavy black smoke? Can you assist the committee with, say, some of the other sensory stuff, such a smell?

Mr JAMES — Yes, absolutely. As firefighters, and it did not matter whether you were a student or an instructor, you were exposed to exactly the same environment, as the picture on the screen would suggest. You were literally externally drowned in water. You were covered from head to toe in water. The firefighting clothing of the day was not much more than a woollen absorbent jacket, which acted as much like a sponge as anything else. It was designed to protect the firefighters from radiant heat only — —

Mr TILLEY — What could you smell?

Mr JAMES — An oily black substance. It was just an acrid, nasty — —

Mr TILLEY — Was it sweet at any stage?

Mr JAMES — I do not remember that it was sweet. I just remember that it was a — —

Mr TILLEY — Acetone?

Mr JAMES — No. If you are trying to imagine that I may be able to identify some characteristic of the smoke, no, I am unable to recall that.

Mr TILLEY — Just in relation to the account you have been able to provide to the committee, I do appreciate it, but as far as your career at the CFA, would it be fair to say you have done alright? You have been promoted several times; you are now a senior station officer. You have detailed to us a number of times that you have tried to address this with the CFA, yet you say that you were refused.

Mr JAMES — Yes, that is right. Specifically, I was refused permission to wear breathing apparatus.

Mr TILLEY — You mentioned unsafe practices. Did you ever consider at any stage during any of this training to ‘Check fire. Stop. Let’s walk off’?

Mr JAMES — As a junior instructor at Fiskville, you were not in a position to say, ‘That’s it. We stop’. I had been in the career staff for approximately one year and a volunteer for four to five years before then. My time as an instructor there was part of my career development. The appropriate time to raise it was via the chain of command. It was not my place, nor would it have been acceptable, to say, ‘That’s it. We stop’.

Mr TILLEY — In that case, did you ever at any stage in your career consider informing any other agencies? I mean, there is legislation in the state of Victoria in relation to protected disclosures, as they call them there, or the whistleblower. Did you at any stage consider that before coming up to 2012 and this recent heightened targeting?

Mr JAMES — It is an excellent question. Yes, I have. I have actually directly considered and investigated what is involved with the whistleblower legislation, not only for this but also for some other activities which I have witnessed, which are outside the scope of this inquiry. I have looked at that and looked at the implications and decided not to go down that track.

Mr TILLEY — You are saying to the committee that you considered it but you did not actually take that additional step, with making approach, say, to the Ombudsman or something like that in the earlier years?

Mr JAMES — That is correct, and that is due to when I looked into the grounds for making such a move, I felt that they were not appropriate.

Mr TILLEY — So this is your first formal official approach in relation to your concerns during your career as a career firefighter?

Mr JAMES — This is my first opportunity, more importantly, to have a say. CFA does not encourage open disclosure about this sort of thing — does not, to this day.

Mr TILLEY — I have had a military career, and I would suggest that even soldiers can make certain complaints when things are not right, so why would the CFA be any different?

Mr JAMES — Perhaps that is something you could ask CFA witnesses when the time comes.

Mr TILLEY — Sure. I appreciate your being candid with me.

The CHAIR — Thank you so much for your presentation and for answering all our questions. Is it okay if we get in contact with you if we have any further questions that perhaps we think of later?

Mr JAMES — Yes, that would be fine. Thank you, Chair.

The CHAIR — It was a very good presentation. Thank you.

Witness withdrew.