

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT 2600

19 July 2014

Re: Work undertaken by the Australian Federal Police's Oil for Food Taskforce

Dear Committee Secretary

On the 6th of December 2002, John Howard, as the then Prime Minister first said that "If you see something suspicious, report it".

What happens, as I experienced on more than one occasion, there was no one qualified to take the call.

Historically, as I have experience elsewhere, when it comes to reporting something that might be politically sensitive, it would be a brave government employee that would put his career and his pension on the line to report a serious notifiable incident.

I do not have personal knowledge of the AFP in this matter, but I am able to supply parallel insight from another policing formation.

A1. First and foremost, the AFP did not take unsolicited complaints from employees of other government agencies unless it was authorised by the senior management of that department or agency.

My reference for this was in the 1992 'Business Ethics for Defence and Industry' authorised by the late Gordon Bilney as the Minister for Defence Science and Personnel and the associated 'Fraud Investigations - Advice to Commanders and Managers'

'It is Government policy that Commonwealth departments and agencies must carry out their own investigations of fraud in the first instance, so the Australian Federal Police or State Police should not be approached unless you have been advised to do so by Defence Investigators.

Investigation of fraud is often complex and requiring technical skills. If you suspect fraud you should not try to get to the bottom of it yourself, but leave it to the trained investigators of the Service Police organisations or the Inspector General.'

- A2. What I have recently rediscovered is a policy document produced by the Australian Democrats in 1997, which includes this paragraph,

"Currently, where an allegation of criminal or fraudulent activity is likely to have politically sensitive implications, it is left to the discretion of the Minister for Justice as to whether or not the matter should be referred to the Commissioner of the AFP."

If the United Nations hadn't implied its need, would the then Minister for Justice referred information gathered from the Australian Intelligence Community to the Commissioner of the AFP?

- B. Review of Auditor-General's Reports 2000-01: Second & Third Quarter
[Chapter 3: Audit Report No. 22, 2000-01: Fraud Control in Defence \(PDF Format 59KB\)](#)

- 3.12 The audit also examined Defence's fraud investigation arrangements. There are four separate areas in Defence undertaking fraud investigations, one from the Inspector-General division and three from the military police. The ANAO found that each area used a separate set of investigation guidelines. Furthermore, none of the military police, who investigate approximately 85 per cent of fraud cases, had obtained a *Certificate IV, Fraud Control (Investigations)*. The certificate is considered the minimum industry qualification.¹⁵
- 3.29 Furthermore, while staff in the Defence Directorate of Fraud Investigations and Recovery have or are seeking Certificate IV qualifications in fraud investigation, the same does not apply to the military police. ANAO recommended that competency standards for fraud detection should be set for military police engaged in fraud detection.⁴⁰
- 3.32 The Committee is aware that ANAO recommended in 1991 that Defence develop analytical techniques and audit tests to detect fraudulent transactions. ANAO found that its 2000 audit showed that Defence had not implemented this recommendation. 'Defence does not have a fraud intelligence capacity.'⁴¹
- 3.37 Defence now has a full-time team of three who use computer aided audit techniques on a daily basis.

C: Foreign Affairs, Defence and Trade Legislation Committee
Questions on Notice - Budget Estimates, 2 & 3 June 2014
Department of Defence - but it could be every FMA Act Department

69. Defence Xenophon Fraud Control and Investigation

In the February 2014 Estimates hearings, I submitted a written question that became Q35 Fraud Control and Investigation. I refer to inspect the transmittal letter attached to the Defence Annual Report 2012-13. I note that both the Secretary and the Chief of the Defence Force have signed off to the Minister with an additional sentence to their Letter of Transmittal: "Defence has taken all reasonable measures to minimise the incidence of fraud and to investigate and recover the proceeds of fraud."

- (1) Why, after a decade of being definitive in your assertion that "we are satisfied that Defence has prepared fraud risk assessments and fraud control plans, and has in place appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes that meet the specific needs of the department and comply with the Commonwealth Fraud Control Guidelines", do you find yourselves adding this qualifier?
- (2) Is there a cumulative error that has yet to be revealed?

Answer still pending per Committee time-frame for answering questions.

Conclusion:

With all the good intentions of Australia to comply with the sanctions applied by the United Nations, the resources available to the Australian Federal Police pale to that of the Australian Defence Force.

It has taken the 'Skype' Affair to shake Defence into looking at its governance and its 'Pathways to Change'.

I do not have the confidence that the AFP has had or will have the ability to investigate any serious public fraud given the political constraints that it operates within. The laws are there and have been there, but they have been administratively usurped.

Yours respectfully,

Michael Wunderlich

Reference:

1. IRAQ: Oil for Food Scandal
Council on Foreign Relations
Author: Sharon Otterman
Updated: October 28, 2005 (This publication is now archived.)
2. <http://www.oilforfoodinquiry.gov.au/>
Inquiry into certain Australian companies in relation to the UN Oil-For-Food Programme - [Report](#)
[Vol 4. - Findings](#) - Information from the Australian intelligence community (30.112) (Page 60 of 396)
3. [Wikipedia - AWB oil-for-wheat scandal](#)
[Wikipedia - AWB Limited](#)
In August 2009, the Australian Federal Police dropped their investigation into any criminal actions undertaken by AWB and others in this matter. This decision came after Paul Hastings QC declared the prospect of convictions was limited and "not in the public interest".
The [Australian Securities and Investments Commission](#) then proceeded with several civil cases against six former directors and officers of AWB. Two have been against Andrew Lindberg, AWB's former head. Both are still in progress. Another civil case was bought by shareholders of AWB, and was settled out of court for \$39.5 million in February 2010.
4. Foreign Affairs, Defence & Trade Committee
Estimates - Questions on Notice
Questions on Notice - FADT - Senator Nick Xenophon

Budget Estimates Hearing, 31 May - 1 June 2010	Q. W7 - Fraud control and investigation
Budget supplementary estimates 2010-2011, October 2010	Q. W5 - Fraud Control
Additional Estimates 23 February 2011	Q. W53 - Fraud Investigators in Defence
Senate Budget Estimates, 3-4 June 2013	Q. 50, 58, 60, 110, 112
Senate Supplementary Estimates, 20 November 2013	Q. 44, 45, 46, 47, 49, 50, 69
Senate Additional Estimates, 26 February 2014	Q. 10, 11, 12, 30, 31, 32, 33, 34, 35
Senate Budget Estimates, 02 June 2014	Q. 06, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 176
Defence	Q. F147
Finance	Q. 170
DPMC	