

Foreign Affairs, Defence and Trade Committee Department of the Senate
Parliament House
Canberra ACT 2600

Re: Inquiry into Department of Defence's management of credit
and other transaction cards.

In this submission, I will be providing historical examples around the
'management' of the Defence Travel Card with its implications for other
programs requiring contract management.

Michael Wunderlich

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Contributing Submissions to the Committee process of the Parliament

I will be referencing information currently supplied to

1. JCPAA - Inquiry into the 2015-16 Defence Major Projects Report

Still to be published

2. JCCFS - Whistleblower protections in the corporate, public and not-for-profit sectors

Still to be published

Core and non-Core to the interests of the Department of Defence.

In 1993, the DGJMOVT, Air Commodore Ian Scotland set Defence's policy in writing.

" Defence is currently divesting of non-core activities, which has resulted in the re-focussing of the Service's movement organisations on operational matters where the development of skills has a direct application to the Defence mission.

Defence does not consider administrative travel to be a core function and, indeed, the major part of this function has never been undertaken in house. It is an activity that can be contracted out without incurring any penalty to Defence's ability to meet its mission. Defence does not wish to embrace activities that are deemed outside of core, particularly where savings or operational skills enhancement cannot be clearly identified."

Ref: LD93/359 per DGJMOVT 996/93 dated 8 November 1993.

In 1991-92, Defence administrative air travel was \$66.294m as reported by the Office of the Minister for Defence Science and Personnel on the 03rd March 1993. Other Travel Allowances amounted to \$103.147m

My interest in this subject of accountability began in 1995, when the then DJMOVT stated:

"As a managing director of a travel agency you would doubtlessly be aware that that the price on the ticket is not necessarily the price that is invoiced by the airline and paid by the customer. Such is the situation in this case"

It was this statement that had me strongly suggesting the false accounting of some \$20m per annum in administrative travel from 1995.

In 2015-16 the Travel Card Component is \$263,105,988 and the Purchasing Card Component is \$313,979,509

Was Defence's Administrative Travel still considered a non-core expense in 2016, and if it is no longer non-core, when did it change?

The Reporting Process.

Whether we are talking about the reporting process in 90's or the reporting process in 2016, the problem is the accountability (make the problem go away).

Refer to MC16-145052 from the Attorney General's Department,
"The Commonwealth has a multi-agency approach to fraud, with each agency being responsible for their own fraud control arrangements".

The application of jurisdiction.

"Is the \$5000 benchmark still the current measure demarcating who handles a fraud investigation?"

" A number of considerations are taken into account for determining whether an alleged fraud involving a military member will be investigated for prosecution in the civil criminal courts or as a service offence under the Defence Force Discipline Act 1982. These considerations include monetary value, complexity, sensitivity and whether civilian co-offenders are involved. Since 2005, a monetary value of \$20,000 has been applied as one of the considerations in determining jurisdiction."

Senate Foreign Affairs, Defence and Trade Legislation Committee
Budget supplementary estimates 2010-2011; October 2010
Answers to questions on notice from Department of Defence-Package #02
W5 (e) Fraud Control Senator Xenophon

Defence Contracting

On the 7th June 1995, the ANAO published [Audit Report No. 31 1994-95](#)

Titled: Efficiency Report – Defence Contracting

Recommendation No3 The ANAO recommends that the Department review the effectiveness of the internal audit function as a means of ensuring best value and open and effective competition. (2.38)
Response
Agreed.

Recommendation No6 The ANAO recommends that the Department review the training needs of contracting officers, particularly with a view to ensuring that effective analysis techniques such as discounted cash flow analysis are properly used in evaluating tenders. (4.10)
Response
Agreed. The recommendation is linked to the level of acquisition. Discounted cash flow analysis and life cycle costing techniques are rarely needed on intermediate and basic purchases. The training needs of all Defence procurement officers are being reviewed. These techniques are covered in the *Introduction to Financial Analysis* course and they will be made more generally available.

Defence Audit and Fraud Investigative Capability

In 1993, Defence's Fraud Investigative capability was gutted when its Army Special Investigative Branch was disbanded.

The quality of Defence's fraud investigative capability was raised in 2001 by the JCPAA as part of their [Review of Auditor-General's Reports 2000-01: Second & Third Quarters](#) and in particular [Chapter 3: Audit Report No. 22, 2000-01: Fraud Control in Defence](#) (PDF Format 59KB).

I would recommend that this chapter be read if only to give historical context to this inquiry.

Fraud intelligence capacity

Fraud intelligence capacity

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.

They look for what we were talking about with respect to inefficiency and ineffectiveness as well as fraud, as well as abuse, if you like. Some of the things we use it for are debtor management, fringe benefits tax, leave processing, travel payments, which is one of our high areas, and determining the extent of fraud...⁴⁶

A year later Defence presented the [2001-02 Defence Annual Report](#) with a revised Letter of Transmittal attached to it. (In part:)

In accordance with Section 45 of the *Financial Management and Accountability Act 1997* and pursuant to Regulation 19 of that Act, we are satisfied that Defence has prepared fraud risk assessments and fraud control plans, and has in place appropriate fraud prevention, detection, investigation and reporting procedures and processes that meet the specific needs of Defence and comply with the Commonwealth Fraud Control Guidelines 2002.

What was and is the Fraud Intelligence Capacity of the Department of Defence in 2016?

Time Stamp 2005 – Reporting on the start of the Defence Travel Card

I would now like to refer the Committee to the JSCFADT review of the [Defence Annual Report 2003-04](#) of the 11th March 2005.

[Senator JOHNSTON](#) —Did we go to tender for all of those service providers?

Mr Moore —Yes.

[Senator JOHNSTON](#) —So Diners Club won the tender to provide the card.

Mr Moore —That is right—in open competition.

[Senator JOHNSTON](#) —How long has this system been in operation?

Mr Moore —We started rolling the card out about August last year to the senior leadership group, and between August and now we have rolled out about 3,000 cards.

[Senator JOHNSTON](#) —Anticipating how many cards, ultimately?

Mr Moore —Up to 20,000.

[Senator JOHNSTON](#) —Twenty thousand when we have got 52,000 service personnel.

Mr Moore —These are just members of the ADF and civilian employees who need to travel on business.

Mr Smith —Most often.

Mr Moore —Obviously, we will never issue a card to a recruit on enlistment in the ADF, so this is just business travel. We will then do a total evaluation of the success of these reforms to business travel and make a decision through the secretary and Chief of the Defence Force whether it can apply to other forms of travel in Defence.

[Senator JOHNSTON](#) —So Qantas won the tender for the air component of the plan.

Mr Moore —Our contract with Qantas is longstanding and precedes these reforms. The contract is with Qantas Business Travel and, apart from booking the airline seat, we also have the ability to book hotels and car hire through them. We pay extra for Qantas to do that and, in consultation with Qantas, we are looking in the future to buy the airline seats off Qantas and book direct with Hertz, who is our car rental provider. Rather than paying a fee to Qantas to do that for us, we believe we can do it more efficiently ourselves. We have gone to the hotel accommodation industry looking for proposals on how we can be a smarter buyer of hotel rooms. At the minute the individual traveller has the right to decide within accommodation limits. We believe we can provide our members with a better quality hotel room, particularly through a brokerage arrangement like most of us do on the weekend for private travel with a dotcom company, and they are very interested in responding to a tender.

[Senator JOHNSTON](#) —What is the term of the contract with Qantas and when is it up for renewal?

Mr Moore —From memory—and I might have to take that on notice to get the right answer—the main contract was due for expiration on 30 June this year, and we have put a one-year extension in place. I would like to check that fact and come back to you if that is wrong.

Time Stamp 2011 – Travel Costs for the Department of Defence

Defence Supplementary Estimates - 19th October 2011

For these estimates, Senator Eggleston provided Q148 regarding Travel Costs for the Department of Defence.

In their reply for the financial year 2010-11 Defence spent approximately \$428m (exclusive of GST) on travel related expenses.

Response:

(a) For financial year 2010-11, the Department of Defence (Defence), including the Defence Materiel Organisation (DMO) spent approximately \$428 million (exclusive of GST) on travel related expenses. This figure covers the entire Department of Defence workforce; APS employees, full time ADF members and ADF Reservists. The figure does not include charter aircraft used for deployments and exercises.

The Defence/DMO travel program is very large and complex and it is not possible to provide data broken down at the level requested as it is not captured or maintained at this level.

Defence/DMO undertake in excess of 200,000 domestic trips each year and has over 1.5 million individual transactions made through our travel card program. Trips may be made using commercial means (air, car hire, rail etc), service vehicles or in some cases private vehicles and Defence/DMO do not have a single data source that identifies each trip undertaken for central reporting.

Time Stamp 2013 – Application of the DFDA

From the Army Newspaper January 31, 2013 (Refer Annex EE)

‘Courts martial and DFMs cannot sentence officers to detention, while an NCO who is sentenced to detention must be reduced in rank below NCO.

A member who is sentenced to detention cannot be required to serve a period of more than two years.

[Consequence of moving from FMA Act 1995 to PGPA Act 2013
DFDA 1982 – s47Q – Unauthorised use of Commonwealth credit card
Maximum punishment: Imprisonment for 5 years.]

A convicted member cannot be sentenced to both dismissal and detention, as one purpose of detention is to rehabilitate the offender.’

[Directorate of Military Discipline Law](#) (seen 09 February 2017)

DMDL is also reviewing Part VI of the DFDA in order to provide command with some recommended changes to modernise our investigative capabilities within the ADF and more properly reflect the role and responsibilities of the ADF Investigative Service.

Reflecting on the Department of Defence’s Letter of Transmittal, you may want to ask when this Review of the DFDA was first initiated and when it is to be submitted for consideration and its anticipated implication.

Time Stamp 2013 – Commercial Contract Payments

Supplementary Budget Estimates hearing – 20 November 2013

Question on Notice No. 69 – Commercial Contract Payments

Senator Xenophon provided in writing:

In the June 2013, Senate Budget Estimates, I asked about commercial contract payments.

1. Today, who in Defence is responsible for monitoring and reporting contract management or mismanagement? And to whom?

Response:

1. Business owners in each Defence Group and Service, who initiate procurement, retain the responsibility for that procurement. This includes monitoring and reporting contract management and any issues to the relevant Group Head or Service Chief.

Time Stamp 2014 - Extract of General Ledger codes regarding Defence travel.

From the Defence Budget Estimates 2014, Senator Xenophon provided in writing Q64 about Trial Balances.

Defence gave a comprehensive reply which I will include as an attachment to this submission.

Extract of General Ledger codes regarding Defence travel.

GL Code		2014-15 Top of Defence \$'000	2014-15 NAVY \$'000	2014-15 ARMY \$'000	2014-15 Air Force \$'000
20516	Travel APS-ALFA	301		57	57
20712	Travel ADF – Remote Locality Leave	2,087	6		2,081
20713	Travel ADF – Remote Locality Leave - Family	1,075	116		959
20714	Travel ADF – Recreation Leave	16,607	5,084	9,072	2,451
20715	Travel ADF – Other Leave	4,497	709	2,982	806
20740	Travel APS – Remote Locality Leave: ATO defined	2			
20742	Travel APS – Member Reunion	15			
20744	Travel APS – Student Reunion (other)	1			
20745	Travel APS – Dependants Reunion	4			
20772	Travel ADF - Medical	5,373	608	2,803	1,962
20773	Travel ADF – Legal / Discipline	272	272		
20774	Travel ADF – Other conditions of Service	1,089	1,017	14	2
20775	ADF employee costs – Meal Allowance	3	3		
20777	Travel ADF – Reunion	6,818	1,746	3,447	1,623
20778	Travel ADF - Compassionate	1,108	340	788	
20779	Travel ADF – Student reunion (yrs 9-12)	9	9		
20780	Travel ADF – Student Reunion (other)	8	8		
20781	Travel ADF – Dependents Reunion	453	451		
20782	Travel ADF – Remote local leave : Non ATO defined	2,494	423	2,071	
20783	Travel ADF – Remote local leave : Non ATO	10,139	1,281	7,141	1,717
20785	Travel ADF - Attachments	731	58		671
20787	Travel ADF – Relief out of country – Fare Assistance	486	149	335	
20789	Travel ADF – House Hunting	43	43		
20900	Travel expenses for health professionals	78			
21300	Travel – O/seas&Charter	32,850	2,238	1,898	9,951
21301	Travel – Overseas Allowances	1,166	279	80	
21303	ADF training related travel Overseas expenses	12,042	805	5,600	3,732
21304	Travel – Overseas spouse accompanied	26		10	
	See attachment for extended display				

Time Stamp 2014 – Fraud Control & Investigation

Department of Defence - Budget Estimates Hearing – 2 & 3 June 2014

Question on Notice No. 69 - Fraud Control and Investigation

Senator Xenophon provided in writing:

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?

Response:

- (1) The addition of the qualifying statement in the letter of transmittal was a result of a mandatory clause introduced in the *Commonwealth Fraud Control Guidelines 2011*, whereby all agency heads must certify in their annual reports that they are satisfied that “they have taken all reasonable measures to minimise the incidence of fraud in their agency and to investigate and recover the proceeds of fraud against their agency”. The addition of the qualifying statement should have been introduced in *Defence Annual Report 2011-12* but it was overlooked.
- (2) No.

Time Stamp 2014 – Contract Management

Department of Defence - Budget Estimates Hearing – 2 & 3 June 2014

Question on Notice No. 71 - Contract management

Senator Xenophon provided in writing:

In June 2013, I asked about commercial contract payments in the Senate Budget Estimates. This was followed on the 20th November 2013, with a supplementary question that asked who was responsible for the monitoring and the reporting of contract management or mismanagement. It was answered that "Business owners in each Defence Group and Service, who initiate procurement, retain the responsibility for that procurement. This includes monitoring and reporting contract management and any issues to the relevant Group Head or Service Chief."

Can the Department advise when this became the standard operating procedure for procurement? If this has changed, can you advise when this change occurred and what was the previous policy?

Response:

It has always been a responsibility of Defence officials (whether civilian or military) to ensure that line management, including up to Group Head or Service Chief as necessary, and other relevant stakeholders are made aware of relevant contract management matters. This responsibility is consistent with being a public official under the Public Service Act or a member of the Defence Force under the Defence Act.

Time Stamp 2016 – ANAO – Defence's Management of Credit and Other Transaction Cards

Defence's [Letter of Transmittal](#) is pivotal in analysing this Performance Audit.

It is acknowledged and implied by the Secretary and the CDF to the Minister and then to the Parliament that 'Defence has prepared fraud risk assessments and fraud control plans and has in place appropriate fraud prevention, detection, investigation, recording and reporting mechanisms that meet the specific needs of the department'.

However, looking at the ANAO's conclusion, there could arise a case for mismanagement by the line management of the Credit Card Contracts.

1.

6. Defence does not have a complete and effective set of controls to manage the use of credit and other transaction cards. An active management process and use of IT-based analytical techniques would help Defence to develop its control framework and provide better assurance over the use of these cards to purchase goods and services.

If the ANAO's conclusion does stand up to scrutiny, then there is a greater problem here in that Defence's fraud declaration can be challenged.

From the ANAO Appendix. The Card Management System is based on the commercial [Promaster](#) software system. It manages both the Defence Travel Card and the Defence Purchasing Card.

ProMaster offers [modules](#), [solutions](#), [case studies](#)

What is common to all credit card holders is their

- a. PMKeys /Service Number/APS Number
- b. Chart of Accounts – Cost Centres who are responsible for the issued card

What is variable is the General Ledger Account to what the purchase is attributed.

The reporting reality is that Diners Club, the National Australia Bank and QANTAS Business Travel have systems that can provide copious reports on request that can be entered into a card management system.

One only has to look at one's personal credit card to note that you can download your monthly statement as a CSV (excel spreadsheet), OFX, QIF format.

Having previously been involved with IATA/BSP airline ticketing, I am aware of the basic reporting that that supplied.

What has confused me by the ANAO are paragraphs 2.63 and 2.64 of the report.

Why would the Corporate Card Support Centre [CCSC] an area of some 17 employees be responsible for monitoring the transactions of corporate credit cards.

As they issue the cards, they would be a reporting centre to cancel a card and monitor the statistics of lost/stolen/abused cards, but not individual transactions.

That would be more the cost centre to which a DTC/DPC/Fuel Card was allocated.

From the web, Defence's Invoice Scanning and Imaging System are based at Salisbury, South Australia.

I am aware that Defence has a Public Service Travel Manager at the Executive Level who would be responsible for performance of the QBT contract.

2.

7. In response to emerging audit findings, Defence introduced new governance arrangements for credit card management in January 2016 to improve its monitoring and control arrangements.¹ This work was under way at the conclusion of the audit and will require ongoing senior leadership attention to firmly establish it. Defence also advised the ANAO in April 2016 that it now undertakes a range of analytical activities to investigate expenditure on a regular basis, including forensic accounting work and a newly developed credit card work program.

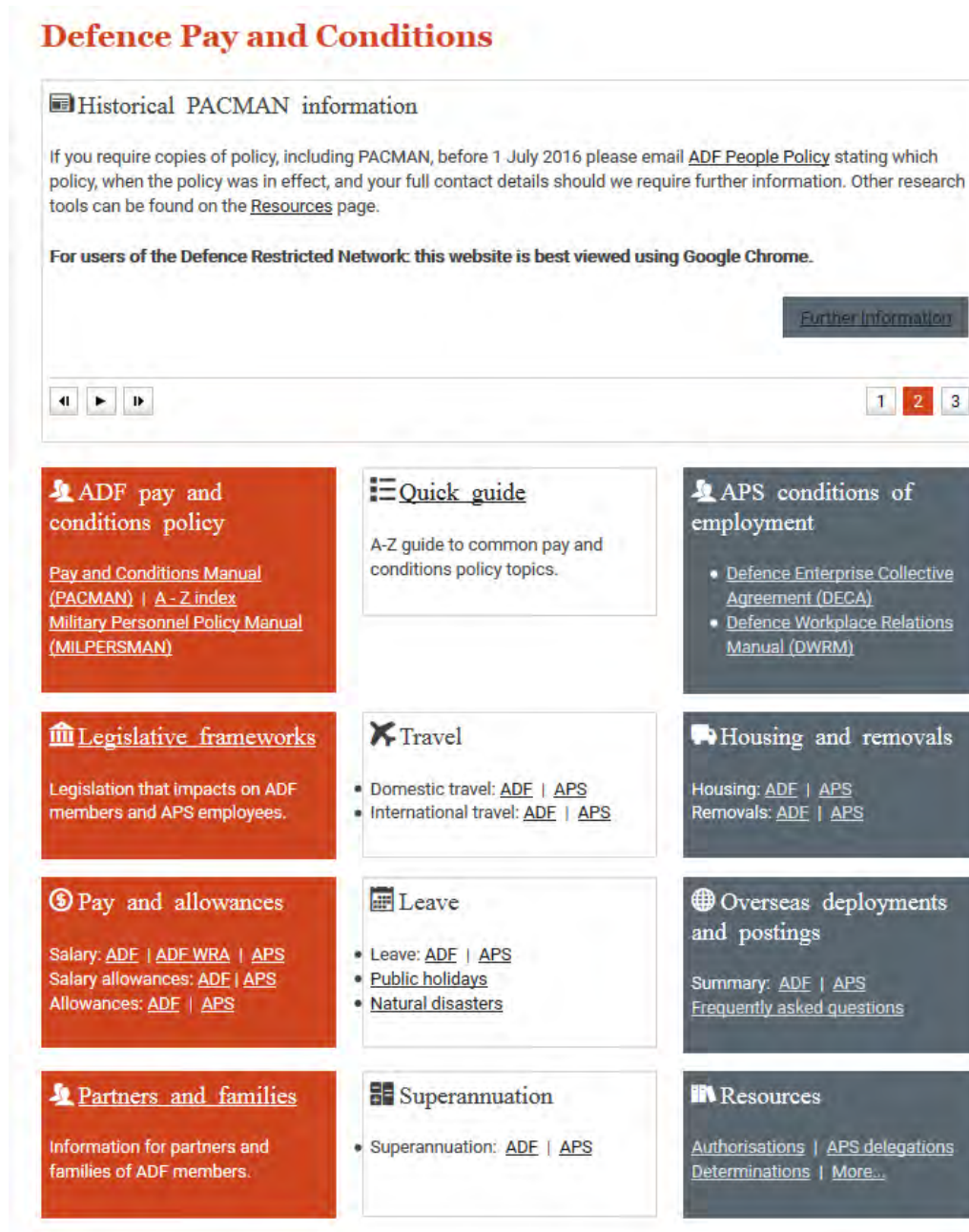
It is an admission by Defence in a whole line of admissions by Defence that this problem, or any problem will be remedied, fixed or whatever sometime in the future.

You just have to look at


1. the 20 year implementation of the Defence Policing Security Management System DPSMS,
2. the now reduction in credit card limit to \$10,000, but that is below the \$20,000 jurisdictional limit of the now ASFC, but still within the realms of ADFIS. However the 2011 Audit on ADFIS found that they were no longer strictly conforming to the AGIS standard, the minimum requirement for a fraud investigator.

This conclusion bemuses me somewhat, as the [Department of Defence Pay and Conditions Manual](#) has been around in both printed and digital format for decades.

What is the reporting process when reconciling the allowances from the PACMAN and the irregularities found in the Credit Card Statements attributed to Defence's cost centres?



Defence Pay and Conditions


 **Historical PACMAN information**


If you require copies of policy, including PACMAN, before 1 July 2016 please email [ADF People Policy](#) stating which policy, when the policy was in effect, and your full contact details should we require further information. Other research tools can be found on the [Resources](#) page.


For users of the Defence Restricted Network: this website is best viewed using Google Chrome.

[Further information](#)


1 2 3


**ADF pay and conditions policy**
[Pay and Conditions Manual \(PACMAN\)](#) | [A - Z index](#)
[Military Personnel Policy Manual \(MILPERSMAN\)](#)

**Quick guide**
A-Z guide to common pay and conditions policy topics.


**APS conditions of employment**


- [Defence Enterprise Collective Agreement \(DECA\)](#)
- [Defence Workplace Relations Manual \(DWRM\)](#)


**Legislative frameworks**
Legislation that impacts on ADF members and APS employees.

**Travel**


- Domestic travel: [ADF](#) | [APS](#)
- International travel: [ADF](#) | [APS](#)


**Housing and removals**
Housing: [ADF](#) | [APS](#)
Removals: [ADF](#) | [APS](#)


**Pay and allowances**
Salary: [ADF](#) | [ADF WRA](#) | [APS](#)
Salary allowances: [ADF](#) | [APS](#)
Allowances: [ADF](#) | [APS](#)

**Leave**


- Leave: [ADF](#) | [APS](#)
- [Public holidays](#)
- [Natural disasters](#)

**Overseas deployments and postings**
Summary: [ADF](#) | [APS](#)
[Frequently asked questions](#)

**Partners and families**
Information for partners and families of ADF members.

**Superannuation**

- Superannuation: [ADF](#) | [APS](#)

**Resources**
[Authorisations](#) | [APS delegations](#)
[Determinations](#) | [More...](#)

Annex AA – 2010-11 Travel related costs

Defence Estimates - 19th October 2011

Q155 - Taxi Costs

Senator Eggleston provided in writing:

- (a) How much did each department/agency spend on taxis in 2010-11?
- (b) Provide a breakdown of each business group in each department/agency

Response:

- (a) For financial year 2010-11, the Department of Defence spend Australia wide for taxi use was approximately \$15 million including approximately \$2 million for Defence Materiel Organisation.
- (b) The Defence travel program is very large and complex. To provide the level of detail as requested would represent an unreasonable diversion of resources as taxi travel data is not captured or maintained at such a level in Defence's financial system.

Q156 - Credit Cards

Senator Eggleston provided in writing:

- (a) How many staff in each department and agency have a corporate credit card?
- (b) What is their classification?
- (c) What action is taken if the corporate credit card is misused?
- (d) How is corporate credit card use monitored?
- (e) What happens if misuse of a corporate credit card is discovered?
- (f) Have any instances of corporate credit card misuse have been discovered?
List staff classification and what the misuse was, and the action taken.
- (g) What action is taken to prevent corporate credit card misuse?

Response:

- (a)

Department of Defence

56,136	Defence Travel Card (DTC)
6,150	Defence Purchasing Card (DPC)
62,286	Total

Defence Materiel Organisation

7,283	Defence Travel Card (DTC)
541	Defence Purchasing Card (DPC)
7,824	Total

(b)

There is a broad range of classifications. The DTC and DPC are issued to Australian Public Servants and Military personnel who are required to either undertake travel or procure items on behalf of the Commonwealth.

(c)

It is mandatory in Defence for suspected misuse of a corporate credit card to be reported to a Defence Investigative Authority (DIA) for investigation.

For Australian Defence Force (ADF) personnel, there are three options available for dealing with misuse of corporate credit cards, depending on the circumstances such as, the seriousness and criminality involved in the matter. The three options are: administrative action for low level matters by the chain of command; investigation by the Service Police under the Defence Force Discipline Act 1982; or, for more serious cases, referral for prosecution under the civilian criminal law.

Misuse of a corporate credit card involving Australian Public Service (APS) employees are dealt with under code of conduct provisions within the Public Service Act 1999. Serious matters that warrant criminal prosecution are dealt with under criminal law as well as the PS Act 1999.

For ADF personnel, administrative or disciplinary action may include counselling, reprimands, loss of pay, rank, privileges or seniority, a term of Military imprisonment and administrative discharge from the Service.

For APS personnel, misconduct administrative action may include counselling, reprimands, fines, reduction in salary or classification or termination of employment.

In all cases, if a debt to the Commonwealth is identified, Defence makes every effort to recover the debt in full.

(d)

Corporate credit card transactions are monitored by card providers, account holders, supervisors, resource and governance areas, cost centre managers, Corporate Card Support Centre staff and the Inspector General of Defence.

Each day's transactional information is available to be viewed by all stakeholders via the card management system the next business day. The Corporate Card Support Centre also reviews a percentage of daily transactions to identify any unusual trends.

The Inspector General of Defence regularly monitors all corporate credit card activity to identify potentially suspicious transactions. If suspicious transactions are found, an explanation is sought from the relevant manager.

Additionally, the DTC and DPC corporate card providers notify Defence of any unusual spending or merchant activity that they detect.

(e)

Refer to the answer for question (c) above.

(f)

In Financial Year 2010-11, there were 57 Defence Travel Card (DTC) and 4 Defence Purchasing Card (DPC) investigations finalised with an assessed loss of just over \$90,000. This equates to less than 0.015% of fraud on a total spend of \$597 million comprising 1.8 million individual transactions.

Refer to table noting that the assessed loss differs from the value of the outcomes in the table because, in certain circumstances, Defence has been unable to identify the person/s responsible for the alleged misuse.

(g)

In addition to the monitoring mechanisms described in (d) above, Defence has a number of other mechanisms in place to guard against credit card misuse. These include: delegate approval and funds availability sign off prior to the commitment of Commonwealth monies; set credit card limits; a two step process (involving both the card-holder and supervisor) for acquittal of expenditure that includes the provision of expenditure documentation to the supervisor; and monthly monitoring and reporting by Group Finance Officers.

LIST OF ACTIONS TAKEN BY RANK/LEVEL AGAINST DEFENCE PERSONNEL FOR CORPORATE CREDIT CARD MISUSE

Rank/Level	Value	Jurisdiction	Outcome
Ex - Sub-lieutenant	\$810	Criminal	Misuse discovered after discharge – criminal prosecution not warranted.
Leading Seaman	\$2,306	Administrative action	Member's card stolen and misused by persons unknown. No charges preferred. Loss of seniority of 12 months, dismissal from the ADF and imprisonment for 3
Leading Seaman	\$10,555	DFDA	months with 1 month to serve and a \$2000 recognisance order.
Leading Seaman	\$169	Administrative action	Member counselled.
Able Seaman	\$1,828	DFDA	35 days detention and forfeiture of one year seniority.
Able Seaman	\$1705	Administrative action	Member's card lost and fraudulently used by other persons. No charges preferred.
Able Seaman	\$303	Administrative action	Member's card stolen and misused by persons unknown. No charges preferred.
Submariner	\$7,140	DFDA	Dismissed from the ADF.
Petty Officer	\$1,000	Administrative action	Member counselled.
Chief Petty Officer	\$20	Administrative action	Member counselled.
Sergeant (Army)	\$2,671	DFDA	Fine of \$1,267 and loss of seniority.
Major	\$3,060	Administrative Action	Use deemed improper but not for personal gain. No further action taken.

Rank/Level	Value	Jurisdiction	Outcome
Major	\$1,942	Administrative action	Member's card stolen during break in and misused by persons unknown. No charges preferred.
Corporal (Army)	\$1,183	DFDA	28 days detention.
Corporal (Army)	\$2,500	DFDA	Fined 13 days pay and loss of seniority.
Colonel	\$1,653	Administrative action	Member counselled.
Private	\$750	DFDA	5 days restriction of privileges. Deemed accidental
Captain (Army)	\$1,500	Administrative action	– No further action
Captain (Army)	\$275	Administrative action	Member counselled.

Private	\$4,383	DFDA	Severe reprimand and fine of \$1300.
Lance Corporal	\$205	Administrative action	Member counselled.
Lieutenant (Army)	\$382	Administrative action	Member counselled.
Leading Aircraftsman	\$2,800	DFDA	8 days detention (suspended) and forfeiture of seniority in the rank.
Flight Lieutenant	\$310	Administrative action	Member counselled.
Corporal (Air Force)	\$240	DFDA	Reprimand.
Corporal (Air Force)	\$3,700	Administrative action	Member's card stolen during break in and misused by persons unknown. No charges preferred.
Wing Commander	\$1,000	Administrative action	Member's card stolen and misused by persons unknown. No charges preferred.
Executive Level 2	\$1,000	Code of Conduct	Formal warning.

Rank/Level	Value	Jurisdiction	Outcome
Executive Level 1	\$567	Code of Conduct	Resigned prior to completion of Code of Conduct.
Executive Level 1	\$429	Code of Conduct	Reprimand and salary reduction.
APS 6	\$2,081	Code of Conduct	Severe reprimand.
APS 6	\$1,457	Code of Conduct	Formal warning.
APS 4	\$775	Code of Conduct	Fine of \$250 and a reprimand.
APS 2	\$614	Code of Conduct	Employee resigned.
APS 2	\$1,834	Criminal	Convicted in the criminal courts; given a good behaviour bond for a period of 18 months.
External Civilian	\$3,236	Criminal	Stolen DTC – Reparation Orders issued pursuant to Crimes Act 1914 - of \$2186.36, plus a fine of \$2500.

Annex BB - Pending FOI with the Department of Defence

Freedom of Information
Department of Defence

23 November 2016

Re: DFDA Act 1982 - Sect 47Q - Unauthorised use of Commonwealth credit card

Firstly, thank you your recent referral to [Defence's JAG Annual Reports](#).

However the 2015 JAG Annual Report highlighted the correction in a deficiency in the DFDA Act 1982 by the inclusion of Sect 47Q - Unauthorised use of Commonwealth credit card.

From the 2009 "[Report of the Independent Review of the health of the Reformed Military Justice System](#)" there was a recommendation 15 to create a specific offence in the DFDA for misuse of a Defence Credit Card without authority.

59. **Defence Travel Card (DTC)** - Currently 36% of all AMC hearings (78% of convictions) represent DTC 'misuse', which equates to some \$120,000 of unapproved transactions over the period 27th November 2007 to 3rd December 2008.¹⁵ Under existing legislation, DTC charges must be heard by the AMC. This represents a significant case load, along with attendant travel and administrative costs, for hearings that in the majority have resulted in 'Guilty' pleas by the accused (29 cases out of 32 DTC related cases)¹⁶. Efficiencies can be achieved by redefining DTC misuse as a Class 3 offence. This would allow Summary Authorities to hear DTC offences as appropriate, or refer the case to the AMC for a 'Judge Alone' (JA) hearing. Also the demonstrated risk that has arisen with respect to the use of the DTC, calls for an early review of the administrative arrangements for its use. The MJSRT notes there maybe some concerns for the perceived disparity between ADF personnel and APS staff in handling DTC misuse; however, as the DFDA is a military disciplinary tool, it is considered that this issue is not within the scope of this review.

Finding: AMC efficiencies can be achieved by allowing Summary Authorities to hear minor DTC charges. The risk of DTC misuse calls for a review of DTC administration.

Recommendation 15: Create a specific offence in the DFDA for misuse of a Defence Credit Card without authority, which may be tried summarily. This offence should also be a DFDA Class 3 offence for the purposes of AMC trial.

Recommendation 16: Review DTC administrative arrangements with a view to reducing the risk of DTC misuse.

Ref: ¹⁵ Data supplied by the IGADF

¹⁶ Based on data available from AMC website

This Independent Review of the MJS has set a 2008 bench mark, but for the purpose of this FOI there is a requirement for more forensic detail.

In May 2010, the Military Court of Australian was announced to replace the Australian Military Court.

Hence, given the transition and evolvement of Defence accountability with regard to "Commonwealth Credit Card" this FOI will require multi-source compilation from sources from within Defence.

From my reading this may include sources such as the IGADF, the then IG-Defence, the archived Registry of the Australian Military Court, and the current Registry of the Military Court of Australia.

Given the upcoming Christmas Leave Block period, I am happy to be reasonably considerate on the initial 30 day response time.

My timeline is based on the current submission schedule for the Senate FADT Inquiry into the '[Department of Defence's management of credit and other transaction cards](#)', being 31 January 2017.

In an earlier administrative release of credit card information by the Department I was given the gross dollar value of all payments by credit card for the 2014-15 reporting period was \$534,902,596.12c broken into its component parts.

It now remains for me to make my formal request.

Part A.

For the Defence Annual Reporting Periods 2007-2008 through 2015-16 (excluding 2014-15, previously supplied)

I request the gross dollar value of all payments by credit card per Annual Report.

This gross dollar value to be broken down to identify

- a. Defence Travel Card
- b. Defence Purchasing Card
- c. Fuel Cards

(a total value here would prevent any perceived breach of Commercial in Confidence)

- d. Cabcharge Fastcard
- e. Cabcharge eTicket

Part B.

Although the [ANAO report 33 of 2015-2016](#) makes reference to the Credit Card Processing Centre in Hobart, no mention appears to be made of the [Defence Accounts Payable Unit](#) in Salisbury South, South Australia.

The Defence Purchasing Card is accounted for here according to your web site.

I would ask,

- a. how many incident reports have been generated from the 'ROMAN' system manager due to discrepancies in the use of the Defence Purchasing Card for the years 2007-2008 through 2015-16?
- b. how many of the incident reported in (a above) have been logged in the DPSMS?

Part C.

The Defence Travel Card is accounted for "somewhere" in the Defence Finance Group.

I would ask,

- a. how many incident reports have been generated from the 'travel' system manager due to discrepancies in the use of the Defence Travel Card for the years 2007-2008 through 2015-16?
- b. how many of the incidents reported in (a above) have been logged in the DPSMS?

Part D.

From the information supplied in the JAG Annual Reports, it now appears that prosecutions relating to Commonwealth Credit Cards is a flawed dataset.

I would now request under Defence FOI, a best available compilation for

1. In the period 2007-08 through to 2015-16, how many 'Commonwealth Credit Card' cases were brought before the military court system?
2. In the period 2007-08 through to 2015-16, how many 'Commonwealth Credit Card' cases were brought before the civil court system?
3. What were the, in relation to Defence personnel, the figure attributed to Rank, Service, and Sentence per year.
4. What were the, in relation to APS personnel, the figure attributed to APS Level and Sentence per year.
5. a. What was the conviction rate?
b. How many were successfully prosecuted and how many were dismissed/quashed as innocent?

Annex CC - Extract of General Ledger codes regarding Defence travel.

DFDA 47Q Misuse of a Defence Credit Card (with explanatory memorandum)

[Report of the Independent Review of the Health of the Reformed Military Justice System](#)

23 January 2009

Print Page 39 / PDF Page 55 of 167

Recommendation 15: Create a specific offence in the DFDA for misuse of a Defence Credit Card without authority, which may be tried summarily. This offence should also be a DFDA Class 3 offence for the purpose of AMC trial.

Recommendation 16: Review DTC administrative arrangements with a view to reducing the risk of DTC misuse.

From another recent FOI regarding the Military Court convictions, I was referred to the [Judge Advocate General's Annual Reports](#).

In the [2015 Report](#), there is the first mention of the DFDA charge 47Q
Unauthorised use of a Commonwealth credit card - PDF Page 13 of 66

29. Additionally, a new Service offence of unauthorised use of a Commonwealth credit card has been created. Following the repeal of the Financial Management and Accountability Act 1997, which provided for the offence of misuse of a Commonwealth credit card. It has been necessary to prosecute Defence related credit misuse under the fraud provisions of the Commonwealth Criminal Code Act 1995 or the Crimes Act 1914. This has posed legal and evidentiary issues that summary authorities are not well equipped to deal with. A maximum five year term of imprisonment attaches to this new offence.

It now appears that it took six years to implement the recommendation.

http://www.austlii.edu.au/au/legis/cth/bill_em/dlomjb2015467/memo_0.html

DEFENCE LEGISLATION (ENHANCEMENT OF MILITARY JUSTICE) BILL 2015

Item 12- New service offence of 'unauthorised use of a Commonwealth credit card'

This item inserts a new section 47Q into the DFDA to provide that a person who is defence member or a defence civilian is guilty of an offence if the person uses a Commonwealth credit card, or a Commonwealth credit card number, to obtain cash, goods or services otherwise than for the Commonwealth. A maximum punishment of five years imprisonment applies to the offence.

An offence will not be committed where a Commonwealth credit card or Commonwealth credit card number has been used by a person who has lawful authority for its use. In his or her defence, a person who has been prosecuted for the unauthorised use of the credit card bears an evidential burden, which if met, requires the prosecution to then disprove the defence beyond reasonable doubt. The evidential burden of proof imposed on the accused is contained in subsection 13.3(3) of the Criminal Code 1995. The section provides that the 'evidential burden' means, in relation to a matter, the burden of adducing or pointing to evidence that suggests a reasonably possibility that the matter exists or does not exist.

The phrase 'lawful authority' is used in a particular way in the DFDA, for example, subsection 54A(1) (in relation to custodial offences). It encompasses not only authority derived from a Commonwealth law, but also military command authority or authority derived from the power of military command. The statutory defence of 'lawful authority' would cover situations, for example, where a superior authorised a subordinate to use a Commonwealth credit card, but the superior in fact lacked the authority to authorise the use of the card in the circumstances. In a disciplined, hierarchical service, where a subordinate is required to follow orders, he or she could raise the defence that regardless of the superior's lack of actual legal authority to authorise him or her to use their card, he or she is entitled to rely upon their superior's apparent authority to avoid disciplinary sanction.

A 'Commonwealth credit card' is defined as meaning a credit card issued to, or made available for use by, the Commonwealth to enable the Commonwealth to obtain cash, goods or services on credit.

The definition of 'Commonwealth credit card' in subsection 47Q(3), by including the words, 'made available for use by', is intended to deal with situations where a credit card (including a credit number) has been provided to a Defence member or a Defence civilian for use by the Commonwealth, as opposed to having been issued to the Commonwealth for use, to obtain cash, goods, or services on credit. This will mean, for example, that the Defence Force has jurisdiction over a defence member who, while on exchange, secondment or attachment, or defence member or defence civilian who while on deployment, is provided with a foreign government credit card for use in the course of their duties, and is alleged to have misused it. In the event that a status of forces agreement or arrangement enables the Defence Force to exercise primary discipline jurisdiction where there was a comparable offence to the foreign state offence alleged to have been committed, the extended definition would allow the relevant Australian authorities to maintain that the accused defence member or defence civilian may be prosecuted under this provision. It will also extend the provision to situations where a State or Territory government authority or body, or a corporate entity, has provided a defence member with a credit card for use by the Commonwealth, such as when the Defence Force provides aid or assistance to the civil authorities or the community, and the defence member is alleged to have misused the card.

Annex DD - Defence Supplementary Estimates - 19th October 2011

Q148 - Travel Costs - Department

Senator Eggleston provided in writing:

- (a) For the year 2010-11, please detail all travel (itemised separately) undertaken by employees of each department and agency within each portfolio. Include details of what the travel was for, what cost was spent on travel (including travel type – i.e. business airfare), accommodation, security, food, beverages (alcohol listed separately), gifts, entertainment, and all other expenses.
- (b) For the year FYTD, please detail all travel (itemised separately) undertaken by employees of each department and agency within each portfolio. Include details of what the travel was for, what cost was spent on travel (including travel type – i.e. business airfare), accommodation, security, food, beverages (alcohol listed separately), gifts, entertainment, and all other expenses.

Response:

- (b) For financial year 2010-11, the Department of Defence (Defence), including the Defence Materiel Organisation (DMO) spent approximately \$428 million (exclusive of GST) on travel related expenses. This figure covers the entire Department of Defence workforce; APS employees, full time ADF members and ADF Reservists. The figure does not include charter aircraft used for deployments and exercises.

The Defence/DMO travel program is very large and complex and it is not possible to provide data broken down at the level requested as it is not captured or maintained at this level.

Defence/DMO undertake in excess of 200,000 domestic trips each year and has over 1.5 million individual transactions made through our travel card program. Trips may be made using commercial means (air, car hire, rail etc), service vehicles or in some cases private vehicles and Defence/DMO do not have a single data source that identifies each trip undertaken for central reporting.

- (c) For financial year 2011-12, as at end of October 2011, Defence, including DMO, has spent approximately \$140 million (exclusive of GST) on travel related expenses. This figure does not include charter aircraft used for deployments and exercises.

Annex EE – DFDA – Imprisonment and detention are two different penalties

26

JUSTICE

www.defence.gov.au/news/armynews

Army January 31, 2013



Serving time:
A cell at the
Defence Force
Corrective
Establishment
at Holsworthy.

Photo by
Cpl Nick Wiseman

Detention difference

Imprisonment and detention are two different penalties

Capt Scott Ritchie
Director, Military Discipline Law

SOME of the most severe punishments able to be imposed by courts martial and Defence Force Magistrates (DFM) under the Defence Force Discipline Act (DFDA) include imprisonment and detention.

Although they may seem similar, imprisonment and detention are fundamentally different and should not be confused as the same punishment.

Imprisonment can apply to all ADF ranks. If sentenced to imprisonment, the

member will be required to serve a period in a civilian jail.

The maximum term of imprisonment is determined by the maximum allowable by the offence.

For example, theft under the DFDA is punishable by a maximum penalty of five years' imprisonment.

When a member is sentenced to imprisonment, they must also be dismissed from the ADF. This is because a sentence of imprisonment is usually imposed for its punitive effect and where the member is no longer able to render the required service.

Courts martial and DFMs cannot sentence officers to detention, while an NCO who is sentenced to detention must be reduced in rank below NCO.

A member who is sentenced to detention cannot be required to serve a period of more than two years.

Detention is served at specialised ADF facilities, such as the Defence Force Corrective Establishment in Holsworthy.

A convicted member cannot be sentenced to both dismissal and detention, as one purpose of detention is to rehabilitate the offender.

DECEMBER TRIAL RESULTS

Officer

General Court Martial

One charge of dishonestly causing a risk of loss – DFDA s. 61(3) and Criminal Code Act 1995 s. 135.1(5)

Seven charges of obtaining a financial advantage – DFDA s. 61(3) and Criminal Code Act 1995 s. 135.2(1)

Five charges of obtaining a financial advantage by deception – DFDA s. 61(3) and Criminal Code Act 1995 s. 134.2(1)

Member accused of dishonestly causing a risk of loss to the Commonwealth, and knowingly obtaining allowances and reimbursements that the member was not entitled to receive.

Member pleaded not guilty to all charges.

Member was found guilty on four charges of obtaining a financial advantage and three charges of obtaining a financial advantage by deception.

Member was found not guilty on remaining charges.

Member ordered to pay reparation totalling \$14,933, to be taken from money already paid to the Commonwealth, was fined a total of \$12,937 and forfeited seniority in rank.

NCO

Defence Force Magistrate

One charge of obtaining a financial advantage by

deception – DFDA s. 61(3) and Criminal Code Act 1995 s. 134.2(1)

Member accused of knowingly obtaining an allowance that the member was not entitled to receive. Member pleaded guilty and was found guilty.

Member was dismissed from the ADF.

Member also sentenced to imprisonment in a civilian jail for one month, but to be released upon entering into a recognisance order to the sum of \$2000 and be of good behaviour for two years unconditionally.

Other rank

Defence Force Magistrate

One charge of prejudicial conduct – DFDA s. 60(1)

Member accused of taking and being in possession of part of a weapon assigned to another member while on deployment, rendering that weapon ineffective.

Member pleaded guilty and was found guilty. Member was sentenced to detention for 28 days and was also severely reprimanded for breaching an undertaking to be of good behaviour relating to an earlier charge.

All Court Martial and Defence Force Magistrate trial results are subject to command review and appeal. The results indicated are of trials across the ADF.

Annex FF – Early examples of introducing Defence travel probity.

00 – 1991-92 Defence travel and allowance expenditure



1993 - Letter to CDF (cc Inspector General - Defence)



Responsibility: Somebody once told me that there was a Treasury Directive which said that it was a Public Servants responsibility to save the Commonwealth money where possible.

I have a file floating somewhere in Canberra based on the above, and as I suppose you are the one who has overall Service responsibility for balancing the political necessities with the day to day Service requirements, then it is only right that a private soldier address his concern to his Commanding Officer, whomever and wherever that might be.

I hope this provides you with timely and appropriate information.

Yours faithfully,

Michael Wunderlich. MAITT
Managing Director
CPL. RACMP.
CSSB DC-A Keswick Barracks
Keswick SA 5035.

cc. Mr. F.R. Harvey
Inspector-General
Dept. of Defence.

1994 - Designated reply.



HEADQUARTERS AUSTRALIAN DEFENCE FORCE

LD93/359

DGJMOVY 9416/93

Department of Defence
Russell Offices
CANBERRA ACT 2600

8 November 1993

Mr Michael Wunderlich

Dear Mr Wunderlich,

I am writing on behalf of the Chief of the Defence Force to reply to your letter dated 9 October 1993, and also to address related points made in earlier correspondence on Defence travel arrangements.

I note that your major concerns lie in the areas of: Defence establishing an in house Corporate Travel Agency to achieve greater commission on travel and accommodation expenditure and better utilisation of Defence purchasing power in relation to obtaining discounts on air travel. In regard to your assertions on the amounts expended on Defence travel, you may not be aware that a substantial element of these funds are attributable to activities not related to either commercial travel or accommodation, but to other activities, for example isolated establishment allowances. The actual amount expended on travel is substantially less than the amount you quote.

Defence is presently divesting itself of non core activities, which has resulted in the re-focussing of the Service's movement organisations on operational matters where the development of skills has a direct application to the Defence mission. Defence does not consider administrative travel to be a core function and, indeed, the major part of this function has never been undertaken in house. It is an activity that can be contracted out without incurring any penalty to Defence's ability to meet its mission. Defence does not wish to embrace activities that are deemed outside of core, particularly where savings or operational skills enhancement cannot be clearly identified.

In relation to Defence's access to commercial travel services you should be aware that following deregulation of Australia's air services, the Government abolished the old

block travel arrangements for Government departments, and DAS Purchasing subsequently called open tenders for Government air travel services in 1991. From the panel of prospective suppliers, and following a further competitive process, Defence chose Ansett Australia and Qantas to meet its domestic and international air travel requirements respectively. Both arrangements embrace a 'best fare of the day' philosophy wherein both Ansett and Qantas are contractually obligated to secure for Defence the most cost effective fare available in the market place consistent with Defence's travel requirements. Monitoring of the fare structures obtained for Defence travel indicates that this contractual obligation is being met.

Additional to the benefits that derive from 'best fare of the day' both Ansett and Qantas provide Defence with a discount at time of invoice. Because of commercial considerations I am unable to divulge the exact extent of the additional discounts but they are, in effect, significantly higher than the figures quoted in your letter. (To demonstrate my point here may I take the example you offered in your letter of 12 August 1993. You cited a \$1400 fare for Qantas business class travel between Australia and Malaysia as representing an example of 'best fare of the day'. This fare was also available to Defence, but at a cost, on invoice, even lower than \$1400).

Additional to the rebates obtained on air travel services Defence has also obtained financial savings through the negotiation of rates for hire of commercial vehicles and, in combination with other Government departments, discounted accommodation rates. Joint Movements and Transport Branch maintains close links with the commercial travel and accommodation industry and as such is aware of developments within that industry. Adjustments to current operating procedures to accommodate changes that result in additional savings is continuous.

If you wish to become a travel supplier to Government departments, you might consider approaching DAS Purchasing with a view to tendering for the new period contract panel, due to be put in place in early 1995.

Yours faithfully,

Ian Scotland
Air Commodore
Director General Joint Movements and Transport

But DEFMIS required the unit whose account the money came from to pay the face value of the ticket. Airline marketing shenanigans had crept into Defence Accounting.

1995 - Letter from Defence JMOVT admitting to false accounts with the *whiff* of Secret Commissions.



DEPARTMENT OF DEFENCE

LD 90 24935
JMOVT 24/95

14 March 1995

PO Box E33
Queen Victoria Terrace,
Canberra ACT 2600

Mr M. Wunderlich
Managing Director
Goodwood Travel

Dear Mr Wunderlich,

Thank you for your letter of 25 February 1995 and your interest in Defence obtaining good value in its travel arrangements. I have carriage of the day to day management of the airline agreements and the Director General has asked me to reply to your letter.

As you are well aware, the airline industry and its ticket pricing regime is no longer simple and could now be considered sophisticated, as are the travel agreements Defence has with its domestic and international carriers. You would also appreciate that the contracts between Defence and the airlines are to cater for Defence's unique travel requirements. I am confident, as the government's largest user of airline travel, Defence has negotiated rates that ensure the best value for the travel dollar.

The detail you provided on Sergeant Farrington's travel has permitted me to conduct an audit of that particular booking. After reviewing the booking details and the actual airline invoice, I am able to advise that the airline provided the ticket in accordance with the contract and at a very favourable rate in comparison with the prices you advised were available to you. I appreciate it would be to the advantage of your firm, when negotiating with the airlines to secure your own discounts, to be aware of the conditions of the Defence contract but this information is commercial-in-confidence and I am not at liberty to divulge details to you through an answer to a specific question.

As a managing director of a travel agency you would doubtlessly be aware that the price on the ticket is not necessarily the price that is invoiced by the airline and paid by the customer. Such is the situation in this case.

Thank you for your continuing interest.

Yours faithfully,

J.S. TRACEY ✓
Lieutenant Colonel
Director
Joint Movements and Transport Policy

(1901)13-5452.DOC

 Productivity ... & Defence Priority

1997 - Acknowledgement that the ANAO was interest in my complaint.



1997 – Publication of two Audit Reports as a result of the ANAO interest in my complaint.



2003 – IG-Defence (Investigations) acknowledged that the ANAO adopted my concerns in 1997.



2011 - FOI Release - regarding Defence Travel Manager's termination in 2004. (see attached PDF)

2015 - Senate Estimates - Dept of Defence General Ledger Code & Trial Balance (see attached PDF)