



Submission No. 5

Review of Defence Annual Report 2004-2005

Organisation: Lieutenant Colonel J.R. Fenwick

Address:



DEFENCE FORCE RECRUITING

Department of Defence, Canberra. ACT 2600. Australia.

Dr Margot Kerley
Secretary
Joint Standing Committee
on Foreign Affairs, Defence and Trade
Parliament House
CANBERRA ACT 2600

Response in Right of Reply to Being Named at a Public Hearing

Dear Dr Kerley

On 13 July 2006, you wrote to me informing me of my right of reply after being named by a witness at a Committee hearing on 16 June 2006. Please find enclosed my statement in response.

As the evidence provided at the hearing on 16 June 2006 was included in Hansard, and is thus on public record, I request that the Committee consider publishing my response in a similar manner. I note that this is what has occurred with the statement provided by Warrant Officer Class Two Ed Wright. This then allows my response and version of events to be on public record in equal standing to the evidence provided by the witness.

If you have any further questions, please contact me by phone on 02 6122 4046 or by email: John.Fenwick@defence.gov.au .

Yours sincerely

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23 October 2006

STATEMENT BY
LIEUTENANT COLONEL JOHN FENWICK
TO THE
JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS,
DEFENCE AND TRADE

1. I make this statement in response to an invitation from the Joint Standing Committee on Foreign Affairs, Defence and Trade to reply to comments made by a witness, Mr Ian Nancarrow, during his evidence to the Committee's inquiry into the Defence Annual Report 2004-5. I understand the Committee's desire and responsibility to ensure that the ADF has taken appropriate measures to ensure the operational airworthiness of its aircraft in 161 Reconnaissance Squadron. However, Mr Nancarrow has made a number of, what I consider to be, unsubstantiated and unsupportable allegations. These allegations appear to attack my reputation and the good reputation of the Squadron's soldiers.
2. My position during the period in question was as the Officer Commanding 161 Reconnaissance Squadron. I commanded the Squadron from January until December 2005 in the rank of Major.
3. The following response corrects Mr Nancarrow's evidence and his unsubstantiated assertions. This response is informed by notes taken by me in my diary, by records of interview, by the recollections of witnesses, and by personal recollection. They refer to pages of the Proof Committee Hansard for the Joint Standing Committee on Foreign Affairs, Defence and Trade – Defence Subcommittee of Friday, 16 June 2006.
 - a. On FADT 1, Mr Nancarrow states that 'anyone who talks to me from the unit has been told that they will be charged'. Mr Nancarrow does not state by whom they were told but I assume that he means me or a member of my command team. I did not make this statement. Indeed, it would not be a lawful order and would not be something I would have done. I reminded members of the Unit that they should be aware of their responsibilities under the confidentiality agreements they signed during investigations and, if they were found to have compromised that agreement, then they may be subject to disciplinary action. They were also reminded of their obligations under Defence Instruction (General) ADMIN 08-1 *Public comment and dissemination of information by Defence* to clear any contact with the media to do with the Unit's business through me.
 - b. On FADT 2, Mr Nancarrow claims that he has 'never been spoken to by the Army'. This is not true as he admits further in his account that he was spoken to by Captain Partridge of the Technical Support Troop. Captain Partridge was one of my subordinate commanders and spoke to me about the issue. He also produced to me records of conversation that he had with Mr Nancarrow. To state that he had not been spoken to by the Army is untrue and if he means something else then he should clarify his assertion.
 - c. On FADT 3, Mr Nancarrow suggests that the whole Squadron was told that he 'had been keeping notes on anybody doing fraudulent tax claims' and that he 'had doxed the whole unit in to the tax department'. Again, Mr Nancarrow does not state who made this claim but I assume he means me or my command team. It is not true that we told the Squadron this. I knew from information provided to me by the Defence

Security Agency that the Australian Taxation Office was looking into his affairs. I also knew from statements made by members of the Squadron that, in 2004, Mr Nancarrow had employed a number of soldiers on his mango farm and paid them cash. At the beginning of the 2005-2006 tax year (that is, at tax preparation time for the 2004-2005 financial year and after Mr Nancarrow had left the Unit), I spoke to the Squadron at a standard Squadron briefing session and suggested that they be sure to declare all earnings for the financial year to include any cash earnings from employment with Mr Nancarrow. It was an issue of trying to ensure that the soldiers were not 'caught out'; I felt it my responsibility as their commander.

d. On FADT 4, Mr Nancarrow refers to a meeting held in my office. My records show that this meeting occurred on Friday 22 April, 2006. His recollection of events is significantly different to mine and the records I have kept. I believe Mr Nancarrow has exaggerated the events of this meeting and recalled its conduct conveniently for his story.

(1) Mr Nancarrow claims that I 'threatened' to 'get the MPs in right away' and have him 'put in jail for going to the media'. I did not, and would never, make such a threat or claim. I did state that, as an employee of a Defence contractor, he had some obligations to adhere to Defence guidelines on contact with media sources. But I did not threaten him nor make any claims about involving the military police.

(2) Mr Nancarrow claims that I called him a 'bad influence on the unit' and that he had 'disgraced the Army'. This is not an accurate rendition of our meeting. I did suggest, as I stated in reports to my superiors and evidenced by equity complaints against him, that Mr Nancarrow had an inappropriate level of influence over some of the soldiers. What I meant by this was that he had an influence over some of the soldiers through family connections which were outside the Unit's chain of command and counter to good relationships within the Unit. These family connections and influences were creeping into the work environment and adversely affecting the conduct of business in the workplace. They resulted in a number of equity complaints against him. I also stated to him that I believed his choice to use the media as a means for airing his frustrations was not in the best interest of the Unit. I stand by this statement – his claims in the media and claims about individuals in the Unit did nothing for the morale of the Unit and tarred a large number of very good soldiers with the brush of only one or two.

(3) Mr Nancarrow claims to have picked up my phone and 'said, 'Ring them and get them in here and let's go at it, or you can stick your phone where it should be!'' This interaction did not occur and I believe it to be an exaggeration of events by Mr Nancarrow. Indeed, given the physical layout of my office at the time, Mr Nancarrow would have to have got up out of his chair and moved around to my side of the desk in order to reach the phone he alleges he picked up.

(4) An assertion is made by Mr Nancarrow that I was 'gobbing off' that he would be out of the Unit by the end of the week. He does not state who made this claim and it is absolute hearsay. I did not say anything of the sort, it would have been out of character for me to do so, and his employment in the Unit was out of my control anyway. My understanding is that Mr Nancarrow was asked by his employer to explain his behaviour and he declined, instead choosing to resign rather than answer the criticisms.

- e. On FADT 5, Mr Nancarrow refers to events surrounding an article published in the *Sydney Morning Herald*. Mr Nancarrow's suggestion is that the Unit was involved in trying to ensure that the issue of forgeries was 'covered up'. There was never any attempt to 'cover up' the events occurring in the Squadron. By this time, I had notified several agencies of the events which had occurred in the Squadron. The investigations were, of course, of a sensitive nature and, in keeping with the directions specified in the Defence Instruction (General) ADMIN 08-1 *Public comment and dissemination of information by Defence members*, I decided that it was appropriate for any comment on the investigations to be cleared by me. I reinforced this with my commanders and it was agreed to. On 14 April 2005, it became clear that Mr Nancarrow had not adhered to that principal and I spoke to the Squadron to remind them of their responsibilities according to the aforementioned Defence Instruction. It was not a 'cover up' nor was it a warning – it was a statement by me as the Squadron Commander, to the soldiers and officers of the Unit, as to how the Instruction was to be adhered to in the Unit. It was within my authority and appropriate given that the investigations were not complete and speculation in the media by individuals who did not know all the facts was not helpful.
- f. Throughout Mr Nancarrow's testimony on 16 June, he makes numerous speculative comments and accusations based on hearsay and partial knowledge of all the information. This is evidenced by statements he makes recorded on FADT 26. Here he suggests that the Technical Support Troop 'had all the paperwork' and then 'when it went across the road to the Army side of it it all got squashed'. Again, I read into this that Mr Nancarrow is referring to my headquarters as 'the Army side' and suggesting that nothing presented to me was followed through. On the contrary, this is where and when many of the different pieces came together. Indeed, Mr Nancarrow was implicated in the forgeries and it was, therefore, only appropriate that his involvement in the case was investigated also. For very good reasons of confidentiality and due process (due to some of the equity complaints being made and investigated), not all the detail I knew was divulged to my subordinates in the Technical Support Troop and they could not have been as fully informed as I was. Much of Mr Nancarrow's testimony is clouded by his limited understanding of all the issues involved and that were being very capably dealt with by my command team.
4. The airworthiness of the aircraft has been properly investigated and proven. This is not in question and does not really seem to be the issue for Mr Nancarrow. In his speculative complaints and in his interviews, Mr Nancarrow has made a number of accusations that 'the Army' conducted certain activities and victimised him. In these instances, I believe that Mr Nancarrow may be alluding to me as the commander of the Squadron. This can certainly be implied by inference and his other references. If so, this unduly reflects on my character and I would ask that Mr Nancarrow clearly state if he means me or someone else in these instances. If he means me, then he should state so and be prepared to back it with evidence rather than hearsay and speculation – if not, then he should clarify the situation and apologise to me for sullyng my reputation. He should then go further to apologise to all members of the Squadron for his unjustified attack on their reputation and character, a group with which I feel very proud to have served.

Lieutenant Colonel John Fenwick
23 October 2006