

From:

Sent: Wednesday, 22 May 2013 4:21 PM

To: Committee, JCPAA (REPS)

Subject: APH - JCPAA - Submission to Public Governance, Performance and Accountability Bill 2013

Joint Committee of Public Accounts and Audit
Parliament House
Canberra, ACT 2600

22 May 2013

Re: Public Governance, Performance and Accountability Bill 2013

Thank you for the opportunity to make this submission to the Committee.

My experiences covering the subject of the Bill relate to my experience with the Department of Defence. A significant recipient of public money, both in a direct sense and through Commonwealth entities.

As a member of the Defence Force I was governed by the DFDA Act 1982 and Defence had a reporting function under the FMA Act 1997 to the Parliament.

If as a thirty year past Defence member, I could not get traction let alone appropriate justice for the Commonwealth, from reporting an irregular financial transaction that cumulatively amounted to many millions of dollars, I ask, what is this Bill going to do to improve the reporting and investigative process?

On reading the Explanatory Memorandum to the Bill, from my experiences, I was left wanting and confused because it only confirmed that the deniability and the fraud, waste and abuse of public moneys will continue well into this century.

In 1998 the Office of the Governor General set the benchmark when I was advised that the Governor General acts upon the advice from the responsible Ministers of the elected Government of the day. (attached)

In 2011, it took intervention from the newly created Office of the Australian Information Commission, to get Defence to release the fact that the person that I had reported in 1995 had been dismissed on a Public Service Code of Conduct charge in 2004. This after the then Defence Minister in January 2010, had advised me in person that he had read my file, advised me that I had been to everyone, and that there was nothing that he could do.

In the PGPA Bill 2013, where is the enforcement and the accountability, all I am seeing is an ongoing opportunity for the plausible deniability in the reporting to the Minister and the Parliament.

Again I refer to my experience with the Defence Department and through them the right to go to the Defence Force Ombudsman. It is my opinion that the DFO takes the advice of the Department when adjudicating any matter.

On reading the PGPA Bill 2013 I found the following paragraphs of interest to my experiences with Commonwealth governance.

16. Duty to establish and maintain systems relating to risk and control
17. Duty to encourage cooperation with others
19. Duty to keep responsible Minister and Finance Minister informed
25. Duty of care and diligence
26. Duty to act in good faith and for proper purpose
27. Duty in relation to use of position

- 28. Duty in relation to use of information
- 69. Liability for loss—misconduct

Just speaking to Para. 16. I would refer the Committee to the recent ANAO report, "Defence's Implementation of Audit Recommendations" tabled on the 27th February 2013

The average time taken by Defence to complete recommendations examined by the ANAO was approximately 400 days, which was on average 175 days later than the original estimated completion date agreed between the Defence Group responsible for implementing the recommendation and Defence internal audit. ([Summary Introduction para 17.](#))

Audit: *The Effectiveness of Fraud Debt Recovery and Accuracy of Fraud Data in Defence* Recommendation 1c was for the Inspector General to create a whole-of-Defence fraud related debt recovery and reporting function.

The closure minutes attached for this audit **do not cover** any part of Recommendation 1. However, the comments included in ARMS for Recommendation 1c stated that the following action was being taken: recruitment and training of required staff; drafting of a formal agreement with the ADF Investigative Service (ADFIS); and the launch of new unit within ADFIS under the terms of a signed MOU to meet the requirement of the recommendation

The above information, taken from the ANAO report challenges the probity of the Letter of Transmittal of the Defence Annual Report for the last decade which is presented to the Defence Minister, for Parliament, by the Chief of the Defence Force and the Secretary of the Department.

"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 appropriate fraud risk assessments and fraud control plans, and has in place fraud prevention, detection, investigation and reporting procedures that meet the specific needs of Defence and comply with the Commonwealth Fraud Control Guidelines 2002."

This explicit statement to the Minister implies an exemplary update from the following two audit reports:

Audit Report No.22 2000–2001
Performance Audit - Fraud Control in Defence

Fraud investigations database

7.7 In its 1991 report on Defence fraud control, the ANAO recommended that '*Defence develop and maintain a centralised database containing relevant details of all fraud allegations, investigations and outcomes.*' Defence accepted this recommendation and stated at the time that:

*... the Inspector–General Division is about to trial a new database which is intended to consolidate the records of the Service police and the Inspector–General Division in a unified format. ... The new database will allow management to access where historically, fraud has been the most prevalent and analyse any trends that are emerging in particular locations or activities.*⁷¹

7.8 In 1999 Defence began development of a case management system for use by all investigative agencies in Defence. The system is expected to be operational by the end of 2000 and will facilitate analysis of fraud cases and the identification of trends.

Audit Report No. 22, 2000-2001
Fraud Control in Defence - Department of Defence

[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.

Yours respectfully

Michael Wunderlich



Government House
Canberra ACT 2600

3 April 1998

Dear Mr Wunderlich,

Thank you for your letter of 29 March 1998 to the Governor-General concerning the Department of Defence and other government agencies.

It is an integral part of the established conventions of our federal parliamentary democracy that, in matters such as this, the Governor-General acts upon the advice of the responsible Ministers of the elected government of the day. I am sorry that this office is unable to assist you in this matter.

Yours sincerely,

Deputy Official Secretary

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