

Joint Committee of Public Accounts and Audit Public Hearing  
Inquiry into the Commonwealth Performance Framework

24 February 2015

Per conversation with Mr David Brunoro.

Re: Media Release - Annual reporting requirements in the spotlight.

I am happy to have this document taken as a submission to the Committee.

I am happy to appear before the Committee if required.

Dear Chairman and Committee Members,

This submission is based on the 'Media Release - Annual reporting requirements in the spotlight' which released today, the 24th of February 2016.

My submission has in its basis the attempt by me to report a serious notifiable incident of the falsification of accounts some two decades ago.

Example 1.

Reference can be found in Defence's Pathways to Change Inquiries.

I refer you to:

[Review of the Management of Incidents and Complaints in Defence including Civil and Military Jurisdiction – A Report by the Inspector General Australian Defence Force](#)

Figure 1.

13. A former senior non-commissioned officer claimed that, when in 1995 he became aware of an apparent travel fraud—with Defence-wide accountability ramifications—there was no complaint avenue to report his concerns. His subsequent attempts over the next 16 years to investigate the likely scale of fraud were not supported by his chain of command, by the Service police or in 2010 by the then-Minister for Defence, who the senior non-commissioned officer claimed had been misled by the Department. The senior non-commissioned officer's attempts to have the matter looked into by the Inspector-General Defence, by the Defence Force Ombudsman, and to obtain departmental documents on the issue of fraud using Freedom of Information processes had all met with failure.

In 2011 I began my onward approach by suggesting questions through the office of Senator Xenophon, Senator for South Australia.

## Example 2.

In 2014, a question was asked of the Prime Minister and Cabinet Portfolio, in the Budget Estimates 2014-15

170 PM&C Xenophon Requirements for Annual Written (PDF13KB)  
Reports document 11/7/14

## Figure 2.

The PS Act requires each departmental secretary to provide the responsible minister with an annual report prepared in accordance with the requirements approved by the Joint Committee for Public Accounts and Audit (JCPAA).

The Department is responsible for preparing the Annual Report Requirements and facilitating the approval of these through the JCPAA. The Department does not conduct 'spot audits' of annual reports once they are presented to Parliament.

The Department notes that, once the annual reports are tabled, the Senate scrutinises annual reports of departments and agencies under Senate Standing Order 25 (20).

## Example 3.

In 2014, a question was asked of the Finance Portfolio in the Budget Estimates 2014-15

F147 Finance Xenophon - Overview of public sector Written  
fraud and financial error (PDF16KB)  
8/8/14

## Figure 3.

Agencies reported 12,798 instances of non-compliance with the financial management framework in 2011-12 and 14,027 instances in 2012-13. This aggregate number includes serious issues such as fraud, financial errors and minor technical breaches. The nature of the information collected does not enable an overall figure for fraud to be determined. Further information is contained in the 2012-13 Certificate of Compliance Report to the Parliament.

***If the Department of Finance cannot determine an overall figure for fraud, what is the cumulative and compound figure affecting Australia's Budget for say the last ten years?***

#### Example 4. (Annex A)

In May 2015, Defence administratively released '[Re-Thinking Systems of Inquiry, Investigation, Review and Audit](#)'.

The following [image](#) was the basis of a QoN submitted by Senator Nick Xenophon.

Figure 4.

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Gaps/delays in briefing senior decision-makers and Ministers	✓	✓	✓	✓	✓	✓	✓	✓
Leadership failure at a senior level	✓	-	✓	-	✓	✓	✓	✓
Failure to appreciate complex interdependencies	✓	✓	✓	✓	✓	-	✓	✓
Underestimated project complexity and cost	✓	✓	✓	-	✓	✓	✓	✓
Changes to project scope and objectives	✓	✓	✓	✓	✓	-	✓	✓
Project management deficiencies	✓	✓	✓	-	✓	-	✓	✓
Insufficient skilled personnel	✓	-	✓	-	✓	-	-	✓
Project record-keeping deficiencies	✓	✓	✓	-	-	-	✓	✓
Controls not effective	✓	-	✓	✓	✓	-	-	✓
Failure in project accounting	✓	✓	✓	-	-	-	✓	✓

**Figure 3** – Common Themes Emerging From Audit Reviews of Major Capital Acquisition Projects

Given this is an audit report you have to ask whether the stated reply to the Senator and the Parliament is tokenism,

(2) (a) to (j) Defence is unable to provide all the requested information as disclosure of Defence internal audit activity would significantly reduce the effectiveness of the audits and consequently, could reasonably be expected to have a substantial and adverse impact on the proper and efficient conduct of the operations of Defence.

or more succinctly, reputational risk of senior officers and/or public servants involved in the acquisition process.

### Example 5.

Taking from the audit graphic in Example 4, I refer to the row where every column is ticked for 'Gaps/delays in briefing senior decision-makers and Ministers'.

It seems that, in the case of Defence, they can use the Defence (Inquiry) Regulations 1985 made under the Defence Act 1903 to hide financial embarrassments from the scrutiny of the Parliament.

#### Example 5.1 (Annex B)

Budget Estimates hearing - 3-4 June 2013 / Q60: Operation Majorca

#### Figure 5.1

(4) The Busuttil Report was conducted under the Defence (Inquiry) Regulations 1985 made under the *Defence Act 1903*. In accordance with section 63 of the Regulations, the report can only be released after Ministerial approval. Defence currently does not intend to propose the releasing of the Busuttil Report.

#### Example 5.2 (Annex C)

Budget Estimates Hearing - 2&3 June 2014

Q63: Defence Fraud / ANAO Audit Implementation

#### Figure 5.2

(4) The Busuttil Report identified the value of equipment which was missing from RANAD Newington. As the Busuttil Report was conducted under the Defence (Inquiry) Regulations 1985, release of any part of the Report will require specific authorisation from the Minister for Defence.

#### Example 5.3 (Annex C & D)

'Report of LCDR J.P. Busuttil RANR Concerning RANAD Newington' known as Busuttil Report was conducted between 14 November and 15 December 1996.

Reported to the appointing authority, Rear Admiral D. J. Campbell, Flag Officer, Naval Support Command on the 18th December 1996.

Reported in the Bulletin Magazine on the 14th October 1997, where the then 'Minister for Defence Science and Personnel called for a full report into the allegations raised by the Bulletin'.

'Correspondence registers indicate that a copy of the report was received in the office of Chief of Navy on 21 December 2000.'

'A search of the Ministerial Advice database indicates that no advice was provided to the Minister regarding the contents of the report.'

Budget Estimates Hearing - 2&3 June 2014  
Q63 - Defence Fraud / ANAO Audit Implementation

Figure 5.3

- (3) As an Armaments Depot in the 1990's, RANAD Newington could be expected to hold armaments from across the entire spectrum of Royal Australian Navy use at the time, including: missiles, torpedoes, large calibre weapons and small calibre weapons.
- (4) The Busuttil Report identified the value of equipment which was missing from RANAD Newington. As the Busuttil Report was conducted under the *Defence (Inquiry) Regulations 1985*, release of any part of the Report will require specific authorisation from the Minister for Defence.

Here we have Defence as a reporting agency purposely withholding historical information that would be crucial to Parliamentary oversight of its ongoing handling of Public Funds and Counter-Terrorism matters.

I refer to the same 1997 Bulletin article, "An audit of the Moorebank Central Stores also revealed a large quantity of valuable items missing from the supposedly restricted area of the stores. Missing were plastic explosives and detonators, chainsaws, Zodiac inflatable boats, outboard motors and high-tech night vision glasses."

As a past member of the Defence Force, primarily as a Reservist in the Military Police, you would have to wonder if a "copper" can't get traction reporting a notifiable incident, who in Defence could otherwise?

I refer you to [Chief of Army Directive CA 21/13, 'Army Values and Standard of Behaviour required of Army Personnel'](#) as to some reasoning for my persistence in the matter.

I hope these references that I have included, will indicate to you that you are dealing not only with a current problem of annual reporting but a chronic ongoing problem.

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Annex A

QN15-000620

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**Senate Standing Committee on Foreign Affairs, Defence and Trade**

**Supplementary Budget Estimates – 21 October 2015  
ANSWER TO QUESTION ON NOTICE**

**Department of Defence**

**Topic:** Fraud – ‘Re-thinking Systems of Inquiry, Investigation, Review and Audit’  
Report

**Question reference number:** 51

**Senator:** Xenophon

**Type of question:** Written

**Date set by the committee for the return of answer:** 4 December 2015

**Question:**

In 2015, Defence has released the 'Re-Thinking Systems of Inquiry, Investigation, Review and Audit'.

- (1) Can Defence provide the “Heading of Figure 3, Page 19 of Report on Stage B (possible models for an optimal system of audit) 10 May 2013 > RSR audit - First report.”
- (2) Can Defence give a succinct Departmental understanding of the categories highlighting the 'Common Themes Emerging From Audit Reviews of Major Capital Acquisition Projects.'? If not, why not?
  - (a) Gaps / delays in briefing senior decision-makers and Ministers
  - (b) Leadership failure at a senior level
  - (c) Failure to appreciate complex interdependencies
  - (d) Underestimated project complexity and cost
  - (e) Changes to project scope and objectives
  - (f) Project management deficiencies
  - (g) Insufficient skilled personnel
  - (h) Project record-keeping deficiencies
  - (i) Controls not effective
  - (j) Failure in project accounting
- (3) Can Defence provide the final overall budget for each of the projects mentioned (redacted) in this Figure? If not, why not?

**Answer:**

- (1) Defence is able to provide a redacted version at Attachment A.
- (2) (a) to (j) Defence is unable to provide all the requested information as disclosure of Defence internal audit activity would significantly reduce the effectiveness of the audits and consequently, could reasonably be expected to have a substantial and adverse impact on the proper and efficient conduct of the operations of Defence.

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The audit reports of the three Australian National Audit Office (ANAO) audits can be accessed on the ANAO website.

- (3) Defence is able to provide the final overall budgets for the three ANAO audits outlined in Attachment A.

M-113 Armoured Personnel Carrier Upgrade (LAND 106): \$791 million, final spend at project closure as at January 2015.

Lightweight Torpedo (JP 2070 Ph 2&3): \$645 million, as at October 2015.

Seasprite Helicopter (SEA 1411 Ph 1): \$990 million, as at October 2015.



## Annex B

### Senate Standing Committee on Foreign Affairs, Defence and Trade

#### QUESTIONS ON NOTICE – COMMITTEES

##### Budget Estimates hearing – 3-4 June 2013

#### **Q60: Operation MAJORCA**

**Senator Xenophon** provided the following questions in writing on 14 June 2013:

Is Operation MAJORCA (joint operation by Defence Inspector General and Australian Federal Police)

- (1) Still an ongoing operation?
- (2) Been replaced by another ongoing operation?
- (3) Is there an intelligence and reporting process in place to support either Operation MAJORCA or any replacement operation?
- (4) Will the Busuttil Report (c1997) be made public, and if so when?
- (5) Given that Operation MAJORCA may have concluded has a report of the outcomes of Operation MAJORCA been tabled to the Parliament?

#### **Response:**

(1) Operation MAJORCA was an investigation conducted by the Australian Federal Police with the support of the Inspector General of Defence. It is not an ongoing operation.

(2), (3) and (5) Any questions in relation to Operation MAJORCA, its replacement (if any), reporting and intelligence should be directed to the Australian Federal Police.

(4) The Busuttil Report was conducted under the Defence (Inquiry) Regulations 1985 made under the *Defence Act 1903*. In accordance with section 63 of the Regulations, the report can only be released after Ministerial approval. Defence currently does not intend to propose the releasing of the Busuttil Report.



## Annex C

### Department of Defence

#### Budget Estimates Hearing – 2 & 3 June 2014

##### Question on Notice No. 63 - Defence Fraud/ANAO Audit Implementation

Senator Xenophon provided in writing:

In the February 2014 Additional Estimates, I asked about the 'Busuttil Report'. You advised that the 'Report of LCDR J. P. Busuttil RANR Concerning RANAD Newington' was reported on the 18th December 1996.

- (1) Did the contents of the report warrant reporting to the then Chief of Navy? If so, on what date was the Chief of Naval Staff/Chief of Navy informed?
- (2) Did the contents warrant advising the responsible Minister? If so, on what date was the responsible Minister advised?
- (3) Can you advise what inventory a Royal Australian Naval Arms Depot would be expected to carry and have on hand in the 1990's? Say at RANAD Newington?
- (4) Can you advise what value in dollar terms was written off from the RANAD Newington inventory in the years 1995-96, 1996-97, 1997-98 as a result of fraud, financial error and theft or just lost?

##### Response:

- (1) Correspondence registers indicate that a copy of the report was received in the office of Chief of Navy on 21 December 2000.
- (2) A search of the Ministerial Advice database indicates that no advice was provided to the Minister regarding the contents of the report.
- (3) As an Armaments Depot in the 1990's, RANAD Newington could be expected to hold armaments from across the entire spectrum of Royal Australian Navy use at the time, including: missiles, torpedoes, large calibre weapons and small calibre weapons.
- (4) The Busuttil Report identified the value of equipment which was missing from RANAD Newington. As the Busuttil Report was conducted under the *Defence (Inquiry) Regulations 1985*, release of any part of the Report will require specific authorisation from the Minister for Defence.

## Annex D

QN15-000631

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### **Senate Standing Committee on Foreign Affairs, Defence and Trade**

Supplementary Budget Estimates – 21 October 2015

ANSWER TO QUESTION ON NOTICE

Department of Defence

**Topic:** Fraud – Naval Board Investigation

**Question reference number:** 55

**Senator:** Xenophon

**Type of question:** Written

**Date set by the committee for the return of answer:** 4 December 2015

#### **Question:**

I refer to my written Question on Notice No.63 - Defence Fraud / ANAO Audit Implementation. I refer you to part (2) of the question. I also refer you to part (4) of the question where, unless raised in-camera, the oversight committee has never been informed or advised of the size and quantity of the financial loss (including fraud) from this armaments depot, RANAD Newington.

The then Minister (1997) was quoted in the Bulletin Magazine as saying she will, "take appropriate action" after being briefed by the department.

Can Defence explain for what reason a most serious investigation by a Naval Board of Inquiry has never, from your records, been brought to the attention of the responsible Defence Minister?

#### **Answer:**

Defence is unable to explain why the relevant Minister was not informed of the report. A thorough and detailed review of available Navy and relevant Defence records has not located any documents which assist in understanding the events of the time.

The report known as the 'Busuttill Report' was not a 'Naval Board of Inquiry', albeit disclosing serious matters, but a lower level Inquiry Officer Inquiry.