

Submission to National Integrity Commission Inquiry

SUBMISSION TO THE INQUIRY INTO

THE ESTABLISHMENT OF A

NATIONAL INTEGRITY COMMISSION

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**SUBMISSION TO THE INQUIRY INTO
THE ESTABLISHMENT OF A
NATIONAL INTEGRITY COMMISSION
EXECUTIVE SUMMARY**

On 20th February 2016, the Senate called for the establishment of a National Integrity Commission to inquire into and report on or before 22nd September 2016 the adequacy of the Australian Government's legislative, institutional and policy framework in addressing all facets of institutional, organisational, political and electoral, and individual corruption and misconduct over a wide range of activities. Public submissions to the Inquiry are due by 20th April 2016.

About a month earlier, the Attorney-General, George Brandis, had advised Parliament that there was no need for a national anti-corruption body because there were strong laws in relation to corruption already enforced by Federal, State and Territory police agencies. He omitted to mention the equally important matter of misconduct, or who ensures that those police agencies themselves are free from corruption and misconduct. When PM, Tony Abbott also dismissed the need for a Federal ICAC, stating that “*In Canberra, we have a pretty clean polity*”. (1) However, the evidence would suggest that both suffered a case of wilful blindness.

There are, of course many other agencies accountable for policing corruption and misconduct. At the higher level, there is Parliament, which exercises the Oversight Level of Governance on behalf of the Australian people, Ministers who are accountable for the Directing Level of Governance of their Departments, and Secretaries of Departments who are accountable for exercising Executive Level of governance throughout their Departments.

There are also a number of internal governance mechanisms that operate within and between government departments and the public, as well as the Ombudsmen and the A–G’s Office of Legal Services Coordination (OLSC), up to the Governor General. These avenues are also obligated to handle cases of corruption and misconduct, but they also appear to have been switched off.

However, if any of these governance systems fail, then corruption and misconduct are free to operate largely unchecked.

The condition that led to the failure of our governance systems, especially those within Federal, State and Territory Governments, although the same malaise also exists in private enterprises, was:

A widespread infestation of the Dunning Kruger Effect – in short, those charged with the management of functions do not have the skills and competencies necessary for the proper discharge of their functions, but fail to recognise it. (2) Groupthink, with its detachment from reality and its reflexive defensiveness, inevitably followed in its wake.

This Effect, in turn, arose mainly from the adoption of new approaches to management that led to the flattening of organisations, downsizing and deskilling, the abandonment of perceived ‘non-core’ functions, and outsourcing. Government enterprises generally followed suit. With the reorganisation of the APS and the formation of the SES, and the adoption of administrative process (using largely unskilled people) to replace traditional functional management (outcomes focussed

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and managed by competent people).

However, the inappropriateness of this approach to government business soon resulted in problems that were beyond the SES and its APS workforce to manage within acceptable time, cost and quality requirements. Criticisms and complaints then arose that could be ‘controlled’ only by switching off their own and any interfacing governance systems so that the situation was not so obvious to the parliamentary governance systems.

Corruption and misconduct over the past 20 years or so has been reported frequently, for example, in the Press, at Senate and other inquiries, in private submissions to governance bodies, and in ANAO Audits, all to no meaningful effect. As a result, corruption and misconduct have become lucrative growth industries that have eroded efficient management as well as the ethics and integrity upon which Australia’s Westminster principles and conventions were built.

However, establishing a National Integrity Commission is not the answer. Such a body would merely sit in judgement upon individual cases referred to it, but it would not get to the root cause at all government and public service centres of governance. It would not provide an appropriate, long-term, self-policing solution to the problem of defective governance.

To suggest that there is no need for an anti-corruption body is merely wilful blindness. The evidence is quite clear. There would, of course, be little or no need for such a body if our parliamentary governance system, and its underlying executive governance mechanisms, were in place and working as they should. The real decision is where the problem may best be remedied. The proposal of this submission is that our governance systems should be the primary target of any action envisaged. Only then may any need for a National Integrity Commission be determined.

However, it is important to recognise that an organisation, once de-skilled, will have little, if any, ability to reform itself, and would be incapable of rebuilding its governance system alone. Reintroducing governance systems will require careful system design so as to be relevant to the organisation’s functions, be made self-sustaining, be effective in the rapid identification and prevention/correction of breaches, be transparent and be audited easily.

In addition, as the objectives of good governance and the imperatives of the current SES administrative process of public service ‘management’ will clash on important matters, it is critical that good governance be implemented and maintained by a firm hand.

INTRODUCTION

Cases of corruption and mismanagement in the administration of government programs and the delivery of contracted goods and services, at both Federal and State levels, have become increasingly common in the Press. However, these reports are not often followed up, probably due to fear of defamation suits, or pressure from politicians or their staff. A far greater number of reports of corruption and mismanagement have been made through the many internal governance systems that exist, but here the chances of having a fair hearing and obtaining remedial action have been remote at best, with many complainants reporting responses that evidence abuse of office, but to no avail.

There is also a perceived reluctance or refusal of the APS Senior Executive Service (SES) across government departments to countenance complaints, stemming from the emphasis placed on administrative process as the common APS “management” methodology, rather than functional management which is more appropriate for the functions most perform. Not having the required skills and competencies to manage their functions properly leaves them vulnerable to criticism

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when programs fail to achieve their objective in scope, time and money. Such criticism must be given media spin, deflected or denied to avoid risk to their reputation, as well as that of their Secretary and Minister.

SOURCES OF CORRUPTION AND MISMANAGEMENT

THE ATTORNEY-GENERAL'S DEPARTMENT

The A-G oversees the Australian National Audit Office, which has conducted most professional and largely fearless audits of failed major projects throughout government departments. However, these audits do not appear to have been successful in halting or reducing the number of such projects. Under governments of both persuasions, the implementation of important government initiatives has fallen far short of expectations, often failing miserably and at great cost to the public purse. The repeated waste in time, effort and cost has been a significant drag on Australia's strained financial resources, which, if reduced or eliminated, would go far to balance our budget. All departments appear unwilling or unable to affect needed reform, and all levels of governance (Executive/Directing/Oversight) have been ineffective in demanding and monitoring needed reforms and accountability. These governance mechanisms have been switched off, on purpose.

The A-G is also responsible, through his Office of Legal Services Coordination (OLSC), for ensuring that all departments act as "*model litigants*", especially in regard to corruption and misconduct. However, the OLSC, when faced with complaints involving Department of Defence, and no doubt other departments, has failed in its core governance responsibilities. This is reflected clearly in submissions made to the DLA Piper Inquiry, and the Defence Abuse Response Taskforce (DART) which has been conveniently buried, thus ensuring that those involved particularly in administrative abuses (abuses of Office), will never be brought to account.

The Attorney-General should thus look into his own department, especially his ANAO Audit Reports and his OLSC, before making judgements as to the need for a national integrity commission. He should also read the continuing stream of articles in the press (3) reporting failed projects and poorly managed government initiatives, lately (for example) in regard to the Education Department, and the trade training organisations that were paid large sums for no returns. It appears that nobody was monitoring the service providers to ensure that they were delivering that for which they were being paid. Where were the Secretary and the Minister who hold primary accountability for good governance? It appears that scam organisations arise whenever public monies are allocated to government programs and are too often the preferred tender, if, of course, tenders were even called for, or evaluated.

POLITICAL ASPECTS

In large part, governance deficiencies are entrenched at the Ministerial (departmental) level. The 'Age' of 10th March 2016 reports on what is a good case study:

Former Education Minister Pike's evidence before the Independent Broad-based Anti-corruption Commission (IBAC) hearing into a suspicious payment of \$1M to an Ultranet provider under an 'unfair' tender process was: "*I didn't know who all the tenderers were because it's not my job to know these things...The Minister is very hands off and has the responsibility of setting policy*". Furthermore, when the former President of the Victorian Association of State Secondary Schools criticism of the process was passed on to the Minister, the response was: "*thanks for that. We will freeze him...But I hope the other Principals have the courage to chastise him.*" This is a common, defensive response from both political and bureaucratic areas to those who seek to correct

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blatant breaches of governance in their organisations, evidence that the governance functions have been switched off consciously.

In short, the Minister seems to have had no concept of her office being wholly and solely accountable for ensuring good governance throughout her department. In this case, for ensuring that effective processes were in place and being applied across all tenders, and that all activities were being managed in such a way that goods/services were being delivered to quality, time and cost requirements – in effect, no unfair tender process was occurring.

In addition, the Secretary of the Department, who exercises the Executive Level of Governance within the Department, must in turn ensure that the department is organised properly for the tasks it performs, that all tasks are well planned, and are being managed effectively by people who have the required skills and competencies. Finally, but most importantly, the Secretary must exercise continuing visibility and control of all activities and tasks, monitoring status, performance and progress, and intervening promptly when necessary.

Unless these two levels of governance (Directing and Executive) are in place and working properly, then implementation of government policy will continue to become an expensive and embarrassing shambles from which no lessons have been learned and needed reforms not imposed. (4). For example, if our politicians spent more time reading and understanding fully the impact of the legislation put before them, and gave priority to their accountability to the Nation, rather than their vested interest and self-serving deals with others, major problems would be avoided. The inability of the Parliamentary Governance system to resist the ‘poisoned chalice’ of the Defence Trade Controls Act (4) and redress the expensive failures of the Department of Defence and the Defence Materiel Organisation are but two examples.

The net result is that failures and poor performance are too often hidden from Parliament.

THE AUSTRALIAN PUBLIC SERVICE

Traditionally, Australia’s public service was focused upon providing ‘frank and fearless’ advice to ministers and government and, once policy had been determined, the effective implementation of that policy. What was best for Australia generally was an important benchmark. At that time, departments were more functionally organised, and generally contained, or had access to, adequate levels of competency in the management of the technologies and functions for which they were accountable. This changed dramatically as a result of two major changes:

- The adoption of new approaches to management, and
- The privatisation of government enterprises and the outsourcing of departmental functions.

The ‘new *management*’ age began when ‘*Management*’ became accepted as being the desired top function in enterprises. A *Master of Business Administration* (MBA) then became the most sought after qualification for future managers. It is not well known that this qualification was originally created to provide managers, who in many enterprises were qualified engineers, with a better understanding of the financial aspects of business management. The MBA, however, soon developed a life of its own, which led to a primary focus upon the “bottom line” (financial management) rather than the primary, generally technology-based or dependent, function of the organisation (functional management). The Harvard MBA was later to come under criticism and its practitioners have been blamed for the Global Financial Crisis, and will probably be blamed for the next one.

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The new focus upon the ‘*bottom line*’ led to the perception of ‘*non-core*’ activities that became earmarked for abandonment or outsourcing. Organisations were subsequently flattened, leaving only managers and workers. The organisation’s training, mentoring and organic planning and the skills development and forward planning layers were swept away, and the bottom line responded. However, not having sufficient understanding of the management of the technological aspects and their interdependencies within their organisation, critical skills and competencies were lost, and costs increased. The principle lesson not learned from this has been:

While downsizing, de-skilling and outsourcing may show short-term cost savings, the practice is self-defeating in the longer term because sustained productivity growth requires the very opposite – that is, an expanding resource base of skills and competencies that keeps pace with developments in technology and increasing demand. (5)

The APS was also required to ‘become more business like’ especially in implementing government’s outsourcing policy. One of the first functions to be outsourced was Information Technology (computer support), mainly on the grounds of perceived economies. However, as a result, departments (as well as private enterprises) lost the skills and competencies they needed to be able to specify their IT requirements properly, to determine whether tenders submitted would be cost effective in meeting fully specified requirements, being able to test systems before implementation, and then keep them up to date over their life span. The scene was thus set for disasters, and as a result there has been a constant stream of major IT project failures that have impacted the ability of both state and federal governments to deliver services and that have resulted in massive waste of public monies. (3)

However, the process-centric administrative organisation that has evolved within government departments has not proven successful in ensuring that government and parliament are provided with full and accurate policy guidance, or efficient, effective and economic implementation of policy decisions, particularly where programs have any technological content. This judgement arises from the continuous stream of adverse ANAO Audit Reports over the past several decades, seemingly to no effect on government or APS performance. Both government and the APS cannot accept the reality that technology dependent programs require management by competent staff, not process administered by incompetent staff. Governments have attempted to fill the gap by employing specialist advisers/consultants in their own departments, as such advice was not available from the department primarily responsible, but this has largely increased conflict, added confusion and generated ill-will.

THE EVOLUTION OF ONE APS-ONE SES (6)

The organisation of the APS at the leadership level has been reviewed by a Committee of Inquiry (1955), a Royal Commission (1974), the Joint Committee on Public Accounts (1982), and the Reid Review (1983). These pressures led to the Hawke Government White Paper (1983) which resulted in the Public Service Reform Act of 1984. “*This legislated the new Senior Executive Service (SES) to create a unified, cohesive senior staffing group with distinct selection, development, mobility, promotion and tenure arrangements.*” The objective was “*to create a Service-wide strategic leadership in ideas, management and ethics in accordance with the Westminster principles and conventions of public administration as they operate in the Australian model of government.*”

The Hawke Government emphasised four key challenges for the APS:

- To enhance the strategic policy capability of the APS.

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- To review its efforts in the delivery of citizen-centred services.
- To rebuild the concept of One APS – One SES.
- To develop the right people.

1990 then saw the introduction of performance pay (7) and revised core criteria for the SES, followed in 2005 by the “*One APS – One SES*” mantra which required the SES “*to exhibit common capabilities, share common values, common ethical standards and common commitment to self-development and collaboration.*” The “*One APS – One SES*” concept has also been applied to the Department of Defence, via its “*One Defence*” mantra. However, these are simply calls for the centralised administrative control of all department functions under the SES – where appropriate skills and competencies do not exist. Under this model, all policy, planning, authority and resource management come under the SES, but accountability for the actual functions of the Department remains at the working level, where there is little or no authority – but where what skills and competencies once existed, but have been degraded over time. This is a doomed model, as has been proven almost daily. The effect on Defence of its organisational changes since 1972 parallel those seen generally throughout government agencies, but on a much greater scale. Some important effects are at Annex A.

From 1964, the evolution of the SES has been guided by the philosophy that:

“...policy advising and top management is a distinctive and integrated function and even where a top management position does have a professional or technical content the choice of occupant should, in a high degree, be on the basis of administrative and/or managerial abilities.”

Competencies in the functions, technologies and management disciplines unique to the Department are thus not seen as being of any importance, thus SES staff may be transferred to any appointment. Following the adoption of the new management approaches discussed earlier, it seems that in business, “*managers*” may be selected to manage anything without having prior experience of the functions involved. Likewise, following the Hawke APS changes, *SES Administrators* may be moved between departments, also without having any prior knowledge of the functions involved.

If there is no need for SES top management to have any professional or technical competencies in the functions and technologies of the departments over which they will exercise complete authority, then there is little wonder that the advice Ministers and Parliament are receiving is poor and that programs and service delivery have not met expectations. Furthermore, as the Department’s workforce also lacks the required specialist skills, competencies and management systems appropriate to their function, failure is built in, and corruption and misconduct is generally assured.

Over time, demands have increasingly “*called for the APS to be more responsive, work better and faster, and to be more accountable for results rather than just due process.*” and more recently for the involvement of private enterprise.

However, nowhere throughout this long evolution has there been any recognition that different departments manage entirely different functions and technologies, and that all are critically dependent upon having the range of specialist skills, competencies and management systems appropriate to their functions in place and functioning effectively throughout all levels of the organisation, particularly at the top. The concept that all departments may be run effectively by ‘cloned’ SES staff who lack appropriate skills and competencies, and by merely following common administrative processes can provide sound policy advice to Secretary, Minister and Government, is

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hollow.

Terry Moran, former head of the Prime Minister and Cabinet Department describes how badly informed governments really are. He points to the problems raised by outsourcing which means no one knows what's going on and nobody monitors. *"But the Commonwealth doesn't do much evaluation of programs"* he states, *"Apart from the fact it requires resources and they can't afford it, the underlying belief is that the market is properly framed and the prices are being set by the market, so there is nothing to evaluate. Citizens do as best they can in the marketplace and the only worry is corruption. People are cogs in a machine where you set up the markets, arrange for prices to be set and that's it until another tender."* (8)

The caravan moves on, it seems, without any real reflection on what has worked or not worked in government service delivery.

Today, we have a SES and APS that:

- Lacks the skills and competencies needed for the management of the functions for which they are accountable.
- Is very well paid, with most generous conditions of service, and paid performance bonuses despite lack of performance.
- Has grown top-heavy with SES positions.
- Has not performed well.
- Is completely politicised.
- Has evolved an overly defensive culture, enunciated in a common and meaningless written and spoken jargon, and protected by its legal and media staff.
- Has 'rectified' criticisms by adding more process, which increases the Department's budget and numbers. In short, the APS grows as it fails.
- Has not been held accountable, and is unable to be disciplined.

SCOPE OF THE PROBLEM

The scope for corruption and misconduct has increased markedly over the past 20 years or so under government pressures to outsource its program and service delivery tasks, and to adopt administrative process rather than appropriate functional management within its departments and within its top SES elements.

While the nature and detail of such activities have been reported frequently in the Press, in Senate and other inquiries, in public submissions, and in continual ANAO Audits, no action has been taken correct the problem at source. The main reason for this has been the 'switching off' of our parliamentary system of governance at the Oversight (Parliament), Directing (Ministerial) and Executive (SES) Levels, compounded by the 'switching off' of all the underlying governance mechanism from the Ombudsman to the Attorney-General's Office of Legal Services Coordination.

As a result, corruption and misconduct have become growth industries that have eroded seriously the efficient management and ethics and integrity upon which Australia's Westminster principles and conventions of government were built.

The best summary of cases of corruption and mismanagement in Australia is contained in the Royal Petition raised by an Australian company head who ran afoul of the Department of Defence (9). His petition rests upon 30 widespread examples of corruption and mismanagement, and should be read as part of this submission. His Open Letter to the Public Service Commissioner

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(10) focuses upon corruption in the APS and should also be read. An extract is at Annex B.

THE NEED FOR AN ANTI-CORRUPTION BODY

A National Anti-corruption Body would look into individual cases of corruption and misconduct referred to it, but only after the event-the damage would already have been done. Furthermore, its remit would hardly include identification of the causal chain leading to the offence in such a manner as to correct the management failures that allowed the offence to occur. The body would thus be a 'gold mine' for the legal fraternity, but do nothing to identify and correct the root cause or to reduce the occurrence of such offences.

As the incidences of corruption and misconduct result directly from the failure of governance systems, the alternative is to create a body to restore good governance throughout the public domain. Attention should be directed especially to:

- The political/public service interface that was introduced in 1984, and evolved over subsequent years, to ensure that Parliamentary and Executive governance accountabilities are identified clearly, are organisationally and functionally in place, and are active at all times. The current system has failed.
- Change the current APS focus upon administrative process to one of functional management by staff having the skills and competencies appropriate to the functions being performed. The current approach has proven to be inappropriate.

CONCLUSION

To suggest that there is no need for an anti-corruption body is merely wilful blindness. The evidence is quite clear. There would, of course, be little or no need for such a body if our parliamentary governance system, and its underlying of governance mechanisms, were in place and working as they should. The real decision is where the problem may best be remedied. The proposal of this submission is that our governance systems should be the primary target of any action envisaged. Only then may the need for a National Integrity Commission be determined.

However, it is important to recognise that an organisation, once de-skilled, will have little, if any, ability to reform itself, and would be incapable of rebuilding its governance system alone. Reintroducing governance systems will require careful system design so as to be relevant to the organisation's functions, be made self-sustaining, be effective in the rapid identification and prevention/correction of breaches, and be audited easily.

In addition, as the objectives of good governance and the imperatives of the current SES administrative process of public service 'management' may clash on important matters, it is critical that good governance be implemented and maintained by a firm hand.

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References.

1. ABC PM, 5th May 2014.
2. Kruger, Justin; Dunning, David, “*Unskilled and Unaware if it: How Difficulties in Recognising One’s Own Incompetence Lead to Inflated Self-assessments.*” Journal of Personality and Social Psychology, Vol 77 (6), Dec 1999, 1121-1134.
Janis, Irving, “*Victims of Groupthink: A Psychological Study of Foreign Policy Decisions and Fiascos.*” Boston: Houghton Mifflin. 1972 ISBN 0-395-14002-1.
3. PM Turnbull espouses the “*potentially transformative power of government investment in IT*”. However, some recent examples indicate the continuing and widespread nature of the problem:
 - The Gillard Government’s eHealth Program, costing some \$1bn, with effectively nothing to show.
 - The Computerised Payroll System for Queensland Health, estimated at \$6m but final costs \$1bn and 4-5 years late. A good case study of absent/inadequate governance.
 - The NSW School IT Rollout, costing \$500m to date, but still not functioning (See ANAO Audit)
 - The Victorian IT Project to link all schools with Head Office was eventually ceased with hundreds of millions written off.
 - The Victorian MYKI Project which exceeded budget by 500% and was delayed many years.
4. “*Almost five years after the inquiry into the \$16.2Bn school buildings stimulus program handed down its final report, the federal government has failed to implement its key recommendation and axed initiatives introduced to prevent similar waste.*” Anthony Klan, “Australian”, Exclusive, 28th March 2016. The same Press on 6th April noted: “*A scathing report on the Government’s five-year plan for skills ha found it fell short on its four key objectives of improving accessibilities, transparency, quality and efficiency.*” The program was reportedly poorly managed and implemented in a rushed and haphazard way.
The DTCA Saga is detailed at <http://archivevictimsofdsto.com/dsubcom/>.
5. E.J. Bushell, “*The Widespread Consequences of Outsourcing*”, <http://www.ausairpower.net/APA-2010-03.html>.
6. “*Senior Executive Service 25th Anniversary.*” (aspc.gov.au/publications-and-media/current-publication...)
7. “*Insider View of Political Blind Spots*”, Terry Moran, Australian Financial Review 19-20 Mar 16.
8. APS Executives: “*Education executives have been awarded generous performance bonuses despite a drop in the number of students completing year 12, meeting basic learning standards or taking part in vocational training. 57 well-paid executive staff secured bonuses totalling \$553,927 for their efforts over the past 12 months...at the same time that student performance declined and former senior staff were being investigated by the anti-corruption watch-dog for systematically rorting public schools.*” Federal MPs also received their first pay rise in 2 ½ years at the same time. The PM received a rise of \$10,166, but his Head of Department received \$58,880 (to reach \$861,700), five times that of our PM. “Australian”, 15th November 2015.
9. “*Royal Petition to His Excellency General the Hon Peter Cosgrove Concerning Federal Government Corruption.*” (victimsofdsto.com/royal-cosgrove-2/.)
10. “*An Open Letter to Public Service Commissioner Sedgwick re Systemic Corruption in the APS*” (victimsofdsto.com/psc/).
11. FADT references Committee, Senate Inquiry into Procurement Procedures for Defence Capital Projects, Final Report, August 2012.
12. First Principles Review, “*Creating one Defence*”, 2015.

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THE DEFENCE AND DEFENCE MATERIEL ORGANISATIONS SOME IMPACTS OF ORGANISATIONAL CHANGES

(Extract from a submission to the FADT Defence Sub-committee on the First Principle Report)

The current Defence Department and the DMO organisations were formed following the downsizing and de-skilling the Services, which resulted in the loss of their Engineer Branches and their project management organisations. The Commercial Support Program that followed then destroyed their in-depth competencies in engineering and maintenance planning and management. Since then, Defence and the DMO have floundered. They adopted a contract, “business’ focus to capability acquisition and sustainment, administered by people lacking in sound knowledge of the military capabilities being acquired, their unique operational and engineering challenges, and the project methodologies critical to their management. The result has been a series of extremely costly project failures in required capabilities, schedule, cost and adverse impacts upon Australia's military capabilities, which largely replicate the experience of other government departments..

What is lacking are hard-core operational, engineering and project management competencies appropriate to the system being acquired, and the technologies comprising it. What is not needed are pseudo competencies, such as those that have evolved within the DMO, and are now being marketed both within and outside the Public Domain under the “International Centre for Complex Project Management (ICCPM), and its “Competency Standards for Complex Project Managers”. This initiative was born, nurtured and adopted within the DMO, which organisation has clearly failed, so should be approached with caution.

The evidence for this observation is embedded and readily available in:

- The ANAO Audits of DMO Major Project Reports (MPRs) since 2007-08.
- The ANAO Performance Audits of specific projects.
- The many reviews undertaken into Defence/DMO problems.
- The Final Report of the FADT References Committee inquiry into Procurement Procedures for Defence Capital Projects, August 2012.
- This author's detailed analyses of DMO MPRs since 2007-08, which are on the Joint Committee Public Accounts and Audit (JCPAA) record.

These documents should be required reading for all trying to understand Defence/DMO problems. Analysis of these documents indicates that the root cause(s) behind Defence/DMO's failures have been suppressed.

ANAO Audit Reports, DMO Major Projects Reports, and independent Submissions made over the past eight or so years have identified why Defence/DMO have failed in their strategic and capability analysis, as well as their capability acquisition and sustainment functions, but to no meaningful effect. However, analysis of these reports and submissions indicates that Australia now has a Defence organisation that:

- Proceeds to contract with inadequate statements of operational and engineering concepts and requirements, leading to the procurement of a wrong, inadequate or overpriced capability.
- Proceeds when the design is immature or not understood.
- Is unable to manage system or software development or integration, or test and acceptance.
- Is unable to identify and manage project risk (essentially operational and engineering

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factors) and has to resort to buying its way out of the resulting problems.

- Does not have the operational, engineering or Project Management skills and competencies essential to the projects being undertaken.
- Focuses upon buying materiel rather than managing projects.
- Has now had to outsource its contract management and contract negotiation functions.

In fact, all the evidence points to Defence/DMO Major Projects suffering persistently self-induced injury through:

- Adopting public sector commodity product and service principles that have proven to be wholly inappropriate for the acquisition and sustainment of highly technology-dependent military capabilities.
- Failing to adopt the required long-proven and successful, conventional Project and Engineering Management methodologies.
- Replacing skilled and competent project and engineering managers with people lacking those skills and competencies, but well-equipped for public relations.

The result has been (broadly):

- Projects have been put forward for approval and acquisition that have not been fully and accurately scoped and specified in project, operational or engineering terms.
- Source selection has been poorly managed, resulting in incorrect or poor acquisition decisions having inherent risks.
- Contract negotiation is now beyond DMO's capabilities as (lacking even basic project, operational and engineering competencies) the Department of Defence is no longer seen as an informed and smart customer.
- Project capability, schedule and cost risks inevitably arise that are beyond the DMO's competencies to manage. The problems arising from undetected risk are thus 'managed' through the Contingency Budget.
- Capability schedule delays and sustainment difficulties have left protracted and gaping holes in Australia's military defences.

Both Defence and the DMO have studiously avoided identifying these factors for what they are, preferring to interpret them as problems to be redressed through 'business' administrative process or contract changes. The First Principles Report identifies 14 current shortcomings, but it also fails to recognise any of these factors or their remedies, preferring to expand the role and authority of the Senior Executive and retain the existing administrative and contract processes rather than more appropriate and proven management systems.

These problems have remained unresolved to this day, and will remain so until the hard-core operational, engineering and project management skills and competencies needed for the task are in place.

ADDED COMMENT:

The continuous stream of reports and reviews into Defence over the past 44 or so years have led to the conclusions by Parliament (11) and the First Principles Review (12) that Defence is incapable of reforming itself, the continued growth of process has only added confusion and complexity, and that accountability is generally lacking throughout the organisation. Defence is thus highly vulnerable to corruption and misconduct, and a prime case study for those involved with restoring good governance throughout government departments.

ANNEX B

**OPEN LETTER TO PUBLIC SERVICE COMMISSIONER SEDGWICK RE
SYSTEMIC CORRUPTION IN THE APS
(Extract from: victimsofdsto.com/psc/)**

Executive Summary

You acknowledge serious misconduct within the APS, and that your employees do not trust the internal complaints units. Yet you expect your employees to continue to use them. It is obvious they will not, and so corruption that costs the government up to \$19B per annum will continue.

You had the opportunity to show leadership by acting on crimes and misconduct within the Defence internal complaints unit, but you declined to act and claimed you had no authority. Yet legal scholars who have read your letter claiming this strongly disagree.

In your speech you described how the APS *Code of Conduct* forbids your employees from supplying false and misleading information or acting on insider information. Yet confronted with evidence of these *Code of Conduct* breaches within the Department of Defence (which their internal complaints unit still refuses to investigate), you declined to take any action.

After waiting 17 years the new whistleblowing laws are so bad that whistleblowers cannot use them. You yourself note they largely replicate existing inquiry mechanisms which many of your employees already distrust and many refuse to use. Dr AJ Brown's claim the new laws represent "International Best Practice" is not credible.

Whistleblowers were frozen out of these laws' consultation process. Instead a government-funded '*Whistling While They Work*' project was commissioned to survey whistleblowing, but it was not credible research. Most ridiculously, it excluded whistleblowers who had been sacked or resigned (7). These would have been the worst cases of agency abuse of whistleblowers. The study was done in partnership with agencies who had a conflict of interest. This project cost taxpayer - \$1M, (8) but failed to provide legislators with the comprehensive view of whistleblowing they needed.

You justified your threat of 2 years imprisonment for whistleblowers (whom you called "leakers" by claiming government confidentiality is necessary to preserve the "*relationship of trust that must exist between ministers and APS.*" You did not tell your audience how *Section 70* has been used to conceal APS corruption and maladministration, which is most definitely not in the public interest.