

# Chapter 1

## Home Affairs portfolio

1.1 This chapter summarises some of the matters raised during the committee's consideration of the additional estimates for the Home Affairs portfolio for the 2017–18 financial year on 26 and 27 February 2018.

### Creation of the Home Affairs portfolio

1.2 As a result of machinery-of-government changes, the Immigration and Border Protection portfolio was subsumed into the newly created Home Affairs portfolio on 20 December 2017.<sup>1</sup> Consequently, the 2017–18 additional estimates hearings were the new portfolio's first appearance before the committee.

1.3 The Home Affairs portfolio consists of the Department of Home Affairs (DHA, the department), which incorporates the former Department of Immigration and Border Protection (DIBP) and the Australian Border Force (ABF). It also consists of a number of agencies and work areas that were previously within the Attorney-General's portfolio, including:

- The Australian Federal Police (AFP);
- The Australian Criminal Intelligence Commission (ACIC); and
- The Australian Transaction Reports and Analysis Centre.

1.4 Further changes are expected later in 2018 subject to the passage of legislation.

1.5 As a consequence of the agencies' movement between the portfolios, the committee considered the Home Affairs portfolio over the first day and several hours into the second day of hearings to accommodate the inclusion of agencies into the Home Affairs portfolio that previously belonged in the Attorney-General's portfolio.

### Opening statements

1.6 The Secretary of the Home Affairs portfolio, Mr Michael Pezzullo, tabled a written opening statement, to which he spoke at length.<sup>2</sup> A summary of the opening statement is provided below.

1.7 Mr Pezzullo spent the majority of his opening statement discussing the establishment and organisation of the new portfolio. He stated that DHA was comprised of the previous DIBP, in addition to elements from four other departments, namely: Prime Minister and Cabinet, Infrastructure and Regional Development, Social Services and the Attorney-General.<sup>3</sup>

1.8 The Secretary advised that the core functions of the department are:

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1 *Committee Hansard*, 26 February 2018, p. 4.

2 *Committee Hansard*, 26 February 2018, pp. 4–5.

3 *Committee Hansard*, 26 February 2018, p. 4.

...policy, strategy, planning and coordination in relation to the domestic security and law enforcement functions of the Commonwealth as well as managed migration and the movement of goods across our borders.<sup>4</sup>

1.9 The department would focus particularly on strategic policy development and coordination in support of its cabinet minister, the Minister for Home Affairs, who will 'for the first time in the modern history of the Commonwealth be charged with addressing these issues with full-time cabinet-level focus and accountability'.<sup>5</sup> The Secretary noted that 'in establishing the portfolio the government was especially attracted in this regard by the British precedent, which of course has seen a home office and home secretary in place since the late 18<sup>th</sup> century'.<sup>6</sup>

1.10 The department will be responsible for the delivery of a number of key strategic and policy outcomes, including:

- Immigration and citizenship;
- Multiculturalism and social cohesion;
- Law enforcement, criminal justice, countering transnational and serious organised crime, and addressing violent extremism;
- Transport security and civil maritime security; and
- Emergency management, including crisis management, disaster recovery and disaster resilience.<sup>7</sup>

1.11 The Secretary noted commentary regarding the establishment of the portfolio:

Some commentary on the establishment of the portfolio continues to mischaracterise the new arrangements as being either a layer of overly bureaucratic oversight of otherwise well-functioning operational arrangements or, worse, a sinister concentration of executive power that will not be able to be supervised and checked. Both of these criticisms are completely wrong. As I said to this committee when I last appeared, as secretary of DIBP, the Department of Home Affairs will not engage in the oversight of statutorily independent agencies, which is properly and necessarily vested in parliamentary, judicial and/or statutory processes. Nothing in the establishment of the department will change or affect the accountability and oversight arrangements that this parliament puts in place through the passage of relevant laws.<sup>8</sup>

1.12 The Secretary also stated that DHA will build a strong relationship with the Attorney-General's Department (AGD), noting that the departments will share some

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4 *Committee Hansard*, 26 February 2018, p. 4.

5 *Committee Hansard*, 26 February 2018, p. 4.

6 *Committee Hansard*, 26 February 2018, p. 4.

7 *Committee Hansard*, 26 February 2018, pp. 4–5.

8 *Committee Hansard*, 26 February 2018, p. 5.

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powers in relation to the Australian Security Intelligence Organisation (ASIO) and on matters regarding relevant legislation.<sup>9</sup>

1.13 He concluded by stating that the future goals of the portfolio included: preserving the traditional strengths of the portfolio agencies while building capabilities; using the newly integrated capabilities of multiple agencies and departments to improve capability, particularly in areas such as intelligence, biometrics capabilities, and computing systems; preserving the statutory independence of portfolio agencies and decision-makers while ensuring that operations are conducted under law; and ensuring that protection and security are used to promote 'economic prosperity, social cohesion and an open society'.<sup>10</sup>

1.14 In a departure from previous practice, the ABF provided a separate opening statement. The Secretary explained that the ABF, 'while established within the department for budgetary, employment and administrative purposes, is operationally independent'.<sup>11</sup>

1.15 The Acting Commissioner of the ABF, Mr Michael Outram APM, similarly described the challenges presented since the establishment of the Home Affairs portfolio. The Acting Commissioner advised the committee that the new portfolio arrangements built on gains made since 2015 when the ABF's customs and migration enforcement and facilitation functions were merged with DIBP.<sup>12</sup> The Acting Commissioner stated that the incorporation of numerous agencies within the portfolio created an opportunity for the ABF to foster strategic alignment and maximise capabilities with other law enforcement and intelligence agencies.<sup>13</sup>

1.16 Passenger and goods volumes were reportedly expected to increase approximately 22 per cent for passengers and 34 per cent in goods in the years leading up to 2020–21. Similar trends were expected to occur in relation to noncompliant and criminal behaviour at the border.<sup>14</sup>

1.17 The Acting Commissioner provided an update on the Australian Trusted Trader program (ATT), stating that since its inception in July 2016, it had accredited 138 businesses and service providers. The ATT's work was supported by mutual recognition arrangements with five key trading companies, which drew approximately \$500 million in revenue over ten years through reduced customs delays.<sup>15</sup>

1.18 The Acting Commissioner also provided examples of the work conducted by the ABF in relation to illicit drug seizures, including:

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9 *Committee Hansard*, 26 February 2018, p. 5.

10 *Committee Hansard*, 26 February 2018, p. 5.

11 *Committee Hansard*, 26 February 2018, p. 4.

12 *Committee Hansard*, 26 February 2018, p. 60.

13 *Committee Hansard*, 26 February 2018, p. 60.

14 *Committee Hansard*, 26 February 2018, p. 60.

15 *Committee Hansard*, 26 February 2018, pp. 60–1.

- A joint operation with Western Australian Joint Organised Crime Task Force in December 2017, resulting in the seizure of 1.2 tons of methamphetamine with an estimated street value of more than \$1 billion, reportedly the largest seizure of methamphetamine in Australian history;<sup>16</sup> and
- A nine-month operation in partnership with the AFP and law enforcement and border protection agencies internationally, resulting in the seizure of 1.28 tons of cocaine in Sydney with an estimated street value of approximately \$500 million, reportedly the second largest seizure of cocaine in Australian history. This followed other seizures of 700 kilograms and 300 kilograms of cocaine in joint operations with law enforcement agencies in November 2017;<sup>17</sup>

1.19 The committee proceeded to question the department on topics related to cross-portfolio, corporate and general matters related to the Home Affairs portfolio, and on Outcomes 1 and 2 of the department. Key topics raised during the hearings are provided in more detail below.

1.20 Officers from Outcome 3 were excused from the hearing after the afternoon tea break due to questions in cross-portfolio, corporate and general matters running overtime.

### **Departmental administration and other corporate matters**

1.21 The committee made a number of inquiries about administration and corporate matters throughout the hearing, in particular on issues relating to the Home Affairs portfolio structure and responsibilities, and staffing arrangements.

#### ***Structure and responsibilities of Home Affairs portfolio***

1.22 The committee discussed at length the new arrangements under the Home Affairs portfolio.

1.23 Mr Pezzullo advised the committee that ASIO and some sections currently within AGD were due to move into the Home Affairs portfolio later in the year.<sup>18</sup> The movement of ASIO and the remaining sections in AGD was stated to be subject to the passage of legislation currently before the Parliamentary Joint Committee on Intelligence and Security.<sup>19</sup>

1.24 The committee queried the division of powers between the Minister for Home Affairs and the Attorney-General, particularly in relation to ASIO warrants.<sup>20</sup> Mr Pezzullo explained that the Attorney-General would retain powers such as

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16 *Committee Hansard*, 26 February 2018, p. 61.

17 *Committee Hansard*, 26 February 2018, p. 61.

18 *Committee Hansard*, 26 February 2018, p. 8.

19 *Committee Hansard*, 26 February 2018, p. 12.

20 *Committee Hansard*, 26 February 2018, p. 10.

authorisations of ASIO warrants.<sup>21</sup> As was the case with the movement of ASIO and sections in AGD, these powers were subject to the passage of enabling legislation.

1.25 The department advised the committee that conditions and leave balances had not changed for incoming AGD staff. Minor issues had been identified in relation to unpaid allowances, but DHA stated that this would be rectified.<sup>22</sup>

1.26 The committee asked questions about the estimated cost of the machinery-of-government changes. The department explained that while approximately \$2 million had currently been allocated, a complete total estimate had not yet been provided.<sup>23</sup> Mr Pezzullo stated that it was expected to be less than \$10 million in total, noting that some costs were yet to be identified, such as adequate senior executive office space near Parliament House.<sup>24</sup>

1.27 The committee also inquired into the total budget of the Home Affairs portfolio. The department stated that the total budget allocated for the portfolio, including the department and agencies (excluding ASIO), was approximately \$7 billion for the 2017–18 period and \$23 billion over the forward estimates.<sup>25</sup>

### ***Investigation into the conduct of the ABF Commissioner***

1.28 The committee asked questions regarding investigations into the conduct of Mr Roman Quaedvlieg APM, ABF Commissioner. Mr Pezzullo informed the committee that Mr Quaedvlieg remained on leave while the investigation was ongoing.<sup>26</sup> He further advised the committee that Dr Martin Parkinson AC PSM, Secretary of the Department of Prime Minister and Cabinet, was managing the oversight of the investigation.<sup>27</sup>

1.29 Mr Pezzullo explained the process in which the matter was referred to the Australian Commission for Law Enforcement Integrity (ACLEI) and subsequently to Dr Parkinson:

A matter arose that was the subject of a complaint. It was referred to the Australian Commission for Law Enforcement Integrity. That's the evidence that I've given to the committee before. That's an independent statutory agency with the powers of a standing royal commission. It conducted an investigation. The element that I've added today with the agreement of Dr Parkinson is that, for reasons to do with the management of administrative inquiries, to ensure that natural justice is observed and that due process is observed, Dr Parkinson is leading that element of the administrative inquiry and follow-up action. You say that we're all in the dark; I'm saying to you

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21 *Committee Hansard*, 26 February 2018, p. 10.

22 *Committee Hansard*, 26 February 2018, pp. 14–15.

23 *Committee Hansard*, 26 February 2018, p. 16.

24 *Committee Hansard*, 26 February 2018, p. 17.

25 *Committee Hansard*, 26 February 2018, p. 17.

26 *Committee Hansard*, 26 February 2018, p. 18.

27 *Committee Hansard*, 26 February 2018, p. 19.

that a complaint was made, that it was referred to a standing royal commission that focuses on integrity and that the relevant ongoing follow-up action is with Dr Parkinson. He and I agreed last week that I would so advise this committee.<sup>28</sup>

1.30 The committee also discussed an ACLEI investigation into the use of the ABF Commissioner's Twitter account.<sup>29</sup>

### ***Recruitment of a Chief Medical Officer***

1.31 The committee inquired about the recruitment process of a new Chief Medical Officer (CMO). Mr Pezzullo explained that the role was currently unoccupied while a suitable candidate was identified through recruitment.<sup>30</sup> The First Assistant Secretary responsible for the health services administration function was reported to be overseeing the work area and managing functions usually carried out by the CMO.<sup>31</sup> However, the department noted that the First Assistant Secretary was not acting in the role of the CMO or providing clinical advice as per the CMO's duties, as she was not medically trained.<sup>32</sup>

### **Asylum seekers in onshore and offshore centres**

1.32 The committee asked a number of questions relating to asylum seekers in both onshore and offshore detention centres, including:

- the closure of the Manus Island Regional Processing Centre, including the supply of electricity and water;<sup>33</sup>
- refugees transferred as part of the agreement with the United States government;<sup>34</sup>
- the views of the United Nations High Commissioner for Refugees (UNHCR) regarding asylum seekers in offshore centres;<sup>35</sup>
- an offer by the New Zealand Government to accept a number of asylum seekers;<sup>36</sup> and
- medical facilities in offshore centres.<sup>37</sup>

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28 *Committee Hansard*, 26 February 2018, p. 19.

29 *Committee Hansard*, 26 February 2018, p. 51.

30 *Committee Hansard*, 26 February 2018, p. 35.

31 *Committee Hansard*, 26 February 2018, p. 36.

32 *Committee Hansard*, 26 February 2018, p. 44.

33 *Committee Hansard*, 26 February 2018, pp. 71–74.

34 *Committee Hansard*, 26 February 2018, pp. 83–84; 131–2.

35 *Committee Hansard*, 26 February 2018, pp. 106–7.

36 *Committee Hansard*, 26 February 2018, pp. 107; 117–9.

37 *Committee Hansard*, 26 February 2018, pp. 102–3.

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## National Facial Biometric Matching Capability

1.33 The committee inquired into the National Facial Biometric Matching Capability (NFBMC) first announced in 2015, particularly in relation to the National Drivers Licence Facial Recognition Solution (NDLFR). The department advised that the NDLFR was a component of the NFBMC, which allows the department to provide a hub to interface with each of the states' drivers licence biometric systems. The NDLFR would also interface with the visa and citizenships system within the department's system in addition to the Australian Passport Office within the Department of Foreign Affairs and Trade.<sup>38</sup>

1.34 The department provided an updated cost to the project, noting an additional \$2.5 million provided by the Digital Transformation Authority. This was provided in addition to the previous cost of \$18.5 million in the 2014–15 period.<sup>39</sup>

1.35 The committee asked whether the department had taken steps to avoid inherent discriminatory biases in the NFBMC, noting that studies overseas had shown that similar technology identified non-Caucasian people more frequently. Mr Pezzullo undertook to examine the evidence referred to by the committee.<sup>40</sup>

### Reforms to visa programs

1.36 The committee questioned the department on its consultation regarding the simplification of the visa program. The department explained that consultation was undertaken in the context of the 2017–18 budget in order to explore the potential to simplify the visa system, including the number and types of visas.<sup>41</sup> Public consultation was sought in August to September 2017, which culminated in the suggestion of moving from approximately 100 visas to 10.<sup>42</sup> DHA stated that advice was being prepared but had not yet been considered by the Government.<sup>43</sup>

1.37 The committee asked DHA whether the proposal contained advice relating to the privatisation of the visa application processing. The department explained that the Government had authorised the department to assess whether a more effective visa service delivery system was available.<sup>44</sup> Mr Pezzullo further stated:

The government has given us authority to test the market as to what systems, schemes and capabilities the market might be able to produce by way of partnership between the industry players in this field and government. To say right from the outset—I won't try to anticipate specific questions—as a general comment there is no privatisation of the visa

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38 *Committee Hansard*, 26 February 2018, p. 80.

39 *Committee Hansard*, 26 February 2018, p. 80.

40 *Committee Hansard*, 26 February 2018, p. 81.

41 *Committee Hansard*, 26 February 2018, p. 80.

42 *Committee Hansard*, 26 February 2018, p. 134.

43 *Committee Hansard*, 26 February 2018, p. 134.

44 *Committee Hansard*, 26 February 2018, p. 134.

processing system in so far as officers of the Crown will always be at the pinnacle, the apex, of the visa decision-making system, irrespective of how they're assisted. Whether they are assisted by private sector partners or by automated decision-making tools, officers of the Crown, Commonwealth officers, will always be at the pinnacle of that system.<sup>45</sup>

### **Australian Criminal Intelligence Commission and Australian Institute of Criminology**

1.38 Due to delays in the appearance time of DHA, the committee dismissed ACIC and the Australian Institute of Criminology prior to its appearance.

1.39 The committee thanks ACIC and AIC for their attendance.

### **Australian Federal Police**

1.40 The Australian Federal Police (AFP) appeared before the committee on 27 February 2018, the sole agency from the Home Affairs portfolio to appear on this day. The AFP Commissioner, Mr Andrew Colvin APM OAM, elected not to provide an opening statement.

1.41 Topics examined by the committee included:

- the ongoing implementation of recommendations from the Broderick review in relation to gender diversity and inclusion within the AFP;<sup>46</sup>
- post-traumatic stress disorder affecting AFP officers;<sup>47</sup>
- alleged instances of federal MPs' offices being targeted by neo-Nazi groups;<sup>48</sup>
- amalgamation of AFP into the Home Affairs portfolio, including consideration of budget matters, administrative arrangements and utilisation of resources;<sup>49</sup> and
- investigations into alleged leaks from ministerial offices in relation to the raid initiated by the Registered Organisations Commission on the Australian Workers Union on 24 October 2017.<sup>50</sup>

1.42 The committee also examined international cooperation, particularly in relation to Taskforce Blaze. The AFP explained that Taskforce Blaze worked with Chinese counterparts in relation to illegal drugs:

In respect of Taskforce Blaze, which is our partnership with the Chinese authorities, since its inception back in November 2015 it has resulted in approximately 15.8 tonnes of drugs being seized and precursor material as

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45 *Committee Hansard*, 26 February 2018, p. 134.

46 *Committee Hansard*, 27 February 2018, p. 5.

47 *Committee Hansard*, 27 February 2018, p. 6.

48 *Committee Hansard*, 27 February 2018, p. 15.

49 *Committee Hansard*, 27 February 2018, pp. 16–17.

50 *Committee Hansard*, 27 February 2018, pp. 17–20.



well—so that includes 8,379 kilograms in China itself and 7,452 in Australia as at the end of 2017.<sup>51</sup>

1.43 The AFP stated that it had similar arrangements with authorities in Thailand and Cambodia, which enabled intelligence sharing and cooperation between nations to promote a stronger region.<sup>52</sup>

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51 *Committee Hansard*, 27 February 2018, p. 8.

52 *Committee Hansard*, 27 February 2018, p. 8.

