

SENATE SELECT COMMITTEE ON THE
ESTABLISHMENT OF A NATIONAL INTEGRITY COMMISSION

Question No. ##

Senator Collins asked the following question at the hearing on 5 July 2017:

CHAIR: I want to raise something that was raised with us by the AEC—that is, some areas about the operations of the act that limit the capacity for certain matters to be pursued. The most recent example was electoral payments to parties and whether they have been paid out with respect to the constitution of the party, and the capacity to pursue a matter beyond that. That was the evidence we received there. Would you care to comment on that area?

Cmdr Crozier: Sorry, I am finding it difficult to—are we talking about the material that is coming into it via the political process?

CHAIR: We are talking about: (1) the political integrity issue; (2) the AFP's role in conducting investigations, as referred by the AEC; and (3) the AEC's suggestion that there were limitations in their capacity to pursue certain matters if they were solely reliant essentially on the constitution of a political organisation.

Cmdr Crozier: Okay. I might open it up with a statement first, and then provide it to Paul, because it is his area of expertise. We work primarily within criminal legislation. So where there are matters that have been referred to us that indicate some sort of alleged criminal activity, that is the area where we will start to direct our investigations and we use those tools and the capacities that are available in that space to deal with those. Again, we try to open up the allegation to know more about it, to be able to work out whether there is criminal activity or what else it might be—it might be something that is more civil based.

Cmdr Hopkins: Senator, any of those investigations of AEC are particularly complex. But, again, in relation to the nature of voting and how we have chosen as a country—

CHAIR: Sorry, this is not a voting issue; this is the disbursement of public funding.

Cmdr Hopkins: Okay, well I am not aware of any particular investigations in relation to that.

CHAIR: Can I ask that you have a look at the evidence we received from the AEC when they appeared before us, and to answer on notice whether you do believe that there are gaps that need to be addressed in that particular space?

Sorry to take you out of that criminal area, but part of our purview is the broader political integrity space, and the AFP has that role with the AEC in that area.

The answer to the Honourable Senator's question is as follows:

- The Australian Federal Police (AFP) provides investigative services to the Australian Electoral Commission (AEC) in accordance with a memorandum of understanding on investigation of Commonwealth offences.
- The AFP does not have a view on whether criminal legislation is required that specifies with certainty how political parties can and cannot spend public funding received as part of an election.
- Where a political party has received public funding as a result of an election and where the party spends the public funding in contravention of its party constitution and where it may constitute a criminal offence, the political party or others may refer to the AFP the matter for investigation. The AFP may evaluate the referral and determine if there has been any breach of Commonwealth offences.
- The AFP does not require additional powers when investigating matters of this nature.

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Cmdr Crozier: I can respond in relation to a couple of questions on notice that we took, or I can do that at the end of the process, if you wish.

CHAIR: I am happy for you to do it now.

Cmdr Crozier: There are two. The first one is in relation to the One Nation matter that was addressed. In relation to the senator's questions regarding the status of the AFP's evaluation in the referral of the One Nation matter, I can advise the matter remains under evaluation and it would not be appropriate to provide any further information at this time.

With regard to the budget that I hold, I do just clarify some of those comments that were made. I have a specific budget within my area, and that is where things got a bit confused. But that is just specifically to run some business. I do not hold a budget in relation to the staffing outside of Canberra, in terms of staffing. Also, I do not hold a budget in relation to some technical aspects of the AFP. So I reiterate what I said: it is a very fluid issue. So, in a fixed number, I do not actually have that and I would have to provide it at a later stage, if that were still sought.

CHAIR: No. I understand that, Commander. Perhaps it would be easier for you to respond to the criticism that the Fraud and Anti-Corruption Centre is focused too strongly on foreign bribery matters. Committee members have been attempting to gauge what level of overall resourcing goes to other corruption integrity type matters as opposed to foreign bribery. To the extent that you are able to capture that, even if it is in a proportional sense, it would assist the committee.

Cmdr Crozier: Okay. I will come back with a response in relation to that—on notice.

The answer to the Honourable Senator's question is as follows:

The Australian Federal Police (AFP) acknowledges that foreign bribery investigations have been a particular area of focus for the AFP in recent years; however the foreign bribery crime type is only one crime type within the remit of the Fraud & Anti-Corruption (FAC) Centre.

The AFP's increased focus on foreign bribery matters has been in response to specific issues identified by the Organisation for Economic Cooperation and Development (OECD), however this has not resulted in foreign bribery matters being progressed at the detriment of other crime types, including allegations of corruption relevant to Commonwealth officials.

Under the AFP's Case Categorisation and Prioritisation Model (CCPM)¹, corruption matters involving Commonwealth Officials are categorised at the same level or higher than foreign bribery matters.

The AFP uses the CCPM to determine which matters to prioritise by considering the major elements of an operations, including:

- the incident type and the impact of the matter on Australian society;
- the importance of the matter to both the client and the AFP in terms of the roles assigned to them by Government and Ministerial direction; and
- the resources required by the AFP to undertake the matter.

¹ Further information about the CCPM is available on the AFP website at <https://www.afp.gov.au/what-we-do/operational-priorities/case-categorisation-and-prioritisation-model>.

In determining whether an investigation is accepted or rejected, no single element of the CCPM is considered in isolation. Instead, the AFP considers a combination of the model's Impact and Priority ratings. Further, each matter is assessed on an individual basis. As a general rule, one referral is not assessed in the context of another.

The FAC Centre brings together the capabilities of 12 Australian Government agencies to assess, prioritise and respond to serious and complex fraud and corruption matters, including corruption by Australian Government employees, foreign bribery and complex identity crime. The FAC Centre places equal priority across these crime types.

The FAC Centre model allows for consultation and negotiation regarding resources to be undertaken in a whole-of-government context and means the AFP can leverage of the resources and capabilities of other agencies.

Following the evaluation of the referral by the FAC Centre, matters which are accepted for investigation by the AFP are then assigned to an AFP investigation team, usually within the Criminal Assets, Fraud and Anti-Corruption (CAFAC) Business Area. The CAFAC Business Area is the same area of the AFP that hosts the FAC Centre.

The AFP and the FAC Centre employs a resource management strategy that ensures the flexible application of resources to activities that are likely to have the greatest impact on criminal networks and security threats, both within Australia and overseas.

In practice this means the AFP is able to redirect resources to high priority matters on an as-needed basis, such as by providing a surge capacity for the FAC Centre to assess a sensitive or time critical referral of corruption or when investigative actions in the CAFAC Business Area move into significant overt phases.