



# Parliamentary Joint Committee on Law Enforcement

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Examination of the Australian Federal Police  
Annual Report 2016-17

April 2019

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# The Committee

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# Chapter 1

## Introduction

### Duty to examine annual reports

1.1 The Parliamentary Joint Committee on Law Enforcement (the committee) has a statutory duty to examine the annual report of the Australian Federal Police (AFP) under the *Parliamentary Joint Committee on Law Enforcement Act 2010* (the Act).

1.2 Subsection 7(1) of the Act includes a specific requirement for the committee to report to Parliament on matters appearing in and arising out of the annual reports of the AFP:

...(f) to examine each annual report on the AFP and report to the Parliament on any matter appearing in, or arising out of, any such annual report...<sup>1</sup>

1.3 The duty of the committee to examine annual reports of the AFP under the Act stems from an expectation that agencies which have been granted strong coercive powers, like the AFP, should be subject to additional oversight. At the time of the introduction of the Parliamentary Joint Committee on Law Enforcement Bill 2010, the then Attorney-General noted that the bill would exemplify the 'commitment to improving oversight and accountability in relation to the exercise of the functions of Commonwealth agencies'.<sup>2</sup>

1.4 The AFP's Annual Report 2016–17 was presented to the Minister for Justice, the Hon Michael Keenan MP, on 15 September 2017. It was tabled in the House of Representatives on 26 October 2017<sup>3</sup> and tabled in the Senate on 13 November 2017.<sup>4</sup>

### Examination of the report

1.5 In examining the annual report, the committee held a public hearing at Parliament House, Canberra on 22 February 2019. The witnesses who appeared before the committee are listed in Appendix 1.

### Structure of the committee report

1.6 In addition to this chapter, the committee's report comprises the following chapters:

- chapter 2 examines the AFP's compliance with reporting requirements, its performance against key performance indicators (KPIs), and issues discussed at the public hearing on 22 February 2019; and

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1 *Parliamentary Joint Committee on Law Enforcement Act 2010*, s. 7(1)(f).

2 *House of Representatives Hansard*, 18 March 2010, p. 2925.

3 *Votes and Proceedings*, No. 87 — 26 October 2017, p. 1219.

4 *Journals of the Senate*, No. 68 — 13 November 2017, p. 2166.

- chapter 3 considers the AFP's complaint handling performance and the Commonwealth Ombudsman's statutory oversight of aspects of the AFP's work.

### **Acknowledgements**

1.7 The committee acknowledges the cooperation and assistance of the AFP Commissioner and other AFP officers who assisted the committee in its examination.

### **Note on references**

1.8 References to the *Committee Hansard* may be references to the proof transcript. Page numbers may differ between proof and official transcripts.

## Chapter 2

### Australian Federal Police Annual Report 2016–17

2.1 This chapter outlines key matters arising from the Australian Federal Police Annual Report 2016–17, including compliance with legislative requirements, performance against key performance indicators (KPIs) and issues discussed at the public hearing on 22 February 2019.

#### About the AFP

2.2 The AFP is the Australian government's primary policing agency. Section 8 of the *Australian Federal Police Act 1979* (the AFP Act) outlines the functions of the AFP, including:

- the provision of police services in relation to laws of the Commonwealth, the property of the Commonwealth (including Commonwealth places), and the safeguarding of Commonwealth interests;
- the provision of policing in the Australian Capital Territory (ACT) and the Jervis Bay Territory;
- protective and custodial functions as directed by the Minister;
- the provision of police services and police support services to assist or co-operate with an Australian or foreign law enforcement agency, intelligence or security agency, or government regulatory agency; and
- the provision of police services and police support services in relation to establishing, developing and monitoring peace, stability and security in foreign countries.<sup>1</sup>

2.3 The AFP also performs functions under the *Witness Protection Act 1994* and the *Proceeds of Crime Act 2002*.

#### Annual report compliance

2.4 The AFP is required to prepare an annual report under section 67 of the AFP Act:

The annual report prepared by the Commissioner and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include particulars of:

- (a) the AFP conduct issues that were dealt with under Part V [Professional standards and AFP conduct and practices issues] of this Act during that period; and
- (b) the action that was taken, during that period, in relation to AFP conduct issues that were dealt with under Division 3 of Part V [dealing with AFP conduct or practices issues] of this Act.<sup>2</sup>

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1 *Australian Federal Police Act 1979*, s. 8.

2.5 As a Commonwealth entity, the AFP must comply with the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which requires Commonwealth entities to provide an annual report to the entity's responsible minister for presentation to the Parliament on the entity's activity during the reporting period,<sup>3</sup> and with the PGPA Rule 2014.<sup>4</sup>

2.6 Under the PGPA Act, a Commonwealth entity is also required to prepare annual performance statements and include a copy of these statements in its annual report that is tabled in the Parliament.<sup>5</sup> The AFP's annual performance overview is included at chapter 3 of the annual report.

2.7 Based on the committee's assessment of the AFP's Annual Report 2016–17, these requirements have been fulfilled.

2.8 In addition to the agency's 2016–17 report on its performance, the report also includes the following annual reports on:

- authorities for assumed identities pursuant to section 15LD(1) of the *Crimes Act 1914*;
- the National Witness Protection Program pursuant to section 30(2) of the *Witness Protection Act 1994*; and
- unexplained wealth investigations and proceedings pursuant to section 179U of the *Proceeds of Crime Act 2002*.

### **Key performance features in 2016–17**

2.9 In his introduction to the annual report, the AFP Commissioner, Mr Andrew Colvin APM OAM, highlighted that the AFP now 'must deal not only with many traditional crime types that have evolved but also with an increasingly broad range of new and complex crime types',<sup>6</sup> requiring it to evolve and adapt to a changing operating environment.

2.10 The Commissioner noted that the AFP had delivered a range of services and achieved a number of significant outcomes over the reporting period, within one per cent of its budget, and with a net decrease in staffing levels over the period. Highlights included:

- preventing significant harm to the community by disrupting terrorist activity, dismantling serious and organised crime groups, making substantial drug seizures and tackling online child exploitation;
- working to minimise the direct financial incentives for crime by recovering criminal proceeds and detecting and disrupting fraud and corruption;

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2 *Australian Federal Police Act 1979*, s 67.

3 *Public Governance, Performance and Accountability Act 2013*, s 46.

4 Public Governance, Performance and Accountability Rule 2014, div 3A.

5 *Public Governance, Performance and Accountability Act 2013*, s 39.

6 Australian Federal Police (AFP), *Annual Report 2016–17*, p. 1.

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- actively contributing to the safety and security of our people, the community and key stakeholders by continued hardening of key infrastructure and by providing protection and policing services in key locations;
  - supporting the development of partners' capabilities and their delivery of policing outcomes through training, capacity-building and direct support; and
  - leading Australia's international policing engagement, facilitating liaison with and between partners, delivering operational outcomes and sharing learning to improve outcomes.<sup>7</sup>

2.11 The annual report notes the following results arising from its analysis of its performance over 2016–17:

- high levels of successful stakeholder engagement with both industry and with international partners, and increasing confidence and awareness of the AFP by the public;
- increased run times for cases to prosecution;
- decreasing return on investment for finalised investigations;
- static levels of asset confiscation (influenced by complex litigation cases and static resourcing) but continued demand both domestically and internationally;
- record levels of drugs seized and also record individual drug seizures; and
- steady increase in counter-terrorism activity, which potentially impacts resourcing of other crime categories.<sup>8</sup>

### ***Organisational structure and cultural change***

2.12 On 22 August 2016, Mr Colvin released the *Cultural Change: Gender Diversity and Inclusion in the Australian Federal Police* report (Culture Change report). The release of the report followed a review by the former Sex Discrimination Commissioner, Elizabeth Broderick AO, and was based on qualitative and quantitative data, namely:

Data from a Survey instrument, focus groups, one on one interviews with individual AFP staff, review of academic literature and the AFP's own policies and statistics, as well as advice from senior leaders.<sup>9</sup>

2.13 In the foreword of the report, Ms Broderick stated she was 'not surprised by what has been found' with respect to 'the elements of culture that require

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7 AFP, *Annual Report 2016–17*, p. 1.

8 AFP, *Annual Report 2016–17*, p. 37.

9 Elizabeth Broderick AO, *Cultural Change: Gender Diversity and Inclusion in the Australian Federal Police*, 2016, p. 16. For details of the methodology, see pp. 16–17.

strengthening', but noted that 'urgent action' was required in respect of sexual harassment and bullying.<sup>10</sup>

2.14 The following extract from the report illustrates the prevalence of harassment and bullying in the AFP:

The Survey results show that 46% of women and 20% of men report that they have been sexually harassed in the workplace in the last five years. These percentages are almost double the national average. In relation to bullying, 62% of men and 66% of women reported that they have been bullied in the workplace in the last 5 years.<sup>11</sup>

2.15 The Cultural Change report contained twenty-four recommendations,<sup>12</sup> eight of which had been finalised at 25 August 2017.<sup>13</sup>

2.16 In the previous reporting period, 2015–16, a new organisational structure came into effect in the AFP, to 'focus on aligning capabilities with operational needs, both now and into the future'.<sup>14</sup> In the Commissioner's review of 2016–17, Mr Colvin noted that the:

*Cultural Change: Gender Diversity and Inclusion in the Australian Federal Police* report, delivered by Elizabeth Broderick in August 2016, highlighted that the AFP must change to provide a workplace reflective of the norms and expectations of the community and our people. The commitment to this reform is evident across the agency.<sup>15</sup>

2.17 Further changes to the organisational structure were made during 2016–17:

- a new function was created titled Reform, Culture and Standards, incorporating the Professional Standards branch, in response to the Cultural Change report; and
- a new Enterprise Transformation Office was established within the Chief of Staff function to implement the findings of the independent Functional and Efficiency Review of the AFP, conducted from September to November 2016.<sup>16</sup>

2.18 The Reform, Culture and Standards business area was established with three teams: Safe Place, Reform Initiatives and Workforce Engagement. The annual report

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10 Elizabeth Broderick AO, *Cultural Change: Gender Diversity and Inclusion in the Australian Federal Police*, 2016, p. 1.

11 Elizabeth Broderick AO, *Cultural Change: Gender Diversity and Inclusion in the Australian Federal Police*, 2016, p. 9.

12 Elizabeth Broderick AO, *Cultural Change: Gender Diversity and Inclusion in the Australian Federal Police*, 2016, pp. 11–15.

13 Graham McBean, AFP, *The AFP's focus on culture celebrates its first birthday and a growing list of achievements*, 25 August 2017, <http://www.afp.gov.au/news-media/platypus/one-year> (accessed 15 March 2018).

14 AFP, *Annual Report 2015–16*, p. 10.

15 AFP, *Annual Report 2016–17*, p. 2.

16 AFP, *Annual Report 2016–17*, p. 10.

states that these areas provide a response to sexual harassment and bullying in the workplace; coordination of implementation of the recommendations of the Cultural Change report; and innovatively engage and influence the workforce.<sup>17</sup>

### *Operations*

2.19 The AFP's Operations function provides a law enforcement investigative response to illicit drugs, people-smuggling, victim-based crime, cybercrime, financial crime and corruption, as well as child protection assessments, international operations and counter-terrorism. The annual report identifies a number of key operational outcomes in 2016-17, including the:

- progression of 286 cases to court, with a conviction rate of 95 per cent; and
- seizure of over 9.9 tonnes of illicit drugs, which was a 41 per cent increase in the amount (7 tonnes) seized by Crime Operations in 2015-16.<sup>18</sup>

2.20 The annual report notes that on 1 July 2016 the AFP received an additional \$20.4 million over four years in response to recommendations arising from the Australian Government's Cyber Security Strategy. This initiative, the AFP states, assisted in the appointment of dedicated cybercrime liaison officers in London and Washington DC.<sup>19</sup>

2.21 More information about these liaison officers was provided to the committee by the AFP at the hearing on 22 February 2019:

The liaison officers in Washington and London have probably gone past liaison, if you like. They're actually embedded with our counterparts overseas. That has been invaluable. Not only do we get notification of real-time threats and intelligence exchange in a real-time process but...it's upskilling our people. The people we currently have in those two locations are world's best in relation to investigations of cybercrime, and they'll come back when their term is up and be able to pass those skills on to our people here.<sup>20</sup>

2.22 The 2016-17 reporting period saw the end of the Australian police participation in the United Nations Peacekeeping Force in Cyprus after more than 53 years service.<sup>21</sup> Australian police peacekeepers have not been active in any other country, aside from one officer in Liberia whose three year term has recently been completed. This decision, the Commissioner told the hearing, is a "foreign policy judgement" made by the Minister for Foreign Affairs.<sup>22</sup> The AFP stated that there

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17 AFP, *Annual Report 2016-17*, p. 43.

18 AFP, *Annual Report 2016-17*, p. 52.

19 AFP, *Annual Report 2016-17*, p. 52.

20 Mr Neil Gaughan APM, Deputy Commissioner Operations, AFP, *Committee Hansard*, 22 February 2019, p. 6.

21 AFP, *Annual Report 2016-17*, p. 67.

22 Mr Andrew Colvin APM, OAM, Commissioner, AFP, *Committee Hansard*, 22 February 2019, p. 7.

were still AFP officers active in the Solomon Islands and Papua New Guinea but these operations were based on bilateral arrangements.<sup>23</sup>

### **Capability**

2.23 The Capability group comprises the AFP's technical and specialist functions, including professional development; ICT capabilities to support operational and other AFP activities; forensics and intelligence; and covert and specialist response groups.

2.24 A key development in 2016–17 was the publication of *Policing for a Safer Australia: Strategy for Future Capacity*, which was published in March 2017.<sup>24</sup> In the Commissioner's foreword to the paper, he noted that it, and the *Future Directions Strategic Context Paper* that preceded it, 'are different in that it is the first time the AFP has taken such a comprehensive look at itself, its environment and its future'.<sup>25</sup>

2.25 The paper:

addresses the world in which the AFP will have to operate – a world affected by globalisation, changing technologies, population growth, migration, international conflict, failures of governance, violent extremism, climate change and a growing demand for resources.<sup>26</sup>

2.26 The paper identifies two complex challenges that the AFP will face in future: globalisation and disruption. In order to realise its strategy for future capability, the AFP stated that it 'will develop and implement a capability framework comprising four strategic capabilities: policing, law enforcement, people and asset protection (incorporating critical infrastructure), and international engagement'.<sup>27</sup>

2.27 In order to develop the four capabilities of policing, law enforcement, people and asset protection and international engagement for the future, the AFP will pursue a raft of activities, with particular focus on:

- intelligence-informed targeting and processes;
- transnational serious and organised crime;
- national and international leadership and coordination;
- international engagement;
- technical and niche proficiencies;
- the AFP as a knowledge leader;

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23 Ms Leanne Close, Deputy Commissioner National Security, AFP, *Committee Hansard*, 22 February 2019, p. 7.

24 See also: <https://www.afp.gov.au/futures/complex>.

25 AFP, *Policing for a Safer Australia: Strategy for Future Capacity*, March 2017, p. 3.

26 AFP, *Policing for a Safer Australia: Strategy for Future Capacity*, March 2017, p. 13.

27 AFP, *Policing for a Safer Australia: Strategy for Future Capacity*, March 2017, p. 29.

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- the AFP's future workforce; and
  - measuring success.<sup>28</sup>

### **Capacity**

2.28 The role of the Capacity group is to ensure that 'the AFP has the financial and human resources to respond to current and emerging requirements and is particularly focused on creating an agile, diverse and inclusive workforce'.

2.29 A significant initiative during the 2016–17 period was the development of a Mental Health Framework and Action Plan, which the AFP developed in partnership with Phoenix Australia, the National Centre for Excellence in Post-Traumatic Mental Health, to develop the framework and action plan. The annual report notes that commencement of implementation of the plan would be in the second half of 2017.<sup>29</sup>

### **Contribution to law reform and parliamentary inquiries**

2.30 The AFP has continued its engagement with various parliamentary committees. The AFP lists the following contributions in its annual report:

- Standing Committee on Rural and Regional Affairs and Transport inquiry into remotely piloted aircraft systems, unmanned aerial systems and associated systems;
- Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity inquiry into the integrity of Australia's border arrangements;
- Standing Committee on Foreign Affairs, Defence and Trade inquiry into suicide by veterans and ex-service personnel;
- Parliamentary Joint Committee on Law Enforcement inquiry into human-trafficking;
- Joint Standing Committee on Electoral Matters inquiry into possible multiple voting in the seat of Herbert;
- Parliamentary Joint Committee on Law Enforcement examination of the AFP's 2015–16 annual report;
- Parliamentary Joint Committee on Law Enforcement inquiry into crystal methamphetamine;
- Senate Economics References Committee inquiry into the inconsistencies and inadequacies of current criminal, civil and administrative penalties for corporate and financial misconduct or white-collar crime;
- Senate Legal and Constitutional Affairs Legislation Committee inquiry into the provisions of the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2017;

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28 AFP, *Policing for a Safer Australia: Strategy for Future Capacity*, March 2017, pp. 31–35.

29 AFP, *Annual Report 2016–17*, p. 99.

- Senate Legal and Constitutional Affairs Legislation Committee inquiry into the provisions of the Criminal Code Amendment (Protecting Minors Online) Bill 2017;
- Senate Legal and Constitutional Affairs Legislation Committee inquiry into the provisions of the Crimes Legislation Amendment (International Crime Cooperation and Other Measures Bill) 2016;
- Senate Standing Committee of Privileges inquiry into parliamentary privilege and the use of intrusive powers;
- Joint Standing Committee on Electoral Matters inquiry into and report on all aspects of the conduct of the 2016 Federal Election and matters related thereto;
- Parliamentary Joint Committee on Corporations and Financial Services inquiry into whistleblower protections in the corporate, public and not-for-profit sectors;
- Parliamentary Joint Committee on Intelligence and Security inquiry into and report on the Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016; and
- Parliamentary Joint Committee on Intelligence and Security review of the performance of the Australian Federal Police of its functions under Part 5.3 of the Criminal Code.<sup>30</sup>

### **Reporting against KPIs**

2.31 The AFP has two outcomes: Outcome 1 comprising Program 1.1 (Federal Policing and National Security) and Program 1.2 (International Police Assistance); and Outcome 2, comprising Program 2.1 (ACT Community Policing).<sup>31</sup> There are nine key performance indicators (KPIs) defined for Program 1.1 and two KPIs defined for Program 1.2. Each KPI is addressed in detail in chapter 3 of the annual report.<sup>32</sup>

2.32 This section considers the AFP's performance outcomes against the AFP's Key Performance Indicators (KPIs) for Programs 1.1 and 1.2. It examines the measurement tools used to inform the KPIs and to track performance over time.

2.33 The AFP's performance under Outcome 2 (ACT Policing) is published in a separate annual report and is not considered here.

2.34 The AFP examined its performance against each KPI by analysing the result and discussing relevant case studies.

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30 AFP, *Annual Report 2016–17*, p. 112.

31 AFP, *Annual Report 2016–17*, p. 8.

32 AFP, *Annual Report 2016–17*, pp. 15–40.

2.35 The AFP met nine of 11 KPIs for the 2016–17 financial year, the same result as 2015–16. The AFP noted that KPIs 5 and 8 were not met.<sup>33</sup> This was consistent with the results for KPIs 5 and 8 in the 2015–16 reporting period.<sup>34</sup>

2.36 The annual report notes that the AFP achieved a conviction rate of 95% for cases before court, exceeding the 90% threshold.<sup>35</sup> At the public hearing, the committee questioned whether this high threshold even discouraged the AFP from prosecuting cases on occasion. Mr Colvin stated that the Commonwealth DPP 'has a big role' in deciding which prosecutions proceed. In relation to the AFP's role in laying the charges and preparing briefs of evidence, he stated '[w]e are not conservative in the way that we go about deciding who and went (sic) to charge somebody'.<sup>36</sup>

2.37 Although the AFP met three of the four response times for KPI 5 (priority levels 2, 3 and 4), it did not meet the 5-minute priority 1 target: the result was two per cent below target. However, it was noted that this result was an improvement on the previous reporting period and was attributable 'to amending dispatch protocols and aligning response priorities to the AFP's regulated Counter Terrorist First Response function'.<sup>37</sup>

2.38 The annual report notes that factors that contributed to the failure to meet the priority 1 criterion for KPI 5 'include the continued growth in airport passenger movements, the commissioning of additional terminals, the wide physical spread of terminals within airports and the competing priorities of uniform policing staff'.<sup>38</sup> This explanation was also cited in the previous annual reports.<sup>39</sup>

2.39 In respect of KPI 8, the annual report states:

Substantial restraint figures for the 2014–15 financial year have translated into an increased commitment of resources to complex proceeds of crime matters in lengthy court processes. This continues to impact on [the capacity of the Criminal Assets Confiscation Taskforce] to pursue new restraint action.<sup>40</sup>

2.40 This explanation was also cited in the previous annual report in respect of the failure to meet this KPI.<sup>41</sup>

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33 AFP, *Annual Report 2016–17*, pp. 26, 30.

34 AFP, *Annual Report 2015–16*, p. 36.

35 AFP, *Annual Report 2015–16*, p. 20.

36 Mr Andrew Colvin APM, OAM, Commissioner, AFP, *Committee Hansard*, 22 February 2019, p. 3.

37 AFP, *Annual Report 2016–17*, p. 26.

38 AFP, *Annual Report 2016–17*, p. 26.

39 AFP, *Annual Report 2015–16*, p. 28. This KPI was met in the 2014–15 reporting period: see AFP, *Annual Report 2014–15*, p. 19.

40 AFP, *Annual Report 2016–17*, p. 30.

41 AFP, *Annual Report 2015–16*, p. 32. This KPI was met in the 2014–15 reporting period: see AFP, *Annual Report 2014–15*, p. 20.

2.41 The AFP informed the committee on notice that the parameters for both KPIs 5 and 8 have since been reviewed and amended to emulate more realistic expectations and accurate reflections of the AFP's work.<sup>42</sup>

2.42 The AFP met its nine other targets. However, some KPIs measured a decline compared with the previous reporting period:

- **KPI 1:** the results of the overall satisfaction level for all program areas across the AFP (from the AFP Business Satisfaction Survey) indicated a one percentage point decline from the previous reporting period to 89 per cent. Further, the Federal Policing and National Security program achieved a satisfaction result of 90 per cent, two percentage points lower than 2015–16.<sup>43</sup>

No analysis was provided as to the reason for the decreases in results when compared to the previous reporting period.

- **KPI 6:** in August 2016, at an event in a Melbourne hotel, the Australian Prime Minister was confronted on stage by a protester for a short period of time while giving a speech.<sup>44</sup> In the previous reporting period there were no avoidable incidents,<sup>45</sup> but one was recorded in 2014–15.<sup>46</sup>
- **KPI 10:** there was a notable decline in the satisfaction result for the International Police Assistance program compared with the previous reporting period (in 2016–17, the result was 88 per cent, down from 95 per cent). Respondents gave feedback:

...that improvement in interactions could be made with more frequent contact and that better outcomes might be achieved through a number of different mechanisms, including improving timeliness, follow-up and resourcing.<sup>47</sup>

2.43 In its analysis of the results against its KPIs, which was more extensive than its analysis in the previous reporting period,<sup>48</sup> the AFP noted that it 'maintained its performance position' in its dynamic operational environment 'whilst continuing to focus on delivering efficiencies and operating within 1 per cent of budget and with a net decrease of 1.8 per cent in staff numbers during 2016–17'.<sup>49</sup>

2.44 The AFP acknowledged both the positive and negative interpretations of its performance results for the reporting period, and consequently:

broadened its performance framework for 2017–18, introducing measurement of disruption, prevention and broader return on investment. Performance will also be assessed in terms of the key domains of AFP activity (federal,

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42 AFP, answers to written questions on notice, 4 March 2019 (received 18 March 2019), pp. 4–5.

43 AFP, *Annual Report 2016–17*, p. 18.

44 AFP, *Annual Report 2016–17*, p. 27.

45 AFP, *Annual Report 2015–16*, p. 29.

46 AFP, *Annual Report 2014–15*, p. 20.

47 AFP, *Annual Report 2016–17*, p. 33.

48 AFP, *Annual Report 2015–16*, p. 37.

49 AFP, *Annual Report 2016–17*, pp. 36–37.

international, protection and community). This will assist in providing a more comprehensive picture of performance and assessment of value in policing for a safer Australia, both domestically and abroad.<sup>50</sup>

### Staffing and financial management

2.45 On 30 June 2017, the AFP had 6540 staff, including 3383 sworn police, 2441 professional staff and 716 protective service officers.<sup>51</sup> This is 117 fewer than at the same time in 2016. At the public hearing, the Commissioner attributed this reduction to the AFP's ability to recruit against attrition, and 'ons and offs according to measures or programs [the AFP] are running'.<sup>52</sup> The AFP continued to experience low attrition rates in 2016–17. Overall, the attrition rate at 30 June 2017 was 2.99 per cent, an increase of 0.38 percentage points from 2015–16.<sup>53</sup>

2.46 Of the 6500 members of staff at the AFP, the majority of them have had six or more years of service.<sup>54</sup> The Commissioner described this as a 'positive challenge':

...because I have a very experienced workforce. But an ageing workforce is a challenge for a range of reasons in terms of people's planned retirement and our ability to constantly refresh our workforce.<sup>55</sup>

2.47 Thirty six per cent of AFP staff were female, one percentage point higher than at 30 June 2016.<sup>56</sup> The Commissioner told the committee that part of the work undertaken by the AFP during the 2016–17 reporting period was to examine the type of workforce required in the future:

We have started to bring our average recruit age back down to probably around 25 [from 30]...We are looking for a greater diversity mix in our recruits—not just gender but also background, ethnicity, education...<sup>57</sup>

2.48 In 2016–17, the AFP recorded a surplus for the year of \$4 million. The report notes that:

The largely break-even result was achieved through the prioritisation of constrained resources to meet a high level of demand in an increasingly complex and elevated terrorist and criminal threat environment.<sup>58</sup>

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50 AFP, *Annual Report 2016–17*, p. 37.

51 AFP, *Annual Report 2016–17*, p. 171.

52 Mr Andrew Colvin APM, OAM, Commissioner, AFP, *Committee Hansard*, 22 February 2019, p. 2.

53 AFP, *Annual Report 2015–16*, p. 88; AFP, *Annual Report 2016–17*, p. 171.

54 AFP, *Annual Report 2016–17*, p. 168.

55 Mr Andrew Colvin APM, OAM, Commissioner, AFP, *Committee Hansard*, 22 February 2019, p. 3.

56 AFP, *Annual Report 2015–16*, p. 88; AFP, *Annual Report 2016–17*, p. 171.

57 Mr Andrew Colvin APM, OAM, Commissioner, AFP, *Committee Hansard*, 22 February 2019, p. 3.

58 AFP, *Annual Report 2016–17*, p. 39.

2.49 The departmental operating income for 2016–17 was \$1304 million comprising:

- \$1021 million in government appropriation (\$1006 million in 2015–16);
- \$163 million from the ACT government for policing services (\$161 million in 2015–16); and
- \$120 million in other revenue (\$131 million in 2015–16).<sup>59</sup>

2.50 The AFP received an additional \$30 million (\$30 million in 2015–16) in government appropriation for departmental capital expenditure and \$90 million (\$42 million in 2015–16) in equity injections. The AFP also administered \$12 million in expenses on behalf of the Commonwealth government during 2015–16 (a reduction of \$2 million compared with 2015–16).<sup>60</sup>

*Committee view*

2.51 The committee commends the AFP for its ongoing work to develop capacity and capability within the organisation, and in particular, for the development of plans to address bullying and harassment, gender imbalance, and mental health and well-being in the AFP workforce.

2.52 The committee congratulates the AFP on its strong overall performance meeting its KPIs and thanks it for its constructive engagement with the committee.

2.53 The committee welcomes the inclusion of analysis of the reasons for varying performance against KPIs, which had been recommended by the committee in its report on the AFP *Annual Report 2015–16*.<sup>61</sup>

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59 AFP, *Annual Report 2016–17*, p. 39; AFP, *Annual Report 2015–16*, p. 72.

60 AFP, *Annual Report 2016–17*, p. 39; AFP, *Annual Report 2015–16*, p. 52.

61 Parliamentary Joint Committee on Law Enforcement, *Report on AFP Annual Report 2015–16*, p. 20.

## Chapter 3

### Complaints handling and Ombudsman's findings

3.1 This chapter examines the ongoing management of complaints by the Australian Federal Police (AFP), as well as an overview of the findings of the Commonwealth Ombudsman (the Ombudsman), which has a statutory oversight role of the AFP.

3.2 Examination of the Ombudsman's findings with respect to the AFP is limited to oversight of complaints management and controlled operations, including the use of surveillance devices.

#### Complaints management

3.3 During 2016–17, the AFP received 421 complaints, a 15 per cent decrease on the previous reporting period (494 complaints).<sup>1</sup> Figure 1 illustrates the trend in the overall number of complaints and alleged breaches from 2010–11 to 2016–17.

*Figure 1: Number of complaints and alleged breaches, 2010–11 to 2016–17<sup>2</sup>*



3.4 This figure classifies complaints according to the four categories of conduct for AFP appointees under Part V of the *Australian Federal Police Act 1979* (AFP Act), defined as follows:

1 Australian Federal Police (AFP), *Annual Report 2016–17*, p. 114.

2 AFP, *Annual Report 2016–17*, p. 115.

Conduct issues falling within Category 1 are the least serious and relate principally to customer service. Category 2 complaints relate to minor misconduct and inappropriate or unsatisfactory behaviour. Category 3 complaints relate to serious misconduct that does not give rise to a corruption issue. Category 4 complaints relate to corruption, and these are referred to ACLEI.<sup>3</sup>

3.5 The AFP's 2016–17 annual report identifies that while the number of overall complaints decreased, the number of serious complaints increased. Category 3 complaints increased by 45 per cent, while Category 4 complaints rose by 32 per cent.<sup>4</sup>

3.6 In its report, the AFP attributes the increase in the number of corruption complaints to a 2013 realignment of the definition of corruption to sit under the Law Enforcement Integrity Act 2006. The AFP also attributes the increase in serious misconduct complaints to a total of 54 complaints relating to credit card misuse.<sup>5</sup>

3.7 The AFP informed the committee that a number of steps have been taken to educate its employees about the new definition of corruption, including the publication of the *AFP Fraud Control and Anti-Corruption Plan* in 2016. This plan outlines a number of processes and procedures aimed at ensuring staff are able to recognise fraud and take appropriate action when required, including (but not limited to):

- recruitment and induction training of all new appointees;
- mandatory online Fraud and Anti-Corruption Control training to be undertaken by all appointees;
- raising managerial awareness of fraud risk at functional and operational levels; and
- reinforcement and behavioural modelling from senior management and executive levels.<sup>6</sup>

3.8 These processes are complimented by ongoing communication of integrity issues through email and postings on the AFP intranet, as well as through early intervention strategies when a complaint arises.<sup>7</sup>

3.9 On notice, the AFP advised the committee that it has since utilised the publication *Our Culture, Our Newsletter*, which is produced by the Workplace Development and Culture Portfolio, to remind AFP staff of their obligations relating to the use and acquittal of corporate credit cards.<sup>8</sup>

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3 AFP, *Annual Report 2016–17*, p. 114.

4 AFP, *Annual Report 2016–17*, p. 114.

5 AFP, *Annual Report 2016–17*, p. 116.

6 AFP, answers to written questions on notice, 4 March 2019 (received 18 March 2019), pp. 1–2.

7 AFP, answers to written questions on notice, 4 March 2019 (received 18 March 2019), p. 2.

8 AFP, answers to written questions on notice, 4 March 2019 (received 18 March 2019), p. 3.

3.10 The AFP stated that Category 3 or Category 4 issues are referred to the Professional Standards Panel which comprises senior executive level staff. This panel can determine a sanction which is commensurate with the established behaviour and any relevant mitigating and aggravating factors.<sup>9</sup> Since June 2018, the de-identified outcomes from such investigations have been published.<sup>10</sup>

#### *Committee view*

3.11 The committee welcomes the downward trend in the number of complaints and alleged breaches of conduct for AFP appointees. The committee is concerned at the sharp increase in the number of serious misconduct and corruption complaints.

3.12 The committee does, however, recognise that the AFP has taken steps in order to reduce the number of Category 3 and Category 4 complaints, and is reassured by updated statistics provided by the AFP on notice which reflect a decrease in both categories.<sup>11</sup> The committee will continue to monitor the number of complaints concerning all four categories of alleged breaches of conduct, but particular attention will be paid to Category 3 and Category 4 complaints.

### **Ombudsman's report—controlled operations**

3.13 Section 15HS(1) of the *Crimes Act 1914* (Crimes Act) provides that:

The Ombudsman must, from time to time and at least once every 12 months, inspect the records of each authorising agency to determine the extent of compliance with this Part [Part IAB—Controlled operations] by the agency and by law enforcement officers.

3.14 The AFP is one such authorising agency.<sup>12</sup>

3.15 Section 10 of the *Parliamentary Joint Committee on Law Enforcement Act 2010* requires the Ombudsman, at least once per calendar year, to brief the committee about the involvement of the AFP and the Australian Crime Commission (ACC) in controlled operations under Part 1AB of the Crimes Act during the preceding 12 months.

3.16 On 3 December 2018, the committee met with representatives from the Ombudsman who briefed the committee in private about controlled operations, including in respect of the Ombudsman's public report on the controlled operations activities of ACLEI, the AFP and the ACC for the period 1 July 2016 to 30 June 2017.

3.17 A *Report on the Commonwealth Ombudsman's activities in monitoring controlled operations for the period 1 July 2016 to 30 June 2017* was published in

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9 AFP, answers to written questions on notice, 4 March 2019 (received 18 March 2019), pp. 2–3.

10 AFP, answers to written questions on notice, 4 March 2019 (received 18 March 2019), p. 3.

11 AFP, answers to written questions on notice, 4 March 2019 (received 18 March 2019), p. 2.

12 *Crimes Act 1914*, s. 15GC.

August 2018.<sup>13</sup> The report covers the Ombudsman's inspections of the AFP and other law enforcement agencies' records over the period 1 July 2016 to 30 June 2017. Two inspections were conducted at the AFP. These inspections examined controlled operations authorities that expired or were cancelled during the period 1 January 2016 to 30 December 2016.<sup>14</sup>

3.18 The Ombudsman found two significant non-compliance issues that had also been raised in the previous reporting period (2015–16).

***Authorities granted by the AFP that prescribed activities that could have been authorised under other legislation***

3.19 There were two controlled operations which the Ombudsman initially considered could have required authorisation under the *Telecommunications (Interception and Access) Act 1979* (TIA Act). In the 2015–16 reporting period, the AFP advised that they would obtain internal advice prior to authorising controlled operations to prevent a recurrence. During the 2016–17 period, however, the AFP and Attorney-General's Department advised that the activities could not have been authorised under the TIA Act. The Ombudsman has now raised a policy question for the Department of Home Affairs (which now administers Part IAB) as to whether the activities in question should be covered by a warrant regime.

***Participants and/or activities of controlled operations that were not authorised***

3.20 Six instances where participants, including civilians, and/or activities of a controlled operation were not authorised were identified in 2016–17. This was a reduction from the previous reporting period. The Ombudsman acknowledged the decrease in the number of instances, and the AFP's implementation of recommended training to address the issue.<sup>15</sup>

3.21 The Ombudsman's report also made a number of other findings of note.

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13 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's activities in monitoring controlled operations for the period 1 July 2016 to 30 June 2017*, August 2018, [http://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0032/88349/Part-IAB-Annual-Report-2016-17.pdf](http://www.ombudsman.gov.au/_data/assets/pdf_file/0032/88349/Part-IAB-Annual-Report-2016-17.pdf) (accessed 23 October 2018).

14 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's activities in monitoring controlled operations for the period 1 July 2016 to 30 June 2017*, August 2018, p. 10.

15 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's activities in monitoring controlled operations for the period 1 July 2016 to 30 June 2017*, August 2018, pp. 15–16.

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***Standard authority granted for operation meeting the threshold of a major controlled operation***

3.22 The Ombudsman identified one instance of this, which was acknowledged as an issue by the AFP. The AFP stated it would update its policy guidance to prevent further instances.<sup>16</sup>

***Urgent authority granted for controlled operation previously subject to formal authority***

3.23 There was one instance where the AFP wrongly granted an oral authority for an operation already granted formally. The AFP is reported to have taken remedial action to prevent a recurrence.<sup>17</sup>

***Authorities not varied in accordance with Part IAB***

3.24 There were a number of instances where new authorisations were granted rather than variations to existing authorisations. There was one instance where the AFP varied to include conduct that targeted a different criminal offence than what was stated on the original authority; this is not permitted under s15GO of the Crimes Act. The effect of these non-compliant variations is that they escape scrutiny by the Administrative Appeals Tribunal (AAT). The Ombudsman advised the AFP not to seek new authorities where existing ones could be varied. The AFP acknowledged the issue and amended its guidance material, including information in relation to the AAT oversight role.<sup>18</sup>

*Committee view*

3.25 The committee thanks the Ombudsman for the private briefing it received about the AFP's exercise of its controlled operations powers during the reporting period.

3.26 The committee supports the Ombudsman's findings and acknowledges that the AFP has implemented responses in relation to the Ombudsman's earlier recommendations in relation to controlled operations. It is of particular note that the AFP has implemented training and professional development to ensure greater compliance with controlled operations regulations. However, noting that there are some ongoing issues in relation to controlled operations, the committee will continue to pay particular attention to the AFP's performance in this regard.

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16 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's activities in monitoring controlled operations for the period 1 July 2016 to 30 June 2017*, August 2018, p. 12.

17 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's activities in monitoring controlled operations for the period 1 July 2016 to 30 June 2017*, August 2018, pp. 12–13.

18 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's activities in monitoring controlled operations for the period 1 July 2016 to 30 June 2017*, August 2018, pp. 13–15.

## Ombudsman's report—surveillance devices

3.27 Pursuant to section 55 of the *Surveillance Devices Act 2004* (SD Act):

The Ombudsman must inspect the records of a law enforcement agency to determine the extent of compliance with this Act by the agency and law enforcement officers of the agency.<sup>19</sup>

3.28 The AFP is one such law enforcement agency.<sup>20</sup> The *Report to the Attorney-General on agencies' compliance with the Surveillance Devices Act 2004 for the period 1 July to 31 December 2017*<sup>21</sup> was published in March 2018; for the period 1 January to 30 June 2018 the report was published in September 2018.<sup>22</sup> The most recent report was the first to be presented to the Minister for Home Affairs, as amendments were made to the Administrative Arrangements Order in May 2018 transferring responsibility for the administration of the SD Act from the Attorney General to the Minister for Home Affairs.<sup>23</sup>

3.29 The March 2018 report states that an inspection of the AFP's surveillance device (SD) records was made in March 2017 for the inspection period 1 July to 31 December 2016. The inspection covered 65 of the 496 SD warrants issued to the AFP, as well as 10 of the 21 tracking device authorisations that had expired or been revoked during the period 1 July to 31 December 2016.<sup>24</sup>

3.30 The Ombudsman did not make any recommendations based on its inspection of the AFP's records. The Ombudsman did, however, identify some issues for consideration by the AFP:

- use and retrieval of SDs without proper authority; and
- non-compliance with destruction and retention provisions of the SD Act.<sup>25</sup>

3.31 These errors were identified as being administrative in nature, and the AFP advised that guidance material had been amended and issued.<sup>26</sup>

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19 *Surveillance Devices Act 2004*, s. 55(1).

20 *Surveillance Devices Act 2004*, s. 6A(6).

21 Commonwealth Ombudsman, *Report to the Attorney-General on agencies' compliance with the Surveillance Devices Act 2004 for the period 1 July to 31 December 2017*, March 2018, [http://www.ombudsman.gov.au/data/assets/pdf\\_file/0034/85498/664056\\_Ombudsman\\_Report-1-PDF-PROOF.PDF](http://www.ombudsman.gov.au/data/assets/pdf_file/0034/85498/664056_Ombudsman_Report-1-PDF-PROOF.PDF) (accessed 23 October 2018).

22 Commonwealth Ombudsman, *Report to the Minister for Home Affairs on agencies' compliance with the Surveillance Devices Act 2004 for the period 1 January to 30 June 2018*, September 2018, [http://www.ombudsman.gov.au/data/assets/pdf\\_file/0026/89603/Surveillance-Devices-Six-Monthly-Report-to-Home-Affairs-September-2018.pdf](http://www.ombudsman.gov.au/data/assets/pdf_file/0026/89603/Surveillance-Devices-Six-Monthly-Report-to-Home-Affairs-September-2018.pdf) (accessed 23 October 2018).

23 Commonwealth Ombudsman, *Report to the Minister for Home Affairs on agencies' compliance with the Surveillance Devices Act 2004 for the period 1 January to 30 June 2018*, September 2018, footnote 3, p. 2.

24 Commonwealth Ombudsman, *Report to the Attorney-General on agencies' compliance with the Surveillance Devices Act 2004 for the period 1 July to 31 December 2017*, March 2018, p. 9.

25 Commonwealth Ombudsman, *Report to the Attorney-General on agencies' compliance with the Surveillance Devices Act 2004 for the period 1 July to 31 December 2017*, March 2018, p. 9.

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*Committee view*

3.32 The committee is satisfied by the Ombudsman's conclusion that the AFP has taken appropriate remedial action to address the administrative issues identified as a result of the inspections.

**Ombudsman's report—stored communications and telecommunications data**

3.33 Pursuant to s 186B of the *Telecommunications (Interception and Access) Act 1979* (TIA Act), the Ombudsman is empowered to conduct inspections of specified law enforcement agencies that can access an individual's stored communications and/or telecommunications data when investigating certain offences.<sup>27</sup>

3.34 The AFP is one such agency.<sup>28</sup>

3.35 The Ombudsman conducted 37 inspections of agencies' access to telecommunications during 2016-17, including the AFP. As a result of these inspections, the Ombudsman concluded that the agencies were generally exercising their power to access telecommunications data appropriately.<sup>29</sup> There were, however, a number of key issues identified in the course of the inspections.

3.36 One issue concerned the requirements under s 180H of the TIA Act with respect to Journalist Information Warrants. This was the subject of the Ombudsman's routine inspection of the AFP and a further inspection on 5 May 2017. The findings of both inspections are discussed in paragraphs 3.36 to 3.42 below.

3.37 The Ombudsman became aware, by way of disclosure from the AFP, of authorisations to disclose telecommunications data made by an officer within ACT Policing who did not have the authority to do so under s 5AB(IA) of the TIA Act. This affected 116 authorisations. The AFP attributed these errors to administrative oversight. The Ombudsman suggested that the telecommunications data obtained under these authorisations be quarantined, which was accepted by the AFP but not acted on at the time. The data was subsequently further used and communicated, but was partially quarantined in February 2018 following an inquiry by the Ombudsman. The Ombudsman was satisfied with the prompt remedial action which was taken

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26 Commonwealth Ombudsman, *Report to the Attorney-General on agencies' compliance with the Surveillance Devices Act 2004 for the period 1 July to 31 December 2017*, March 2018, p. 10.

27 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapters 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, November 2018, [http://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0033/96747/201617-Chapter-4A-Annual-Report.pdf](http://www.ombudsman.gov.au/_data/assets/pdf_file/0033/96747/201617-Chapter-4A-Annual-Report.pdf) (accessed 7 March 2019), p. 1.

28 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapters 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, November 2018, p. 6.

29 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapters 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, November 2018, pp. 1–2.

following the identification of this breach, but will continue to monitor this issue closely with the AFP.<sup>30</sup>

*Committee view*

3.38 The committee supports the Ombudsman's findings and is satisfied that the AFP has taken appropriate remedial action to address the administrative issues identified during the inspections and subsequently with respect to the quarantine of information.

**Ombudsman's report—Access to journalist's telecommunications data without a Journalist Information Warrant**

3.39 On 26 April 2017, the AFP advised the Ombudsman's office of a breach of the TIA Act. The breach occurred when AFP officers accessed metadata pertaining to a journalist without obtaining a Journalist Information Warrant as required under s 180H of the TIA Act.<sup>31</sup>

3.40 The Ombudsman conducted an inspection on 5 May 2017. The findings that arose out of that inspection were the subject of a report dated October 2017.<sup>32</sup> The AFP found that there were four relevant authorisations in question, one of which was a clear breach, while the status of the remaining three alleged breaches were 'arguable'.<sup>33</sup>

3.41 The Ombudsman identified four main contributing factors which led to the breach:

- at the time of the breach, there was insufficient awareness surrounding Journalist Information Warrant requirements within PRS
- within PRS, a number of officers did not appear to fully appreciate their responsibilities when exercising metadata powers
- the AFP relied heavily on manual checks and corporate knowledge as it did not have in place strong system controls for preventing applications that did not meet relevant thresholds from being progressed

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30 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapters 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, November 2018, pp. 10–11.

31 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's inspection of the Australian Federal Police under the Telecommunications (Interception and Access) Act 1979*, October 2017, [http://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0021/78123/Commonwealth-Ombudsman-AFP-JIW-report-PDF-FOR-WEBSITE.pdf](http://www.ombudsman.gov.au/_data/assets/pdf_file/0021/78123/Commonwealth-Ombudsman-AFP-JIW-report-PDF-FOR-WEBSITE.pdf) (accessed 7 March 2019), p. 4.

32 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's inspection of the Australian Federal Police under the Telecommunications (Interception and Access) Act 1979*, October 2017.

33 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's inspection of the Australian Federal Police under the Telecommunications (Interception and Access) Act 1979*, October 2017, p. 9.

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- although guidance documents were updated prior to the commencement of the Journalist Information Warrant provisions, they were not effective as a control to prevent this breach.<sup>34</sup>

3.42 While the Ombudsman acknowledged that the AFP had 'responded appropriately' to the breach,<sup>35</sup> it made one key recommendation:

[t]hat the Australian Federal Police immediately review its approach to metadata awareness raising and training to ensure that all staff involved in exercising metadata powers have a thorough understanding of the legislative framework and their responsibilities under Chapter 4 of the Telecommunications (Interception and Access) Act 1979.<sup>36</sup>

3.43 In response, the AFP advised the Ombudsman that it was finalising a training package that all AFP authorised officers would need to undertake as a prerequisite to maintaining their authorised officer status each year.<sup>37</sup>

3.44 The Ombudsman also made a number of suggestions in respect of strengthening existing controls. The AFP advised that some of these had been implemented and would turn its attention to implementing the remaining suggestions.<sup>38</sup>

3.45 The Ombudsman stated that it would continue to monitor the AFP's compliance with the TIA Act and its progress on previous inspection findings through its routine annual inspections.<sup>39</sup>

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34 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's inspection of the Australian Federal Police under the Telecommunications (Interception and Access) Act 1979*, October 2017, p. 11.

35 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's inspection of the Australian Federal Police under the Telecommunications (Interception and Access) Act 1979*, October 2017, p. 9.

36 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's inspection of the Australian Federal Police under the Telecommunications (Interception and Access) Act 1979*, October 2017, pp. 14, 19.

37 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's inspection of the Australian Federal Police under the Telecommunications (Interception and Access) Act 1979*, October 2017, p. 19.

38 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's inspection of the Australian Federal Police under the Telecommunications (Interception and Access) Act 1979*, October 2017, p. 19.

39 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's inspection of the Australian Federal Police under the Telecommunications (Interception and Access) Act 1979*, October 2017, p. 19.

*Committee view*

3.46 The committee supports the Ombudsman's findings and recommendation. It acknowledges that the AFP has undertaken steps to remedy the breach and to increase its officers' awareness of the requirements of s 180H of the TIA Act to prevent a reoccurrence. The committee is eager to hear the outcome of the Ombudsman's ongoing monitoring of the AFP's compliance with the TIA Act, and its implementation of the findings of the Ombudsman's report.

**Mr Craig Kelly MP**  
**Chair**

# **Appendix 1**

## **Witnesses who appeared before the Committee at the public hearing**

**Friday 22 February 2019 – Canberra ACT**

### **Australian Federal Police**

Mr Andrew Colvin APM, OAM, Commissioner

Ms Leanne Close APM, Deputy Commissioner National Security

Mr Neil Gaughan APM, Deputy Commissioner Operations

Mr Karl Kent OAM, Deputy Commissioner and Coordinator for Commonwealth  
Transnational Serious and Organised Crime

Mr Darren Box, Chief Financial Officer



## **Appendix 2**

### **Additional documents**

#### **Answers to questions on notice**

*Friday, 22 February 2019—Canberra*

1. Australian Federal Police - answers to questions on notice, 22 February 2019 (received 18 March 2019)
2. Australian Federal Police - answers to written questions on notice, 4 March 2019 (received 18 March 2019)

