



Parliamentary Joint Committee on Law Enforcement

Examination of the Annual Report of the
Australian Federal Police 2012-13

September 2014

The Parliament of the Commonwealth of Australia

**PARLIAMENTARY JOINT COMMITTEE
ON LAW ENFORCEMENT**

**Examination of the Annual Report of the Australian Federal Police
2012-13**

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ABBREVIATIONS

ACBPS	Australian Customs and Border Protection Service
ACC	Australian Crime Commission
ACLEI	Australian Commission for Law Enforcement Integrity
the Act	<i>Parliamentary Joint Committee on Law Enforcement Act 2010</i>
AFP	Australian Federal Police
AFP Act	<i>Australian Federal Police Act 1979</i>
annual report	Australian Federal Police Annual Report 2012-13
ATO	Australian Taxation Office
the committee	Parliamentary Joint Committee on Law Enforcement
FMA Act	<i>Financial Management and Accountability Act 1997</i>
IDG	International Deployment Group
KPI	Key Performance Indicator
Ombudsman	Commonwealth Ombudsman
SLG	Strategic Leaders' Group
Surveillance Act	<i>Surveillance Devices Act 2004</i>

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Chapter 1

Introduction

Committee's duty to examine 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 the following functions of the committee in relation to the AFP:

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

Report under consideration

1.3 The AFP Annual Report 2012-13 (annual report) was presented to the Minister for Justice, the Hon Michael Keenan MP, on 1 October 2013. It was tabled in the Senate on 12 November 2013 and in the House of Representatives on 13 November 2013.

Examination of the report

1.4 In examining the annual report, the committee held a public hearing at Parliament House, Canberra on 26 February 2014. The witnesses who appeared before the committee are listed in Appendix 1.

Acknowledgements

1.5 The committee acknowledges the cooperation of the AFP Commissioner, Mr Tony Negus APM, and other AFP officers who assisted the committee in conducting its examination.

1.6 The committee takes this opportunity to thank Commissioner Negus, who will conclude his 32-year AFP career on 7 September 2014. The committee congratulates Commissioner Negus on his long and distinguished law enforcement career.

Note on references

1.7 References to the committee *Hansard* are to the proof *Hansard*: page numbers may vary between the proof and the official *Hansard*.

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

Chapter 2

Australian Federal Police Annual Report 2012-13

Background

2.1 The Australian Federal Police (AFP) is Australia's international law enforcement and policing representative and the government's chief source of advice on policing issues. The role of the agency is to:

...enforce Commonwealth criminal law, to contribute to combating organised crime and to protect Commonwealth and national interests from criminal activity in Australia and overseas. As a key member of the national security community, the AFP leads and contributes to many whole-of-government national security initiatives.¹

2.2 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 the laws of the Commonwealth, the property of the Commonwealth (including Commonwealth places) and property of authorities of the Commonwealth;
- the safeguarding of Commonwealth interests and anything else that is incidental or conducive to the provision of these services;
- the provision of police services in relation to the Australian Capital Territory and Australia's external territories;
- protective and custodial functions as directed by the Minister;
- the provision of police services and police support services to assist or cooperate 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 to establish, develop and monitor peace, stability and security in foreign countries.²

2.3 The AFP's strategic priorities are determined in accordance with section 8 of the AFP Act and Ministerial Directions issued under subsection 37(2) of the AFP Act.³

Annual reporting and compliance

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

1 AFP, *Annual Report 2012-13*, p. 20.

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

3 AFP, *Annual Report 2012-13*, p. 21.

(1) The Commissioner shall, as soon as practicable after each 30 June, prepare and furnish to the Minister a report on the administration and the operations of the Australian Federal Police during the year that ended on that date.

(1A) The report must contain, in respect of the year, prescribed particulars about:

- (a) the AFP conduct issues that were dealt with under Part V [Professional standards and AFP conduct and practice issues] during that year; and
- (b) the action that was taken, during that year, in relation to AFP conduct issues that were dealt with under Division 3 of Part V [dealing with AFP conduct or practice issues].

(2) The Minister shall cause a report furnished to him or her under subsection (1) to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by the Minister.

2.5 The AFP is a prescribed agency for the purposes of the *Financial Management and Accountability Act 1997* (FMA Act). As an FMA Act agency, the AFP must comply with the *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*,⁴ prepared by the Department of the Prime Minister and Cabinet and approved by the Joint Committee of Public Accounts and Audit. The annual report's compliance with these requirements is set out in a compliance index.⁵

2.6 Based on the committee's assessment of the annual report, it fulfils these requirements.

AFP focus 2012-13

2.7 During the reporting year, the AFP continued to focus on reducing criminal and other security threats to Australia's collective economic and societal interests. The AFP concentrated on five key areas, namely:

- applying resources towards activities likely to have the greatest impact on criminal networks and security threats both within Australia and offshore;
- finalising planning for the construction of the modern purpose-built forensic facility;
- completing implementation of the Proceeds of Crime Litigation business area as part of the Criminal Assets Confiscation Taskforce;
- continuing to model the highest standards of professional and public accountability; and

4 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, 24 June 2013, www.dpmc.gov.au/guidelines/ (accessed 13 June 2014).

5 AFP, *Annual Report 2012-13*, pp 231–234.

-
- strengthening collaboration with domestic and international law enforcement partners.⁶

Proceeds of Crime Litigation

2.8 In relation to the third area concerning Proceeds of Crime Litigation, the AFP has responsibility for the operational legal function aspect of proceeds of crime litigation under the *Proceeds of Crime Act 2002*, the *Mutual Assistance in Criminal Matters Act 1987*, the *International Criminal Court Act 2002* and the *International War Crimes Tribunals Act 1995*.⁷ This function also provides legal advice involving all issues related to proceeds of crime. The Proceeds of Crime Litigation group consists of 36 specialised litigators and support staff located across Australia with offices located in Canberra, Melbourne, Perth, Sydney and Brisbane. The function provides advice on asset confiscation to the Criminal Assets Confiscation Taskforce, as well as independent proceeds of crime litigation services to the Commonwealth.⁸

2.9 AFP operational highlights in relation to the Proceeds of Crime Litigation function included:

- the full implementation of the function within the AFP with the successful recruitment of specialised litigators and support staff;
- the commencement of litigation of more than 145 matters and the appropriation of 57 matters from the Commonwealth Director of Public Prosecutions, including the restraint of \$62.5 million of assets; and
- the development of key policies, including the AFP Proceeds of Crime Litigation Settlement Policy.⁹

AFP achievements 2012-13

2.10 In the Commissioner's review, Commissioner Negus highlighted a number of the AFP's 2012-13 achievements. They include:

- meeting or exceeding all 33 key performance indicators;
- a 93 per cent conviction rate for cases reaching court;
- a 90 per cent satisfied/very satisfied rating in its survey of stakeholders, the same result as for the 2011-12 period;
- the seizure of 6.5 tonnes of illicit drugs, mitigating an estimated \$2.4 billion in harm to the Australian community;
- the targeting of criminal wealth and the financial base of crime through restraining \$62.5 million in assets (59 per cent above the target); and

6 AFP, *Annual Report 2012-13*, p. 22.

7 AFP, *Annual Report 2012-13*, p. 101.

8 AFP, *Annual Report 2012-13*, p. 101.

9 AFP, *Annual Report 2012-13*, p. 101.

- the finalisation of 490 cases reaching court, which represents a 38 per cent improvement on the previous financial year.¹⁰

2.11 Commissioner Negus informed the committee that throughout the year in review, the AFP had continued to build on its investigative capability, as well as improving the use of resources and optimising the flexibility of its workforce while strengthening relationships with partner agencies and stakeholders. As a result, Commissioner Negus argued the AFP had built on its previous year's positive results to produce 'outstanding results' for the reporting period.¹¹

2.12 In terms of operational successes, the multiagency cooperative approach of the AFP has resulted in notable domestic and international outcomes, especially in Operation Marca.¹² This operation consisted of a joint task force incorporating the AFP, the Australian Commission for Law Enforcement Integrity (ACLEI) and the Australian Customs and Border Protection Service (ACBPS) that targeted corrupt activity within the ACBPS at Sydney's international airport. Operation Marca resulted in the seizure of 54 kilograms of pseudoephedrine and more than \$235 000 in cash.¹³ Another seizure of 585 kilograms of methamphetamine, worth up to \$438 million, was accomplished through the drug investigation of Operation Roselle. This was reported as the largest ice seizure in Australia's history.¹⁴ Finally, Operation Conqueror achieved good outcomes with a large-scale investigation into child sexual abuse, resulting in 25 arrests.¹⁵

2.13 Commissioner Negus also highlighted the importance of support officers who aid frontline officers and create a 'unified workforce'. The Commissioner indicated that the AFP was found to be the highest placed public sector employer of gay, lesbian, bisexual, transgender and intersex members and received a 2013 Pride in Diversity award.¹⁶

AFP structure and performance measurement

2.14 The AFP's outcome and program structure for 2012-13 are set out in the Attorney-General's Portfolio Budget Statements.¹⁷

10 AFP, *Annual Report 2012-13*, p. 12.

11 Mr Tony Negus, Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 1.

12 Mr Tony Negus, Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 1.

13 Mr Tony Negus, Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 1.

14 Mr Tony Negus, Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 1.

15 Mr Tony Negus, Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 1.

16 Mr Tony Negus, Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 1.

17 Attorney-General's Department, *Portfolio Budget Statements 2012-13*, pp 151–170.

Figure 1—AFP Outcomes and Programs

Outcome 1
Outcome 1 contributes to reduced criminal and security threats to Australia's economic and societal interests through cooperative policing services.
<i>Program 1.1 National Security—Policing</i> Program 1.1's primary focus is on prevention. It comprises the Counter Terrorism, Aviation and Protection functions.
<i>Program 1.2: International Deployments</i> Program 1.2 delivers initiatives on behalf of the Australian Government that are aimed at improving regional and international security, stability and governance. It is supported by the International Deployment Group.
<i>Program 1.3: Operations—Policing</i> Program 1.3 seeks to reduce criminal threats to Australia's collective economic and societal interests by employing a multidisciplinary approach to combating crimes against the Commonwealth. The program comprises the Serious and Organised Crime (which includes the International Network) and Crime Operations functions.
<i>Program 1.4: Close Operations Support</i> Program 1.4 provides specialist support to the AFP's national security and operations programs, in particular keeping pace with advancements in technology and science. It comprises the Operations Support, Intelligence, Forensic and Data Centres, and High Tech Crime Operations, Legal and Proceeds of Crime Litigation functions.
Outcome 2
Outcome 2 contributes to a safe and secure environment through policing activities on behalf of the Australian Capital Territory Government.
<i>Program 2.1: ACT Community Policing</i> Program 2.1 provides crime and safety management, road safety, prosecution and judicial support, and crime prevention. ¹⁸

Strategic Leaders' Group

2.15 The Strategic Leaders' Group (SLG) is the AFP's peak advisory committee. Its membership consists of the Commissioner as Chair, Deputy Commissioners, Chief Operating Officer, Chief Police Officer ACT Policing, National Managers and two non-executive members. The SLG assists the Commissioner make decisions and

18 Australian Federal Police, *Annual Report 2012-13*, p. 23.

exercise his statutory responsibilities. The SLG also supports the Commissioner in developing and enhancing partnerships with external stakeholders.

2.16 During the year in review, the SLG endorsed a new Strategic Risk Profile based on best practice that will inform the AFP's strategic decision making in relation to:

- planning and risk management;
- resource allocation and investment priorities;
- research and capability development priorities; and
- the Strategic Audit Plan 2012–15 and the annual Audit Plan.¹⁹

2.17 The SLG also considered other important issues such as the strategic implications of the emerging operating budgetary environment, the Commonwealth Law Enforcement Integrity Testing model, the development of the National Security Strategy and the *Australia in the Asian Century White Paper* and the AFP's annual intelligence assessment.²⁰

2.18 In April 2013, Mr William Laurie concluded his involvement with the AFP SLG as a non-executive member. Subsequently, Professor Michael Wesley joined the SLG.²¹

Key Performance Indicators (KPIs)

2.19 In terms of performance over the review period, the AFP has 33 KPIs relating to Outcome 1 and its four programs. According to the annual report, the AFP met or exceeded targets for each of the 33 KPIs which:

...extends the record of strong results across all programs since comprehensive reporting of KPIs against targets was introduced in 2009-10... Overall stakeholder satisfaction again reached 90 per cent, which is equal to the highest recorded since the survey commenced. This is an important achievement, given the increasing scope and diversity of the AFP's clients and partners, 831 of whom completed the survey. Of these, 43 per cent were from government, 38 per cent law enforcement and 15 per cent private sector.²²

2.20 While drawing attention to the AFP's success in meeting all the KPIs for the first time, Commissioner Negus emphasised that not only were the targets met, but many KPIs were improved upon from previous years:

...the AFP met or exceeded all 33 key performance indicators listed in the portfolio budget statement—and...we are on track to do it again this year with a few of those results yet to come in. In addition, the AFP improved on the results of 11 of these indicators, including: community confidence in

19 AFP, *Annual Report 2012-13*, p. 12.

20 AFP, *Annual Report 2012-13*, p. 24.

21 AFP, *Annual Report 2012-13*, p. 24.

22 AFP, *Annual Report 2012-13*, p. 28.

aviation law enforcement and security; and community awareness of cybersecurity.²³

Outcome 1—key highlights and performance

Program 1.1: National Security—Policing

2.21 Three major functions make up the program—counter terrorism, aviation and protection.

Counter-terrorism

2.22 In relation to counter-terrorism, there are Joint Counter Terrorism Teams in each Australian jurisdiction made up of members of the AFP, state and territory police, the Australian Security Intelligence Organisation and members of other relevant agencies.²⁴ During the year, counter-terrorism training was provided to 97 members of the Joint Counter Terrorism Teams and 40 members of international law enforcement agencies in the region.²⁵ Other highlights for the year in relation to AFP counter-terrorism activities included:

- the provision of investigative support to the Philippines National Police Anti-Kidnapping Group in its investigation of the 2011 kidnapping of an Australian citizen;
- Operation Astley—which resulted in the arrest of one person for 'collecting or making documents likely to facilitate terrorist acts';
- the investigation and prosecution of a man for offences related to training in the use of arms or explosives or the practice of military exercises with the intention of committing an offence against section 6 of the *Crimes (Foreign Incursions and Recruitment) Act 1978*;
- the establishment of a Counter Terrorism Liaison Officer position in Beirut, Lebanon;
- the implementation of the AFP Countering Violent Extremism Strategy; and
- the enhancement of the capacity and capability to identify, deter, prevent, disrupt and investigate terrorist activities through the delivery of counter-terrorism training.²⁶

2.23 The AFP achieved and exceeded its target in relation to all four KPIs specific to counter-terrorism and one program-level KPI.²⁷

23 Mr Tony Negus, Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 1.

24 AFP, *Annual Report 2012-13*, p. 46.

25 AFP, *Annual Report 2012-13*, p. 47.

26 AFP, *Annual Report 2012-13*, p. 44.

27 KPI 1 is the program level KPI. The KPIs specific to counter-terrorism are listed as KPI 2–5. AFP, *Annual Report 2012-13*, p. 30.

2.24 The 90 per cent target for KPI 5 concerning the 'percentage of counter-terrorism investigations that result in a prosecution, disruption or intelligence referral outcome' was exceeded by 10 per cent to achieve a 100 per cent outcome.²⁸

Aviation

2.25 The role of the AFP in relation to aviation is to contribute to law enforcement and security at major Australian airports. The AFP is responsible for managing criminal threats at Australia's ten designated airports—Adelaide, Brisbane, Cairns, Canberra, Darwin, Gold Coast, Hobart, Melbourne, Perth and Sydney and to deliver security on select Australian-flagged flights.²⁹

2.26 Some highlights during the year in relation to the AFP's aviation function included:

- 188 078 prevention operations, patrols and other activities which reduced the likelihood of terrorist or criminal activity occurring in the airport environment;
- responding to 22 340 incidents;
- responding to 3422 unattended or suspicious packages; and
- arrest of 392 individuals resulting in 35 charges.³⁰

2.27 With the Joint Airport Investigation Teams, a further 30 arrests were made resulting in 91 charges.³¹

2.28 There are three specific KPIs concerning aviation (KPI 6–8) as well as the program level KPI regarding external client/stakeholder satisfaction noted above. In relation to all three KPIs, the AFP exceeded its 2012-13 targets.

Protection

2.29 AFP protection is designed to keep safe those individuals and interests identified by the Commonwealth as being at risk from acts of terrorism, violent protest and 'issue-motivated violence'. Protection services include high-visibility security for Commonwealth establishments, close personal protection for Australian high-office holders while in Australia and when travelling overseas, and administration of the National Witness Protection Program.³²

2.30 Highlights in relation to protection services over the reporting year included the provision of protective security arrangements for:

- the London 2012 Olympic and Paralympic Games;
- ANZAC Day ceremonies in Turkey and France; and

28 AFP, *Annual Report 2012-13*, p. 30.

29 AFP, *Annual Report 2012-13*, p. 49.

30 AFP, *Annual Report 2012-13*, pp 49–50.

31 AFP, *Annual Report 2012-13*, pp 49–50.

32 AFP, *Annual Report 2012-13*, pp 53–58.

- a visit by his Royal Highness The Prince of Wales and The Duchess of Cornwall.³³

2.31 There are three KPIs relating to protection (KPI 9–11). Of particular note is KPI 11 which concerns the number of avoidable incidents per 5000 hours. The target for this KPI was less than four and the actual result was nil.³⁴

Program 1.2: International Deployments

2.32 The International Deployment Group (IDG) contributes to national security by providing policing support for the delivery of programs that meet the government's aid objectives by improving the capacity and effectiveness of policing which furthers 'regional and international security, stability and governance.'³⁵

2.33 Highlights for the reporting year in relation to the IDG include:

- the provision of 30 courses to develop the leadership and professional capabilities of 6217 police force members in 16 countries;
- the transfer of all police capacity development to key strategic roles in Kabul with the completion of training commitments in southern Afghanistan; and
- the withdrawal of the Participating Police Force in Solomon Islands from all but two police posts, reflecting the increasing capacity of the Royal Solomon Islands Police Force to operate independently.³⁶

2.34 Significantly, after 14 years the AFP's involvement with the United Nations (UN) in Timor-Leste ended in December 2012 with the conclusion of the United Nations Integrated Mission.³⁷ At its public hearing, committee members asked for an overview of the mission. The AFP explained that the role of the UN in Timor-Leste was to provide support to the country and develop its basic police force. Mr Peter Drennan, Deputy Commissioner, National Security added that:

The UN presence there was about stabilisation and getting the country to a point where it could start to rebuild. Parallel to that, we ran what we called the Timor-Leste police development program which was about building the basic capacity of the Timor-Leste Police...³⁸

2.35 In addition, Commissioner Negus highlighted that the AFP has removed its presence from both Afghanistan and South Sudan.³⁹

2.36 There are six KPIs relating to international deployments (KPIs 12–17) which were all met and in some instances exceeded. For example, KPI 16 concerns the

33 AFP, *Annual Report 2012-13*, p. 53.

34 AFP, *Annual Report 2012-13*, p. 29.

35 AFP, *Annual Report 2012-13*, p. 59.

36 AFP, *Annual Report 2012-13*, p. 59.

37 AFP, *Annual Report 2012-13*, p. 62.

38 Mr Peter Drennan, Deputy Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 9.

39 Mr Tony Negus, Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 9.

percentage of mission resources committed to countries with rule of law indicators below the international median as determined by figures published by the World Bank. The AFP exceeded its target of 80 per cent for KPI 16 in 2012-13 by achieving 90 per cent.⁴⁰ The same result was also achieved in 2011-12.⁴¹

Program 1.3: Operations—Policing

2.37 The crime program comprises the serious and organised crime function and the crime operation function. Its aim is combating organised crime nationally and internationally with a focus on prevention and disruption.⁴² Highlights for the reporting year in relation to this program include:

- 343 drug investigations (an increase from 329 the previous year) which collectively led to the seizure of 5661 kilograms of illicit drugs;
- restraint of \$62.5 million in assets under the *Proceeds of Crime Act 2002*;
- arrest of six people smuggling organisers and 26 crew members;
- arrest of 20 people for their involvement in the importation of controlled precursors and corruption offences under Operation Marca.⁴³

2.38 There are six KPIs relating to this program (KPIs 18–23). The result in relation to KPI 20 for operations–policing concerning the 'return on investment for investigation of transnational crime' was seven, while the target was less than one. In comparison, the 2011-12 result was eight.⁴⁴

Program 1.4: Close Operations Support

2.39 The close operations support program provides specialist support to the AFP National Security and Operations programs 'particularly to address advancements in technology and science'. It comprises the AFP forensic and data centres, and the high tech crime operations, intelligence and operations support functions.⁴⁵ Highlights for 2012-13 included the processing of the following operational requests by the Operations Coordination Centre:

- 492 family law orders and warrants;
- 74 931 INTERPOL communications (including search requests);
- 2227 national security hotline reports; and
- 7012 information reports.⁴⁶

40 AFP, *Annual Report 2012-13*, p. 32.

41 AFP, *Annual Report 2011-12*, p. 21.

42 AFP, *Annual Report 2012-13*, p. 66.

43 AFP, *Annual Report 2012-13*, p. 66.

44 AFP, *Annual Report 2012-13*, p. 35.

45 AFP, *Annual Report 2012-13*, p. 23.

46 AFP, *Annual Report 2012-13*, p. 82.

2.40 There are ten KPIs relating to this program (KPIs 24–33). All of these KPI targets were met or exceeded, including KPI 30 which concerns technology crimes investigations and measures the number of high-impact to very high-impact cases reaching court. The target for this KPI was 80 and the AFP achieved a result of 101 cases.⁴⁷ In 2011-12 the target for this KPI was 70 and the AFP achieved a result of 109.⁴⁸

2.41 The percentage of scheduled deliverables completed for offshore capacity-building projects is incorporated in KPI 28. The target for this KPI was 80 per cent and the AFP achieved 100 per cent.⁴⁹

Operations and multi-agency taskforces 2012-13

2.42 The AFP leads Australia's capacity to detect and defeat serious and organised crime by ensuring the ongoing implementation of response plans under the Commonwealth Organised Crime Strategic framework.⁵⁰

2.43 In relation to illicit drug importation, 343 new drug investigations were undertaken during the review period leading to the seizure of 5661 kilograms of illicit drugs.⁵¹

2.44 Other operational highlights across the AFP's respective programs include:

- Operation Hitch—a joint operation with the National Narcotics Control Commission of the People's Republic of China which led to the seizure of a further 15 tonnes of safrole oil (worth \$520 million of pure methylenedioxymethamphetamine (MDMA)) and arrest of six individuals in China and three in Australia;⁵²
- Operation Nuance—an investigation that led to the dismantling of an international organised crime syndicate covering Australia and some of Europe, resulting in the seizure of 117 kilograms of MDMA with an estimated street value of up to \$52 million;⁵³
- Operation Polaris-Whitesea—the seizure of over 12 tonnes of illicit substances, 119 tonnes of illegal tobacco (worth about \$77 million), over \$1 million in cash, 11 firearms, and the arrest of 44 people;⁵⁴

47 AFP, *Annual Report 2012-13*, p. 37.

48 AFP, Answer to written question on notice, No. 9, received 5 April 2013; See also *Annual Report 2011–12*, p. 24.

49 AFP, *Annual Report 2012-13*, p. 36.

50 AFP, *Annual Report 2012-13*, p. 66.

51 AFP, *Annual Report 2012-13*, p. 66.

52 AFP, *Annual Report 2012-13*, p. 70.

53 AFP, *Annual Report 2012-13*, p. 70.

54 AFP, *Annual Report 2012-13*, p. 67.

- Operation Zaba—a people smuggling investigation which resulted in the first successful extradition from Malaysia for people-smuggling offences, resulting in a charge of 25 counts against the *Migration Act 1958*,⁵⁵
- Operation Conqueror—the apprehension of 25 people for offences concerning online child exploitation.⁵⁶

2.45 Many of these operations were carried out by joint taskforces established as part of a response to the Commonwealth Organised Crime Strategic Framework which emphasises a multi-agency approach. During the reporting year, the AFP collaborated in joint operations and taskforces including:

- Operation Marca—a multi-agency joint taskforce comprising the AFP, ACLEI and the ACBPS which targeted corruption and organised crime within the ACBPS at Sydney International Airport. The taskforce has resulted in the arrest of 20 people, the seizure of 54 kilograms of pseudoephedrine and \$237 450 in cash.⁵⁷
- Operation Roselle—a Joint Organised Crime Group involving the AFP, the ACBPS, NSW Police, NSW Crime Commission and the ACC. This operation resulted in the seizure of 585 kilograms of methamphetamine (street value of \$438 million) and the arrest of three people.⁵⁸
- Operation Volante—a joint operation involving the AFP, Victoria Police, NSW Police, the ACC and the ACBPS which was targeted an international organised criminal syndicate operating across five countries and importing heroin and methamphetamine into Australia. A total of 27 people were arrested and more than 42 kilograms of drugs were confiscated.⁵⁹
- The National Anti-Gang Taskforce which was announced on 3 March 2013.⁶⁰ The AFP is now establishing the taskforce which will involve the AFP, state and territory police, the ACC, the ACBPS, the Department of Immigration and Border Protection, the Australian Taxation Office (ATO) and the Department of Human Services. The taskforce will target gang-related crime across the country, supporting the existing efforts of state and territory police.⁶¹

55 AFP, *Annual Report 2012-13*, p. 71.

56 AFP, *Annual Report 2012-13*, p. 85.

57 AFP, *Annual Report 2012-13*, p. 68.

58 AFP, *Annual Report 2012-13*, p. 68.

59 AFP, *Annual Report 2012-13*, p. 73.

60 AFP, *Annual Report 2012-13*, p. 88.

61 AFP, *Annual Report 2012-13*, p. 11.

Intelligence

2.46 The AFP intelligence function provides intelligence services to all levels within the AFP through investigative teams, covert services and maintenance of relationships with the Australian and international intelligence communities.⁶² Highlights for the intelligence function included Operation Whiffler:

...an intelligence-generated investigation into a transnational organised crime syndicate suspected of large-scale imports of methamphetamine into Australia, resulting in the arrest of five people and seizure of 110 kilograms of methamphetamine in Japan, as well as the arrest of the Australian facilitator.⁶³

2.47 The committee asked if the growing online world posed any challenges for intelligence gathering. The Commissioner replied that this consisted of one of the AFP's main areas of concern. In particular, the Commissioner noted the challenge regarding the radicalisation of people online due to the ability of individuals to access and research radical teachings from their homes.⁶⁴ Mr Kevin Zuccato, Acting Deputy Commissioner, Close Operations Support, informed the committee that the increase in communication technology does pose challenges for the AFP intelligence function. Conversely, it also aids the AFP to infiltrate networks that rely on these methods of communication.⁶⁵ The main challenge consists of sorting through a large amount of information to locate the information required for an investigation within a reasonable timeframe:

..it is very difficult to wade through the amount of data that is collected and to locate the information that is actually required for an investigation...that simply means that we need to change our investigative approach and retrain our investigators not to ask for everything and to search for those opportunities that exist that are going to pay the biggest dividend.⁶⁶

High Tech Crime Operations

2.48 High Tech Crime Operations contends with the threats of cybercrime through disruption, mitigation and prosecution while supporting the broader AFP through its technical capabilities.⁶⁷

2.49 AFP operational highlights in relation to cybercrime and high-tech crime included Operation Lino, a criminal investigation under taken by Cyber Crime Operations to dismantle a Romanian-based crime syndicate. The syndicate was

62 AFP, *Annual Report 2012-13*, p. 85.

63 AFP, *Annual Report 2012-13*, p. 85.

64 Mr Tony Negus, Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 5.

65 Mr Kevin Zuccato, Acting Deputy Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 5.

66 Mr Kevin Zuccato, Acting Deputy Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 5.

67 AFP, *Annual Report 2012-13*, p. 96.

reported to have fraudulently used 30 000 Australian credit cards, resulting in the loss of \$30 million. In November 2012, the syndicate in its entirety was identified, exposed and dismantled.⁶⁸

Proceeds of crime activities 2012-13

2.50 The Criminal Assets Confiscation Taskforce coordinated a systematic approach to criminal asset confiscation, while aiming to remove the revenue of crime. The taskforce is led by the AFP and involves expertise and resources of the ACC and the ATO, and consists of teams based in Brisbane, Sydney, Melbourne, Perth and Canberra. The taskforce investigates and litigates both 'conviction-based and non-conviction based proceeds of crime matters.'⁶⁹ The report also states that:

The work of the taskforce complements the Organised Crime Strategic Framework by targeting the criminal economy and assists in protecting the public finances of Australia from criminal abuse.⁷⁰

2.51 One major operation that involved the confiscation of assets was Operation Volante. The operation commenced in April 2012 as an investigation into the activities of a crime syndicate and by March 2013 the AFP had executed 37 search warrants across Melbourne:

During this operation the AFP, through the Criminal Assets Confiscation Taskforce, took action under Commonwealth proceeds of crime legislation and restrained approximately \$9 million in assets, including 99 designer handbags and wallets, \$4 million in cash, residential properties valued at \$5 million, \$600 000 in casino chips, jewellery worth approximately \$1.5 million and a Lamborghini.⁷¹

2.52 Another operation that resulted in action taken by the Criminal Assets Confiscation Taskforce was Operation Pied:

Operation Pied was an investigation into an illegal investment scheme based in the United States. The operation involved the AFP, the Federal Bureau of Investigation and the United States Internal Revenue Service Criminal Investigation Division. The investigation resulted in excess of \$12 million being forfeited as proceeds of crime.⁷²

Resources and staffing

2.53 The AFP reported a departmental operating deficit of \$2.5 million, excluding depreciation and a move in the value of employee entitlements.⁷³ The departmental operating income for 2012-13 was \$1282 million comprising:

68 AFP, *Annual Report 2012-13*, p. 98.

69 AFP, *Annual Report 2012-13*, p. 72.

70 AFP, *Annual Report 2012-13*, p. 72.

71 AFP, *Annual Report 2012-13*, p. 73.

72 AFP, *Annual Report 2012-13*, p. 74.

73 AFP, *Annual Report 2012-13*, p. 107.

- \$978 million in government appropriation;
- \$146 million from the ACT government for policing services; and
- \$158 million in other externally generated revenue.

2.54 Commissioner Negus stated that the deficit consisted of a variance of less than 0.2 per cent of the AFP's total budget. The Commissioner continued:

The significance of these results is further emphasised by the absence of any adverse findings from the Australian National Audit Office in relation to the AFP's financial statements. For an agency our size, of almost 7,000 people, that is an outstanding result...⁷⁴

2.55 In addition, the AFP received \$25 million in government appropriation for capital expenditure and \$11 million as an equity injection as part of new initiatives. In 2012-13, the AFP also administered \$17 million in expenses on behalf of the government.⁷⁵

2.56 As of 30 June 2013, the AFP had 6897 staff comprising 3573 sworn police, 733 protective service officers and 2591 unsworn staff.⁷⁶

2.57 The following table provides a comparison of staffing figures between 2011-12 and 2012-13.⁷⁷

Figure 2—AFP staffing 2011-12 and 2012-13

Sworn status	2011-12	2012-13
Sworn police	3321	3573
Protective service officer	836	733
Unsworn staff	2376	2591
Total	6533	6897
Asia-Pacific Group	10	12
Grand Total	6543	6909

74 Mr Tony Negus, Commissioner, AFP, *Committee Hansard*, 26 February 2014, p. 2.

75 AFP, *Annual Report 2012-13*, p. 107.

76 AFP, *Annual Report 2012-13*, p. 208.

77 AFP, *Annual Report 2012-13*, p. 208.

Chapter 3

Key Issues

Complaint handling

3.1 The matter of complaints handling has been considered by the committee in previous examinations of AFP annual reports. For example in its examination of the 2010-11 AFP annual report, the committee recommended that in future annual reports, the AFP 'include the average number of days taken to resolve cases for each category of complaint, to enable the committee to better monitor the timeliness of complaint resolution'. The government responded to the recommendation in September 2012 noting that the 2011-12 report would provide information on the average number of days taken to resolve complaint matters in relation to Serious Misconduct/Category 3 investigations.¹

3.2 In compliance with the committee's recommendation, the AFP provided details in the 2012-13 annual report in relation to the timeliness of category 3 complaints.

Complaints management

3.3 In 2012-13, the AFP received a total of 233 category 3 complaints (compared to 223 received in 2011-12). In addition, there were 167 outstanding category 3 complaints in 2012-13 compared to 258 in 2011-12.² The AFP stated that it is committed to ensuring complaints are resolved in a timely manner and has continued to focus on reducing any backlog.³

3.4 The average number of days open for all category 3 complaints submitted, including those still in progress, is 82 days.⁴

3.5 A substantial reduction in the average running time of category 3 complaints was achieved over the review period. The annual report noted that there was a sixfold reduction in category 3 complaints open for over 365 days.⁵

1 Government Response to Parliamentary Joint Committee on Law Enforcement, *Examination of the 2010-11 Annual Reports of the Australian Crime Commission and the Australian Federal Police*, September 2012, www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/Annual_Report_s/2012/AFP/~media/Committees/Senate/committee/le_ctte/annual/2012/gov_response/gov_response.ashx (accessed 9 July 2014).

2 AFP, *Annual Report 2012-13*, p. 121.

3 AFP, *Annual Report 2012-13*, p. 121.

4 AFP, *Annual Report 2012-13*, p. 121.

5 AFP, *Annual Report 2012-13*, p. 106.

3.6 In 2012-13, the AFP received a total of 358 category 1 and 2 complaints which is a reduction on 390 complaints in 2011-12.⁶

Commonwealth Ombudsman's findings

3.7 In September 2013, the annual report of the Commonwealth Ombudsman (Ombudsman) in relation to activities under Part V of the *Australian Federal Police Act 1979* (AFP Act) was published.⁷ The Ombudsman was provided with a list of all complaints closed between 1 July 2012 and 28 February 2013 (the review period) which comprised 564 closed complaints. The Ombudsman conducted a review over two periods: part one covering the period 1 July 2012 to 31 October 2012, and part two from 1 November 2012 to 28 February 2013. The Ombudsman found that there were:

- 338 closed complaints in the first period;
- 226 closed complaints in the second period.⁸

3.8 The Ombudsman examined a sample of 183 complaints of which 106 complaints were reviewed in the first period and 77 complaints were reviewed in the second period.⁹ Reviewing the comprehensiveness and adequacy of complaint handling, the Ombudsman's key findings were that there was 'an improvement in performance against the benchmarks between our first and second inspections this year'.¹⁰ A year earlier, the Ombudsman's report had noted that 'processes the AFP implemented in 2011...have been effective'.¹¹

3.9 The Ombudsman noted that the AFP recorded a reduction of 36 per cent in the time it took to finalise category 3 complaints:

...in 90 per cent of cases, the average number of days to finalise category 3 complaints for the period of 1 July 2011 to 30 March 2012 was 447 days.

6 AFP, *Annual Report 2012-13*, p. 121.

7 Commonwealth Ombudsman and Law Enforcement Ombudsman, *Annual Report on the Ombudsman's activities under Part V of the Australian Federal Police Act 1979*, September 2013, www.ombudsman.gov.au/files/activities_under_part_v_07.pdf (accessed 1 August 2014). Part V of the AFP Act governs professional standards and AFP conduct and practice issues.

8 Commonwealth Ombudsman and Law Enforcement Ombudsman, *Annual Report on the Ombudsman's activities under Part V of the Australian Federal Police Act 1979*, September 2013, p. 3.

9 Commonwealth Ombudsman and Law Enforcement Ombudsman, *Annual Report on the Ombudsman's activities under Part V of the Australian Federal Police Act 1979*, September 2013, p. 3.

10 Commonwealth Ombudsman and Law Enforcement Ombudsman, *Annual Report on the Ombudsman's activities under Part V of the Australian Federal Police Act 1979*, September 2013, p. 6.

11 Commonwealth Ombudsman and Law Enforcement Ombudsman, *Annual Report on the Ombudsman's activities under Part V of the Australian Federal Police Act 1979*, November 2011, p. 1.

For the period 1 July 2012 to 30 March 2013 the average number of days to finalise category 3 complaints was 284 days.¹²

Committee view

3.10 The committee is encouraged by the initiatives undertaken by the AFP to improve complaint management. These initiatives have clearly reduced the backlog of complaints and improved the timeliness of handling individual complaints.

Surveillance devices

3.11 The *Surveillance Devices Act 2004* (Surveillance Act) restricts the use, communication and publication of information obtained through the use of surveillance devices. The Surveillance Act also establishes procedures for law enforcement agencies to obtain permission to use such devices in relation to 'criminal investigations and the recovery of children, and imposes requirements for the secure storage and destruction of records in connection with the use of surveillance devices'.¹³ Under subsection 6(1) of the Surveillance Act, the term 'law enforcement agency' includes the AFP, the ACC, ACLEI and state and territory police forces.

3.12 The Ombudsman's report into inspections under the Surveillance Act states that it found the AFP to be compliant with the Act with the exception of four cases relating to the use and retrieval of tracking devices.¹⁴ One of these cases was self-disclosed to the Ombudsman by the AFP. However, the annual report notes that the High Tech Crime Operations had received an assessment from the Ombudsman which found the AFP was compliant with the *Telecommunications (Interceptions and Access) Act 1979* for telecommunications interception and described as having good process with regards to its procedures for handling stored communications'.¹⁵

Review period, sample and focus

3.13 The Ombudsman's inspection of AFP surveillance device records was conducted from 4–6 March 2013. It focused on surveillance device warrants and authorisations (and associated records) that expired or were revoked during the period 1 July to 31 December 2012 as well as records relating to the destruction of information carried out during the same period. A report of the results of the inspection was provided to the AFP on 27 August 2013.¹⁶ While all the records held

12 Commonwealth Ombudsman and Law Enforcement Ombudsman, *Annual Report on the Ombudsman's activities under Part V of the Australian Federal Police Act 1979*, September 2013, p. 6.

13 Commonwealth Ombudsman, *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2014, p. 1, www.ombudsman.gov.au/files/Surveillance_Devices_March_2014.pdf (accessed 1 August 2014).

14 Commonwealth Ombudsman, *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2014, p. 6.

15 AFP, *Annual Report 2012-13*, p. 99.

16 Commonwealth Ombudsman, *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2014, p. 6.

by the respective agencies under the Surveillance Act are potentially subject to inspection, under the Ombudsman's discretion¹⁷, the inspections were limited to 'those warrants and authorisations that had expired or were revoked during the relevant inspection period'.¹⁸

3.14 The Ombudsman inspected results related to 86 warrants and authorisations (a 31 per cent sample) and records relating to the destruction of information obtained under 72 warrants and authorisations (a 67 per cent sample).¹⁹

Ombudsman's findings

3.15 Under section 42 of the Surveillance Act, a warrant may be issued in relation to the investigation of a relevant offence where it becomes apparent that there will be a need for extraterritorial surveillance.²⁰

3.16 The Ombudsman's inspection found the AFP compliant with the requirements of the Surveillance Act except for four instances.²¹ The AFP self-disclosed that it had not complied with section 39 of the Surveillance Act in relation to one case in which it had 'applied and was granted a tracking device authorisation (rather than a warrant) in relation to extraterritorial surveillance.'²² In addition, the AFP did not notify the Attorney-General of extraterritorial surveillance in accordance with subsection 42(6) of the Surveillance Act.²³

3.17 The Ombudsman made no recommendations as a result of the inspection, although a 'number of suggestions were made regarding how the AFP could better comply with relevant provisions under the Act.'²⁴ The Ombudsman further noted that the AFP 'initiated an internal review and...as a result, AFP guidance regarding extraterritorial surveillance has been reviewed and updated.'²⁵

17 Subsection 55(5) of the *Surveillance Devices Act 2004*.

18 Commonwealth Ombudsman, *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2014, p. 3.

19 Commonwealth Ombudsman, *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2014, p. 6.

20 Commonwealth Ombudsman, *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2014, p. 7.

21 Commonwealth Ombudsman, *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2014, p. 6.

22 Commonwealth Ombudsman, *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2014, p. 6.

23 Commonwealth Ombudsman, *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2014, p. 6.

24 Commonwealth Ombudsman, *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2014, p. 6.

25 Commonwealth Ombudsman, *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2014, p. 7.

Unexplained wealth

3.18 On 19 March 2012, the committee tabled its report into *Commonwealth unexplained wealth legislation and arrangements*.²⁶ At its public hearing into the AFP's annual report, the committee asked the AFP for an update on unexplained wealth at the federal level. The Commissioner replied that the States and Territories were beginning to recognise the need for federal arrangements due to the current jurisdictional limitations of the Commonwealth in this area. However, the States and Territories were also eager to ensure that the resources are evenly distributed. Commissioner Negus continued:

A lot of it does rest on the states' and territories' confidence that they will get an appropriate share of this type of money. Again, from our perspective, we are more than happy to foster that and to look at appropriate sharing based on resource inputs and other things that should go to states and territories as well...we just want a model that will work, and is fair and equitable to everyone who is putting in.²⁷

Ombudsman's report

3.19 The committee received a report from the Commonwealth Ombudsman regarding the AFP's involvement in controlled operations under Part 1AB of the *Crimes Act 1914* during the preceding 12 months. The report was provided in accordance with section 10 of the *Parliamentary Joint Committee on Law Enforcement Act 2010*. The committee noted the report and has received it as confidential correspondence.²⁸

Committee view

3.20 The committee congratulates the AFP on an extremely productive and successful year in respect of operations, investigations and improved efficiencies.

3.21 The committee recognises that collaboration and cooperation both across Commonwealth agencies, state boundaries and international borders is central to contemporary law enforcement. Over the review period, the AFP has achieved exceptional results which reflect the agency's determination to build relationships with domestic and international partners and contribute to whole-of-government efforts. These efforts are matched by a focus on improving internal processes and implementing more efficient procedures.

Mr Bert van Manen MP

Chair

26 Parliamentary Joint Committee on Law Enforcement, *Commonwealth unexplained wealth legislation and arrangements*, March 2012.

27 Mr Tony Negus, Commissioner, AFP, Committee Hansard, 26 February 2014, p. 4.

28 *Parliamentary Joint Committee on Law Enforcement Act*, s. 10.

Appendix 1

Witnesses who appeared before the Committee at the Public Hearing

Wednesday, 26 February 2014 – Canberra ACT

Australian Federal Police

Mr Tony Negus, Commissioner

Mr Peter Drennan, Deputy Commissioner, National Security

Mr Michael Phelan, Deputy Commissioner, Operations

Mr Andrew Wood, Chief Operating Officer

Mr Kevin Zuccato, Acting Deputy Commissioner, Close Operations Support