

CHAPTER 6

THE MANAGEMENT OF STAFF RESOURCES, INFORMATION TECHNOLOGY CAPABILITY AND THE ALLOCATION OF RESOURCES AGAINST PRIORITIES

Management of Staff – AFP

Staff Numbers

6.1 At 31 December 2000, the total number of AFP employees was 2871, comprising 2074 sworn and 797 unsworn staff.¹ This number of staff is slightly more than the number set as one of the key organisational reforms to be reached by the end of the three year Reform Program² which was to achieve a staffing level of 2800.³ It also represents an increase from the staffing levels of the previous five years, particularly the most recent years. (See Table 6.1).

Table 6.1 : AFP Workforce by Employment Status

| Category | June 1996 ⁴ | June 1997 ⁵ | June 1998 ⁶ | June 1999 ⁷ | June 2000 ⁸ |
|-----------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Full time Staff | 2716 | 2603 | 2464 | 2435 | 2550 |
| Part time Staff | 56 | 64 | 85 | 82 | 88 |
| Temporary Staff | 35 | 56 | 81 | 274 | 252 |
| Total | 2807 | 2723 | 2630 | 2791 | 2890 |

6.2 The AFP received funding of \$35.976M to increase the AFP's staffing level to 2800,⁹ as recommended by the Reform Program. In the findings of the Ayers

1 *Submission 6*, Australian Federal Police, p.3

2 The date of the end of the initial three year Reform Program was 30 June 2001

3 *Submission 6A*, Australian Federal Police, Attachment B

4 *AFP Annual Report 1995-1996*, p.81

5 *AFP Annual Report 1997-1998*, p.113

6 *AFP Annual Report 1997-1998*, p.113

7 *AFP Annual Report 1999-2000*, p. 91

8 *AFP Annual Report 1999-2000*, p. 91

9 *Submission 6A*, Australian Federal Police, p.8

report it was suggested that this level of staffing should be examined at the end of phase one, and that it appears likely that a further increase may be required.¹⁰

6.3 In 2001, however, the AFP told the Committee that it currently has sufficient staff to carry out the functions that it is required to perform:

In fact, we would suggest that, while staffing numbers are always going to be important, there is actually a more sophisticated argument that now needs to be advanced which relates to the capacity of the organisation. That reflects whether we are able to meet the mandate that has been given to us, and staffing is but one of the inputs that goes into the question of capacity. More and more it is about technology, it is about partnerships and it is about finding smarter ways to do business.¹¹

6.4 In addition to these factors, the AFPA notes in its submission that the environment in which the AFP operates is 'volatile and dynamic and that the deployment of resources can and does vary throughout the year'.¹²

Operational and Support Ratios

6.5 As at 31 December 2000, of the total workforce of 2871, there were 2432 employees (84.7 per cent) in operational roles and 439 employees (15.3 per cent) in support roles. In its submission the AFP defines 'operational roles' as those which directly contribute to operational outcomes including: investigations, community policing, intelligence, surveillance, protection and some science and technical. 'Support roles' indirectly contribute to operational outcomes and include: learning and development, human resources, knowledge management and administration. The AFP provided a breakdown of staff by work role and function:¹³

- **Operations Role**

| | |
|-----------------------|-----|
| Investigations | 945 |
| Community Policing | 605 |
| Intelligence | 174 |
| Surveillance | 77 |
| Protection | 120 |
| International | 168 |
| Science and Technical | 222 |

10 *Submission 4*, Attorney-General's Department, p.22

11 *Transcript of evidence*, Australian Federal Police, p.35 (See Chapter 3, Paragraph 3.31)

12 *Submission 9*, Australian Federal Police Association, p.28

13 *Submission 6*, Australian Federal Police, Attachment A

| | |
|----------------------------|-------------|
| Operations Administration* | 121 |
| Operations Total | 2432 |

- **Support Roles**

| | |
|----------------------------|------------|
| Human Resources | 116 |
| Learning and Development | 38 |
| Finance and Administration | 110 |
| Knowledge Management | 34 |
| Policy and Legal | 36 |
| Science and Technical | 40 |
| Inoperative | 65 |
| Support Totals | 439 |

Total AFP Employees **2871**

*Note: Operations Administration includes Executive, some Learning & Development and some Knowledge Management

6.6 The AFP recognises that some staff in support roles have skills that could be utilised in operational roles. The AFP notes in its submission that one of the features of the new employment and remuneration regime is that it is designed to be flexible and allows staff to be redirected according to operational needs.¹⁴

6.7 In respect of operational staff, as at 20 June 2001, the AFP advised the Committee in its submission that 565 AFP employees were not available for operational duties within Australia. This was due to the following breakdown:¹⁵

- 81 - peacekeeping
- 16 - peacekeeping peace monitoring in Cyprus
- 11 - peace monitoring in the Solomon Islands
- 37 - overseas liaison network
- 23 - community policing in external territories of Christmas, Norfolk and Cocos/Keeling Islands

14 *Submission 6*, Australian Federal Police, p.4

15 *Submission 6D*, Australian Federal Police, p.19

- 53 – seconded to NCA
- 3 – attached to (The Hague) War Crimes Commission
- 32 – seconded to other Government agencies/authorities (eg. ATO, Centrelink)
- 64 – undertaking training (annualised average)
- 245 – accessing sick and annual leave

6.8 The number of employees accessing sick and annual leave is unusually high due to staff accessing their leave entitlements to bring the previous industrial agreement in line with the new certified agreement. As a general rule, no more than 10 per cent of staff would be on annual leave at any one time and this includes those staff located outside Australia.¹⁶

6.9 The AFPA argues that there needs to be an increase to operational resources. In its submission, the AFPA states that for the year 1999/00, the AFP data indicates that 4 per cent of the AFP's workload related to very high impact crime and that it required up to 64 per cent of the AFP's operational resources.¹⁷

6.10 The implementation of the Case Categorisation and Prioritisation Model evaluates matters for investigation, ensuring that the AFP's resources are directed to the matters of highest priority and that the decision to accept or reject matters for investigation is nationally consistent.¹⁸

6.11 This model takes into account: the nature of the alleged crime, the impact of the criminality involved, and the resources required for the AFP to investigate the matter. Each reported matter is assessed against other newly reported matters as well as ongoing investigations. A local management team located at each major operational centre is responsible for making the decision to investigate a matter and to assign resources to the investigation and monitor its progress.¹⁹ At this stage, the AFPA notes that its relatively recent introduction prevents the AFP from being able to assess its overall effectiveness and efficiency.²⁰

Characteristics of the workforce

6.12 One of the findings recommended by the Ayers Report was the development of a flexible and mobile workforce. The AFP recognised that this involved three essential elements.

16 *Submission 6D*, Australian Federal Police, p.19

17 *Submission 9*, Australian Federal Police Association, p.58

18 *Submission 9*, Australian Federal Police Association, p.58

19 *Submission 9*, Australian Federal Police Association, p.60

20 *Submission 9*, Australian Federal Police Association, p.60

6.13 Firstly, the full implementation of the National Teams Model (NTM), which has been achieved. This model operates by forming teams of people selected to perform a role in terms of their skills and experience rather than their level or rank. Uniform principles apply to teams, despite the nature and complexity of work. However, the size, composition and life of a team are determined by the nature of work to be performed. Fixed teams operate where there is an ongoing role, (for example, surveillance) or alternatively flexible teams will form for the life of a particular matter and these teams may fluctuate in resource levels according to operational requirements.²¹

6.14 Secondly, amendments to the AFP Act 1979 that came into effect in 2000. These amendments replace the restrictive fixed term appointment regime with a flexible employment system which reflects the prevailing workplace relations arrangements while maintaining the AFP as a disciplined organisation.²²

6.15 And thirdly, the negotiation and certification of a new industrial agreement which was implemented in November 1999.²³ Features of the new industrial agreement include more professional salaries for employees and more flexible workplace conditions.²⁴

6.16 In its submission the AFP described its current workforce as:

.....more highly qualified and multi-skilled than at any previous time. The majority of recruits joining the organisation since 1995 hold one or more tertiary qualifications in a variety of disciplines including law, science, information technology and commerce. Recruits are now more likely to bring significant experience in other fields to the organisation.²⁵

6.17 Given the emphasis on recruiting people with degrees, the Committee sought information on the role of and long-term experienced members of the AFP. The then Acting Commissioner commented that these employees are valued and that as at March 2001, there are plans for the next 12 months to upskill, particularly at middle management level.²⁶ In its submission, the AFP advised the Committee that AFP Learning and Development liaises closely with General Managers, Directors and Coordinators across the organisation to ensure that the training undertaken is providing employees with necessary skills.²⁷

21 *Submission 6A*, Australian Federal Police, pp.16-17

22 *Submission 6*, Australian Federal Police, p.27

23 *Submission 6A*, Australian Federal Police, p. 16

24 *Submission 6*, Australian Federal Police, p.27

25 *Submission 6*, Australian Federal Police, p.4

26 *Transcript of evidence*, Australian Federal Police, p.29

27 *Submission 6A*, Australian Federal Police, p.17

Staff Training

6.18 One of the findings of the Ayers report recommended the training of all senior staff in financial management. Another finding recommended that the AFP commit 4 per cent of its salaries budget for training to maintain and develop skills level, particularly in the areas of financial management, the management of investigations, and specialist skills in IT and forensic accounting.²⁸

6.19 In June 2001, the AFP provided an update on the progress of staff training programs as:

The AFP has committed, on average, the equivalent of 11% of base salaries expenditure to Learning and Development during the Reform Program, and will continue to commit sufficient funds to enable development of employees. As an organisation which has just completed a process of significant reform, including a major reprofiling of its workforce, and which is committed to continued performance improvement, the AFP believes this level of investment in training and development was appropriate.²⁹

6.20 The AFP recognises the importance of a flexible and responsive approach in respect of staff training:

We constantly have to reassess what we actually teach people because there are changing demands on the organisation and on our work force.³⁰

Workforce composition

6.21 The number of women employed by the AFP, and their distribution in the organisation is not consistent with those numbers reported for all Australian Public Service Agencies by the Public Service and Merit Protection Commission at 30 June 2000.³¹

6.22 According to the Workplace Diversity Report, for all public service agencies women represented 49.6 per cent of all ongoing staff,³² whereas the figure included in the AFP's Annual Report^{33,34} indicated that women represented only 29.64 per cent of the total number of employees (for both sworn and unsworn staff members). The Workplace Diversity Report states that at the SES level women represent 26 per cent, compared with no women at the SES level in the AFP for this same reporting

28 *Submission 4*, Attorney-General's Department, p. 23

29 *Submission 6D*, Australian Federal Police, p.4

30 *Transcript of evidence*, p.38

31 *Workplace Diversity Report 1999-00*, p.19

32 *1999-2000*, p.19

33 *1999-2000*, p. 92

34 As the AFP is not an APS agency it was not included in the Workplace Diversity Report 1999-00. A similar comparison is more difficult due to a different arrangement of levels in the AFP.

period.³⁵ The Committee does note that in a supplementary submission containing more recent statistics (dated July 2001) this figure had increased to 12 per cent.³⁶

6.23 The AFP advised the Committee in its submission that the current number of sworn women staff members of 28 per cent (a more recent figure than the one included in the Annual Report 1999-00), is the highest in the AFP's history. It comments that employment as a sworn staff member remains a more attractive career option for men. This is despite the removal of many of the recruitment criteria that have traditionally excluded women, such as specific physical strength or height.³⁷

6.24 In recognising that operational police work is not always conducive to family life, the AFP is implementing more flexible and family friendly arrangements, such as flexible and generous family leave provisions, part time and home based work options, and more flexible work practices.³⁸

6.25 Given that an unsworn woman staff member does not necessarily face the same challenges that may discourage her from employment in the AFP as a sworn staff member, it is discouraging that these figures reflect levels significantly below those reported for all public service agencies.

6.26 The Committee does note that the AFP participates in the Australian Women in Policing Advisory Committee (AWIPAC), which reports to the Commissioners of Police on a range of issues concerning women in policing.³⁹ The Committee considers that these initiatives are encouraging in addressing the barriers that will lead to increasing the numbers of women in the AFP particularly in the unsworn workforce.

Remuneration

6.27 The AFP considers that its Certified Agreement appropriately remunerates employees for their skills and the demands of the work they are doing.⁴⁰ The AFPA acknowledges that the new remuneration structure, that takes into consideration market forces and relies on the AFP being adequately funded, will pay people what they are worth.⁴¹

6.28 However the Committee heard that one of the difficulties of the new remuneration structure that is currently being addressed by the AFP and AFPA is that new and highly skilled people entering the organisation cannot move up the different

35 *Annual Report 1999-2000*, p.92

36 *Submission 6D*, Australian Federal Police, p.11

37 *Submission 6D*, Australian Federal Police, p.9

38 *Submission 6D*, Australian Federal Police, p.9

39 Australian Federal Police, *Annual Report 1999-2000*, p.48

40 *Transcript of evidence*, Australian Federal Police, p.26

41 *Submission 9*, Australian Federal Police Association, p.54

increment points from the starting point that they originally began on. This is an unintended consequence of the remuneration structure, and means that once a person reaches the top of their point they are faced with an artificial barrier that can lead to morale problems.⁴² (This is addressed in more detail in Chapter 5).

6.29 The AFPA states in its submission that when comparing salaries across police services in Australia, the AFP often report that the base salary of AFP sworn staff members is in the upper range of police remuneration within this country. However, this assumes that soft bars⁴³ have been implemented and that incremental movement through the relevant grades on the 22-point salary spine is allowed.⁴⁴ As noted in the previous paragraph the current remuneration structure is currently being fine-tuned to allow this movement.

Attrition Rates

6.30 In clarifying figures for its attrition rate for the year 1999-2000, the AFP commented:

One is that the AFP had an attrition rate quoted in last year's annual report of 10.25 per cent. That was corrected. We recognised that we made a mistake and it was corrected by way of corrigendum to 11.48 per cent. The important factor about attrition is that it is only one part of the equation; we have also done significant recruitment. The net turnover from 1 July 2000 to 31 December 2000 was only two per cent.⁴⁵

6.31 In its submission the AFPA noted that the AFP has lost the equivalent of over 70 per cent of its current permanent work force over the last 10 years.⁴⁶ In a submission, while acknowledging the accuracy of the figure, the AFP argued that, on its own, it was not a valuable or accurate indicator of the AFP's operational capability. The loss encompassed staff with a range of limited to lengthy years of experience. The loss of staff with 10 years or more experience would be considerably less than 70 per cent.⁴⁷ The AFP indicated that as of 28 March 2001, the AFP had 2042 sworn staff and of these, 1189 (58.2 per cent have 11 years or more service).⁴⁸

6.32 The AFPA suggests that staff leave the AFP for the following reasons; the result of successive budget cuts, inadequate human resources, the failure to

42 *Transcript of evidence*, p.85, See Chapter 5, Paragraph 5.18

43 The bars are described as hard and soft bars: *AFP Certified Agreement 1999-2002*, Clause 11.4. Hard bars are levels at which interviews or other formal processes are held; soft bars can be passed, in theory, when the individual has fulfilled the requirements of the level

44 *Submission 9*, Australian Federal Police Association, p. 100

45 *Transcript of evidence*, Australian Federal Police, p.35

46 *Submission 9*, Australian Federal Police Association, p.48

47 *Submission 6A*, Australian Federal Police, p.18

48 *Submission 6A*, Australian Federal Police, p.18

remunerate employees for the roles they are performing and the uncertainty surrounding the future of the AFP.⁴⁹

6.33 Voluntary exit interviews conducted by the AFP during the year 1999-2000 reveal that the main reasons for employee departures were either for employees to voluntarily pursue other employment opportunities or age retirement. Other reasons included the cessation of AFPAS and the fixed term appointment scheme. A small number of employees left due to invalidity or voluntary or involuntary redundancy. One employee was dismissed.⁵⁰

6.34 In addition to these factors, the AFP acknowledges that like other Commonwealth agencies the AFP faces difficulties in competing with the private sector to attract and retain skills in particular areas. One of the areas it flagged was that the growth in computer crime had resulted in the specialised skills of AFP employees being highly attractive to other Government and private sector agencies. In response to this factor, the AFP notes in its submission that it has strategies in place to maintain appropriate skills to meet core business requirements.⁵¹

6.35 For a breakdown of the areas that have experienced staff losses in the period April 2000 to March 2001 - see Table 6.2.

49 *Submission 9*, Australian Federal Police Association, p.49

50 *Submission 6*, Australian Federal Police, p.3

51 *Submission 6A*, Australian Federal Police, p.18

Table: 6.2 Attrition Numbers April 2000 to March 2001⁵²

(Numbers indicate where losses have occurred)

| Executive | Area | Service Year Groups | | | | | | | Total |
|-------------------|-------------------------------|---------------------|-----------|-----------|-----------|-----------|-----------|-----------|------------|
| | | 01-05 | 06-10 | 11-15 | 16-20 | 21-25 | 26+ | | |
| ACT | ACT | 7 | 10 | 8 | 9 | 16 | 10 | 12 | 72 |
| ACT Total | | 7 | 10 | 8 | 9 | 16 | 10 | 12 | 72 |
| Enabling | Commissioners Office | | 2 | 1 | 1 | 1 | | | 5 |
| | Forensic | 1 | 0 | 2 | | 1 | 0 | 3 | 7 |
| | Finance and People Management | 0 | 2 | 5 | 5 | 2 | 4 | 2 | 20 |
| | Information Technology | 1 | 3 | 0 | 4 | 1 | | | 9 |
| | Learning and Development | | 2 | 4 | 2 | 1 | | 1 | 10 |
| | Policy and Commercial | 1 | 3 | 3 | 1 | 4 | 0 | 2 | 14 |
| Enabling Total | | 3 | 12 | 15 | 13 | 10 | 4 | 8 | 65 |
| Operational | Commissioners Office | | | | | | | 1 | 1 |
| | Eastern | 3 | 12 | 7 | 11 | 5 | 5 | 6 | 49 |
| | National Operations | 2 | 1 | 3 | 3 | 7 | 3 | 7 | 26 |
| | Northern | | 1 | 2 | 13 | 3 | 4 | 2 | 25 |
| | Protective Security | 1 | 0 | 0 | 4 | 1 | 0 | 1 | 7 |
| | Southern | 1 | 2 | 2 | 6 | 5 | 7 | 8 | 31 |
| | Western | 1 | 1 | 2 | 2 | 2 | 2 | 2 | 12 |
| Operational Total | | 8 | 17 | 16 | 39 | 23 | 21 | 27 | 151 |
| Total | | 18 | 39 | 39 | 61 | 49 | 35 | 47 | 288 |

6.36 However, the AFP states in its submission that the staff losses have not led to a decline in AFP personnel or skills in the past few years.

The AFP is able to demonstrate improved performance through performance information, increased levels of client satisfaction and favourable comparisons with international law enforcement agencies in the area of drug enforcement.⁵³

Resolving Conflict

6.37 Different processes are used for dealing with three kinds of conflict:

- grievances of employees against management;⁵⁴
- complaints against employees by members of the public; and
- internal allegations of misconduct by employees.

Grievance Resolution

6.38 The AFP explains the Grievance system in the following way:

The AFP emphasises a proactive stance in dealing with non-industrial workplace issues and has made its managers more responsible for dealing with issues. To that end it is placing more emphasis on early intervention and resolution at the lowest possible level.

As a result, many grievances are dealt with between individuals, or between individuals and Team Leaders, and resolved at a very local level. This means that senior AFP managers may not be notified or otherwise become involved in grievance resolution.⁵⁵

6.39 AFP management was aware of only 103 grievances lodged with Professional Reporting during the calendar year 2000. The Committee was told that all of these had been resolved by conciliation, additional intervention or reference to Internal Investigations.⁵⁶

6.40 Grievances are notified to area managers when reported. For those grievances relating to industrial or Certified Agreement issues there is ongoing consultation between management and employees. The AFP also monitors the issues raised at the

53 *Submission 6A*, Australian Federal Police, p.12

54 *Transcript of evidence*, Australian Federal Police, p. 132. Commissioner Keelty said: ‘ . . . the grievance procedure is a grievance – or a complaint, if you like – which is a management decision which can be dealt with by way of conflict resolution’

55 *Submission 6A*, Australian Federal Police, p. 19

56 *Submission 6A*, Australian Federal Police, p. 19

Certified Agreement Working Group (comprising representatives from the AFP and AFPA) and the Employee Assistance Program.⁵⁷

6.41 The AFPA claimed however that many AFP employees were not using the grievance mechanism:

We have serious concerns about that, simply because we believe that the grievance process has not worked.⁵⁸

Complaints and Allegations – Common factors

Disciplinary offences

6.42 Regulation 29 of the AFP (Discipline) Regulations lists disciplinary offences. They include:

- Engaging in improper conduct by:
 - using the fact of employment by the AFP to obtain a benefit for oneself or another;
 - placing oneself under a pecuniary obligation to another so as to give reasonable grounds for belief that there is potential for influence over the way in which duties are carried out;
 - acting in a manner that brings or is likely to bring discredit on the reputation of the AFP;
 - being charged with a criminal offence before a court and the charge is proved; and
- failing to have regard to Official Guidelines or to comply with a Commissioner's Order or with a specific direction or with a requirement to supply a financial statement or with a direction to undergo a drug or alcohol test.

Processes available for dealing with disciplinary offences

6.43 The AFP Act authorises the Commissioner to issue Commissioner's Orders relating to administration and operations control.⁵⁹ The AFP Commissioner's Order on Professional Standards came into effect from the date of commencement of the *Australian Federal Police Legislation Amendment Act 2000*.⁶⁰ The Order lists 'Professional Standards' including Commissioner's Orders, lawful directions and National Guidelines. It notes the Commissioner's power under the Australian Federal

57 *Submission 6A*, Australian Federal Police, p. 20

58 *Transcript of evidence*, Australian Federal Police Association, p. 92

59 *Australian Federal Police Act 1979*, section 38

60 1 July 2000

Police Regulations to suspend anyone failing to comply with Professional Standards⁶¹ and indicates that if the breach of Professional Standards is a disciplinary offence, (which appears to the Committee to be the normal situation), the employee may be dealt with by:

- commencement of disciplinary proceedings;
- exercise of command powers;
- exercise of employment powers; or
- exercise of any other administrative power of the Commissioner.⁶²

Disciplinary proceedings

6.44 If the Commissioner has determined that an employee is guilty of a disciplinary offence, the Commissioner may:

- caution the employee;
- reprimand the employee;
- impose a fine of up to 5 days' salary; or
- terminate the employee's employment.⁶³

6.45 Disciplinary proceedings are begun by way of notice from the Commissioner to the employee.⁶⁴ Where appropriate, the notice may offer the member a caution instead of proceedings.⁶⁵ Charges for disciplinary offences are to be heard by the Commissioner or, in certain circumstances, by the Disciplinary Tribunal.⁶⁶ Where charges are heard, and a penalty is imposed by the Commissioner, the employee may appeal to the Disciplinary Tribunal against the finding of guilt⁶⁷ and/or the penalty.⁶⁸ The Attorney-General may appeal on the basis that the penalty is inadequate.⁶⁹ Where the Disciplinary Tribunal hears the charge at the first instance, it may, depending on the circumstances, impose any penalty open to the Commissioner or it may remit the

61 Australian Federal Police Commissioner's Order on Professional Standards, Commissioner's Order 2, Note to Item 5

62 Australian Federal Police Commissioner's Order on Professional Standards, Commissioner's Order 2, Item 6

63 Australian Federal Police (Discipline) Regulations, r. 36

64 Australian Federal Police (Discipline) Regulations, r. 31

65 Australian Federal Police (Discipline) Regulations, r. 32

66 See *Complaints (Australian Federal Police) Act 1981*, sections 52A, 67

67 *Complaints (Australian Federal Police) Act 1981*, section 69

68 *Complaints (Australian Federal Police) Act 1981*, sections 52E, 68

69 *Complaints (Australian Federal Police) Act 1981*, sections 52E, 68

matter to the Commissioner for the imposition of a penalty.⁷⁰ Any penalty imposed by the Commissioner under remittal is subject to appeal by the employee and the Attorney-General.⁷¹ In an appeal, the Disciplinary Tribunal may substitute its own findings of fact and law for those of the Commissioner and may impose such penalties as it deems fit.⁷² There can be an appeal on a question of law or on the severity/adequacy of penalty (other than an admonition or reprimand) from the Disciplinary Tribunal to the Federal Court.⁷³

Administrative ('Management') processes

6.46 In describing its employment regime the AFP stated that:

... the Act now clearly distinguishes between the Commissioner's powers of employment and the Commissioner's powers of command. While employment decisions are subject to the provisions of the *Workplace Relations Act 1998*,⁷⁴ command decisions are not, but are reviewable by the Federal Court under Administrative Decisions Judicial Review.

The exclusion of command powers from federal legislation regulating industrial relations has been a feature of the AFP's statutory framework since the AFP's establishment. The command powers include the Commissioner's right of summary dismissal in order to safeguard the integrity of the organisation and the individuals who work within it.⁷⁵

6.47 Section 69B of the AFP Act provides that while the employment termination provisions of the Workplace Relations Act apply to the termination of employment of employees (under section 28), that Act does not apply at all to matters covered by Divisions 2-8 of Part IV (e.g., secondment of employees,⁷⁶ assignment of duties,⁷⁷ the power to provide for suspension by regulation,⁷⁸ termination of employment for

70 *Complaints (Australian Federal Police) Act 1981*, subsection 67(3)

71 *Complaints (Australian Federal Police) Act 1981*, section 68

72 *Complaints (Australian Federal Police) Act 1981*, sections 68, 69

73 *Complaints (Australian Federal Police) Act 1981*, section 79

74 Regulation 24 of the Australian Federal Police Regulations requires the Commissioner to ensure that there is a process for reviewing AFP employment decisions at all times and that it is at least as favourable to AFP employees as that set out in the AFP Certified Agreement 1999-2000. Employment decisions are provided for in Part III of the Australian Federal Police Act 1979 and include termination of employment (section 28) and retirement on invalidity grounds (section 32). Attachment 3 to the Certified Agreement provides that workplace disputes can be referred to a Board of Reference, consisting of a Commissioner of the Australian Industrial Relations Commission, a nominee of the AFP Commissioner and a nominee of the AFPA, if the internal disputes resolution procedures have been unsuccessful. The Board of Reference has power to make binding determinations and decisions

75 *Submission 6*, Australian Federal Police, p. 13

76 *Australian Federal Police Act 1979*, section 40F

77 *Australian Federal Police Act 1979*, section 40H

78 *Australian Federal Police Act 1979*, section 40J

serious misconduct,⁷⁹ directions to submit financial statements⁸⁰ or undergo drug or alcohol testing⁸¹) or discipline or other matter prescribed by regulations.

6.48 Regulation 5 of the AFP Regulations provides that the Commissioner may suspend an AFP employee from duties if it is reasonably believed that the employee has committed a disciplinary offence or has failed to comply with professional standards or is charged with having committed a criminal offence, the nature of which is such that he or she should not continue to perform duties until the charge is determined.

6.49 The *Administrative Decisions (Judicial Review) Act 1977* applies to decisions under all relevant provisions of the AFP Act, although reasons cannot be obtained for decisions under sections 28 (termination of employment by Commissioner), 40F (secondment of AFP employees to other police forces etc) or 40H (assignment of duties etc) of the AFP Act, which makes it difficult to have them reviewed by the Federal Court. On the other hand, reasons for a decision under section 40K to terminate an employee's employment for serious misconduct can be obtained.

6.50 To sum up, a decision under section 28 of the AFP Act to terminate employment is subject to the unfair dismissal provisions of the Workplace Relations Act and to the Administrative Decisions (Judicial Review) Act, although reasons cannot be obtained for such decisions. On the other hand, decisions to second employees, assign duties to them, provide by regulation for their suspension and terminate their employment for serious misconduct are not subject to the Workplace Relations Act at all, although they are subject to the Administrative Decisions (Judicial Review) Act. Reasons cannot be obtained for decisions to second officers or assign duties to them.

Complaints

6.51 Commissioner's Order 5 relates to the handling of complaints under the *Complaints (Australian Federal Police) Act 1981* (the Complaints Act). It states that it is to give effect to Part II, Division I of the Complaints Act by specifying the methods to be used for referring a complaint for Internal Investigation and for other related purposes.⁸² It states that at the conclusion of any investigation into a complaint, the complainant and the person who is the subject of the complaint are to

79 *Australian Federal Police Act 1979*, section 40K. The section enables the Commissioner to declare that the employment of an AFP employee is being terminated under section 28 because the employee's serious misconduct has, or is likely to have, a damaging effect on the morale or reputation of the AFP

80 *Australian Federal Police Act 1979*, section 40L

81 *Australian Federal Police Act 1979*, sections 40M-N

82 Australian Federal Police Commissioner's Order on Complaints made against AFP Appointees under the Complaints Act, Commissioner's Order 5, Preamble

be notified of the result, which must be within set parameters.⁸³ Where the complaint is established, the parameters are as follows:

1. substantiated . . .

1.2 fault established:

1.2.1 **complaint substantiated**, the complaint is found to be true:

1.2.1.1 performance improvement objectives set and monitored through EMP

1.2.1.2 Other management based outcomes applied, eg. redeployment and retraining

1.2.1.3 Discipline Regime applied

6.52 The Complaints Act and Commissioner's Order 5 only apply to complaints made by persons who are not AFP employees.⁸⁴ In the 2000-01 financial year, to 27 June 2001, 725 complaints were made.⁸⁵ Commissioner Keelty described the process for dealing with complaints as:

. . . something that is highly auditable and is externally reviewed by the Ombudsman.⁸⁶

6.53 Under this procedure, conciliation of a complaint is to be attempted where appropriate. If conciliation is inappropriate or unsuccessful, the complaint is to be referred to the Investigation Division and the Ombudsman is to be notified.⁸⁷ When the Investigation Division has reported on a complaint, and the Commissioner has formed a view that the employee should be charged or cautioned or admonished, the Commissioner is required to confer with the Ombudsman. In the final analysis, the Commissioner may be given a direction by the Attorney-General.⁸⁸

6.54 The close involvement of the Ombudsman in investigating, and subsequently taking action on, complaints is important. The Committee considers that this is the best assurance that any recourse to administrative, rather than disciplinary, processes will be considered and reasonable.

83 Australian Federal Police Commissioner's Order on Complaints made against AFP Appointees under the Complaints Act, Commissioner's Order 5, Item 8

84 See, for example, *Complaints (Australian Federal Police) Act 1981*, subsection 6(4)

85 *Submission 6D*, Australian Federal Police, p. 21

86 *Transcript of evidence*, Australian Federal Police, p. 132

87 *Complaints (Australian Federal Police) Act 1981*, sections 6-6A

88 *Complaints (Australian Federal Police) Act 1981*, section 11

Allegations

6.55 An allegation:

refers to a disciplinary matter not covered by the Complaints Act and Commissioner's Order 5. An allegation is when an AFP employee complains about another AFP employee. It also covers situations where any other person makes a complaint about an AFP employee that does not refer to actions taken in the course of their employment, as in a complaint. Allegations are covered by Commissioner's Order 6.⁸⁹

6.56 Commissioner's Order 6 sets out the procedures to be followed by AFP employees or special members in relation to allegations. Item 10 provides that at the conclusion of any investigation into an allegation, the AFP employee or special member who is the subject of the allegation and the 'complainant' are to be notified of the result, which must be within set parameters. The parameters applying where the complaint is substantiated are as set out in paragraph 6.51 above.

6.57 In the 2001-02 financial year, to 27 June 2001, 130 allegations had been recorded. The AFP advises that while in some instances, acting in the interests of 'openness and transparency', the AFP may elect to advise the Ombudsman about allegations, this is not required under the Act.⁹⁰

6.58 The Committee notes that there is no requirement for an outside body like the Ombudsman to be involved in the consideration of allegations in order to ensure that any recourse to administrative processes is fair and reasonable.

Punishments imposed as a result of complaints and allegations

6.59 The AFP reports that during the 2000-01 financial year, employment suitability assessments were conducted for 21 employees for reasons of substantiated complaints and/or allegations, and poor performance issues.⁹¹ No employees were dismissed under section 28 of the AFP Act as a result of a substantiated complaint pursuant to Commissioner's Order 5. However, 5 employees were dismissed as a direct result of substantiated allegations pursuant to Commissioner's Order 6.⁹² It is unlikely that declarations under section 40K (termination of employment for serious misconduct) were made in two of these cases and it is unclear in the other three.⁹³ No figures were given as to the use of disciplinary proceedings in the same period.

6.60 The AFPA was concerned at what it saw to be an inappropriate use of management processes rather than disciplinary processes to deal with staff issues:

89 *Submission 6D*, Australian Federal Police, p. 21

90 *Submission 6D*, Australian Federal Police, p. 21

91 *Submission 6D*, Australian Federal Police, p. 21

92 *Submission 6D*, Australian Federal Police, p. 25

93 *Submission 6D*, Australian Federal Police, p. 25

. . . if it goes down the disciplinary path, there are mechanisms there to appeal it . . . if it goes down a managerial action path, the penalty imposed may actually be greater than if it had gone down the disciplinary process path. Because it is all internal, there is no mechanism to look at it and for the individual to have the opportunity to, one, question the results of the particular investigation to confirm whether that is correct and, two, to appeal against the penalty imposed.

There may well be a transfer of a person to another location, and that has enormous impact. It may mean they have to move house, and that will affect their spouse and family. Or they might be moved across from an area where they are on a fixed term appointment at a higher pay level, as punishment. That penalty is probably far greater than what the individual would have got had they gone down a disciplinary path. We are not talking about criminal action but minor indiscretions and minor failings.⁹⁴

6.61 The AFPA also stated:

The administrative and disciplinary process within the AFP since the implementation of the new AFP Act requires urgent analysis and investigation. The current process does not allow an individual the potential to challenge the penalties imposed. The AFPA is concerned that there is a growing trend in allegations of discrimination, overly zealous investigative practices or potential cover-up.⁹⁵

6.62 In response, the Commissioner stated that the transfer power was rarely used as a form of discipline:

By and large, in the interests of natural justice and affording people natural justice, they are not transferred as an administrative way of disciplining them. The process is highly accountable and very transparent.⁹⁶

6.63 However, it is clear that the transfer power may be used in situations which have disciplinary elements. The AFP referred to one such situation:

A decision was made to transfer two members from a smaller office to a major operational centre. This occurred following a substantiated internal investigation finding under Commissioner's Order 67 regarding deficient work practices [ie, an 'allegation']. The decision to transfer the employees was aimed at rectifying these deficient practices, and in recognition that *their conduct had made it impractical to leave them in that location*. The decision to transfer was not intended as a punishment, but arose as a *consequence of the conduct of the employees in question*. In general,

94 *Transcript of evidence*, Australian Federal Police Association, p. 93.

95 *Submission 9*, Australian Federal Police Association, p. 9

96 *Transcript of evidence*, Australian Federal Police, p. 133.

transfers are not intended to be punitive, but a legitimate exercise of the Commissioner's powers and responsibilities in managing the organisation.⁹⁷

6.64 The Committee notes that the Federal Court issued an interlocutory injunction on 29 June 2001 preventing, for the time being, the transfer of an AFP officer back to Australia from his secondment to Interpol in France. The AFP claimed that the officer had breached the AFP guidelines about the use of the Internet for inappropriate private purposes. One of the arguments which the Court recognised as being open to the officer was that any proceedings against the officer should be disciplinary, not administrative.⁹⁸

Conclusion

6.65 The Committee did not have enough information to form a view on the operation of the grievance system. On the other hand, the procedures for dealing with complaints and allegations are complex and confusing. There are indications that administrative processes, particularly the transfer power, are being used when it would be fairer to the employee if disciplinary processes were used.

Recommendation

Recommendation 1

The Committee **recommends** that the procedures for dealing with complaints and allegations be examined with a view to their being simplified and made more transparent, and to ensuring that employees are not disadvantaged by the use of administrative instead of disciplinary processes.

Staff Morale

6.66 The AFPA comment that the effect on staff morale of the AFP having undergone a large amount of change is:

.... it depends on what day the survey is conducted as to what mood is flowing through the organisation. Generally we believe that our members seem more content with the operational aspects of the organisation, but there are increasing concerns about a range of administrative matters within the AFP, which we have addressed in our submission.⁹⁹

6.67 Other factors that may be considered as related to staff morale are attrition rates,¹⁰⁰ the complaints and grievances process,¹⁰¹ remuneration and the general work conditions as addressed in the certified agreement.¹⁰²

97 *Submission 6D*, Australian Federal Police, p. 26 (emphases added)

98 *Eaton v Overland and Keelty*, Federal Court of Australia, Allsop J, A28 of 2001

99 *Transcript of evidence* Australian Federal Police Association, p.90

100 See Paragraph 6.30

6.68 The Committee acknowledges that the AFP is indirectly addressing the general climate of staff morale through offering assistance and support to employees through the 'AFP's national employee assistance service'. During the year 1999-2000, this service received referrals on issues including workplace stress and trauma exposure, career planning, organisational change, interpersonal conflict, relationship and family issues.¹⁰³

Allocation of Staff Resources Against Priorities

6.69 The AFP has two performance outcomes, and at 31 December 2000, the allocation of staff to each outcome was as follows:

Outcome 1

1427 sworn employees

685 unsworn employees

2112 total¹⁰⁴

- countering and otherwise investigating illicit drug trafficking, organised crime, serious fraud against the Commonwealth; money laundering and the interception of assets involved in or derived from these activities;
- investigating special references and performing special taskings from the Government;
- providing an effective contribution to the implementation of the Government's 'Tough on Drugs' strategy; and
- Continuing to develop a capacity to deal with new forms of criminal activity requiring special attention to be directed at the investigation of economic crime, in all its forms, transnational crime and crime involving information technology and communications (including electronic commerce).

A supplementary Ministerial Direction in September 2000 expects the AFP to give special emphasis to:

- countering and otherwise investigating organised people smuggling; and
- Providing an effective contribution to the whole of government approach to unauthorised arrivals.¹⁰⁵

101 See Paragraph 6.38

102 See Chapter 5

103 AFP, *Annual Report 1999-2000*, p.49

104 *Submission 6*, Australian Federal Police, p.5

105 *Attorney-General's Portfolio, Portfolio Budget Statements 2001-02*, , p.198

Outcome 2

647 sworn employees

112 unsworn employees

759 total¹⁰⁶

- A new Policing Arrangement and Purchase Agreement were established between the AFP and the ACT Government for the 2000-01 financial year. The Policing Arrangement extends for a period of five years and the Purchase Agreement is subject to annual negotiations.¹⁰⁷

6.70 The priorities of the AFP are issued by Ministerial direction, or through a process of the AFP prioritising investigations through the Case Categorisation and Prioritisation Model (CCPM).¹⁰⁸ The AFP is constrained by limitations in its resources and states in its submission:

The AFP has never sought to cover all aspects of any type of crime. Many offences fall outside the AFP's jurisdiction. The AFP is also a small agency and must operate within its resources.¹⁰⁹

6.71 Given these limitations, there is added importance in appropriately allocating resources, and the nature of the criminal environment is that these priorities are likely to change:

The greatest disadvantage is inflexibility. The dynamic environment of law enforcement means that emerging high priority crime will always take precedence over existing crime, and you do need the flexibility to be able to put your resources to emerging trends.¹¹⁰

6.72 One of the issues raised during this inquiry in respect of competing priorities was the value of placing high quality recruits in community policing in the ACT. The AFPA suggest:

...community policing is the foundation of any investigator. That is your background, your prime experience, before you become an investigator. You just do not become an investigator; you have to have a background, an ability to talk to people in a wide variety of forums and from a wide variety of backgrounds. Community policing is that basis.¹¹¹

106 *Submission 6*, Australian Federal Police, p.5

107 *Attorney-General's Portfolio, Portfolio Budget Statements 2001-02*, p.199

108 *Submission 6A*, Australian Federal Police, p.11

109 *Submission 6A*, Australian Federal Police, p.11

110 *Transcript of evidence*, Australian Federal Police, p.29

111 *Transcript of evidence*, Australian Federal Police Association, p.76

6.73 There is also the issue of whether community policing in the ACT should be a core or non-core component of the AFP's responsibility. The AFPA comment:

This issue has been debated at some length over recent years - as to whether community policing was considered to be a core or non-core component of the AFP's responsibility. Increasingly, particularly given the growth in the civilian policing role within peacekeeping functions and the Commonwealth's obligation in that area, we certainly see the community policing experience that is derived through the AFP's role within the ACT as a core component with that framework.

6.74 While in the summary of findings of the Ayers Report, ACT community policing is not listed as a core business item for the AFP, in another finding it is stated that the AFP should continue to provide ACT community policing and that this should be reconsidered in consultation with the ACT Government following CHOGM in 2001.¹¹²

Information Technology Capability and Hardware

6.75 The need for the AFP to upgrade its technical and forensic services and equipment was one of the findings of the Ayers Report.¹¹³ The total funding to be provided for equipment under the Reform Program was as follows:

- Equipment Upgrade – One off purchases \$12.5M
- Upgrade of Forensic Facilities \$04.9M
- Upgrade of Firing Range \$00.7M

6.76 The additional funding has allowed the AFP to update equipment including: mobile and fixed listening device capabilities, the transmission, storage of processing and technical surveillance products, the development of alternative listening device technology, the provision of technical support and physical surveillance and the technical replacement program.¹¹⁴

6.77 However, the AFPA in its submission suggests that equipment needs remain a source of complaint from operational staff and that there are inadequacies in some areas, such as the level of technical training in electronic crime investigations.¹¹⁵ The AFP told the Committee that this training program is currently under review.¹¹⁶ Also,

112 *Submission 4*, Attorney-General's Department, p.24

113 *Submission 4*, Attorney-General's Department, p.21

114 *Transcript of evidence*, Australian Federal Police, p.33

115 *Submission 9*, Australian Federal Police Association, p.64

116 *Transcript of evidence*, Australian Federal Police, p.39

E-crime remains a standing item on the agenda of the internal Scientific and Technical Steering Committee.

6.78 The role of reviewing and advising the National Management Team on the AFP's investment in technology is one of the functions of the Scientific and Technical Steering Committee.¹¹⁷

6.79 The then Acting Commissioner advised the Committee that the view of the AFP is that the future is in technical advancement. More actively than previously, the AFP supports the employment of technology as being more efficient than human resources.¹¹⁸ The Acting Commissioner advised that after having attended a number of international meetings he considers that the AFP is far further advanced on this aspect than many other law enforcement agencies in the world.¹¹⁹

6.80 Despite the technological developments that have been financed under the Reform Program the AFPA claim that the AFP is not keeping pace with technological advances.¹²⁰ Those involved in crime may have access to unlimited funds and sophisticated technologies whereas the funding for the AFP has to have regard to the current budgeting climate.

Other resource issues

6.81 In giving evidence to the Committee, the AFP mentioned the importance of partnerships, and this issue was later raised in the context of whether the AFP works with overseas forces to share information, best practice and technological developments to maximise its impact and effectiveness. The AFP commented that:

..... the longer answer is, yes, we do, but it is one of those expanding areas where we need to constantly review how we are performing and look to do better, because it is presenting real challenges to us. I do not think anyone would pretend that at this stage we are totally comfortable with where we are in relation to sharing that type of information, but we are very conscious of the fact that we need to work on it and get better.¹²¹

Conclusions

6.82 Under the Reform Program, additional funding has allowed the AFP to address many of the resourcing issues relating to staff and information technology identified in the findings of the Ayers Report. While the AFP considers staff as its principal resource,¹²² it has now adopted a more holistic approach that also

117 *Submission 6D*, Australian Federal Police, p.8

118 *Transcript of evidence*, Australian Federal Police, p.38

119 *Transcript of evidence*, Australian Federal Police, p. 34

120 *Submission 9*, Australian Federal Police Association, p.64

121 *Transcript of evidence*, Australian Federal Police, p. 39

122 *Transcript of evidence*, Australian Federal Police, p.26

encompasses the capacity of the organisation, particularly its flexibility in responding to the ever-changing criminal environment.¹²³ Significant factors in this process have been the implementation of the National Teams Model, the amendments to the *AFP Act 1979* and the new industrial agreement.¹²⁴

6.83 In respect of concerns relating to staffing issues such as overall employee satisfaction raised by the AFPA, and the high attrition rate of the AFP, the Committee accepts that these issues are not easily resolved to everyone's satisfaction, and must continue to be monitored. The new industrial agreement seeks to ensure professional salaries are paid to staff. The ability for the AFP to maintain high staff morale requires a continuing commitment to providing a 'rewarding and exciting career' for employees. Initiatives such as these are crucial if the AFP is going to retain its highly valued, qualified, and skilled workforce.¹²⁵

6.84 The Committee considers it encouraging that the AFP currently participates in initiatives aimed at raising the low representation of women in the AFP, particularly at senior levels. However, a more comprehensive understanding of the reasons preventing a better representation of women at all levels of the AFP is required.

6.85 Generally, the AFP seems satisfied that it has sufficient resources to perform its mandate.¹²⁶ The allocation of resources to competing priorities will always be a difficult task in a criminal environment, where new forms of crime continue to emerge. However, a firm commitment to becoming more flexible has and will continue to place the AFP in a better position as it enters the 21st Century. Major factors in this process have been the development of a flexible workforce, the implementation of the National Teams Model and the Case Categorisation and Prioritisation Model.

123 See Paragraph 6.3

124 See Paragraph 6.13-6.15

125 See Paragraph 6.16

126 See Chapter 4

National Crime Authority

Staff Numbers

Table 6.3: Staff Numbers

| Category | June 1996 | June 1997 | June 1998 | June 1999 | June 2000 |
|------------------------------|-----------|-----------|--------------------------|-------------------------------------|-------------------------------------|
| Chairperson and Members | 2 | 2 | 3 | 3 | 3 |
| Public Service Act Staff | 286 | 237 | 245 | 265 | 293 |
| Non-Public Service Act Staff | 1 | 1 | 1 | | 3 |
| Seconded officers | 118 | 105 | 114 (Police) 13 (ATO) | 124 (Police) 13 (ATO) 5 (ACS) | 130 (Police) 18 (ATO) 3 (ACS) |
| Total | 407 | 345 | 376 | 410 | 450 |

6.86 At 31 December 2000, there were 407 staff members of the NCA. These included 254 Australian Public Service staff, 150 seconded staff,¹²⁷ and the 3 staff members covered by the National Crime Authority Act.¹²⁸

6.87 The seconded staff come from Federal, State and Territory law enforcement agencies. Under the NCA Act, staff are usually seconded for a period of two to three years. Staff are also seconded from other Commonwealth agencies such as, Australian Customs Service (ACS) and the Australian Taxation Office (ATO) on an operational needs basis.

6.88 In June 2001, in reference to staff numbers, the NCA commented that while it like other agencies must work 'within the resources allocated by Government' – it believes 'with additional staff and resources it could significantly increase its impact on organised criminal activity in Australia'.¹²⁹

6.89 In its submission, the NCA described the role of seconded police staff members as highly important:

127 134 seconded police officers, 3 seconded Australian Customs Staff, and 13 seconded Australian Taxation Office staff, *Submission 4*, National Crime Authority, p.13

128 *Submission 7*, National Crime Authority, p.13

129 *Submission 7C*, National Crime Authority, p.8

The secondment of staff to the NCA provides its investigative lifeblood and helps promote positive working relationships with partner law enforcement agencies. It also facilitates access to a wide range of policing facilities and expertise, which greatly enhances the NCA's operational capability. The NCA could not undertake its work without seconded police officers.¹³⁰

6.90 However, the NCA and Mr John Broome, a previous Chairman of the NCA, indicated that there are also disadvantages associated with having seconded police staff members. The length of tenure is relatively short of usually two-three year periods, and that creates a loss of continuity in pursuing investigations, and a difficulty in retaining the corporate knowledge of the NCA. Also, the NCA needs to train seconded staff in the methods and procedures of the NCA, and this training is lost to the NCA when the seconded staff member returns to their home force. A limited supply of experienced investigators means that the NCA does not always obtain the right mix of investigators for its particular inquiries. Finally, the salary costs of the home force of the seconded staff must be matched and paid by NCA and this poses difficulty in forward budgeting.¹³¹

6.91 In relation to the expenses of seconded police staff members, the Budget for 2001-02 provided the NCA with \$700,000 to cover increases in seconded police salaries.¹³²

6.92 In efforts to overcome some of these difficulties, particularly the 2-3 year turnover of seconded staff, the NCA is piloting a trial of engaging a small number of investigators with substantial law enforcement experience who are no longer members of the police force but will be employed on contract with the NCA. As it is unlikely that these people will have police powers these contract arrangements introduce new considerations.¹³³

Operational/Support Ratio

6.93 As at 31 December 2000, the NCA's 407 staff members comprised 332 staff in operational roles, and 75 people providing corporate support. Corporate support refers to those roles including information management, human resources, financial management, internal audit, law reform, strategic policy and communications and corporate management and staff in each operational centre. In its submission, the NCA provided a breakdown of operations staff as follows:

130 *Submission 7*, National Crime Authority, p.14

131 *Submission 7A*, National Crime Authority, pp.28-29 and *Submission 2*, Mr John Broome, pp.9-10

132 See Chapter 4, Paragraph 4.70

133 *Submission 7A*, National Crime Authority, p.29

- **Operations Staff (as at 31 December 2000)**

| | |
|------------------------------------|------------|
| Seconded police investigators | 134 |
| Investigations support | 62 |
| Intelligence analysts | 28 |
| Telephone Interception | 27 |
| Seconded staff from other agencies | 16 |
| Financial Investigators | 18 |
| Lawyers | 14 |
| Operations Management | 10 |
| Technical support officers | 10 |
| Task force national coordination | 7 |
| Security | 3 |
| Authority (Chair & Members) | 3 |
| Total operations staff | 332 |

6.94 Like the AFP, the NCA notes in its submission that some corporate staff have mixed corporate/operational functions. The NCA also states that as it moves towards an integrated national structure, the distinction between operational and corporate functions will become less clear. This allows greater flexibility as staff at the lower levels of operational and corporate functions are undertaking a wider range of tasks that encompass both activities. The NCA advised that the restructuring currently taking place should introduce administrative efficiencies and reduce the need for corporate staff. It will do this through enhanced management practices and systems. These initiatives will allow the NCA to direct a greater proportion of its resources to the core activity of operations.¹³⁴

Workforce Composition

6.95 While women represent 52 per cent of the total number of Australian Public Service employees at the NCA¹³⁵ they are under represented at the SES level with a figure of 11.8 per cent (this is compared with 26 per cent for all Australian Public Service agencies).¹³⁶

134 *Submission 7*, National Crime Authority, p.17

135 *Workplace Diversity Report 1999-00*, Public Service Merit Protection Commission, p.52

136 See Paragraph 6.22

6.96 The NCA recognises that its overall under representation of women is consistent with other law enforcement agencies. The NCA has not undertaken a study to investigate reasons for this situation. It advised the Committee that it participates in a number of programs (such as, the Women in Law Enforcement Strategy) that it hopes will address this issue and will encourage women to pursue careers in law enforcement, and to take up senior positions.¹³⁷

Staff Morale

6.97 In March 2001, the Chairman of the NCA identified two factors that are influencing staff morale, the current organisational changes and initiatives aimed at generating efficiencies for the NCA, and the impact of having a employee base that is highly comprised of seconded staff. In respect of the current state of morale, he describes:

We try to make it our business to inform our people of exactly what is happening. There is nothing that is coming back to me to suggest that the organisation is in a sad state or anything like that. There seems to be, from my perspective, an embracing of this future direction, a preparedness to move forward in the new ways. This is so on the one hand when police are seconded to the NCA: they move from a police station one day into what we are now doing the next and things are different. Our investigators seem to be able to adapt to the change, to embrace it and say to [us] they are prepared to do it this way.¹³⁸

6.98 While the organisational changes do have the potential to be unsettling for staff members in regards to their role in the organisation, the NCA told the Committee that it have attempted to involve staff through encouraging group participation and consultations. Issues raised in these forums are then monitored by managers.¹³⁹

6.99 The constant reshuffling of priorities carries its own difficulties for staff morale. For an investigator this may mean halting a particular investigation before completion and losing the hard work already invested.

6.100 In regards to seconded staff, the Chairman of the NCA said he was unsure of the impact upon morale. Throughout the period of engagement with the NCA seconded staff are aware of the temporary nature of their employment, and this does prepare them for the pattern of their employment.

Attrition Rates

6.101 The attrition rate for the year 2000 was 31 per cent. The NCA states in its submission that this is above the average rate and is likely due to the organisational

137 *Submission 7B*, National Crime Authority, p.9

138 *Transcript of evidence*, National Crime Authority, p.63

139 *Transcript of evidence*, National Crime Authority, p.63

changes which have occurred over the past year as part of the Future Direction Strategy.¹⁴⁰

6.102 The NCA advised that in the calendar year 2000, 19 per cent of non-ongoing staff who left the NCA had served to the end of their contract. Staff who left the NCA before the end of their contract served, on average, 75 per cent of the contract period.¹⁴¹

6.103 The NCA advises that as a relatively small and specialised agency, it offers a limited career path for staff. While the NCA employs staff in a number of different professional and non-professional disciplines it does not have large numbers and can not offer substantial career paths.¹⁴² The highly specialised work of the NCA may make staff less marketable to external bodies and also impacts on the variety and work experiences that would be available in larger agencies.¹⁴³

Technology

6.104 The NCA have stated that its funding for information technology declined between 1997 and 2000. While the financial year 2000-01 saw an increase in funding for information technology compared to the previous two years, the NCA estimates that approximately \$6M over three years is still required.¹⁴⁴ As has been noted in Chapter 4,¹⁴⁵ after the Budget for 2001-2002 was handed down, the NCA indicated that it made a decision to upgrade its computer system and had set aside an amount of \$1.5 million in its budget in the forthcoming financial year for that purpose.

6.105 The NCA states that its information technology systems require improvements, in order to meet the challenges of organised crime groups who have access to highly sophisticated information technology systems.¹⁴⁶ In responding to this technological challenge, the NCA states its approach involves not only obtaining equipment and training for staff members but also, monitoring the criminal environment using these technologies.¹⁴⁷

6.106 The NCA recognises that the required technologies are expensive and perhaps may best be operated from 'one repository rather than in one agency'.¹⁴⁸ This is consistent to the finding of the Ayers report which recommended that there should be

140 *Submission 7C*, National Crime Authority, p.9

141 *Submission 7C*, National Crime Authority, p.9

142 *Submission 7A*, National Crime Authority, p.27

143 *Submission 7A*, National Crime Authority, p.28

144 *Submission 7B*, National Crime Authority, p. 10

145 See Paragraph 4.70

146 *Submission 7*, National Crime Authority, p.19

147 *Transcript of evidence*, National Crime Authority, p.60

148 *Transcript of evidence*, National Crime Authority, p.60

greater cooperation between the NCA and AFP in areas such as the planning and development of IT systems and technical services.¹⁴⁹

6.107 However, as John Broome suggests any sharing of IT resourcing between agencies or an outsourcing arrangement needs to be able to satisfy agency heads (who bear ultimate responsibility) of the following factors; both functionality and security will be maintained, costs are predictable, and there are adequate remedies for breaches of contractual arrangements.¹⁵⁰ These issues have also been addressed in the Report by Mr Richard Humphry AO on the Whole of Government Information Technology Outsourcing Initiative.^{151 152}

Resources against priorities

6.108 A major factor in the NCA's overall investigative priorities is the issuing of references by the Inter-Governmental Committee (IGC). The Commonwealth Government also determines priorities through specific-purpose funding such as the current NIDS and Swordfish funding.¹⁵³

6.109 The NCA acknowledges the limitations in its role and resources:

You could never have an organisation such as the NCA that would capture every last member of serious organised crime in Australia. You could never resource it to do that. There has to be a value judgement about where the priorities lie and where the funding can be allocated.¹⁵⁴

6.110 In terms of resources, the NCA advised the Committee that it has less than one percent of the national expenditure on law enforcement and just over 400 staff:¹⁵⁵

...We have to be very careful about what matters we give priority to. We have now developed a very sophisticated filtering system about what matters we will be able to grant resources to, in the sense of complex national organised crime, in the sense of truly national operations. We are trying to do it better by realising the limitations of our resources and our funding and by trying to concentrate on some truly difficult, complex, long-running things that we just have to find the sources to service...¹⁵⁶

149 *Submission 4*, Attorney-General's Department, p.23

150 *Submission 2*, Mr John Broome, p.11

151 2000

152 *Submission 7A*, National Crime Authority, p.13

153 *Submission 7*, National Crime Authority, p.17

154 *Transcript of evidence*, National Crime Authority, p.54

155 *Submission 7C*, National Crime Authority, p.8

156 *Transcript of evidence*, National Crime Authority, p.66

6.111 In its submission, the NCA set out their current order of priorities as:

- **Priority One:** - South East Asian Organised Crime (SEAOC), particularly heroin trafficking (Blade Task Force);
 - Fraud against the Commonwealth: money laundering, tax evasion and predicate offences, particularly drug trafficking (Swordfish Task Force);
- **Priority two:** - Established Criminal Networks (ECNs) (Freshnet Task Force)
- **Priority three:** - Outlaw Motorcycle Gangs (OMCGs) (Panzer Task Force)
- **Priority four:** - Italo-Australian Organised Crime (Cerberus Task Force)

Co-location

6.112 In the findings of the Ayers report it is recommended that ‘the NCA and AFP should be collocated progressively outside the inner City Business Districts of capital cities within 5 years’.¹⁵⁷

6.113 The co-location of the NCA and the AFP has gone ahead in Adelaide and Perth. An independent study of co-location options, commissioned by the NCA, identified the potential benefits as:

- Increased opportunities for cooperation and sharing similar functions and workplace culture;
- Similar patterns of resource usage, for example forensic support;
- Potential savings in costs associated with:
 - conference rooms;
 - training facilities and equipment;
 - gymnasium;
 - range facilities;
 - weapon and ammunition storage and maintenance;
 - dangerous exhibit storage;
 - vehicle parking;
 - supply of office consumables;

157 *Submission 4, Attorney-General’s Department, p.23*

- supply and maintenance of office machinery;
- supply and maintenance of some Information Technology (IT) equipment;
- switchboard;
- guarding;
- library;
- amenities;
- showers and locker rooms; and contract administration.

6.114 The study identified the major potential disadvantages as being financial (for example, the study found that the cost to the NCA of co-location with the AFP in Sydney was not viable), and a blurring of the roles of the agencies especially in the minds of other law enforcement bodies.¹⁵⁸

Conclusion

6.115 In relation to staffing issues, while seconded staff may provide the NCA with its 'investigative lifeblood',¹⁵⁹ they also present difficulties in terms of cohesion, retaining corporate memory and budgeting. The Committee supports the initiative being undertaken by the NCA of engaging a small number of investigators with substantial law enforcement¹⁶⁰ as well as, the allocation of funds in the Budget 2001-02 to cover increases in seconded police salaries.¹⁶¹

6.116 The Committee also supports those initiatives being undertaken by the NCA aimed at achieving a representation of women by numbers and positions, that is more consistent with other Australian Public Service agencies.

6.117 The NCA is a small, specialised agency, and these factors do have the potential to influence staff morale.¹⁶² The Committee considers it important that the NCA continues to 'inform our [their] people of exactly what is happening' as it embarks on organisational changes.

6.118 The NCA has noted that retaining staff is made more difficult through being a smaller agency and less able to offer diversity for employees. The Committee accepts that this is an issue that is not easily resolved especially during periods of organisational change, but that the attrition rate particularly for 'on going' staff should continue to be monitored closely.

158 *Submission 7A*, National Crime Authority, p.10

159 See above, Paragraph 6.89

160 See above, Paragraph 6.92; see also above, Chapter 2, Paragraph 2.76

161 See above, Paragraph 6.91

162 See above, Paragraph 6.97-100