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Part 1

*Executive Summary*

*Findings and Recommendations*
Executive Summary

Introduction

The world has changed dramatically over the last twenty years. For Australian policing, many of those changes were crystallised in six short years between 1999 and 2005.

These remarkable years saw the United Nations (UN) INTERFET operation commence in East Timor, the terrible events of September 11 2001, the two Bali bombings, the Marriott and Jakarta Embassy bombings, the Afghanistan and Iraq interventions and the Regional Assistance Mission to Solomon Islands. Each had, or led to, an important Australian policing component. Since then Australia has seen massive and complex domestic terrorism investigations and trials – its first since those which flowed from the 1979 Hilton bombing which led to the establishment of the AFP.

The growth in the importance of the internet for the economy, and society, was underscored by the Millenium Bug concern of the year 2000 and then underlined by the dot com share market crash of 2001. The first E-security National Agenda was introduced in 2001. The first AFP arrests under new Commonwealth law for child pornography conveyed over the internet took place in 2005.

The UN Convention Against Transnational Organized Crime came into force in the year 2000. In 2003 the Australian government announced a major initiative on human trafficking and people smuggling. In 2004 Australia ratified these UN instruments aimed at criminalising offences committed by organised criminal groups, combating money laundering and facilitating international cooperation in the fight against transnational organised crime. Also in 2004 Australian, Fijian and New Zealand police combined in an operation that led to the identification and raiding of the biggest illegal drug factory ever discovered in the Southern Hemisphere. The bulk of its product was likely destined for Australian and New Zealand streets.

The year 2001 saw the collapse of HIH, one of Australia’s largest corporate failures, at considerable cost to thousands of ordinary Australians. By 2005 concerns were being expressed about the legality of the behaviour of the Australian Wheat Board in relation to the payment of bribes to the Iraqi regime of Saddam Hussein. Both of these events would in time lead to extensive criminal inquiries. More importantly they symbolised the extent to which everyday Australians are now exposed through their share ownership and superannuation investments to corporate wrongdoing, and to the care that Australian companies must take to obey the law in their international dealings.

These six remarkable years underlined for policing that the global changes accelerating over the previous two decades brought with them very significant local Australian consequences. These changes impacted all levels of policing – but particularly national policing. They demanded new approaches by the Commonwealth, and across the Federation, as Commonwealth, State and Territory law enforcement agencies responded.
At the epicentre of these changes was the Australian Federal Police (AFP). It responded in a remarkably short time to develop highly effective abilities in counter terrorism, a capability to provide widely praised international deployments to support the restoration of law and order and bolster civil governance, to take a firm lead on the policing of Australia’s airports and protection of aviation, and integrate protection services for Australia’s leaders and key institutions, while growing its international network and maintaining its role in serious crime and community policing. The AFP is acknowledged to have made an important contribution to the strengthening of ties between Australia and Indonesia after the events in East Timor when traditional close diplomatic and military relationships were strained.

There have been some controversies and criticisms, and it is clear that the pace of change has outstripped the capacity of some internal systems, but it has been an overwhelmingly successful transition from the fringe to the centre of government. For most of this period Commissioner Mick Keelty, APM, led the AFP.

**Background**

The Minister for Home Affairs, Bob Debus, announced the appointment of Roger Beale AO, Senior Associate, Allen Consulting Group to conduct a Federal Audit of Police Capabilities in line with the Government’s election commitment on 28 January 2009.

**Project objectives**

The Terms of Reference for the review were as follows:

‘Recognising that the Australian Federal Police, as the Australian Government’s primary law enforcement agency, has been required in recent years to meet increasing demands encompassing complex whole-of-government, national and international issues, the Government made an election commitment to conduct a Federal Audit of Police Capabilities as part of its five point plan for the AFP. The AFP’s budget to meet these increased demands has increased from $302 million in 2000-01 to $1.141 billion in 2008-09 (Outcome 1 only, i.e. excluding ACT community policing activities).

The Federal Audit of Police Capabilities will:

1. Examine and report on:

   a. The AFP’s capabilities to provide for current and future demands, looking up to five years ahead, for policing and law enforcement services to the Commonwealth, including how the AFP will meet the Government’s priorities.

   b. The effectiveness of the AFP’s current operating arrangements, including:

      i. Human resources, skills and workforce planning;

      ii. Equipment, technology and facilities;

      iii. Planning and priority setting and evaluation processes; and

      iv. Current funding base and the allocation and use of resources.

   c. Gaps or overlaps in federal policing capabilities, and opportunities for improvement and rationalisation in the AFP’s strategic, operational and
corporate capabilities to deliver the Government’s required functions and services into the future in an efficient and effective manner.

d. How the AFP’s capabilities relate to other Commonwealth agencies and State and Territory police services, including in areas of joint or intersecting activities between the AFP and those agencies.

2. Address any options to re-allocate resources to satisfy emerging Government expectations and consider how the AFP might address future budgetary constraints that it might anticipate or experience.

3. Have regard to any changes to the federal policing environment which may emerge from other relevant reviews, in particular the Review of Homeland and Border Security.

4. Consult appropriately with relevant stakeholders within the Australian Government, the States and Territories and the non-government sector, including the Police Federation of Australia.

5. Invite the Australia New Zealand Policing Advisory Agency to survey State and Territory capabilities and workforce planning issues to feed back to the Commonwealth in order to provide a nationwide perspective of challenges and opportunities in policing.

6. Be led by Mr Roger Beale AO, supported by a team drawn from the AFP and relevant agencies, and will consult with a reference group comprising the Department of the Prime Minister and Cabinet, the Attorney-General’s Department, the Treasury and the Department of Finance and Deregulation. The reference group is expected to meet on a monthly basis.

7. Take into account the Expenditure Review Principles that were agreed by the Expenditure Review Committee and communicated to Ministers in correspondence from the Minister for Finance and Deregulation on 18 April 2008.

8. Report to the Government through the Minister for Home Affairs by 30 June 2009.”

Main summary points

National interests in policing

This review was a Federal Audit of Policing, not just an assessment of the AFP. Accordingly it has looked at the Commonwealth’s total engagement in policing and at the growing coordination and interdependence of policing across the Australian Federation and internationally. It has looked forward over the next decade, to provide a basis for its proposals.

The central conclusion of the Audit is that the national interest in policing has changed. In the first century of the Federation the Commonwealth had a minor role in policing, and cooperation among the States and Territories in policing lagged behind many other areas of the Federation.
That has changed. Policing has been recognised as a central component of national security and a major contribution that Australia can make to the security and development of the region and through the UN. National cooperation between the Commonwealth, States and Territories is now accepted as essential to providing an effective and efficient response to terrorism and serious and organised crime. This has required a greatly increased funding of policing at the Commonwealth level. These are the new realities of the Commonwealth’s role in policing.

The future – the new realities of national policing

These developments reflect a rapidly changing world. Globalisation, the Internet as a basis for communications and commerce, convergence in information and communications technologies (ICT), terrorism, and the increasing fragility of states in Australia’s region have all increased the demands on and complexity of policing. Climate change will add to these pressures over time.

There is little expectation that the principal trends of the past decade will reverse in the decade ahead.

Effective policing action will continue to and increasingly require:

- Whole of government and federation-wide strategies to reduce the opportunities and incentives for, and proceeds of, crime;
- Whole of government and federation-wide strategies to counter radicalisation of elements of the Australian community to reduce the risk of domestic terrorism;
- Whole of government strategies to develop, maintain and restore the rule of law in our region;
- Effective engagement of the private sector to reduce vulnerability to crime, particularly for critical commercial and communications infrastructure;
- A capacity to ‘act together’ domestically in terms of cross-agency and cross-jurisdictional cooperation including through task forces and the progressive adoption of shared or common case management systems;
- Effective bilateral, regional and multilateral cooperation with international law enforcement agencies – backed by the international AFP liaison officer network which is responsive to changes in the pattern of risks;
- High quality and networked intelligence shared between investigative agencies – internationally and domestically – with an appropriate focus on financial intelligence;
- A strong forensic science capacity, (recognised internationally as a current strength of the AFP), to underpin both investigations and Disaster Victim Identification;
- High level ICT skills and a capacity to lawfully and efficiently intercept the vast volume of communications traffic within the criminal milieu, much of it now encrypted; and
- High level forensic accounting skills.
There is broad recognition of these new realities of policing at the national level. They have been championed by the leadership of the AFP. But all the major players recognise that this is a work in progress. At the Commonwealth level and in our major structures for cooperation across the Federation there is more to be done.

**Connecting policing across the Federation**

There has been an increasing and successful use of joint task forces from the States/Territories and Commonwealth to tackle a range of serious crime and security issues. There has also been a development of increasingly effective national infrastructure, through CrimTrac, the Australian Transaction Reports and Analysis Centre and the Australian Crime Commission to support law enforcement agencies with real-time information and intelligence. But there is still a distance to go to achieve the seamless inter-operability of policing systems. Integrating New Zealand into these arrangements will also become more important as our economies and communities grow ever more closely integrated.

Further to the commitment made by the Commonwealth Government, and recommendations made by the Clarke Inquiry and the Parliamentary Joint Committee on the Australian Crime Commission, it is essential that interoperable case management systems be developed as soon as practicable.

The Commonwealth should take the initiative in securing a firm commitment at the Council of Australian Governments (COAG) level to having interoperable case management systems in place by 2015. CrimTrac’s current feasibility study should inform future COAG commitments in relation to this.

Similarly, the Australian Government should place a high priority on developing mechanisms to share intelligence across the Commonwealth and, through the Australian Crime Commission, between and among Commonwealth and State law enforcement agencies, as well as to improve the national forensic capability through the development of national centres of excellence.

The Australian Crime Commission is a pivotally important body in the development of national approaches to fight serious and organised crime. It has been the subject of some criticism, much of it unfounded, that it has reduced its emphasis on investigations. Partly this is because it usually operates in a way that ensures that one or more of the law enforcement agencies participating in its projects carry the cases to their conclusion in the courts.

The Australian Crime Commission should emphasise its role as a provider, coordinator and analyst of intelligence in support of the investigation of nationally significant serious and organised crime. As soon as feasible, the Australian Crime Commission should be relieved of tasks and obligations in relation to the investigation of crime other than nationally significant serious and organised crime. And the new focus on ensuring that it has close regard to its budget and resources in commissioning new projects is supported.
The Audit was disappointed that the Australia New Zealand Policing Advisory Agency (ANZPAA) was unable to assist it as proposed in the terms of reference by surveying ‘State and Territory capabilities and workforce planning issues to feed back to the Commonwealth in order to provide a nationwide perspective of challenges and opportunities in policing’. Policing is an important element of government responsibilities at all levels of the Federation, and yet, unlike many other professional, sub-professional and trades groups it does not have the advantage of mutually recognised qualifications, competencies and skills across the nation. Police career structures tend to be insular and lateral entry is restricted, except at the entry level and the most senior reaches.

The Audit believes the Productivity Commission should be commissioned, with the support of COAG, to conduct a study on the national policing workforce akin to that which has been conducted in relation to health, and which is being undertaking with respect to education. This should incorporate likely future demands, examine demographic drivers and alternative mechanisms for assisting police in determining the allocation of policing resources geographically. It should also examine barriers to the development of a national policing labour market, in particular barriers relating to qualifications and the mutual recognition of qualifications.

**The Commonwealth and policing**

At the Commonwealth level terrorism and serious crime have been explicitly recognised as key issues in our national security planning in the Prime Minister’s National Security statement. However, the Commonwealth has many agencies engaged in the enforcement of criminal law and in the past has had no comprehensive way of ordering priorities and budgets among them. This report has suggested the National Security strategic planning, budget and other complementary processes should take a broad approach to considering the national interests that are vulnerable to criminality as a basis for driving priority setting. It would be desirable to develop whole of government plans dealing with strategies to protect these national interests over the short, medium and longer terms. Priorities for these whole of government plans should include flexibility to respond to changes in the environment, and encompass:

- counter terrorism (to provide a more comprehensive framework for the range of initiatives already underway in the Commonwealth and State/Territory jurisdictions);
- border protection (under way);
- serious and organised crime (under development);
- Australian policing deployments overseas in support of counter-insurgence, peacekeeping and development (to commence shortly);
- E-security and e-crime; and
- Criminal law enforcement support for business regulation including the proposed Carbon Pollution Reduction Scheme.

Strategic policing objectives, associated capabilities and budgets should be considered iteratively against the background of these strategies in the way illustrated below.
The AFP – budget and governance

The AFP provides the core of the Commonwealth’s criminal law enforcement capability, at home and overseas. It has grown rapidly in response to the changing demands of the new century. A series of ad hoc budget and capability initiatives taken by Government, often to respond to crises, has left it with the legacy of a seriously disjointed budgetary framework. Over 73 per cent of the AFP budget now comprises finely divided allocations of temporary funds for specific purposes – so-called lapsing and terminating programs.

This inhibits flexibility in responding to changing priorities as well as long term planning for capital, equipment and its workforce. This report proposes that the existing core, lapsing and terminating funding (other than mission specific terminating funding) provided in the AFP Budget should be consolidated into base funding under two outcomes into four programs as follows:

- **Outcome 1**
  - Program 1: Security and Protection
  - Program 2: International Deployments
  - Program 3: Serious Crime

- **Outcome 2**
  - Program 4: Community policing for the AFP and the directly policed Territories.
A corollary condition for the consolidation of funding is appropriate transparency on the use of funds, and clear performance measures agreed with central budgetary agencies. This will ensure that there is an appropriate balance between independence and flexibility for the Commissioner on the one hand, and accountability and oversight of efficiency of expenditure on the other. Because of the powers exercised by policing agencies, and the risk of their abuse for political purposes, democracies like Australia have always insisted on the importance of policing agencies using their operational powers independently of political direction. This is enshrined in enabling legislation. Establishing the balance between proper democratic control and the operational independence of policing is what good governance arrangements should do.

The AFP currently receives a Direction from the Minister for Home Affairs setting out the Government’s expectations and priorities. While the Commissioner reports, through the Annual Report and the Portfolio Budget Statement on the AFP’s performance, there is no explicit ‘closing of the loop’ in relation to the Minister’s expectations. The Audit proposes that the Minister request from the Commissioner a Statement of Intent under s 37(6) of the Australian Federal Police Act 1979, in response to the Ministerial Direction. This Statement of Intent should set out how the AFP intends to give effect to the Minister’s directions and the implications for the AFP’s responsibilities. In time, both the Minister’s direction and the Commissioner’s statement of intent will be set in the context of the unfolding program of whole of government strategies to address our major national security and crime risks.

While there has been a very significant improvement in the understanding of the work done by the AFP by central agencies, the Audit noted that there was still some way to go. It believes there would be merit in the incoming Commissioner inviting the Secretary of the Attorney-General’s Department and the Prime Minister’s National Security Adviser to join the AFP Strategic Leaders Group’s discussions relating to future Budget bid priorities and new policy proposals, as well as high level resource allocations to reflect government and organisational priorities. A three way discussion of this nature, drawing on the expertise of the AFP senior leadership cadre, will help both cement the place of the AFP in the Government’s overall national security strategy, and assist in the development of that strategy itself.

Policing capabilities require the complementary combination of a range of inputs including sworn police members, expert civilian analysts and technicians, scientists, administrative support staff and logistic, technical, and scientific equipment and capital facilities. An over-emphasis on sworn police numbers and their funding fails to recognise these complementarities.

It is important to keep the focus in budgeting on capabilities, and the resources required to meet them, rather than just on the numbers of staff, including sworn staff, which can become a misleading and fruitless target.

The AFP’s internal governance systems are good. But there is no doubt that the growth of the organisation and its projection from the periphery to the centre of government in a relatively short timeframe has placed great stresses on its senior management and their policy support. The Audit recommends the addition of an additional Deputy Commissioner position, and notes that the AFP is itself examining the staffing and arrangements of its policy support group.
There is room to improve the linkage between the Strategic Leaders Group and allocation of operational priorities and resources. This will become more important when the AFP has greater flexibility in resource allocation flowing from funding consolidation. As an interim step, the Deputy Commissioner Operations should chair the National Operations Committee and oversee the drive to simplify reporting requirements.

**International deployments**

The AFP has provided an effective and flexible response to growing problems of instability in the region and an important partner for the Australian Defence Force in key peacekeeping operations. This is likely to have long term benefits, both in terms of sustainable development for those countries and for Australia and Australian interests through the denial of soft targets for exploitation by organised crime and terrorist networks.

The need for this capability will not diminish. The AFP is currently probably somewhat overstretched, with some difficulties emerging in managing an effective rotational policy in what are frequently very stressful operations. The future strategy for AFP international deployments is about to undergo a review (required by the terms of its budgetary approvals). It is important that this whole of government review examine AFP capability requirements in the context of Australia’s foreign and development policy objectives and complementary Australian Defence Force capabilities. Again it is important that this review focuses on capabilities, not simply a target for staffing numbers.

**Security: aviation, protection and counter-terrorism**

Terrorism will continue to be an ongoing domestic, regional and global threat for the foreseeable future. Australians and Australian interests have been the subject of actual as well as planned but disrupted, terrorist attacks abroad and within Australia. There is a continuing risk of Australians engaging in insurgencies in foreign countries, receiving training in terrorist techniques and returning to Australia to motivate and skill others to undertake terrorist operations.

Aviation has been recognised since the 1970s as providing a particular target for terrorist attacks both as a locus of an attack and, as demonstrated by September 11 2001 and earlier aircraft hijackings, as a weapon itself. Aviation and its facilities, as a major mode of transport, is also a target of serious and organised crime as a node through which contraband must pass. As a result, global agreements have been concluded on the protection of aircraft, aircraft facilities and the domestic imperative to harden these potential targets.

Holders of high office, both Australian, and foreign officials representing nations with which Australia has treaty obligations for protection, have always been at some risk from the actions of disgruntled or disturbed individuals. In recent years this risk has been elevated by the growth of terrorism, both directed at particular Australians and against third parties’ national representatives or facilities.

The common theme in these security activities is the recognition of this heightened threat environment, its common roots, and the need to seamlessly share core intelligence and to prioritise the allocation of resources in a way that minimises the risk. Over the past decade funding to these resources has relied heavily on lapsing programs.
It is extremely unlikely that the risk profile facing Australians and Australian interests, aviation and holders of high office will diminish sharply over the next five years. The multiple funding sources that support counter terrorism, aviation and protection capabilities and the uncertainty of ongoing funding reduce the opportunity to allocate resources flexibly to meet the highest priority objectives. This will be obviated by the consolidation of funding sources.

Australia has been well served by its counter terrorism capacities. While there were undoubted issues associated with the Haneef matter, which were addressed by the Clarke inquiry, there have been major successes domestically and in particular in the region. It is important that the AFP and the Australian intelligence community more broadly, continue to address the issues highlighted by the Clarke Inquiry and the earlier Street review. Mention has already been made of the need to move to interoperable case management systems to provide a secure basis for intelligence sharing.

Australia’s offshore efforts to fight terrorism at its source, and its focus on counter radicalisation at home have been highly effective and continue to be extremely important. These efforts require long term, sustained engagement to develop and maintain relationships with at-risk communities and with regional partners, to build relationships and capabilities amongst regional partners (for example among ASEAN partners) and to work with allies in countries where we are supporting anti-insurgency programs.

Aviation security, and in particular the policing of Australia’s principal airports, has been a subject of Commonwealth/State controversy since 1970. Following the application of state criminal laws (as Commonwealth law) to airports in that year, the Commonwealth has made a number of attempts to extricate itself from the policing of airports, recognising a strong link between criminal threats to airports, the local criminal milieu and state police capabilities, while simultaneously acknowledging its responsibilities under international law for aviation security. It has never succeeded in passing responsibility completely and clearly to the states.

Over the years this has led to what is described as a hybrid model, with the Commonwealth providing the funding and Protective Service Officers while State police forces provide the bulk of the sworn police members. Even with generous Commonwealth support not all States have been either willing or able to provide the pledged level of staffing. Successive reviews have been critical of the complexity of these hybrid arrangements recommending either an ‘All Out’ approach in which the States/Territories accept responsibility for airport policing, or an ‘All In’ approach in which the Commonwealth provides an integrated airport policing capability. The recent Wilkins Review of an incident at Sydney Airport found that police responded in a timely and professional manner, but nonetheless again found that the hybrid model is flawed.

The Audit has reluctantly concluded, acknowledging it is a view not shared by a number of chief police officers, that the ‘All In’ model is likely to be more sustainable in the long run. In reaching this conclusion the Audit had particular regard to Commonwealth international obligations, its broader responsibilities concerning the regulation of aviation and airports more generally, its legal capacity in relation to all Australia’s principal airports to put any issues of AFP powers beyond doubt, and the public expectation of consistently high standards and approaches to aviation security across the nation. The ‘All In’ model also represents...
significant cost savings to the Commonwealth. Accordingly it has recommended
the Commonwealth should vigorously pursue the replacement of the existing
Unified Policing Model with an ‘All In’ model under which the Commonwealth
accepts the responsibility of funding and staffing nationally coordinated airport
security and policing services, noting that this will likely take several years before
being fully operational. It should take any legislative action, or pursue the re-
negotiation of arrangements in a number of states and territories, to ensure that the
powers of AFP members policing airports are clear and adequate to the task.

**Serious crime**

Serious and organised crime is estimated to cost the Australian community in
excess of $10 billion per annum. Cyber crime has been recognised as a fundamental
threat to advanced economies around the world. Serious and organised crime is
increasingly businesslike in its focus on returns and profits, its opportunism, its
formation of temporary and flexible project based alliances and partnerships and its
use of social networking models. It is increasingly transnational and the importation
and manufacture of drugs continues to be a highly lucrative business line, as is
people smuggling. Increasingly the Internet, identity theft, CD and DVD piracy,
and counterfeiting of goods are offering attractive opportunities for low risk crime
with high returns and hence entering the portfolio of organised crime businesses.

While the Commonwealth’s resources in relation to the investigation of serious and
organised crime have remained at best static over the past decade, the flexibility of
their deployment is hampered by funding which is sub-divided into many separate
allocations, and some of the most experienced investigators have inevitably had to
be transferred to lead teams in counter terrorism and international deployments. At
the same time while the AFP has developed the highly effective High Tech Crime
Operations portfolio, telecommunications interception is increasingly difficult with
the development of new communications channels, the use of hand-held devices,
higher levels of encryption, increased use of Voice over Internet Protocols and
criminal business models which feature social networking and the use of Peer to
Peer networks. This risks placing effective interception increasingly beyond the
technical capacity of numbers of law enforcement agencies.

It is increasingly the view in international agencies fighting serious and organised
crime, including the AFP, that tackling the financial incentives and returns is
critical, and that new ways have to be found for doing that effectively, while
protecting civil liberties. There are limitations in existing Commonwealth law, or
no laws, in relation to the seizure of criminal assets, the targeting of unexplained
wealth, the imposition of control or reporting orders on those reasonably believed
likely to commit criminal offences and the membership of serious and organised
crime groups. Some jurisdictions in Australia and overseas have made more
aggressive use of legislation including one or more of these features. The Audit
supports the Australian government’s announced intention to consider a legislative
package addressing an appropriate range of these options.
There have been some major and highly successful joint operations between the AFP, the Australian Customs and Border Protection Service, the Australian Taxation Office and the Australian Crime Commission to tackle a number of major organised crime activities. But there is as yet no whole of Commonwealth strategic plan for tackling organised crime. Similarly, while the Australian Crime Commission, individual State forces and a number of national task forces have done good analytic work and conducted effective joint operations, there is no agreed national set of priorities to drive the fight against organised crime. This has been recognised by the Australian Crime Commission and the Commonwealth law enforcement community.

The Audit strongly supports the work underway led by the Attorney-General’s Department to develop a whole of Commonwealth strategy for tackling serious and organised crime. This should receive a high priority with the aim of bringing forward a submission on the strategy to the National Security Committee of Cabinet in the lead up to the 2010-11 Budget.

The strategy needs to reflect that no single Commonwealth law enforcement agency alone can implement an effective strategy – an effective strategy will be one which combines the most apposite skills and legislation to target key organised crime groups and business lines through a carefully developed governance model.
Findings and Recommendations

Chapter 1: Introduction

Finding 1.1:
Over the past decade and a half the global and national context in which policing is carried out has changed in a way that increases the role of the Commonwealth and it is now involved in crime and security in a manner that is quite different from its experience in the first century of Federation. Globalisation, the Internet as a basis for communications and commerce, convergence in information and communications technology, terrorism, and the increasing fragility of states in Australia’s region have all increased the demands on and complexity of policing.

Finding 1.2:
The scope of Commonwealth criminal law and policing powers have been extended over the same timeframe both through the addition of new offences and powers under the Crimes Act 1914 and in the Criminal Code to deal with terrorism, the misuse of telecommunications and to reflect treaty obligations, and the broadening and deepening of the Commonwealth’s regulatory reach in the national economy.

Finding 1.3:
The resources devoted to the AFP have increased by 254 per cent since the year 2000, echoing a similar increase for other agencies with national security responsibilities.

Finding 1.4:
The increase in AFP resources has been directed to:

- Overseas deployments carried out through the International Deployment Group and its Operational Response Group in East Timor, Solomon Islands and other Pacific nations, Afghanistan, and a range of United Nations missions.
- An enhanced national security intelligence and investigative capacity.
- Upgrading security for the aviation sector and in particular Australia’s international airports as well as for official establishments, Australian holders of high office and non-Australian holders of high office visiting or resident in Australia.
- Assuming responsibility for the Commonwealth’s protection of sensitive and nationally significant sites, including the resources for the Protective Service Officer workforce.

Chapter 2: Futures Scan

Finding 2.1:
Changes to the global environment, including the global security environment, have resulted in new challenges for law enforcement and consequently new areas of law enforcement focus and activity.
Finding 2.2:  
There is little expectation that the principal trends of the past decade will reverse in the decade ahead.

Finding 2.3:  
In spite of the possible threats of an increase in protectionism in the wake of the global financial crisis, globalisation of capital markets, finance, trade and people movements is likely to continue.

Finding 2.4:  
While the AFP has had counter terrorism successes domestically and overseas, it is unlikely that there will be any early return to a benign security environment in Australia, the region or more broadly. The potential for an expansion in Islamist-inspired domestic terrorism and Australians going abroad to participate in insurgencies remains an ongoing concern for Australia, as do terrorist financing activities.

Finding 2.5:  
Aviation infrastructure will remain a potential target for terrorist attacks and criminal infiltration.

Finding 2.6:  
Australians travelling abroad will continue to face the risk of being caught up in acts of terrorism (as demonstrated in Mumbai) and the threat of abductions (as demonstrated in Africa).

Finding 2.7:  
The fragility of States in the region, the associated risk of civil disorder and the occurrence of natural disasters requiring Australian intervention or support are likely to increase over the decade ahead, influenced by both the global financial crisis in the short term and climate change as the decade progresses.

Finding 2.8:  
Transnational crime will continue to expand through exploitation of globalised trade and financial markets and advances in information and communications technologies. Like terrorism, transnational crime will increasingly become networked rather than hierarchical – and will form ad hoc partnerships and collaborations, often through social networking processes and using peer to peer internet sites.

Finding 2.9:  
The rate of change and convergence in information and communications technologies is likely to increase, both enabling and providing new avenues for crime and increasing the volume of, and the complexity of maintaining surveillance of traffic.

Finding 2.10:  
The importance of maintaining the reliability of e-commerce and broader Internet services will increase as they become increasingly integral to the economy and society as a whole.
Finding 2.11:
The global financial crisis will increase the importance at a social level, and in terms of global competitiveness, of faith in the honesty and efficiency of Australian capital, services and goods markets. It will also increase income disparities between developed countries and developing, fragile and failed States, providing a greater incentive to illegal immigration.

Finding 2.12:
At the same time the global financial crisis is likely to expose a range of criminal wrongdoing in the corporate and government services sectors.

Finding 2.13:
National and global programs to reduce greenhouse gas emissions through emissions trading will create huge new financial markets and regulatory obligations, along with new opportunities for crime.

Finding 2.14:
Protection of Australia’s interests from terrorism, transnational and serious and organised crime will require continued commitments of levels of policing resources at least on the current scale extending forwards for at least 10-15 years.

Finding 2.15:
Priority has been directed towards the means of enhancing the effectiveness and efficiency of policing resources in preventing, deterring and disrupting terrorism and serious crime. This priority will need to be further strengthened in future law enforcement initiatives to tackle increasing risks within the finite resources available to Australian policing authorities. The Audit supports the AFP’s strategy of combating terrorism and serious crime at its source by taking the fight off-shore, including through working with foreign partners.

Finding 2.16:
Effective policing action continues to and will increasingly require:

- Whole of government strategies to reduce the opportunities and incentives for, and proceeds of, crime;
- Whole of government strategies to counter radicalisation of elements of the Australian community and reduce the risk of domestic terrorism;
- Whole of government strategies to develop, maintain and restore the rule of law in our region;
- Effective engagement of the private sector to reduce vulnerability to crime, particularly for critical commercial and communications infrastructure;
- A domestic capacity to act collaboratively in terms of cross-agency and cross-jurisdictional cooperation including through task forces and the progressive adoption of compatible case management systems;
- Effective bilateral, regional and multilateral cooperation with international law enforcement agencies, backed by an international AFP liaison officer network which is responsive to changes in the pattern of risks;
- High quality and networked intelligence shared between investigative agencies – internationally and domestically – with a due focus on financial intelligence;

- A strong forensic science capacity (recognised internationally as a current strength of the AFP) to underpin both investigations and Disaster Victim Identification;

- High level information and communications technology skills and a capacity to lawfully and efficiently intercept the large volume of communications traffic within the criminal milieu, much of it now encrypted; and

- High level forensic accounting skills.

Chapter 3: Connecting Policing Across the Commonwealth and the Federation

Finding 3.1:
The number of Commonwealth agencies with investigative capacities has increased and the resources being applied to investigations have increased significantly.

Finding 3.2:
The AFP works with each of these investigative agencies. It is important that the existing protocols are subject to regular review to ensure there is clarity about who handles what and that the AFP has a role in ensuring the overall quality of investigations.

Finding 3.3:
Continuing the AFP’s focus on matters of significant seriousness, complexity, national security sensitivity or which go to the probity and trustworthiness of government institutions ensures that the Commonwealth’s most highly skilled criminal investigative resources are applied to the most serious and complex crimes

Recommendation 3.1:
The Attorney-General’s Department and the AFP should review the training requirements in the Commonwealth Fraud Control Guidelines and the Australian Government Investigations Standards, and current training levels to ensure they are appropriate and are being consistently applied across the Commonwealth.

The AFP should continue the practice of out-posting Federal Agents to Commonwealth agencies as a quality assurance measure and to reinforce a whole of government investigation culture.

Finding 3.4:
There are significant differences in the access to warrant powers and the purposes for which evidence so gathered may be used across the Commonwealth’s investigative and regulatory agencies.
Finding 3.5:
The extent of use of criminal sanctions to support business regulation varies across the Commonwealth. Appropriate pursuit of criminal prosecutions can be very effective in reinforcing norms of behaviour and improving compliance. The AFP has very low workforce attrition rates, and its recruitment courses for new Federal Agents are heavily over-subscribed. However there are areas of specialist expertise where recruitment and retention of contemporary skills are challenging, such as combating corporate crime and money laundering. This limits its capacity to support business regulation agencies, meaning matters referred to the AFP are prioritised.

Recommendation 3.2:
The Attorney-General’s Department should lead a working party including the Australian Federal Police, the Commonwealth Director of Public Prosecutions, the Treasury, the Australian Securities and Investments Commission, the Australian Prudential Regulatory Authority, and the Australian Competition and Consumer Commission, and the Department of Climate Change to examine:

i  The scope to make criminal sanctions more consistently available to regulatory agencies and use them more actively to deter breaches and reinforce voluntary compliance.

ii  The availability and use of warrant powers to the principal business regulatory agencies and whether evidence acquired through AFP warrant powers should be able to be used for any relevant remedy, including civil remedies, under the regulatory body’s legislation.

iii  The case prioritisation protocols, likely ongoing workload and need for development of AFP investigative skills relevant to corporate crime types.

iv  Conduct a more considered review of the ‘lessons learned’ issues raised with the Audit identified at finding 3.6A below.

Finding 3.6:
Investigations, including in the national security field, money laundering, tax evasion, child protection, serious and organised crime and corporate crime, increasingly require cooperation, including through task force arrangements similar to those which have previously proven successful, extending across jurisdictions and between investigative agencies. Task force arrangements create particular stresses and require all jurisdictions to commit to ongoing development of compatible concepts of operation, command and control, case management and communications.
Finding 3.6A:
Work being undertaken by the Commonwealth in the development of the Organised Crime Framework, as well as the Oil for Food Task Force investigations, have identified issues that require Government consideration to enhance the ability of regulatory agencies and the AFP to reduce the harm caused to the Australian community by activities that contravene regulatory requirements. Matters arising with a legislative dimension include impediments to sharing information for criminal intelligence purposes, the sharing of information for regulatory and criminal enforcement action, and the impact of legal professional privilege claims.

Finding 3.7:
Ongoing investment by governments in effective national frameworks for access to data holdings (such as fingerprints, criminal records and DNA profiles held by CrimTrac and the financial data held by the Australian Transaction Reports and Analysis Centre), intelligence, and the development of common case management protocols, common or at least interoperable information and communications technology, will become increasingly important.

Recommendation 3.3:
Further to the commitment made by the Commonwealth Government, and recommendations made by the Clarke Inquiry and the Parliamentary Joint Committee on the Australian Crime Commission, it is essential that interoperable case management systems be developed as soon as practicable.

The Commonwealth should take the initiative in securing a firm commitment at the Council of Australian Governments level to having interoperable case management systems in place by 2015. CrimTrac’s feasibility study should inform future Council of Australian Governments commitments in relation to this.

Without prejudicing whole of Federation initiatives, the AFP’s Spectrum Project should continue to facilitate a move by Commonwealth agencies towards interoperable case management systems, common standards and business practices.

Finding 3.8:
A national network of centres of excellence in specialist forensic skills would reduce costs and increase the scientific rigour of forensic operations in support of criminal investigations. The AFP is committed to a national domestic drug signature profile database to complement its existing international drug profile database, to provide important intelligence to all police agencies. This drug signature profile database requires complementary commitment and protocols from all jurisdictions, including in some jurisdictions removal of legislative impediments to sharing drug sample profiles. The Audit notes the AFP is developing a policy proposal for Government under the auspices of the Organised Crime Strategic Framework to help all jurisdictions progress a complete intelligence picture of the domestic illicit drugs industry through forensic analysis, which would also then enable intelligence dissemination to all jurisdictions.
Recommendation 3.4:
The Australia New Zealand Policing Advisory Agency should progress the establishment of national centres of excellence in specialist forensic skills on a formal basis including protocols associated with the charging and prioritisation of access to these scarce forensic skills. A domestic drug signature profile database should be developed to provide a domestic equivalent of the international drug profile database.

A Commonwealth/State task force driven by the Attorney-General’s Department should identify the barriers in evidence and other law to the establishment of a genuinely national forensic framework, including a domestic drug signature profile database, and propose remedies.

Recommendation 3.5:
As recommended in the Street Review, the Audit agrees that the Australian Government should place a high priority on developing strong mechanisms that will facilitate intelligence sharing among Commonwealth, State and Territory law enforcement agencies, and which carefully manage the risks of the compromise of that information.

Finding 3.9:
Cooperation among governments and greater technical collaboration between Australian agencies is critical to enabling Australia to deal effectively with the implications of the rapid changes in the ICT environment.

Finding 3.10:
The ACC is a pivotally important body in developing a national approach to combating serious and organised crime.

Finding 3.11:
The 14 member ACC Board is larger than would be normal for a corporate or statutory board. In determining ACC priorities it is important that it has due regard to the resources available to the ACC, and the recent moves to ensure that it does so on the basis of clear management advice are welcome.

Finding 3.12:
It is uncertain whether the ACC can undertake projects funded by the Commonwealth (or any other single jurisdiction) but which do not have the endorsement of the Board – in particular the use of the ACC’s coercive powers requires approval by a super-majority of the Board.

Finding 3.13:
Where actionable intelligence product is provided to an agency by the ACC, there should be a formal mechanism requiring and facilitating a report back to the ACC on the outcomes.
Finding 3.14:
In the longer term a more conventional governance model would be to move to a smaller board with members appointed on the basis of skill rather than ex-officio with jurisdictions and relevant agencies represented on a consultative body. The relationships between the Commonwealth and the States, and among the States, in relation to cooperation on serious and organised crime are not as yet sufficiently mature to support this model.

Recommendation 3.6:
The ACC should emphasise its role as a provider, coordinator and analyst of intelligence in support of the investigation of nationally significant serious and organised crime. As soon as feasible, the ACC should be relieved of tasks and obligations in relation to the investigation of crime other than nationally significant serious and organised crime.

Recommendation 3.7:
The ACC and its governance structure should be reviewed after a suitable period of experience and confidence building in developing and pursuing a national strategy on serious and organised crime (see Recommendation 8.1).

Finding 3.15:
Policing is a major category of employment across the Federation, but unlike other skilled occupational categories such as health professionals and workers, teachers and tradespeople there is little mutual recognition of skills and qualifications, and little interstate mobility of employment. There are separate police academies in each jurisdiction but no common core curricula or accreditation of competencies. Combined with limited lateral movement between police agencies, this restricts career opportunities and reinforces the insular nature of many police forces which has been the subject of negative comment by a number of Inquiries into police corruption, including the Wood Royal Commission.

Recommendation 3.8:
The Productivity Commission should be commissioned, with the support of COAG, to conduct a study on the national policing workforce akin to that which has been conducted in relation to health. This should incorporate likely future demands, examine demographic drivers and alternative mechanisms for assisting police in determining the allocation of policing resources geographically. It should also examine barriers to the development of a national policing labour market, in particular barriers relating to qualifications and the mutual recognition of qualifications.

Finding 3.16:
With of the continuing growth in transnational crime, and the benefit/cost of prevention of criminal targeting of Australia from off-shore, international cooperation is important, and will become increasingly so. International policing cooperation and operations frequently involve sensitive inter-governmental relationships with a direct relevance to Australia’s foreign policy.
Recommendation 3.9:
Current levels of funding for the International Network should at least be maintained, and the AFP should continue to be the sole provider of international liaison for all Australian police forces, working in close collaboration with the Department of Foreign Affairs and Trade through its diplomatic missions.

Chapter 4: Governance

Finding 4.1:
The strategic value of the AFP to the Australian Government is as its premier policing capability. There are many other agencies with investigative, and associated, powers, and the AFP supports a broad range of them.

Finding 4.2:
No framework exists to coordinate the full range of Commonwealth criminal law enforcement authorities, their relationship to other policies and measures and to allocate scarce resources, although certain specific priorities, such as national security and border protection, are now being managed in a more coherent way at the policy level.

Finding 4.3:
As a result of its increasing work in national security, certain AFP activities can now be examined by the Inspector-General of Intelligence and Security and the Parliamentary Joint Committee on Intelligence and Security. Furthermore, a new AFP Parliamentary Oversight Committee will provide additional oversight of the AFP’s activities. Ministers and Committee Chairs have expressed their strong appreciation for the AFP’s professional support to various Parliamentary committee processes. However the AFP has not had a Parliamentary Joint Committee with such a specific focus on the AFP, and therefore has not had to demonstrate the strong policy capacity or depth of experience in dealing with an AFP-specific Committee. The Audit also noted that other than at the Commissioner and Deputy Commissioner levels, the AFP executive staff have comparatively less experience appearing before Parliamentary Committees than their colleagues in other federal agencies.

Finding 4.4:
There is no need for additional external oversight of the AFP.

Recommendation 4.1:
The scope and breadth of the National Security strategic planning, budget and other complementary processes should take a broad approach to considering the National Interests that are vulnerable to criminality as a basis for driving priority setting. It would be desirable to develop whole of government plans dealing with strategies over the short, medium and longer terms. Priorities for these whole of government plans should include flexibility to respond to changes in the environment, and encompass:

- counter terrorism;
- border protection (under way);
• serious and organised crime (under development);
• Australian policing deployments overseas in support of peacekeeping and development;
• e-security and e-crime; and
• law enforcement support for business regulation including the Carbon Pollution Reduction Scheme.

Strategic Policing Objectives, associated capabilities and budgets should be considered iteratively against the background of these strategies.

**Recommendation 4.2:**

These plans should progressively provide the framework within which the Minister’s direction to the AFP is developed, and against which budget proposals are considered.

**Finding 4.5:**

While the AFP receives Ministerial Direction from Government and reports against this direction through its Annual Report and Portfolio Budget Statement, complementary to the greater budget flexibility recommended elsewhere in this report, there is a need for the Minister to formally use section 37 of the AFP Act to require the AFP to more explicitly document its response to strategic directions from Government. This will best be achieved by describing how it will give them effect, and for it to report on its success in doing so against agreed performance indicators.

**Recommendation 4.3:**

Greater clarity concerning the links between budget, capabilities and performance in the law enforcement and national security environment should be achieved through a closer and more structured dialogue between the Government, its principal policy advisers and the AFP.

**Recommendation 4.4:**

The Minister should request from the Commissioner a Statement of Intent under s 37(6) of the AFP Act, in response to the Ministerial Direction. This Statement of Intent should set out how the AFP intends to give effect to the Minister’s directions and the implications for the AFP’s responsibilities.

**Recommendation 4.5:**

The AFP should maintain its new Budget Monitoring Committee processes conducted by the Chief Operating Officer and the Deputy Commissioners so as to strengthen its internal systems to better link strategic objectives to capabilities (and their necessary inputs) and hence to budgets. The AFP Commissioner should maintain the appointment of non-executive independent members to key committees such as the Strategic Leaders Group, the Audit Committee and strategic projects such as the Spectrum Program, to keep informing the AFP’s knowledge of and access to governance and strategic best practice.
Finding 4.6:
It is important that the AFP maintains strong links between the Australian Government’s criminal law enforcement and national security agencies. The Audit noted that the AFP has progressed implementation of recommendations from the Smith, Street and Clarke reviews that will further strengthen these relationships.

Recommendation 4.6:
The incoming Commissioner should consider inviting the Secretary of the Attorney-General’s Department and the National Security Advisor to join the AFP Strategic Leaders Group’s discussions relating to future Budget bid priorities and new policy proposals for future budgets, and high level resource allocations against government and organisational priorities. This will complement AFP participation on the range of multi-agency executive fora, strengthen AFP awareness of whole of government priorities, and increase knowledge and understanding of AFP capabilities and needs in the policy and coordinating community.

Finding 4.7:
Current National Operations Committee processes are highly time consuming and bureaucratic and fail to deliver an agile response to AFP-wide priorities as established by the Strategic Leaders Group.

Finding 4.8:
There is widespread resentment and concern about the frequent, multiple and duplicative reporting of operational case and business activity to Functional Managers and the AOCC. Managers of regional and international offices report a weekly requirement of up to eight reports, each with different coverage and format.

Recommendation 4.7:
The link between the Strategic Leaders Group and the National Operations Committee should be strengthened to ensure that Committee reflects whole of AFP priorities and supports the flexible deployment of resources to achieve them. The Deputy Commissioner Operations should chair the National Operations Committee for a period of at least one year. Following this period, the Chair should remain the responsibility of a member of the Strategic Leaders Group, such as the National Manager Intelligence, to maintain the direct link to the Strategic Leaders Group.

Recommendation 4.8:
The AFP should consider reviewing the delegation of decision-making responsibilities and creating a third Deputy Commissioner, in recognition of the increased expectations and obligations of senior AFP participation and decision-making across Government.

Chapter 5: Budget & Programs
Finding 5.1:
Seventy-three per cent of the AFP’s resources are provided through terminating, lapsing or otherwise time limited funding initiatives. This is a significant inhibition to medium to long term planning for the engagement and development of AFP staff, and the acquisition of appropriate equipment and capital items. This budget difficulty is exacerbated in the out years of the forward estimates period.
Finding 5.2:
The high proportion of ‘temporary’ funding fails to recognise that fundamental demands for policing are not likely to reduce in the years ahead and presents a false picture of the likely reduction of future government outlays.

Finding 5.3:
Finely disaggregated funding sources could provide a mechanism for inappropriate involvement of central agencies and political government in operational resource allocation decisions, which should be managed by the AFP Commissioner and his senior officers.

Finding 5.4:
Finely disaggregated funding sources limit the AFP’s ability to respond flexibly to changing priorities and circumstances, increase administrative costs and reduce efficiency. They drive yet more proposals for specific purpose funding to support new, or newly important activities.

Finding 5.5:
Policing capabilities require the complementary combination of inputs including sworn police members, expert civilian analysts and technicians, scientists, administrative support staff and logistic, technical, and scientific equipment and capital facilities. An over-emphasis on sworn police numbers and their funding fails to recognise these complementarities.

Finding 5.6:
Increases in employee costs are affecting numbers of Full-Time Equivalents that the AFP can afford to maintain. If the reduction in Full-Time Equivalents is linked with the increase in sworn officer numbers it is clear that the burden of reductions will fall heavily on non-sworn employment – including close operational support areas like Forensic, Technical support and Intelligence as well as corporate support.

Finding 5.7:
The existing Future Strategies funding within the AFP budget is significantly short of estimated funding requirements to maintain 1,200 staff. The shortfall is estimated to be in the order of $48.5m per annum. In the review of the Future Strategy (see Governance and Capability chapter and IDG chapter) it will be critical to develop realistic cost estimates and for the Government to decide whether to increase funding or reduce capacity and accordingly modify the achievable strategic objectives. The Audit notes the target of 1,200 staff was a commitment by the previous Government, and it is being re-examined in the context of future strategy review. In general the Audit favours the use of required capability descriptions rather than a specific staff target.

Finding 5.8:
The decline in the Australian dollar could result in additional costs associated with operating expenditure and capital expenditure depending on the degree of significant and sustained fluctuations in exchange rates.
Recommendation 5.1:

The existing core, lapsing and terminating funding (other than mission specific terminating funding) provided in the AFP Budget should be consolidated into base funding under two outcomes into four programs in accordance with the objectives of Operation Sunlight and to provide the flexibility to meet emerging and new priorities as follows:

- **Outcome 1**
  - Program 1: Security and Protection
  - Program 2: International Deployments
  - Program 3: Serious Crime
- **Outcome 2**
  - Program 4: Community policing for the AFP and the directly policed Territories.

Recommendation 5.2:

These revised Budgetary arrangements should recognise:

- the increased transparency that will flow from both the revised governance arrangements and the development of agreed performance measures;
- the unlikelihood of any significant overall reduction in the need for policing resources from around their current level;
- the scope for some operational efficiencies and associated savings; and
- the scope for greater flexibility to absorb changing future priorities that will flow from consolidated budgetary arrangements.

Recommendation 5.3:

In the future the AFP Budget should be retained in a flexible base allocation so that its application can be adjusted to reflect the changes in the government’s strategic policing objectives and associated required capabilities and inputs. This base funding structure should be maintained throughout the forward estimates and beyond so the flexibilities (and concurrent additional accountabilities) anticipated by the preceding recommendations are sustained.

Chapter 6: The International Deployment Group

Finding 6.1:

The AFP has provided an effective and flexible response to growing problems of instability in the region. This is likely to have long term benefits both in terms of sustainable development for those countries and for Australia and Australian interests through the denial of soft targets for exploitation by organised crime networks.
Finding 6.2:
At current resourcing levels it is not possible to maintain the approved IDG Future Strategy at the levels of capability envisaged. While there are potential savings to be made from the streamlining of corporate support for IDG through the One AFP One Corporate project, these are not likely to be sufficient fully to bridge the gap. At current resourcing levels the AFP could not simultaneously provide for the deployments envisaged in the Future Strategy as a basis for planning in the scenario requiring:

- two large and one medium significant long term capacity building missions, with durations of three to five years, each in the order of 100-250 staff and providing the ability to sustain 80-200 personnel in mission for 365 days a year;
- a further 140 personnel to field seven smaller missions of 20 personnel each to support UN commitments and shorter-term bilateral assistance projects; and
- an enhanced Australian-based support structure able to raise, train and sustain continuous operations including enhanced training, logistic and equipment capacities.

Recommendation 6.1
The Government should consider whether it will re-define in capability terms (instead of the 1,200 staff capacity terms originally announced) the mission and resourcing base for the AFP IDG, after it has received a report from the whole of government review of the AFP International Future Strategy which should examine AFP capability requirements in the context of Australia’s foreign and development policy objectives and complementary ADF capabilities.

Finding 6.3:
At current resourcing levels it is similarly not possible for the Operational Response Group simultaneously to provide sustained support for a major domestic emergency and concurrently either lead a major police intervention in the region, while retaining the flexibility to deliver smaller stand-alone deployments, or deploy as part of a joint military/police intervention.

Recommendation 6.2
Whilst the AFP Operational Response Group has been recognised as a Police Tactical Group within the National Counter-Terrorism Committee arrangements, and it has good networks with State and Territory-based tactical groups, the National Counter-Terrorism Committee should remain cognisant of the Operational Response Group’s priority role as part of the Government’s offshore specialist and tactical response capability. Opportunities for utilising available Operational Response Group capacity to service operational exigencies in the broader AFP, including ACT Policing, should continue to be examined closely and implemented as appropriate.
Finding 6.4:
It is not appropriate that the AFP (IDG) embark on the development of a paramilitary capability, an option that was suggested to the Audit by non-AFP interlocutors. The current approach involving complementary roles for the Australian Defence Force and the AFP in responding to circumstances of civil unrest in the region should be maintained, with the Australian Defence Force having the primary armed force stabilisation role, and support for and protection of AFP personnel in higher risk areas. This requires reliance upon improving interoperability between the two agencies. The capability and capacity of the Operational Response Group should be assessed periodically to ensure that it keeps pace with the intensity and scale of civil disturbances it may be called upon to respond to.

Recommendation 6.3:

The current respective roles of the AFP and Australian Defence Force in their contribution to peacekeeping operations in the region should be maintained. The current approach involving complementary roles for the Australian Defence Force and the IDG in responding to circumstances of civil unrest in the region should be maintained.

The Australian Defence Force and AFP should continue to work together to improve interoperability and should develop joint training and development programs for use where relevant with paramilitary forces in countries to which the IDG deploys.

The capability and capacity of the AFP Operational Response Group should continue to be assessed periodically to ensure that it keeps pace with the intensity and scale of civil disturbances for which it may be called upon to respond.

Chapter 7: Security
Finding 7.1:
It is extremely unlikely that the risk profile facing Australians and Australian interests and holders of high office will diminish sharply over the next five years. The multiple funding sources that support these capabilities and the uncertainty of ongoing funding reduce the opportunity to allocate resources flexibly to meet the highest priority objectives.

Recommendation 7.1:
Funding for these programs should be consolidated into a single Program under Outcome 1.

Finding 7.2:
Currently policing at airports is carried out under a Commonwealth-State hybrid model where the Commonwealth provides Counter-Terrorism First Response, investigations and intelligence capabilities and the Airport Police Commander, while the States provide police members on secondment to the AFP as a uniformed police presence. The Commonwealth funds State members, and provides an additional on-cost. These arrangements are in place as a result of the COAG response to the recommendations of the Wheeler Review into Aviation security in 2005.
Finding 7.3:
Currently, the AFP Aviation portfolio is funded via 10 lapsing appropriations. This fails to reflect the ongoing nature of Commonwealth responsibilities and the implausibility of any significant, sustained reduction in threat levels from terrorism or organised crime over the next decade. It also restricts the flexibility of the deployment of resources to meet threats within the aviation sector, or within the Security portfolio more broadly.

Finding 7.4:
Since its introduction, some States have been unwilling or unable to provide agreed policing numbers to maintain the Unified Policing Model at the levels of staffing agreed by COAG.

Finding 7.5:
The policing of airports raises difficult jurisdictional issues. The Commonwealth is responsible for aviation regulation generally and has specific international treaty obligations in relation to aviation security. Almost all international and major domestic airports are Commonwealth places. Airports are one of the loci of serious and organised transborder crimes. There is a national interest in a common approach to and standard of policing at airports, but it would be very expensive for the Commonwealth to develop a capability that could deal with every contingency that could arise at an airport without State assistance. Much of the crime at airports falls within State legal frameworks and has a close nexus with criminal activities in the community more broadly. State police forces have the capacity and responsibility under Commonwealth-State agreements, to respond to major violent crime or terrorism incidents at airports. The recent Wilkins Review of an incident at Sydney Airport found that police responded in a timely and professional manner, but nonetheless the hybrid model is flawed.

Finding 7.6:
Noting the nexus between airports and their local communities/environment, it is vital that clear arrangements enabling a) the transfer of information and b) full operational interoperability between Commonwealth airport police and local State/Territory police are maintained.

Recommendation 7.2:
The ongoing agreement between the Commonwealth and States to remain focused on incidents and crime types most relevant to their respective policing responsibilities should be maintained, with clear arrangements for the full operational interoperability between Commonwealth airport police and local State/Territory police.

Finding 7.7:
As found by successive reviews into the policing of major airports in Australia, there are considerable financial, cultural and industrial costs and difficulties, as well as efficiency losses, associated with Commonwealth-State hybrid policing models, such as the existing Unified Policing Model.

Finding 7.8:
Flexibility and service quality gains at airports may be achieved through the merging of Counter Terrorism First Response and airport policing services, with both functions performed by sworn police officers.
Recommendation 7.3:
Funding for all aspects of airport policing, including lapsing programs, should be rolled into the consolidated core Security program to provide greater certainty and flexibility.

Finding 7.9:
The provision of core airport policing and Counter Terrorism First Response services (that is staffing, command and control) by either a) the States (‘All Out’) or b) the Commonwealth (‘All In’) would be preferable to the existing State-Commonwealth hybrid model of airport policing.

Finding 7.10:
The Joint Airport Investigations Teams and Joint Airport Intelligence Groups are important facilitators of State-Commonwealth law enforcement coordination in the airport environment.

Recommendation 7.4:
The Joint Airport Investigations Team and Joint Airport Intelligence Group capabilities as per the current Unified Policing Model should be maintained, by deployment of members from local State/Territory police agencies in recognition of shared interests in the airport environment.

Finding 7.11:
A number of bilateral arrangements, in addition to obligations under the Convention on International Civil Aviation, require Australia to maintain an Air Security Officer function. The effective deployment of Air Security Officers can only be coordinated at a national level due to the interstate and international nature of their work.

Finding 7.12:
Having particular regard to Commonwealth international obligations, its broader responsibilities concerning the regulation of aviation more generally, and the public expectation of consistently high standards and approaches to aviation security across the nation, the ‘All In’ model is likely to be more sustainable in the long run. The ‘All In’ model also represents significant cost savings to the Commonwealth.

Recommendation 7.5:
The Commonwealth should vigorously pursue the replacement of the existing Unified Policing Model with an ‘All In’ model under which the Commonwealth accepts the responsibility of funding and staffing nationally coordinated airport security and policing services, noting that this will likely take several years before being fully operational.

Recommendation 7.6:
Under the ‘All In’ model, the AFP should seek agreement from all State Police Commissioners to swear in AFP Airport Uniform Police members as special members of the State police forces and/or make any necessary legislative amendments to ensure that the powers of AFP members policing airports are clear and adequate to the task.
Recommendation 7.7:

The Audit supports the review by the AFP Aviation portfolio of the Counter Terrorism First Response function, which should expand analysis of the requirements, costs and benefits of potential delivery options.

Recommendation 7.8:

Subject to findings of the Aviation review, the Audit gives its in-principle support for integration of Counter Terrorism First Response into the Airport Uniform Police. If supported by the review, the AFP should recruit additional police to perform this function, giving first priority to any existing AFP Protective Service Officers who are capable and interested in applying for the AFP base recruit course.

Finding 7.13:

Protection services have been reviewed on a number of occasions, most recently by Mr David Sadleir AO. Mr Sadleir recommended reduced reliance on fixed guard posts and greater reliance on mobile patrols and technology. These recommendations have not been fully implemented by the relevant area of the Attorney-General’s Department, however the Protective Security Coordination Branch is in the process of finalising a review of arrangements and recommending future approaches. The Department of Prime Minister and Cabinet and the AFP are closely involved in this review.

Finding 7.14:

Following the Sadleir recommendations funding for protection of Official Establishments and Diplomatic Premises is appropriated to the AFP as an element to be rolled into its core budget, noting that currently these are lapsing monies that are not in the AFP’s base budget funding, while the requirement for, and level of, protection services required is determined by the Protective Security Coordination Branch. The separation of responsibility for determining the requirement for and level of protection from the responsibility for funding that protection is likely to encourage over-demand for these services.

Finding 7.15:

Current resource levels and charging arrangements for other programs continue to be appropriate.

Recommendation 7.9:

Funding for the protection of Official Establishments and Diplomatic Premises should be provided through ongoing appropriations to the Department of Prime Minister & Cabinet and the Department of Foreign Affairs and Trade, subject to periodic review. Risk assessments should continue to be coordinated across the Commonwealth and State sources by the Protective Security Coordination Branch. The AFP should provide these services on a tied purchaser-provider basis as it does for Parliament House, certain Department of Defence and Department of Foreign Affairs and Trade establishments and the Australian Nuclear Science and Technology Organisation. A limited surge capacity could be provided by Protective Service Officers employed within other AFP programs.
Finding 7.16:
Terrorism will continue to be an ongoing domestic, regional and global threat for the foreseeable future.

Finding 7.17:
Australians and Australian interests have been the subject of actual, or planned but disrupted, terrorist attacks abroad and within Australia.

Finding 7.18:
There is a continuing risk of Australians engaging in insurgencies in foreign countries, receiving training in terrorist techniques and returning to Australia to motivate and skill others to undertake terrorist operations.

Finding 7.19:
A domestic terrorist event of the nature seen in London in July 2005 would likely result in economic costs if replicated in Australia of over $1 billion. This economic assessment does not include the social costs, which are of their nature difficult to quantify.

Finding 7.20:
To fight terrorism at its source, it is critical to develop institutional capacities and practices at home, in our region, and in the countries with active insurgencies with links to significant Australian domestic communities. This requires long term, sustained engagement to develop and maintain relationships with at-risk communities and with regional partners, to build relationships amongst regional partners and to work with allies in countries where we are supporting anti-insurgency programs.

Finding 7.21:
It is unlikely that there could be an early reduction in the core capability required by the AFP for counter terrorism operations, although there could be significant year to year variations in funding required depending on the number of active police and security operations underway. Increasing the scope for the AFP to reallocate resources by consolidating funding as proposed in Recommendation 5.1 will provide it with the flexibility to surge counter terrorism investigative and surveillance capabilities as new active domestic threats emerge.

Finding 7.22:
Counter-radicalisation programs and effective investigation and intelligence gathering in counter terrorism all depend on good language skills and strong cultural understanding of the at-risk communities.

Finding 7.23:
The AFP has developed its language and cultural skills, but while these resources have been very effective, the skills base is still inevitably thin. The AFP relies on whole of government resources when required. The translation and interpretation services, with the necessary security clearances, available to the law enforcement community are limited for some language groups. Dealing with multiple events or targets could place them under great pressure, and deficiencies could handicap operations and/or prosecutions by some or all members of the police and security community at Commonwealth and State level.
Finding 7.24:
The model of the AFP’s regional engagement with respect to counter terrorism, notably the Jakarta Centre for Law Enforcement Cooperation, the Jakarta Regional Cooperation Team, the Multi National Operational Support Team, Bomb Data Centres and other forms of forensic support, has been highly successful and could provide a model that might be of relevance to other regions. Australia should support the use of this framework beyond our immediate region.

Recommendation 7.10:
The efforts of the AFP Culture and Language Centre, and an active program to reach out to and recruit members of the AFP from at-risk communities should be maintained and deepened, to ensure relevant skills are developed in line with future threats.

Recommendation 7.11:
There should be a whole of government consideration of the adequacy of, and any necessary steps to improve, security cleared translation and interpreting services for at-risk groups.

Finding 7.25:
Initial joint operations between Commonwealth and State and Territory agencies, with support from the CDPP revealed deficiencies in sharing information, communications, cultural understanding between law enforcement and intelligence agencies and infrastructure for holding highly classified information. These were the subject of consideration and recommendations in the Street Review and Clarke Inquiry.

Finding 7.26:
Much has been done to implement the recommendations of the Street Review and Clarke Inquiry, improvements to information security infrastructure are being made and important work remains to be done including in relation to the establishment of interoperable case management systems. A working group established by the National Counter-Terrorism Committee is progressing this issue and CrimTrac is currently conducting a feasibility study. This issue should remain a high priority for the Government and the AFP (see Recommendation 3.3 above).

Finding 7.27:
The arrangements for the Joint Counter Terrorism Teams are progressing well, particularly when participating members are co-located.

Recommendation 7.12:
The AFP, ASIO and the Commonwealth Director of Public Prosecutions should continue to give a high priority to the implementation of the recommendations of the Street Review and Clarke Inquiry. Consistent with the findings of those reports, the Audit recognises that domestic counter terrorism activities continue to require ongoing resourcing for proactive preventative investigations.
Chapter 8: Serious Crime

Finding 8.1:
The AFP has been correct in focusing on the investigation of high priority, complex cases of fraud against the Commonwealth. The AFP should not be involved in routine fraud investigation, including for example most Centrelink fraud. These crimes should be principally investigated by the specialist agencies, but with AFP oversight with respect to quality control, and the use of secondments to these agencies as a developmental opportunity for more junior AFP investigators.

Finding 8.2:
The National Illicit Drugs Strategy was accompanied by an increase in seizures, success in overseas disruption of proposed imports of drugs into Australia and a reduction in drug harm as measured through the Drug Harm Index.

Finding 8.3:
Financial resource levels for traditional crime types combated by the AFP have been relatively static. This has placed pressure on the ability to maintain the numbers of investigators devoted to the deterrence, detection, disruption, investigation and prosecution of other crime, including serious and organised crime. Previous funding for New Policy Initiatives such as the National Illicit Drug Strategy has lapsed and the AFP has responded to the increased Government priority and new resources given to Counter Terrorism, Aviation and Protection. Some skilled investigators have transferred to these areas of national security focus. The AFP has progressively had less flexibility in its capability to respond to changing patterns of serious including organised crime, as the proportion of funds provided by New Policy Initiatives has increased – see Recommendation 5.1 proposing the consolidation of existing core, lapsing and terminating programs for serious, including organised, crime into Program 3 of Outcome 1.

Finding 8.4:
While estimates of the net economic costs associated with serious and organised crime are difficult, the ACC has estimated that the cost to the Australian economy to be at least $10 billion per annum.

Finding 8.5:
Serious and organised crime is increasingly businesslike in its focus on returns and profits, its opportunism, its formation of temporary and flexible project based alliances and partnerships and its use of social networking models. It is increasingly transnational and the importation and manufacture of illicit drugs continues to be a highly lucrative business line, as is people smuggling. Increasingly the Internet, identity theft, compact disc and DVD piracy, and counterfeiting of goods are offering attractive opportunities for low-risk crime with high returns and hence entering the portfolio of organised crime businesses.
Finding 8.6:
Increasingly criminal threats to Australia originate from, are financed from, involve transport of goods or people from, or are serviced from other countries. The benefit: cost ratio of assisting overseas police forces to deter, disrupt, detect and prosecute these crimes before they impact on Australia domestically is high. It is fundamental to the AFP’s contribution to Australian policing that the International Network is maintained and that Liaison Officers continue to be strategically positioned to address future criminal threats.

Finding 8.7:
‘Following the money’ and reducing the economic return from serious and organised crimes is a critical strategy to reducing all forms of serious and organised crime. While this has been promoted within the AFP, and by the Government more broadly, it remains at this stage an area for significantly greater attention by law enforcement agencies. There needs to be closer coordination across the Commonwealth and a central focus on the objective of making Australia a less profitable venue in which to carry out serious and organised crime.

Finding 8.8:
There are limitations in existing Commonwealth law, or no laws, in relation to the seizure of criminal assets, the targeting of unexplained wealth, the imposition of control or reporting orders on those reasonably believed likely to commit or to commit another, offence and membership of serious and organised crime groups. Some jurisdictions in Australia and overseas have made more aggressive use of legislation including one or more of these features. The Standing Committee of Attorneys-General has noted that the Commonwealth will consider a legislative package to:

- strengthen criminal asset confiscation, including unexplained wealth provisions;
- the extent practical and effective and having regard to constitutional power, introduce consorting or similar provisions that prevent a person associating with another who is involved in organised criminal activity;
- enhance police powers to investigate organised crime, including model cross-border investigative powers for controlled operations, assumed identities and witness identity protection;
- facilitate greater access to telecommunication interception for criminal organisation offences; and
- address the joint commission of offences.

Finding 8.9:
Tracking and interpreting money flows, and linking them to criminal activities demand considerable forensic financial and accounting skills. These skills have not traditionally been a focus of police recruitment or training in all jurisdictions. The AFP has specifically focused on these skills as part of its Financial Intelligence Teams initiative, which attracted high calibre staff with these skills. It remains a weak skills area for the police workforce nationally outside of a small number of discrete teams.
Finding 8.10:

The finding has been omitted as it concerns sensitive operational matters.

Finding 8.11:

Due to the increased reliance on computers, including those with hand-held capabilities, to facilitate the activities of organised crime networks, and the rapid development of this technology, computer literacy is increasingly a key ability for investigators and high tech crime investigations are demanding a larger share of policing resources. The demand for computer forensic capabilities to support activities across the organisation is also of increasing importance.

Finding 8.12:

While there have been important ‘one off’ initiatives like Operation Wickenby in relation to taxation evasion, and joint operations between the AFP, the Australian Crime Commission and the Australian Customs and Border Protection Service, there is as yet no whole of Commonwealth strategic plan for tackling organised crime. Similarly, while the Australian Crime Commission, individual State forces and a number of national taskforces have done good analytic work and conducted effective joint operations, there is no agreed national set of priorities to drive the fight against organised crime. This has been recognised by the Australian Crime Commission and the Commonwealth law enforcement community.

Recommendation 8.1:

The work underway led by the Attorney-General’s Department to develop a whole of Commonwealth strategy for tackling serious and organised crime should receive a high priority with the aim of bringing forward a submission on the strategy to National Security Committee of Cabinet in the lead up to the 2010-11 budget.

Recommendation 8.2:

The strategy needs to reflect that no single Commonwealth law enforcement agency alone can implement an effective strategy – an effective strategy will be one which combines the most apposite skills and legislation to target key organised crime groups and business lines and:

(a) fully engage State police forces, and crime commissions;

(b) provide the framework, including through HO COLEA and the Australian Crime Commission, under which there can be an agile response to fast moving organised crime patterns through ad hoc joint Commonwealth, and Commonwealth-State intelligence and investigative task forces;

(c) carefully review Commonwealth legislation and its application to ensure that it effectively targets the economic returns to crime;
(d) focus on the tracking of financial flows as a key input to intelligence about organised crime activities;

(e) ensure that the Commonwealth effort is appropriately coordinated with action by State law enforcement agencies through building on-going arrangements between HOCOLEA and the Australian Crime Commission;

(f) underline the importance of the ACC providing both a strategic intelligence and analysis capability and concentrating its resources on the highest priority targets and business lines;

(g) recognise the importance of international cooperation, capability development and information exchange in combating transnational crime, and the role that the AFP has played in that through its international liaison network, Multi National Operational Support Team and Jakarta Centre for Law Enforcement Cooperation;

(h) encompass the need to enhance telecommunications interception capabilities and associated legislative provisions so that law enforcement can keep pace with changes in Information and Communications Technology and their use by organised crime;

(i) canvass the need to enhance other intelligence-gathering capabilities such as human sources and undercover operations;

(j) recognise the requirement to upgrade means for sharing intelligence within the Commonwealth and between the Commonwealth and the States and Territories and developing national forensic databases and capabilities; and

(k) incorporate a consideration of skill development issues – particularly in relation to the tracing of money flows through complex corporate structures and computer literacy for investigators.

Chapter 9: Community Policing

Finding 9.1:
The AFP should continue to deliver community policing services to the ACT.

Finding 9.2:
The purchaser-provider arrangement for community policing in the ACT by the AFP functions well, delivering agreed and measurable outcomes. The arrangement has been regularly reviewed and is subject to effective oversight.

Recommendation 9.1:
Performance under the Memorandum of Understanding to better prioritise ACT Policing forensic requirements should be reviewed before the next purchase agreement, and if progress has not been adequate, alternative means for ensuring that the ACT receives the priority it is prepared to fund should be considered and reflected in the next agreement.

Finding 9.3:
The AFP performs an efficient and effective service in the policing of the External Territories. Certain funding arrangements could be streamlined.
Recommendation 9.2:
The Attorney-General’s Department and the AFP review funding arrangements for the Indian Ocean Territories and Norfolk Island to determine whether it would be possible and appropriate to bring the funding under the AFP core budget.

Chapter 10: Internal AFP systems

Finding 10.1:
The One AFP One Corporate Project is scheduled for completion after the publication of the Audit report. The Audit strongly supports its priority.

Finding 10.2:
Involvement in portfolio initiatives to deliver generic and agency specific transactions in a more cost efficient way have the potential to provide benefits to the AFP, the Australian Crime Commission, CrimTrac and other law enforcement bodies in the Attorney-General’s Department portfolio over time.

Finding 10.3:
The Audit notes that funding commitments to Learning and Development will be reviewed under the One AFP One Corporate process.

Recommendation 10.1:
In previous chapters the Audit has recommended the maintenance and deepening of the AFP’s language and cultural sensitivity programs, as well as noting the increasing demand for financial analysis and information and communications technology skills in investigation teams. Sufficient funding should be made available to develop and sustain the staff skills required to deliver in these areas.

Finding 10.4:
The Audit notes the need to develop specialist investigative skills and supports retention of an effective training function at the AFP College. The Audit also notes that skills related to some emerging areas of crime may be delivered by or with other agencies particularly skills for High Tech Crime, Counter Terrorism and Customs and Border Control where shared understanding of methods and processes would be beneficial.

Finding 10.5:
The Audit notes that the growth in number of sworn officers and skilled complementary staff has not kept pace with the overall growth in the investigation demands on the AFP and that as a result, the actual investigation effort directed to some important areas like serious crime other than terrorism has actually declined over the past decade. It also acknowledges the role of the unsworn workforce in performing administrative and specialist/technical functions. The Audit considers that staffing should be a matter for the Commissioner and decisions on workforce composition should be made in tandem with decisions on strategic objectives. The setting of particular goals or headcounts for different categories of staff is too blunt an approach to be helpful.
Finding 10.6:
The Audit acknowledges that recruitment occurs currently as budget allows and reiterates the value of a capability model in supporting strategic planning and resource impacts.

Finding 10.7:
The Audit notes the commitment by Government to funding the development of an AFP Workforce Strategy. This Strategy must be informed by and support the strategic objectives, capabilities and inputs outlined through the governance and planning approaches set out in Chapter 4.

Finding 10.8:
The Audit notes that negotiations for the next Collective Agreement will commence in 2010 and supports the use of independent financial modelling to identify the real cost of the Collective Agreement in the out years.

Finding 10.9:
The impact of the Gershon Review is likely to erode further the already low commitment to ICT investment in the AFP at considerable risk to the AFP’s performance including in mission critical situations.

Finding 10.10:
The Audit notes the improved governance arrangements provided by establishing the Technology and Science Strategic Capability Committee. This approach will deliver a more holistic approach to ICT investment and ensure that technology is developed to meet the strategic objectives of the AFP.

Finding 10.11:
The Spectrum Program is central to, and must have as an objective, the goal of improving interoperability across the AFP, the Commonwealth and the Federation. It is therefore important that it considers these wider objectives as well as those relating only to the AFP.
Part 2

Chapters
Chapter 1
Introduction

1.1 Defining Policing

Policing aims to secure safer communities. As the threats to the security of these communities evolve and these communities become increasingly interconnected, both domestically and internationally, the business of policing must similarly develop and expand to meet this wider impact of criminal threats. This Federal Audit of Police Capabilities has undertaken to review policing capabilities at the federal level, recognising that policing involves a range of activities far broader than the traditional understanding of the role of a community police officer on the beat.

Modern policing encompasses the deterrence, prevention, detection, disruption, investigation and preparation for prosecution of offences against the law which bring criminal sanctions.

In the new era of peacekeeping and peacebuilding operations, modern policing also encompasses a capacity-building dimension.

1.2 Scope of the Report

In a changing world characterised by greater connectivity at all levels the Commonwealth has a greater role to play in the field of policing, regulating increased interactions at a national and international level.

The focus of this report is primarily on the capabilities required now and into the future in the Commonwealth jurisdiction, the relationship between Commonwealth and State policing capabilities and arrangements for the forecasting of policing workforce needs, educational preparation and mutual recognition of policing qualifications. Within this context there will be a close focus on capabilities required for the Australian Federal Police (AFP), and improved governance and budgetary arrangements to facilitate achieving those capabilities.

1.3 Australian Criminal Law in Context

Criminal law generally falls within the jurisdiction of the States and Territories unless the law relates to a matter within the Commonwealth’s legislative competency, for example, taxation, telecommunications, corporations, defence, trade and commerce, external affairs, and matters referred by State parliaments.

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1 On the constitutional validity of Commonwealth legislation enacted in relation to terrorism, the Hon Michael McHugh AC QC noted that the Constitution ‘does not confer any specific heads of legislative power on the Federal Parliament to deal with national security or terrorism or, for that matter, crime. Nevertheless, the Constitution confers on the Parliament a number of powers which alone or in combination appear sufficient to authorise much of the legislation.’ McHugh notes a number of powers contained in s 51 of the Constitution including defence (s 51(vi)) and external affairs (s 51(xx)); the executive power contained in s 61; the implied nationhood power (Davis v the Commonwealth per Mason CJ); and the power to make laws with respect to matters incidental to the execution of any power vested by the Constitution (s 51(XXXIX)); the Hon Michael McHugh AC QC, Terrorism legislation and the Constitution, paper delivered at Sir Maurice Byers Chambers, MLC Centre, Sydney, 1 September 2006. Accessed at: [http://www.mauricebyers.com/mchughpaper.pdf](http://www.mauricebyers.com/mchughpaper.pdf) [29/04/09].

2 Section 51(ii) of the Constitution.

3 ‘postal, telegraphic, telephonic, and other like services’, Section 51(v) of the Constitution.
As such, most prosecutions relate to the enforcement of a State/Territory rather than Commonwealth law and the majority of police officers are employed by State and Territory police services.\(^9\)

While still small by comparison, there is a significant and growing Commonwealth criminal jurisdiction.\(^10\) The main statutory source remains the *Criminal Code*, however, various other pieces of Commonwealth legislation also provide for criminal offences.\(^11\) Examples include the *Corporations Act 2001*, *Bankruptcy Act 1966*, *Australian Securities and Investments Commission Act 2001*, *Migration Act 1958*, *Quarantine Act 1908*, *Fisheries Management Act 1991*, *Environment Protection and Biodiversity Conservation Act 1999*, taxation legislation and social security legislation.

Since 1996 offences in some new fields have been introduced in response to emerging threats and to fulfil Australia’s international obligations. Examples include terrorism,\(^13\) telecommunications and Internet related crime,\(^14\) and people smuggling and trafficking offences.\(^15\)

The investigation of many of these offences increasingly requires specialised knowledge and skill sets. A variety of Commonwealth and State/Territory agencies are involved in enforcing Commonwealth criminal law, often in partnership with the AFP.

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4. ‘foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth’, s51(xx) of the *Constitution*.

5. ‘the naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth’ s 51(vi) of the *Constitution*.

6. ‘trade and commerce with other countries, and among the States’ s 51(i) of the *Constitution*.

7. Section 51(xxxix) of the Constitution.

8. Section 51(xxxvii) of the Constitution.

9. Approximately only one per cent of matters finalised throughout Australia in 2007-08 were Commonwealth matters. This figure is based on a comparison of defendants noted as finalised in the Commonwealth Department of Public Prosecutions 2007/08 Annual Report (6,145) and total number of defendants finalised throughout Australian Magistrates Courts in 2007-08 (619,542) as recorded by the Australian Bureau of Statistics Criminal Courts collection.

10. A survey of the 2007-08 Annual Reports issued by Australian police forces indicates the AFP employs a total of 6,598 staff accounting for approximately 10 per cent of the 65,455 police employed in State and Territory police forces. Police services in New South Wales (19,319), Victoria (14,229), Queensland (13,948) and Western Australia (8,030) employ more staff than the AFP. State and Territory police services also employ greater proportions of sworn staff to fulfil the community policing focus of their work.


12. In 2006-07 the Commonwealth Director of Public Prosecutions (CDPP) acted for 34 different agencies in prosecuting 8,326 charges under 70 different pieces of Commonwealth legislation. Source: Commonwealth Director of Public Prosecutions Annual Report 2007/08.

13. Part 5.3 Criminal Code.


15. Division 73 Criminal Code.
1.4  The Creation of a Federal Police Force

Between 1917 and 1979 the Commonwealth maintained a modest law enforcement capability, achieved through a number of agencies. In 1975 proposals were advanced to merge some or all Commonwealth law enforcement agencies, recognising that the fragmentation of law enforcement responsibilities amongst Commonwealth agencies had created significant inefficiencies, including lack of coordination and duplication of effort. The prevailing situation also prevented Australia from responding effectively to the changing criminal environment, characterised by emerging serious organised criminal activity.

A bomb blast outside the venue of a Commonwealth Heads of Government meeting in February 1978 was, however, the ultimate catalyst for a single federal police force.

The functional responsibilities of the AFP have undergone cycles of expansion, reduction and realignment under other departmental portfolios. For example, in 1985 the functions of the AFP were expanded in a revised edition of the Charter of Objectives and Priorities issued by the Special Minister of State. This referred to the Government’s view of ‘the long term role of the AFP as that of an effective federal investigative body, functioning as the Commonwealth’s primary law enforcement agency’. This indicated an expanded role for the AFP beyond the confines of the functions of its precursor agencies, the Commonwealth Police, the Australian Capital Territory (ACT) Police and the Narcotics Bureau.

1.5  Policing in a Changing World

Globalisation – the increasingly extensive scope of international trade, cross-border flows of capital, goods, services and people – has diffused power, weakened state borders and increased the influence of non-state actors. It has brought great benefits to many, but created new vulnerabilities. With higher volumes of trade and vastly increased movements of money and people across borders have come greater opportunities and returns for transnational crime. The Internet, by connecting people, ideas and markets, has created a new arena for transnational crime and terrorism as well as leveraging the power and efficiency of criminal groups. In this way globalisation has qualitatively and quantitatively transformed demands on policing.

16 Including, the Peace Officers Guard, the Commonwealth Investigation Service, the Commonwealth Police and the Federal Bureau of Narcotics. For further information refer to Annex 1.2: AFP Chronology.

17 The Hilton Hotel bombing, following which the Commonwealth Government appointed former Metropolitan Police Commissioner Sir Robert Mark to examine police resources, protective security and counter-terrorism measures. Sir Robert reported in April 1978, recommending the creation of a new Australian Federal Police force.

18 The responsibilities of this force included the investigation of breaches of Commonwealth criminal law, escorting Australian officials and Internationally Protected Persons, policing the Australian Capital Territory (ACT), policing Australian airports, providing seconded officers to other Commonwealth investigative agencies, and coordinating training and support for counter terrorism activities. The composition of this original force, under the direction of Commissioner Colin Woods, comprised 2,577 sworn members and 375 unswnorn staff with a budget of $72 million.

19 Australian Federal Police Objectives and Priorities – Direction under Section 13(2) of the Australian Federal Police Act 1979, the Hon Mick Young MP, Special Minister of State, 15 August 1985.
In the domestic context, policing agencies have been called upon to respond to the impact of the broader criminal networks that have emerged, operating across various forms of transnational crime, including drug trafficking, money laundering, cybercrime, people smuggling and people trafficking. These developments have also increased Australia’s international obligations as we have joined with other countries to combat global criminal threats. The changing policing landscape continues to be influenced by the changing shape of our national security concerns.

**International security landscape**

The past 20 years have seen fundamental transformations in geopolitical and global economic power. The essential characteristics of this change have been a move from a bipolar world order (following the end of the Cold War and the collapse of the Soviet Union) to a unipolar world (with the United States as the only superpower) and now towards a multipolar world.

At the same time, we have entered what some have labelled the era of the ‘market state’, as opposed to the nation state. Both of these transformations have had, and will continue to have, significant security implications.

Decolonisation and the break-up of the Soviet Union have created multiple new states with varying resources and capacity to maintain internal stability. While conflicts between nation states may occur less frequently, intra-state conflict is a growing concern, fuelled by increasing incidences of state weakness and failure.

The market state environment creates manifold opportunities for expansion of terrorist and organised crime networks, which are now operating on a similar global, networked, decentralised and devolved basis as the market state. The changing face of terrorism is manifested in increasingly violent attacks on a broad range of ‘Western’ interests, quite different in scope and objective from the targeted terror of groups with a political agenda dedicated to regime change or secession which characterised the past.

Support for extremist movements is often found in disengaged elements of societies resistant to globalisation and resentful of Western wealth and lifestyles. Failed or failing states have often provided the training ground for terrorist activists.

Global uptake of Internet services and rapid advances in information and communications technologies have greatly facilitated the operations of terrorist and organised crime networks by providing a new locus, enabler and a broader market in which to recruit, operate and raise funds.

The growth of asymmetric warfare conducted by non-state actors, networked terrorism and radicalisation via the Internet have produced novel threats which require innovative responses in the security and policing environment.

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20 Bobbitt, Phillip, Terror and Consent: The Wars for the Twenty-First Century, 2008, Chapter 1. Bobbitt refers to the nation state as having existed to serve the welfare of the people (the nation), and the market state as existing to maximise the opportunities of individual citizens.


22 In 1995 there were about 16 million Internet users, less than 0.4 per cent of the world’s population. In 2008 this number had risen to 1.463 billion, about 22 per cent of the world’s population (source: http://www.internetworldstats.com/stats.htm)
Regional instability likewise presents new challenges requiring multi-dimensional responses, including the deployment of police resources with specific non-traditional capabilities such as police capacity-building. In the case of East Timor and Solomon Islands, Australia has provided policing support to restore civil order and strengthen governance. Such initiatives are not solely the act of a good neighbour, but by underpinning development opportunities they advance regional stability and reduce the risk of organised crime groups penetrating these countries to the eventual detriment of Australian interests.

External factors such as climate change and the global financial crisis are likely to exacerbate instances of regional instability, resulting in increased demands on Australian law enforcement including for disaster relief, peacekeeping and capacity-building operations and greater border security.

**International obligations**

Australia is party to a number of multilateral agreements relating to crimes of international concern which contain law enforcement obligations, for example, conventions relating to serious drug offences,\(^\text{23}\) money laundering,\(^\text{24}\) and people smuggling.\(^\text{25}\) The expansion of international trade driven by globalisation has also increased Australia’s international law enforcement obligations as many of the bilateral Free Trade Agreements entered into require, for example, protection of intellectual property rights.

**The domestic context**

Globalisation has magnified existing threats to Australian security interests, as well as creating new threats.\(^\text{26}\) The nature of the threats faced by Australia, as identified in the 2008 *Review of Homeland and Border Security* (the Smith Review) include: espionage, foreign interference, terrorism, politically motivated violence, border violations, drug trafficking, cyber attack, organised crime, natural disasters, industrial accidents and biosecurity events.\(^\text{27}\) The Smith Review emphasised the importance of a broader conception of security, beyond the focus on counter-terrorism arrangements which followed the terrorist attacks of 11 September, 2001. The Smith Review found that ‘it is timely to provide an additional focus on other threats and hazards’, to be effected through integrated national and cross-jurisdictional initiatives, greater coordination and collaboration between Commonwealth and State/Territory agencies and partnerships with business and the community.


\(^{24}\) The stated objects of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* are set out in s 3 of the Act as being: to fulfil Australia’s international obligations, to address matters of international concern and thereby beneficially affect Australia’s relations with foreign countries and international organisations. Relevant international obligations are set out in s 3(2) and include obligations under the *United Nations Convention Against Corruption*, signed in New York on 31 October 2003 [2006] ATS 2; the *United Nations Convention Against Transnational Organized Crime*, signed in New York on 15 November 2000 [2004] ATS 12; and the *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime*, signed in Strasbourg on 8 November 1990 [1997] ATS 21.

\(^{25}\) Division 73 People Smuggling and related offences of the Criminal Code gives effect to the *Protocol against the Smuggling of Migrants by Land, Sea and Air*, supplementing the *United Nations Convention Against Transnational Organized Crime*.


\(^{27}\) Ibid.
The broader concept of national security adopted by the Smith Review has been affirmed by the National Security Statement made by the Prime Minister in December 2008. In that statement, the Prime Minister identified the following components of the new national security framework of relevance to law enforcement:

- combating the threat of terrorism;
- combating transnational organised crime, including drug trafficking, people trafficking and people smuggling;
- combating cybercrime/enhancing e-security;
- addressing the implications of climate change; and
- regional engagement to promote stability and peace in the Asia-Pacific.

The current Ministerial Direction to the AFP identifies similar focal areas as priorities for the AFP, including:

- countering the threat of terrorism to the safety and security of Australians and Australian interests, inside and outside Australia;
- preventing, deterring, disrupting and investigating serious and organised criminal activities impacting on the interests of the Australian community;
- safeguarding the economic interests of the nation from criminal activities such as serious fraud, money laundering, corruption, intellectual property crime and technology enabled crime;
- contributing effectively to the Government's international law enforcement interests including matters involving cooperation to combat transnational organised crime, responses to emergencies, law and order capacity building missions, and participation in United Nations, or other internationally mandated, peace operations; and
- achieving and maintaining a technological edge over criminals, including sharing knowledge and capabilities with strategic partners.

1.6 Growth in Policing Activities at the Federal Level

Responding to emerging challenges of the past decade has required greater flexibility or institutional agility from policing agencies. This has been reflected in new or enhanced functions for the AFP accompanied by significant growth in staff and budgets since 2001. These new or enhanced functions include:

- the integration of the Australian Protective Service;

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31 The International Deployment Group and Aviation functions are responsible for the majority of growth of the AFP budget since 2001, now comprising 42% of the total Outcome 1 expenditure. Traditional programs have also grown (in nominal terms) from close to $300m in 2001 to almost $600m in 2009 as a result of new policy initiatives over this period.
• a greatly expanded capacity to protect aviation infrastructure and flights;
• the creation of the Australian High Tech Crime Centre and its incorporation as a business unit of the AFP;
• the establishment of the International Deployment Group;
• the extension of the International Network and assistance offered to foreign law enforcement agencies, including the Indonesian National Police following bombings in Bali and at the Australian Embassy in Jakarta, and in Thailand following the Boxing Day Tsunami of 2004, in East Timor to help the new nation establish its police force, and in capacity building in Afghanistan; and
• the development of an international capability to prevent, disrupt and deter people smuggling operations.

The introduction of these new and enhanced functions has required increases in budget and staffing levels. Budget increases are demonstrated by Figure 1.1 which tracks expenditure in Outcome 1 operations from 2001-02. This graph reveals the relatively stable growth of the Border and International and Economic and Special Operations portfolios,\textsuperscript{32} in contrast to the rapid and significant growth of the Counter Terrorism, International Deployment Group, Protection and Aviation portfolios. It is this significant growth in additional responsibilities placed on the AFP since 2001-02 that has resulted in the substantial growth of the AFP budget rather than a growth of its core funding.\textsuperscript{33}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure1}
\caption{Output Expenditure by Function}
\end{figure}

\textsuperscript{32} Note Figure 1 measures costs in nominal terms (not adjusted for the value of money over time), as such, while figures appear relatively stable, factors such as salary increases, foreign exchange pressures and inflation reduce value for money.

\textsuperscript{33} Only 27% of the AFP appropriation is defined as base/core funding with which the AFP has to deliver on core ongoing objectives. Of the remaining funds, 21% are of a terminating or lapsing nature.
The increase in AFP staffing levels is largely reflective of an increase in unsworn support staff, rather than sworn operational staff, due to the diversity and technical requirements of the work undertaken by the AFP in the period. This rise is shown in Figure 1.2 which depicts AFP staffing levels since its formation. It should be noted that the numbers of Protective Service Officers has remained relatively constant from the time of integration beginning in 2002, a factor which highlights the major increase of other unsworn staff in recent years. Unsworn staff includes close operational support in functions such as intelligence, forensics, high tech crime and logistics support to off-shore roles, as well as corporate enabling functions.

The expansion of the AFP’s role in these new functional areas has been in line with evolving community and government perceptions concerning major national law enforcement priorities and the broad approaches to national security adopted in the Smith Review and the National Security Statement. These statements have confirmed the shift of AFP responsibilities towards the centre of government, a move which has been particularly evident since the terrorist attacks of September 11, 2001.

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In 2002 the number of Australian Protective Service staff (including some non-Protective Service Officer support staff) was 1,264. The number of Protective Service Officers currently stands at 1,341.

This period has seen a particular focus on the national security agenda and intense growth in funding for federal agencies with national security mandates. A comparison of total appropriations in 2000-01 compared with 2008-09 has seen significant increases: 254% in the AFP ($324.751m – $1,150.320m); 173% in the Attorney-General’s Department ($421.993m – $1,153.222m); 573% in the Australian Security Intelligence Organisation ($62.935m – $423.463m); 311% in the Australian Secret Intelligence Service ($44.166m – $181.468m); 469% in the Office of National Assessments ($6.7m – $38.092m).
AFP operations are now frequently a component of integrated whole-of-government strategies, involving the Australian Intelligence Community, the Australian Crime Commission (ACC), border protection agencies, financial regulators, the Australian Taxation Office (ATO) and other federal agencies. Collaboration between Commonwealth agencies and State/Territory agencies, and between Commonwealth agencies and foreign law enforcement agencies, is also often imperative to enable the AFP effectively to fulfil its role in responding to crimes of a national or international scale.

Whole of government and Commonwealth/State cooperation has been aided by the development of national agencies like the ACC, CrimTrac and the Australian Transaction Reports and Analysis Centre (AUSTRAC) which can support operations by both levels of government. Under this collaborative approach partner agencies contribute specialist knowledge of the subject matter, technical skills and greater resources.

**Finding 1.1:**
Over the past decade and a half the global and national context in which policing is carried out has changed in a way that increases the role of the Commonwealth, and it is now involved in crime and security in a manner that is quite different from its experience in the first century of Federation. Globalisation, the Internet as a basis for communications and commerce, convergence in information and communications technology, terrorism, and the increasing fragility of states in Australia’s region have all increased the demands on and complexity of policing.

**Finding 1.2:**
The scope of Commonwealth criminal law and policing powers have been extended over the same timeframe both through the addition of new offences and powers under the *Crimes Act 1914* and in the *Criminal Code* to deal with terrorism, the misuse of telecommunications and to reflect treaty obligations, and the broadening and deepening of the Commonwealth’s regulatory reach in the national economy.

**Finding 1.3:**
The resources devoted to the AFP have increased by 284 per cent since the year 2000, echoing a similar increase for other agencies with national security responsibilities.

**Finding 1.4:**
The increase in AFP resources has been directed to:

- Overseas deployments carried out through the International Deployment Group and its Operational Response Group in East Timor, Solomon Islands and other Pacific nations, Afghanistan, and a range of United Nations missions.
- An enhanced national security intelligence and investigative capacity.
• Upgrading security for the aviation sector and in particular Australia’s international airports as well as for official establishments, Australian holders of high office and non-Australian holders of high office visiting or resident in Australia.

• Assuming responsibility for the Commonwealth’s protection of sensitive and nationally significant sites, including the resources for the Protective Service Officer workforce.
Chapter 2
Future Scan

2.1 Issues
In the introduction to this report we have described a world that has become increasingly globalised and interconnected over the past decade, resulting in significantly greater challenges for law enforcement agencies, including heightened complexity of criminal investigations and cross-jurisdictional issues. We noted that Australia had become involved in providing policing support to fragile states in the region in a way unprecedented in our history. In response to a series of international and domestic shocks, the role and functions of the AFP as Australia’s federal law enforcement agency have also expanded, accompanied by significant growth in federal policing resources.

This expansion in federal policing activities has been generated by policy initiatives reacting to fast moving events and supported by temporary (lapse or terminating) program funding. A central question for this report is whether these shocks were transient, or whether they should be recognised as providing a new reality which underpins a lasting change in the core policing requirements at the national level – a change which should be recognised in assumptions about long-run resource and funding needs.

These new realities are underlined by the National Security Statement made by the Prime Minister in December 2008. In that statement, the Prime Minister identified the following components of the new national security framework of relevance to law enforcement, including the AFP:

- combating the threat of terrorism;
- combating transnational organised crime, including drug trafficking, people trafficking and people smuggling;
- combating cybercrime/enhancing e-security;
- addressing the implications of climate change; and
- regional engagement to promote stability and peace in the Asia-Pacific.

2.7 Analysis

Counter-terrorism

Australian law enforcement, intelligence and security agencies operating in the counter-terrorism sector face an environment in which the stakes are high, risk is substantial and failure could be catastrophic.

The terrorist threat to Australia is potentially three-pronged:

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66 Although of course Australia did provide extensive policing services in Papua New Guinea prior to independence, and has had a long history in providing support to UN operations.

37 The First National Security Statement to the Australian Parliament, Address by the Prime Minister of Australia The Hon. Kevin Rudd MP, 4 December 2008.
• threats against Australians and Australian interests initiated, resourced, funded and carried out off-shore, or in Australia, with no on-shore support;
• threats initiated, resourced and funded on-shore (home-grown); and
• threats initiated off-shore with a combination of on- and off-shore resourcing and on-shore support.

The Bali, Marriott and Jakarta embassy bombings, and the plot against the Singapore High Commission are all in the first category. At home, Australia has been the subject of actual or alleged planned attacks from the second and third categories with people having been convicted, or currently before the courts.

**Evolving terrorist threats**

The last decades of the 20th and the first decade of the 21st century have seen the emergence of what has been described as ‘market state’ terrorism – a product of, and partly a response to the growth and ubiquity of global markets. Its defining characteristics are that it operates on a similar global, networked, decentralised and devolved basis as the global markets for goods, services and ideas and exploits vulnerabilities created by those same global and national markets. Unlike ‘traditional’ terrorism, which usually has a defined regime change or liberationist aim, this new form of terrorism pursues broad aims for global change. It has no negotiating agenda, and no need or interest in limiting its violence in the interests of preparing a base for sharing power or governing. The threats posed by market state terrorism are higher than those posed by traditional terrorism, for the following reasons:

• market state terrorism involves greater violence and therefore more lethal outcomes;
• market state terrorists are much better financed than their predecessors;
• market state terrorist groups are comprised of loosely interconnected, semi-independent networks with decentralised command structures;
• market state terrorist operations are often outsourced to local groups;
• market state terrorist networks exploit modern communications technologies to enhance their reach and power base; and
• market state terrorists are more likely to seek weapons of mass destruction and use them than terrorists with a regime change or liberationist aim.

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38 Phillip Bobbitt, *Terror and Consent: The Wars for the Twenty-First Century*, 2008, ch. 1. Bobbitt refers to the nation state as having existed to serve the welfare of the people (the nation), and the market state as existing to maximise the opportunities of individual citizens.

39 Ibid, p. 45.

40 Whether by way of financing derived from legal enterprises such as non-profit organisations and charities, legitimate companies that divert profits to illegal activities, or proceeds of criminal activities such as drug trafficking and fraud.

The evolving nature of terrorism has been the subject of consideration in a recent United Kingdom report on the global security environment by the non-government IPPR Commission on National Security in the 21st Century. The Commission’s interim report, published in November 2008, contains 13 observations, including the following:

Terrorism using conventional weapons remains the most likely challenge but the threat of technologically sophisticated chemical, biological, radiological or nuclear terrorism is real.

This observation is supported by the recently released United Kingdom Strategy for Countering International Terrorism, which includes the following cautionary comment:

Contemporary terrorist organisations aspire to use chemical, biological, radiological and even nuclear weapons. Changing technology and the theft and smuggling of chemical, biological, radiological, nuclear and explosive (CBRNE) materials make this aspiration more realistic than it may have been in the recent past.

In the context of technology-enabled crime, the Australian Institute of Criminology has concluded that computers and computer networks will, in the foreseeable future, continue to be both the objects of terrorist attacks and the conduit through which terrorists and other criminals will communicate in order to plan and carry out their activities. Whilst acknowledging that specific examples of cyber terrorism activities are rare in Australia and overseas at present, the Australian Institute of Criminology considers that the continuing use of online resources to support terrorist incidents is an area of concern that is unlikely to diminish in the future. This highlights the need for a continuing high level capability in High Tech Crime Operations and sufficient resources to support ongoing research, analysis and development in emerging and future information and communication technologies.

The Australian Institute of Criminology’s conclusions find support in the report of the IPPR Commission on National Security. The Commission has found that terrorist groups have emerged as a long-term structural challenge both because of their potential access to destructive and dangerous technologies via legal and illicit markets and because of advances in digital technology and global communications:

The latter have amplified the voice, extended the organisational reach and enhanced the law enforcement evasion capabilities of terrorist groups. Satellite communications have also shrunk distance and made it much easier for terrorist groups both to make and sustain cross-border connections.

Strong encryption tools meanwhile, available more cheaply and easily than ever before, are facilitating terrorist use of such communications channels in a more secure and secret environment.

83 The final report is to be published in summer 2009.
84 See further ch. 5 of the interim report.
87 Institute for Public Policy Research.
The extent to which modern technologies have facilitated the operation of terrorist networks is also discussed in the recently released United Kingdom Strategy for Countering International Terrorism. That Strategy identifies use of modern technologies as one of four key factors that have led to the emergence of contemporary international terrorist networks and which currently sustain international terrorism. The Strategy expands on this conclusion:

The communications revolution has made easier the spread of violent extremist ideology and propaganda. The number of websites related to terrorist groups or supporting violent extremism has increased from as few as 12 in 1998 to over 4,000. Al Qa’ida has its own media organisation, Al-Sahab, which produced just six audio and video messages in 2002 but nearly 100 in 2007.

The Strategy also refers to other ways in which information and communications technologies are relied upon to promote the activities of terrorist networks, including:

- the establishment of a dialogue between organisations and actual or prospective members, which facilitates fundraising, recruitment and some training and operational planning; and

- the development of new tactics through web-based communications enabling members to harness and share emerging technology.

Continuing relevance of liberationist terrorist movements

While Jihadist movements provide the greatest threat to Australians and Australian interests, more conventional liberalist, ethnic or extremist movements which might employ violence as a weapon also offer some threats to particular communities, some sectors of the economy and the representatives of foreign governments. This is a risk which Australia has managed in the past. The Hilton bombing of 1979, aimed at the visiting head of a foreign state, and which contributed to the establishment of the AFP, is an example. So too were a number of violent acts between different ethnic communities drawn from the former republic of Yugoslavia, and the assassination of the Turkish Consul-General in Sydney in 1980.

In some countries violence has been associated with right wing and fundamentalist movements, with sects, with anarchists and extreme environmentalists and/or animal liberationist groups. While not of the same threat level, given Australia’s politically, culturally and ethnically diverse population, threats continue to exist, reflecting tensions in the broader global environment and cannot be ignored.

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50 Ibid, para. 5.14.
51 Ibid, paras. 5.16-5.17.
**Future of counter terrorism strategic framework**

These developments underline the importance of the Government’s focus on increased whole of government coordination across agencies in the national security context, and its emphasis on working with regional and alliance partners to deal with terrorist threats. The proposed national security strategic policy framework is likely to result in a more clearly defined role for the AFP in the evolving national security environment, including in terms of priority-setting and resource allocation. The framework will be informed by a Counter Terrorism White Paper to be released by the Government later this year.

**Combating transnational organised crime – a national security concern**

The Australian Government’s National Security Statement identifies transnational crime (including drug trafficking, people trafficking and people smuggling) and organised crime in general as national security challenges.

In line with the Australian Government’s approach, the private IPPR Commission on National Security has described transnational organised crime as a ‘major national security concern’. The Commission also adverts to the interrelationship between transnational organised crime networks and terrorist networks, noting that:

- terrorists derive financial support from organised criminal activities;
- organised crime groups and terrorists both use similar communication methods, particularly the Internet and other communications technologies; and
- organised criminals and terrorists both launder their money, often using the same methods and even the same operators.

**Evolving threat**

In a report released in September 2007, the Parliamentary Joint Committee on the Australian Crime Commission found that ‘transnational crime poses a significant and growing threat to Australia.’ Organised crime groups are evolving into more flexible and entrepreneurial networks and are becoming more sophisticated in their business practices and methodologies, which presents increasing challenges for law enforcement.

The Australian Crime Commission (ACC) has estimated that organised crime cost Australia at least $10 billion in 2008. The ACC’s 2009 publication *Organised Crime in Australia* makes a number of observations about ‘high-threat’ organised crime groups in Australia, including that they:

- have transnational connections;

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52 See the First National Security Statement to the Australian Parliament; Address by the Prime Minister of Australia the Hon Kevin Rudd MP, 4 December 2008.

53 See chs. 5 and 6 (p. 82) of the interim report. See also the opening message from the UN Secretary-General at the Eleventh United Nations Crime Congress on Crime Prevention and Criminal Justice in Bangkok, Thailand in 2005: [http://www.unis.unvienna.org/unis/pressrels/2005/bkkcp04.html](http://www.unis.unvienna.org/unis/pressrels/2005/bkkcp04.html)


55 Ibid.

• have a broader geographical presence and generally operate in two or more jurisdictions;
• operate in multiple crime markets;
• intermingle legitimate and criminal enterprises;
• are increasingly using new technologies; and
• are able to withstand law enforcement interventions and rebuild quickly following disruption.

In terms of relationships between organised crime networks and terrorist networks in Australia, the ACC has found that such relationships ‘have generally been short-term and limited to providing specific services such as false identity documentation, “non-traceable” communications and/or money laundering’.

In 2008, the Attorney-General’s Department and the ACC undertook an environmental analysis of serious organised crime in Australia. The analysis included findings that the manufacture, trafficking and supply of illicit drugs remain the primary criminal market engaged in by criminal networks in Australia; however, there had been notable increases in intellectual property crime, high-tech crime and criminal activity in resources industries such as commercial fishing and logging.

**Narcotics**

Australia will remain an attractive target for illicit drugs, in light of high domestic prices coupled with strong demand. By global standards the prices paid for illicit drugs in Australia are among the highest. The profit margins offered by the Australian market are therefore substantial.

In particular, the synthetic drug (ATS) market is of ongoing concern. ATS production and use in Australia have increased substantially over the past 10 years. Arrests connected with ATS offences increased from 6,584 in 1998-1999 to over 16,000 in 2007-2008.

Globally, the production of ATS has also increased. After cannabis, ecstasy is the second most commonly used illicit drug in Australia.

The National Amphetamine-Type Stimulant Strategy 2008-2011 indicates that a number of law enforcement participants in the consultation process noted the continuing threat to Australia posed by large-scale methamphetamine production throughout the Asia-Pacific region, including Australia.

**People smuggling**

As at May 2009, over 580 potential illegal immigrants have sought to enter Australia by sea. This compares with 161 in total for the year 2008, 103 for the year 2007 and 45 for the year 2006.
Between June 2008 and May 2009, the AFP/Department of Immigration and Citizenship Joint People Smuggling Strike Team supported over 40 offshore disruptions of people smuggling ventures.

On the basis of these figures, it is evident that the people smuggling threat is ever-present. Moreover, it would appear that people smuggling activities pose an increasing threat to Australian interests, particularly in circumstances of deteriorating security conditions in countries such as Sri Lanka and Afghanistan, and more sophisticated people smuggling operations – better quality boats with positioning systems. In an opening statement to the Bali Process Ministerial Conference in April 2009, the Australian Minister for Foreign Affairs noted that there ‘remain protracted refugee situations in our region which provide a significant push to irregular migration.’ At a joint press conference with the Indonesian Foreign Minister following the Bali Process meeting, the Australian Foreign Minister also noted that people smugglers are becoming better resourced and better at avoiding detection and disruption.

This has implications for a number of agencies working in collaboration to combat the people smuggling threat, including the AFP, Australian Customs and Border Protection Service, the Department of Immigration and Citizenship and the Australian Secret Intelligence Service.

People trafficking

Australia is a destination country for trafficking. The majority of trafficking victims have been women from the Asia region who were brought to Australia to work in legal or illegal brothels subject to conditions of debt bondage or involuntary servitude.

While the overall volume of cases involving people trafficking to Australia is not anticipated to be high, this crime type presents a significant ongoing problem and Australia has international obligations to combat people trafficking. Further, people trafficking investigations are often complex and resource-intensive. The Australian Government is committed to maintaining capacity to prevent further instances of trafficking, prosecuting the perpetrators and protecting and supporting the victims. This is demonstrated by the Australian Government’s June 2008 first National Roundtable on People Trafficking.

Intellectual property crime

Intellectual property crime is a term generally used to encompass a wide range of counterfeiting and piracy offences, including trademark, patent and copyright infringements.

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62 Australian Trafficking in Persons Core Document 2009.
63 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime.
64 Australian Trafficking in Persons Core Document 2009.
Over the past two decades, there has been an explosion in counterfeiting and piracy activities. The trade in counterfeit goods has been estimated to be worth hundreds of billions of dollars per year. The range of counterfeit products is extensive. Traditionally, music CDs, movie DVDs and luxury goods such as designer clothing and accessories have been produced. However, in recent years, the market has expanded to include items that may have an impact on public health and safety, such as pharmaceutical products, toys, electrical goods and automotive and aviation parts. The effects of this crime are diverse, including loss of revenue to legitimate business and government and threats to public health and safety.

Developments in modern technologies are facilitating counterfeiting and piracy operations. The International AntiCounterfeiting Coalition has observed that:

Never before has it been so easy to duplicate labels, packaging, documentation, authentication devices and/or symbols/marks/logos with such speed, accuracy and relative anonymity.

The ACC has also noted that opportunities for intellectual property crime have been greatly enhanced by advances in communications technologies and computer software.

Intellectual property crime is generally regarded as a high-profit, low-risk activity. The recent OECD report *The Economic Impact of Counterfeiting and Piracy* concluded that criminal networks and organised crime thrive via counterfeiting and piracy activities. Similarly, Interpol has noted that trademark counterfeiting and copyright privacy are linked with money laundering, illicit drug trafficking and other types of organised crime. A White Paper released by the International AntiCounterfeiting Coalition in 2005 indicates that not only organised criminal groups, but also terrorist organisations, are increasingly turning to intellectual property crime as a means to raise funds.

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67 Ibid.
The current position in Australia, according to the Australian Institute of Criminology, is that piracy and counterfeiting are at relatively low levels. The Institute has also noted that there is a lack of verifiable empirical evidence on the extent of the problem in Australia. At present, intellectual property crime investigations and prosecutions remain a very small component of the investigative and prosecutorial work of the AFP and the Commonwealth Director of Public Prosecutions respectively.

However, AFP intelligence and investigations over the past two years have identified increasing intellectual property crime activity in the production of counterfeit CDs and DVDs and trade mark infringements. Peer to Peer networks and online purchase and downloading of pirated movies and music provide new venues for intellectual property crime, and new motivations for organised crime to penetrate fragile states where servers can be located with low risk. There has been well publicised success in AFP’s disruption of counterfeit pay TV access cards.

Further, the Australian Institute of Criminology has concluded that it is likely that transnational and organised crime involvement in intellectual property crime will have an impact on Australia in the years ahead. AFP investigations since July 2007 have identified several links to organised crime from intellectual property crime activities.

**Future strategies to combat organised crime**

In view of the international aspects of organised crime, the general nature of organised criminal activity, its interlinkages with terrorist networks and its national security implications more generally, the Australian Government’s response to organised crime requires effective coordination at the federal level.

This will be facilitated by the development of a national organised crime strategic framework, with the aim of enhancing intelligence capability, multi-agency investigations and capacity to recover the proceeds of organised crime.

In conjunction with efforts at the domestic level, which will include coordination and cooperation with State police agencies, offshore liaison networks will inevitably constitute a primary component of any future strategy to combat transnational organised crime. The AFP International Network will continue to play a critical role in this regard.

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75 Ibid.
76 The AFP received NPI funding of $7.8 million over two years from July 2007 to enhance capacity to respond to intellectual property crime.
77 See Chapter 8 for further discussion of this proposed framework.
78 The ACC has described the contribution made by the AFP international liaison network and AFP off-shore operations as critical components of national strategies to combat serious and organised crime: ACC Submission to the Parliamentary Joint Committee *Inquiry into the future impact of serious and organised crime on Australian society*. 

The primary focus of the International Network in the immediate future will be the Asia-Pacific region, in line with current Government priorities. The AFP will be seeking to maintain, at a minimum, current levels of engagement with China. The emergence of China as an increasing economic and political power and related law enforcement implications underscore the importance of AFP engagement with Chinese law enforcement agencies. There are several areas of growing criminal activity in China of particular concern to Australia, including drug trafficking – China has become a significant transhipment point for heroin sourced from the Golden Triangle and the Golden Crescent, particularly Afghanistan, and for cocaine from South America. Visa fraud and intellectual property crime are also prevalent. The Chinese authorities are keen to enhance international cooperation to combat criminal activity of this nature and there is considerable potential to develop Australia’s law enforcement relationship with China. The AFP was the first Western police agency to gain approval for a liaison post in Beijing and then Guangzhou.

The AFP will be seeking to enhance engagement with Japan and South Korea, in particular in combating transnational crime, including drug trafficking, people smuggling and people trafficking.

The AFP also anticipates greater engagement with Pakistan, in view of the significant threats posed by transnational crime emanating from, or connected to, Pakistan, in particular terrorism, drug trafficking and people smuggling.

During consultations in the course of the Audit, a suggestion was made by a Government department that there are gaps in AFP international representation, in Africa and South Asia. There is considerable and growing serious transnational criminal activity on the African continent which affects Australia’s interests. The AFP has limited representation in these areas, which could be enhanced.

**Cybercrime**

Australians are early and enthusiastic adopters of new technology. Business, government and social interactions increasingly happen on the Web. The roll out of a new national broadband network, together with continuing development in the convergence of technologies and sophistication of hand held devices will strengthen these trends. Vulnerabilities to crime which utilises and exploits weaknesses in these networks will increase. The Australian Government’s National Security Statement identifies enhancing Australia’s e-security capability as one of the Government’s new security priorities.

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79 China is the principal source of most types of counterfeit goods available around the world, including clothing, jewellery, food and beverages, medicines, cosmetics, electrical goods, automotive parts.

80 Under the Australia-Japan Joint Declaration on Security Cooperation Action Plan.

81 The 2009-2010 Budget includes provision for an additional transnational crime liaison officer and a new counter-terrorism liaison officer in Pakistan.
Similarly, in announcing the creation of the office of Cybersecurity Coordinator at the White House on 29 May 2009, President Obama described the cyber threat as ‘one of the most serious economic and national security challenges’ faced by the United States, asserting that America’s economic prosperity in the 21st century will depend on cybersecurity.  

Australia’s 2007 E-Security National Agenda focuses on the following three priorities:

- reducing the e-security risk to Australian Government information and communications systems (Defence Signals Directorate and Department of Finance and Administration [Australian Government Information Management Office]);
- reducing the e-security risk to Australia’s national critical infrastructure (Attorney-General’s Department and AFP); and
- enhancing the protection of home users and small and medium enterprises from electronic attacks and fraud (Department of Communications, Information Technology and the Arts and Australian Communications and Media Authority).

The Government has recognised that a strong and effective law enforcement capability is a vital component of the Government’s ability to protect the National Information Infrastructure (NII). It is the role of the AFP (through the Australian High Tech Crime Centre (AHTCC) to deliver this law enforcement capability through enhanced investigative and technical resources targeting criminal threats to the NII. The AFP is also to continue to support Australia’s e-security through national and international initiatives in Asia and the Pacific.

**Nature of the emerging threat**

The Australian Institute of Criminology recently asserted that ‘serious and justifiable concerns exist about the ways in which new technologies are likely to be misused in the years to come’.  

The Australian Institute of Criminology has identified a number of key areas in which new challenges for law enforcement are anticipated to arise, including the following:

- increasing use of mobile devices, and in particular exploitation of multimedia messaging services;
- proliferation of instant messaging programs and the risk of such programs being targeted by botnets;
- evolution of malware, including the development of malware designed to evade detection and/or determination of the source or nature of the malware infection, such as the increasing level of sophistication of bot malware, kernel-mode malware and ransomware;

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82 The White House, Office of the Press Secretary, Remarks by the President on Securing our Nation’s Cyber Infrastructure, 29 May 2009: http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-on-Securing-Our-Nations-Cyber-Infrastructure/
• exploitation of electronic payment technologies, including prepaid cards to facilitate illicit financial transactions and money laundering and smart cards;

• exploitation of virtual multiplayer online games (MMOG) sites to steal valuable data and facilitate money laundering;

• exploitation of new and emerging technologies to commit fraud, such as advance fee fraud and online auction fraud;

• increasing occurrence and sophistication of phishing attacks, as well as vishing (through VoIP) and SMiShing (via SMS); and

• exploitation of information and communications technologies to facilitate unauthorised access to and exploitation of intellectual property.

In its most recent Internet Security Threat Report, Symantec found that Web-based threats have become more widespread and sophisticated, with attackers using increasingly complex methodology. Symantec further observed that the coordination of specialised groups in the production and distribution of items such as customised malicious code and phishing kits has led to a dramatic increase in the general proliferation of malicious code.

While it is almost impossible to assess the nature and extent of developments which might occur in information and communications technologies over the next ten years, the Cybercrime Working Group of the Strategic Alliance Group anticipates that ‘The depth, breadth, and rate of technological change within the next ten years will likely eclipse those of the preceding 30 years’. At the same time, it appears certain that society will place increasing reliance on such technologies in countless aspects of everyday life. The corollary of this is that society will be increasingly vulnerable to the consequences of cybercrime.

The role of High Tech Crime Operations (HTCO) in enhancing the AFP’s capability to combat cybercrime is likely to become more important over the coming decade, taking into account:

• widespread use of Internet services such as Internet banking;

• widespread adoption of online social networking facilities and personal mobile communications; and

• migration of government services to online delivery.

In a recent address to the Cards & Payments Australasia Conference, Dr Philip Lowe, Assistant Governor (Financial System) of the Reserve Bank, noted that fraud rates on online transactions appear to be increasing. Dr Lowe stated that the rate of credit card fraud increased by around 50 per cent over the past year and that if this trend were to continue, it could undermine consumer confidence in transacting online. The Symantec Internet Security Threat Report found that the most popular item for sale on underground economy servers in 2008 was credit card information.

86 Transnational Cyber Crime, April 2009. The Strategic Alliance Group is comprised of representatives of the United States, the United Kingdom, Canada, Australia and New Zealand and is focussed on sharing of ideas, information and expertise with a view to developing strategies to combat transnational organised crime, including cybercrime.
87 Payments System Reforms: Innovation and Competition, address to the 14th Annual Cards & Payments Australasia conference, Sydney, 24 March 2009.
In terms of anticipated developments in cybercrime\textsuperscript{88} in general, the AFP is likely to see an upsurge in online identity theft, online child sexual exploitation, multiple online fraud methodologies and money laundering through online currency markets.\textsuperscript{89} The AFP also expects increasing attacks directed at government services and databases accessible through the Internet. The Strategic Alliance Cybercrime Working Group has predicted that during the next decade, changing demographics will lead to an ‘explosion of cyber activity’ and consequently cybercrime, exceeding anything cybercrime investigators have been confronted with to date.\textsuperscript{90} Investigations into high-tech crime are likely to become increasingly complex and resource-intensive. The proliferation and global mobility of digital data present challenges for the collection, preservation and presentation of digital evidence.

**Child sexual exploitation**

Increasing commercialisation of online child exploitation presents a significant ongoing challenge to law enforcement. Evidence continues to emerge of an unabated demand for child sexual exploitation images and video. The opportunity for significant profit in supplying this market is widely recognised, including amongst organised criminal networks. In the borderless environment of cyberspace, law enforcement agencies need to be able to operate with the fluidity, flexibility and adaptability of perpetrators if they are to meet with any success in combating this type of criminal activity. This includes high level international collaboration, such as participation in the Virtual Global Taskforce.\textsuperscript{91}

Another challenge for investigators of this crime type is keeping pace with developments in information and communications technologies exploited by perpetrators, such as Peer to Peer networks, which are perceived as a more secure mechanism for transmission of exploitation material than other communications media such as e-mail or instant messaging.

**Future strategies to combat cybercrime**

The Australian Institute of Criminology suggests four possible directions for action to combat technology-enabled crime, as follows:

- engagement of the information and communications technology security industry in the design of secure software and hardware;
- creation of public-private sector partnerships and information sharing initiatives;
- establishment of taskforces dedicated to the investigation and prosecution of technology-enabled crime cases; and

\textsuperscript{88} The term ‘cybercrime’ in this report is intended to encompass both criminal activity perpetrated using computers or computer networks (also referred to as ‘technology-enabled crime’), and criminal activity facilitated through information and communications technologies.

\textsuperscript{89} The ACC has noted that Nigerian advance fee fraud and associated scams have become more widespread and dispersed: *Organised Crime in Australia* 2009. The ACC has also identified increasing use of new unregulated financial mechanisms such as internet-based currency for money laundering purposes as an emerging concern.

\textsuperscript{90} *Transnational Cyber Crime*, April 2009.

\textsuperscript{91} The Virtual Global Taskforce is an international strategic alliance of law enforcement agencies with the objectives of making the Internet a safer place by identifying, locating and safeguarding children at risk, and supporting law enforcement agencies and others in bringing perpetrators to account for their actions: International Framework for the Virtual Global Taskforce. The VGT work program has three platforms: operational support; intelligence and research; and training and education.
• enhancing the training and educational capabilities of police, prosecutors, judges, and information communications technology professionals.

HTCO is already well established in the implementation of the last three of these strategies, including through participation in inter-agency and high-tech industry fora and working groups and the operations of the Joint Banking and Financial Sector Investigation Team. The Crime Prevention Team within HTCO provides training for AFP members about the use of technology to facilitate investigations.

HTCO will be required to continue to develop its capacity to police cyberspace and combat technology-based criminal enterprise, develop high technology support to operations and educate the public on cyber-safety. This will involve an increasing need for technical specialists to keep pace with industry innovation.

The Strategic Alliance Cybercrime Working Group has recognised that traditional investigative methods have not kept pace with the dynamic nature of cybercrime and that the fight against cybercrime needs to be taken up in different dimensions, in particular:

• awareness-raising, education, prevention, mitigation and disruption involving partnerships across government and the private sector; and

• engagement at the international level, including collaboration in developing united strategies which transcend national borders.92

The provision of ongoing high level high-tech support to the AFP’s investigative functions including counter-terrorism, fraud, money laundering and identity crime will be of increasing significance in the immediate future, as well as into the longer term. A recent Australian Institute of Criminology report has recognised that law enforcement agencies need to be adequately resourced for ongoing research and development in technology-enabled crime.93

Climate change

The Australian Government’s National Security Statement included the following observation about climate change:

Over the long term, climate change represents a most fundamental national security challenge for the long term future.

The Statement also identified, as a new priority, incorporating the implications of climate change into the formal national security decision-making framework.

This recognition of climate change as a major security concern is supported by a paper released by the Lowy Institute for International Policy in 2006.94 In that Paper, Alan Dupont and Graeme Pearman conclude that ‘climate change will complicate and threaten Australia’s security environment in several ways’, including:

increased food, water and energy scarcities as a result of more extreme weather patterns;
• increased unregulated population movements;
• more severe natural disasters;
• greater health consequences; and
• greater likelihood of collapse of weak States as a result of the relatively magnified impact of climate change and possible disappearance of some low-lying nations as a result of rising sea levels.

Nature of the emerging threat and possible law enforcement implications

In a report released in August 2003, the Senate Foreign Affairs, Defence and Trade References Committee discussed climate change in the context of sustainable development, environment management and disaster management in the Pacific. The Committee, whilst noting that it was not in a position to form a view about the extent to which climate change is likely to occur, nor to assess the risks posed by climate change, acknowledged that small island nations may be particularly vulnerable to the adverse effects of climatic events. The Committee referred to evidence given by witnesses of a range of direct impacts of climate change on the interests and well-being of Pacific islanders.

The independent peacebuilding organisation International Alert has determined that there are 46 countries in which the effects of climate change interacting with economic, social and political problems will create a high risk of violent conflict. These countries include Indonesia and Solomon Islands. International Alert has further determined that there is a second group of 56 countries which face a high risk of political instability as a result of the interaction of climate change and other current challenges. These countries include Fiji, Papua New Guinea, Timor-Leste, Tonga and Vanuatu.

The law enforcement implications of climate change are likely to include the following:

• increased demand for police assistance with short-term disaster relief (such as in the aftermath of floods and bushfires) in Australia and overseas;

• enforcement of a new legislative regime – the Government’s proposed Carbon Pollution Reduction Scheme (CPRS);

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95 A Pacific engaged: Australia’s relations with Papua New Guinea and the island states of the south-west Pacific, August 2003, ch. 5.
96 These impacts included: reductions in seasonal tuna catches because of climate-induced changes in tuna migratory patterns; bleaching of coral reefs reducing the levels of subsistence fishing around fringe reefs; increases in the incidence of malaria and cholera, including in what were previously disease-free areas; serious water shortages for consumption and waste management. Ibid, para. 5.30.
98 The Climate Institute has described the devastating Victorian bushfires of February 2009 as ‘the fires of climate change’. http://www.climateinstitute.org.au The Climate Institute is a non-partisan, independent research organisation.
increased demand for long-term offshore deployments for peace-keeping and capacity-building operations, particularly in the Asia-Pacific, but also including UN operations as a result of increasing incidences of State failure, instability and conflict arising from more frequent and severe natural disasters and scarcity of resources;

• demands for greater border security to the extent that there is displacement of people and population movements from regions vulnerable to climate change;

• increasing incidence of environmental crime; and

• eco-terrorism undertaken by environmental extremists.

AFP resources have already been called on to assist with the increasing incidence of natural disasters which impact large numbers of people. The implementation of the proposed CPRS would be likely to have an impact in the near term. The Scheme has been developed as Australia’s primary policy tool to drive reductions in emissions of greenhouse gases. Following the introduction of this Scheme, the AFP could expect to receive referrals relating to suspected serious or complex fraud under the Scheme, which involves tradeable emissions permits. While only 1,000 business entities will be covered by the Scheme, the value of the future permits market has been estimated by the Australian Stock Exchange to be over $100 billion.

While the potential law enforcement challenges of climate change are not necessarily new challenges, but challenges which could be addressed within the existing AFP functional structure, it is clear that there are likely to be future resourcing issues associated with responses to those challenges.

The Australian Strategic Policy Institute has called for a greater focus by Australian police agencies on how climate change may affect their core business, as part of a multi-agency strategic approach to address the impacts of climate change.

Regional instability and the threat posed by fragile or failing States

In the Government’s National Security Statement, the Prime Minister noted that the risk of fragile States disrupting stability and prosperity in our region is an ongoing challenge. The Prime Minister affirmed that Australia has made major long term commitments to help resolve conflict in Solomon Islands and East Timor.


100 See Chris Abbott, An Uncertain Future: Law Enforcement, National Security and Climate Change, Oxford Research Group Briefing Paper, January 2008, in which Abbott refers to the FBI as currently considering eco-terrorism to be one of the most serious domestic terrorism threats.

101 The Government’s original intention was that the Scheme commence on 1 July 2010. Carbon Pollution Reduction Scheme: Australia’s Low Pollution Future, White Paper, 15 December 2008. However, commencement of the Scheme has now been deferred until 2011, subject to passage of the implementing legislation.

The perceived fragility of Pacific Island nations has sometimes been described as an arc of instability stretching eastwards from East Timor through Irian Jaya, Papua New Guinea, Solomon Islands, Vanuatu to New Caledonia and Fiji. However, other commentators, including David Hegarty, have taken issue with that assessment, on the basis that it does not take account of the considerable diversity of cultures and societies across the region or the considerable divergence in governance capacity and stability. Hegarty considers internal security to be the principal challenge facing Pacific Island countries, including poor governance and the breakdown of law and order. Hegarty describes transnational crime as being of increasing concern throughout the region, including drug trafficking and money laundering through tax havens, as well as fraudulent schemes. Hegarty notes that the problem of such transnational criminal activity in small Pacific States is magnified because of their lack of infrastructure and of monitoring and enforcement capabilities.

Australia’s Foreign and Trade Policy White Paper of 2003 recognised that Australia has major interests in the stability and development of South Pacific countries. The Paper observed:

And transnational crime in and through the region – terrorism, drug trafficking, people smuggling, illegal immigration and money laundering – is a growing threat to Australia and the South Pacific countries themselves. Cooperation with the South Pacific on such issues, particularly people smuggling, has delivered real benefits to Australia.

At the Eleventh UN Crime Congress on Crime Prevention and Criminal Justice in Bangkok, Thailand, in 2005, the UN Secretary-General’s opening message called on all States to ratify and implement recent UN conventions and protocols (Convention on Transnational Organised Crime and the Convention against Corruption), while helping one another to strengthen their domestic criminal justice and rule-of-law systems.

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104 Ibid, Hegarty.


106 http://www.unis.unvienna.org/unis/pressrels/2005/bkkcp04.html
In 2007 the Department of Foreign Affairs and Trade (DFAT) made a submission to the Senate Committee Inquiry into Australia’s Involvement in Peacekeeping Operations which conveyed a joint statement by Canada, Australia and New Zealand to the Special Committee on Peacekeeping Operations at the Sixty-First Session of the UN General Assembly on 26 February 2007. That statement notes that the police dimension of multidimensional peace operations has grown substantially in the last few years and this trend is likely to continue in the future. The statement indicates that Canada, Australia and New Zealand welcome the range of strategic policing initiatives aimed at building institutional police capacity in post-conflict environments and continue to support the implementation of the Standing Police Capacity.

The central role played by police in the new era of peace-building operations was recognised by the Panel on UN Peace Operations in a report released in 2000. That Report recognised that modern peace-building missions may require civilian police to be tasked to reform, train and restructure local police forces, as well as having the capacity to respond effectively to civil disorder.

The fundamental importance of the policing component of peace operations was also recognised in a Lowy Institute paper released in 2006, quoting a UN official who described the establishment of internal security and the rule of law as ‘the cement which holds the bricks of peace operations together.’

Future directions

The small states in Australia’s region from East Timor through to the member states of the Pacific Forum face a broad range of problems ranging from civil disorder, ethnic tensions, to penetration by organised crime. It is likely that the some of the pressures which led to these problems will intensify rather than diminish over the medium term. Improving civil governance and the rule of law, and with it policing, is integral to building genuinely sustainable development. It is a slow process and Australia is likely to be involved at least at its current level over the decade ahead.

The future of the AFP’s International Deployment Group (IDG) operations is expected to involve a greater focus on capacity development and institutional reform, as opposed to peacekeeping and restoration of law and order. In the Pacific context, the AFP has recognised that prevention is less costly in both human and economic terms than post-conflict intervention, and is therefore increasingly focusing on police capacity-building operations, within the context of whole-of-government projects aimed at strengthening law and justice sectors in Pacific Island countries.

Capacity-building operations require different skill sets from community policing. The AFP is still developing the expertise and capacity required to implement these operations but it is noteworthy that its pre-deployment training regime has been certified by the United Nations, indicating that it represents world’s best practice. The IDG is likely to require a more specialised workforce to achieve this objective.

107 See Appendix 2 to the submission.
110 AFP Submission to the Senate Standing Committee on Foreign Affairs, Defence and Trade Inquiry into the main economic and security challenges facing Papua New Guinea and the Island States of the Southwest Pacific, October 2008.
The United States (US) Director of National Intelligence recently identified the global economic crisis and its geopolitical implications as the primary near-term security concern of the United States. The full extent of the global financial crisis is not yet clear. Similarly, the implications for law enforcement are currently not clear; however, it is to be anticipated that there will be consequences both for internal business environments and external criminal environments. Potential implications for criminal activity within AFP responsibilities include:

- exploitation of the economic crisis for financial gain such as Internet fraud and identity theft;
- increase in certain fraud types as a result of financial pressures, such as welfare fraud, insurance fraud, tax fraud, corporate fraud;
- revelations of corporate crime as businesses come under increasing pressure;
- increased infiltration of counterfeit goods including substandard products, which may pose health and safety risks; intellectual property piracy; and
- increased people smuggling activity stemming from deteriorating economic conditions.

In terms of potential implications for regional assistance missions, the global financial crisis may lead to increased fragility of regional partners as a result of deteriorating financial circumstances and associated socio-economic hardship. The AFP IDG may be called upon more frequently or more extensively to provide assistance in the region.

In an opening statement to the Third Ministerial Conference of the Bali Regional Process in April 2009, the Australian Foreign Minister suggested that the global financial crisis may encourage more people to seek economic opportunities outside their own borders.

These potential impacts of the global financial crisis may fail to be addressed in circumstances of budgetary constraints. Any constraints will have consequences for workforce planning and operational priority-setting. Against this background, consideration will need to be given to the scope for achieving more efficient and effective use of available resources across the AFP and its law enforcement partners, including through closer collaboration and pooling of resources.

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112 Mark Thirlwell, *All change or plus ça change … ? The global financial crisis and four key drivers of the world economy*, Lowy Institute for International Policy Perspectives, February 2009.
113 A recent article in the *Australian Financial Review* (20 May 2009, p. 49) suggests that organised cybercrime networks are seeking to recruit newly unemployed IT specialists.
One potential benefit for law enforcement arising from the global financial crisis is the likelihood of greater cooperation in tax fraud and other financial crime from jurisdictions hitherto regarded as tax havens and operating on the basis of strict bank secrecy. There is already evidence of changes in policy and moves towards greater openness in Switzerland, Austria and Luxembourg, as well as Singapore, Liechtenstein, Bermuda, Jersey and Guernsey."

**Finding 2.1:**
Changes to the global environment, including the global security environment, have resulted in new challenges for law enforcement and consequently new areas of law enforcement focus and activity.

**Finding 2.2:**
There is little expectation that the principal trends of the past decade will reverse in the decade ahead.

**Finding 2.3:**
In spite of the possible threats of an increase in protectionism in the wake of the global financial crisis, globalisation of capital markets, finance, trade and people movements is likely to continue.

**Finding 2.4:**
While the AFP has had counter terrorism successes domestically and overseas, it is unlikely that there will be any early return to a benign security environment in Australia, the region or more broadly. The potential for an expansion in Islamist-inspired domestic terrorism and Australians going abroad to participate in insurgencies remains an ongoing concern for Australia, as do terrorist financing activities.

**Finding 2.5:**
Aviation infrastructure will remain a potential target for terrorist attacks and criminal infiltration.

**Finding 2.6:**
Australians travelling abroad will continue to face the risk of being caught up in acts of terrorism (as demonstrated in Mumbai) and the threat of abductions (as demonstrated in Africa).

**Finding 2.7:**
The fragility of States in the region, the associated risk of civil disorder and the occurrence of natural disasters requiring Australian intervention or support are likely to increase over the decade ahead, influenced by both the global financial crisis in the short term and climate change as the decade progresses.

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Finding 2.8:
Transnational crime will continue to expand through exploitation of globalised trade and financial markets and advances in information and communications technologies. Like terrorism, transnational crime will increasingly become networked rather than hierarchical – and will form ad hoc partnerships and collaborations, often through social networking processes and using peer to peer internet sites.

Finding 2.9:
The rate of change and convergence in information and communications technologies is likely to increase, both enabling and providing new avenues for crime and increasing the volume of, and the complexity of maintaining surveillance of traffic.

Finding 2.10:
The importance of maintaining the reliability of e-commerce and broader Internet services will increase as they become increasingly integral to the economy and society as a whole.

Finding 2.11:
The global financial crisis will increase the importance at a social level, and in terms of global competitiveness, of faith in the honesty and efficiency of Australian capital, services and goods markets. It will also increase income disparities between developed countries and developing, fragile and failed States, providing a greater incentive to illegal immigration.

Finding 2.12:
At the same time the global financial crisis is likely to expose a range of criminal wrongdoing in the corporate and government services sectors.

Finding 2.13:
National and global programs to reduce greenhouse gas emissions through emissions trading will create huge new financial markets and regulatory obligations, along with new opportunities for crime.

Implications for Policing

Finding 2.14:
Protection of Australia’s interests from terrorism, transnational and serious and organised crime will require continued commitments of levels of policing resources at least on the current scale extending forwards for at least 10-15 years.

Finding 2.15:
Priority has been directed towards the means of enhancing the effectiveness and efficiency of policing resources in preventing, deterring and disrupting terrorism and serious crime. This priority will need to be further strengthened in future law enforcement initiatives to tackle increasing risks within the finite resources available to Australian policing authorities. The Audit supports the AFP’s strategy of combating terrorism and serious crime at its source by taking the fight off-shore, including through working with foreign partners.
Finding 2.16:

Effective policing action continues to and will increasingly require:

- Whole of government strategies to reduce the opportunities and incentives for, and proceeds of, crime;
- Whole of government strategies to counter radicalisation of elements of the Australian community and reduce the risk of domestic terrorism;
- Whole of government strategies to develop, maintain and restore the rule of law in our region;
- Effective engagement of the private sector to reduce vulnerability to crime, particularly for critical commercial and communications infrastructure;
- A domestic capacity to act collaboratively in terms of cross-agency and cross-jurisdictional cooperation including through taskforces and the progressive adoption of compatible case management systems;
- Effective bilateral, regional and multilateral cooperation with international law enforcement agencies, backed by an international AFP liaison officer network which is responsive to changes in the pattern of risks;
- High quality and networked intelligence shared between investigative agencies – internationally and domestically – with a due focus on financial intelligence;
- A strong forensic science capacity (recognised internationally as a current strength of the AFP) to underpin both investigations and Disaster Victim Identification;
- High level information and communications technology skills and a capacity to lawfully and efficiently intercept the large volume of communications traffic within the criminal milieu, much of it now encrypted; and
- High level forensic accounting skills.
**Chapter 3**

**Connecting Policing**

**3.8 Introduction**

In many areas of the Federation, there are well developed mechanisms and institutions for working across the nation. Policing is not one of these. This reflects Australia’s constitutional and political history. While policing is supported by initiatives such as the Australian Crime Commission, CrimTrac and the Australian Transaction Reports & Analysis Centre, there are significant opportunities for enhancing policing across jurisdictions. As the Attorney-General recently noted:

> The reality is that the threats we face are not the task of one agency, or any one government. Moreover, many of the threats are cross-jurisdictional or transnational in nature. It is important, therefore, that we have a more integrated national approach – have agencies cooperate and work collaboratively with other agencies.

To combat criminal activity, Commonwealth, State and Territory agencies must be able to collaborate without unnecessary legislative or practical impediments. These agencies must also be able to work effectively with foreign law enforcement agencies. The importance of collaboration was underlined in the Review of Homeland and Border Security. The Review stressed the importance of relevant agencies acting as a ‘community’, and being well connected and networked, with cultural, technical and other barriers minimised. The obvious advantages are the sharing of skills, experience and capabilities. In the context of law enforcement specifically, this was also emphasised by the Clarke Inquiry and the Street Review.

In the future, the requirement to develop smooth systems of collaborative policing linking AFP capabilities with the Australian Intelligence Community, State and Territory law enforcement agencies, and specialist Commonwealth agencies will only intensify. To this end, the development of broad national capabilities is essential. To operate effectively, police forces throughout Australia require ready access to information, such as intelligence and forensic data. CrimTrac has gone some way in addressing this, but more can be done, particularly with respect to the development of interoperable case management systems and national forensic centres of excellence. Similarly, refocusing the work of the Australian Crime Commission and improving the mobility of police officers throughout Australia will enhance policing from a national perspective.

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115 Attorney-General, the Hon Robert McClelland MP, Speech delivered to the 7th Annual National Security Australia Conference, Darling Harbour, Sydney, 23 March 2009.
3.9 Connecting Policing Across the Commonwealth

Current arrangements

While the AFP is unique in having a potential role in all breaches of Commonwealth criminal law, this Audit is considering all federal policing capabilities. That is, the broad range of Commonwealth agencies involved in Commonwealth criminal law and law enforcement. They can be broadly categorised as follows.

- **Investigative agencies.** There are many agencies in addition to the AFP with investigative capacities, such as the Australian Crime Commission, the Australian Customs and Border Protection Service, Centrelink, the Australian Securities and Investments Commission, the Australian Quarantine and Inspection Service, the Australian Taxation Office, and the Departments of Immigration and Citizenship and Environment, Water, Heritage and the Arts.

- **Law enforcement support agencies.** Law enforcement agencies are supported by CrimTrac and AUSTRAC, who facilitate the sharing of information and financial intelligence.

- **Intelligence agencies.** There are a range of agencies in the Australian Intelligence Community, such as ASIO and the Office of National Assessments. State and Territory police services also hold a significant amount of criminal and national security intelligence.

- **Policy and service providing agencies.** The AFP works closely with the Attorney-General’s Department, the Department of Foreign Affairs and Trade, the Department of Defence, the Department of Infrastructure, Transport, Regional Development and Local Government, AusAID and the Commonwealth Director of Public Prosecutions. There are interoperability arrangements and memoranda of understanding that govern some of these relationships. These arrangements are discussed in relevant chapters below.

Besides the AFP, the number of Commonwealth agencies with a capacity to undertake criminal investigations is significant and has increased over time. Each year the Commonwealth Director of Public Prosecutions prosecutes referrals from approximately 35 different agencies. A list of these agencies is at Appendix 1. Commonwealth agencies primarily investigate routine or minor offences. The overwhelming majority of these relate to fraud, such as fraud on Centrelink, Medicare and the Australian Taxation Office. Other types of offences include environmental and immigration offences.

The AFP provides these agencies with a range of assistance, such as with search warrants, proceeds of crime action, forensics and advice on investigative techniques. The AFP has also outposted Federal Agents to a number of agencies. More serious or complex matters are referred to the AFP for investigation.

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118 In 2007-08, the CDPP prosecuted 6,145 defendants which had been referred from 38 different Commonwealth agencies (Commonwealth Director of Public Prosecutions Annual Report 2007/08). Furthermore, in the 2006-07 Australian Institute of Criminology Fraud Control Annual Report, 55 Commonwealth agencies reported an incident of suspected fraud in the previous year.

119 For example, there are currently Federal Agents posted to Centrelink, the Australian Taxation Office and the Department of Immigration and Citizenship, etc. The AFP also chairs the steering committee for the Australian Government Fraud Liaison Forum.
This growth in investigative capacity outside the AFP reflects the broadening of the Commonwealth’s regulatory and welfare role and the deepening understanding of support that criminal sanctions can give to voluntary compliance with regulatory regimes. They allow the AFP to focus on serious and complex matters, and individual agencies to investigate routine or minor offences against the programs they administer. The arrangements are governed by the Commonwealth Fraud Control Guidelines and the Australian Government Investigations Standards, and particular relationships between agencies are managed by memoranda of understanding.

In recent years there has been a growth in the number of joint taskforces. For example, in the areas of tax fraud and people smuggling, whole of Commonwealth taskforces have been established. Joint taskforces are an effective way of combining capabilities to have a multiplier effect in fighting crime.

**Issues**

The key issues for policing from the Commonwealth perspective are:

- **Responsibilities for, and quality of, investigations.** Other Commonwealth agencies are increasingly investigating routine or minor crime, so that the AFP can focus on serious, sensitive and complex crime. It is important to ensure that the division of responsibilities for investigations is appropriate and that the quality of investigative standards remains high.

- **The availability of criminal sanctions, search warrant powers, and criminal and civil remedies in business law.** The need to ensure the use of criminal action and civil remedies is aligned with Government priorities and that agencies have the right capabilities to use both as required, such as effective access to search warrant powers.

- **Information sharing.** There are currently a multitude of different case management systems within the Commonwealth. There needs to be a common approach to sharing information between agencies.

**Consideration of the issues**

**Responsibilities for, and quality of, investigations**

In the past ten years there has been a decline in the number of AFP referrals to the Commonwealth Director of Public Prosecutions.\(^{120}\) The AFP has been subject to media comment in relation to this.\(^{121}\) This decline is linked to the AFP focussing on more complex investigations, and the increase in investigations conducted by other Commonwealth agencies. The number of referrals is not a good performance indicator for the AFP. The importance of the convictions secured and successful disruption or deterrence of crime are more relevant.

In consultations, many agencies commented that the current investigation arrangements work well and noted the utility in collaborating with the AFP on significant matters, and the particular benefits of joint taskforces.

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\(^{120}\) Between 1996-97 and 2007-08, the number of AFP matters prosecuted decreased by 35%, whereas the number of other Commonwealth agencies’ matters prosecuted increased by 33%.

\(^{121}\) For example, Paul Maley, ‘AFP referrals to prosecutor halved’, *The Australian*, 29 July 2008.
There are clear advantages to in-house investigative capabilities. Some areas of Commonwealth crime, such as within the Australian Taxation Office and the Australian Securities and Investments Commission, require specialist investigative skills and here the AFP might have a support role as matters are brought toward prosecution. In others there are long histories – in the case of the Customs and Border Protection Service longer than the AFP’s – of investigating and prosecuting some offences. The AFP and the Customs and Border Protection Service have parallel powers in relation to some offences, a past history of occasional friction, but a present reality of having worked closely to develop memoranda of understanding spelling out their framework for cooperation. Other agencies investigate offences of less complexity, but which require knowledge of entitlements systems. Having specialised internal investigators ensures that these offences are investigated with vigour, and allows the AFP to focus on serious and complex crime. In all these relationships clear role identification between the AFP and the other agency is important.

There are also clear disadvantages to in-house investigations. The capabilities of some agencies are limited by their investigative powers, training standards and resources, which are not as extensive as the AFP’s. For example, specialist regulatory agencies may not always be strong in the investigation and acquisition of evidence for prosecution purposes. Similarly, the AFP’s focus on serious crime does have the consequence that for some Federal Agents the first time they give evidence in court is in very major cases (unless they have performed community policing). This can pose significant prosecution risks.

It would be unrealistic, and inefficient, to centralise all investigations of Commonwealth criminal offences through the AFP. However, it is important that the Commonwealth enforces its criminal jurisdiction fairly, competently and efficiently and that the AFP is involved at the right time in the right cases. For this reason, whole of Commonwealth approaches to quality management of its investigative capacity are required to ensure that investigators operate against agreed standards, receive relevant training, and receive appropriate assistance from the AFP.

Given that the majority of minor and routine investigations relate to fraud, the quality of these investigations requires attention. The Commonwealth Fraud Control Guidelines and the Australian Government Investigations Standards establish minimum training standards for all fraud investigators. It does not appear that these are rigorously applied. For example, in response to the annual Fraud Control survey, the Australian Taxation Office indicated that only 198 of its 298 investigators had formal qualifications in investigation. The level of training across the Commonwealth needs to be considered, and remedied as appropriate, as a way of improving the quality of investigations.

\[122\] For example, the Commonwealth Fraud Control Guidelines provide as follows: Guideline 6.10 provides that a Certificate IV in Government (Investigation) and the completion of certain electives is the mandatory qualification for Commonwealth employees primarily engaged in fraud investigations. Guideline 6.12 provides that Commonwealth employees primarily engaged in the coordination and management of fraud control investigations must have a Diploma of Government (Investigation) and completed a range of other electives. An Advanced Diploma of Government (Management) is the recommended qualification for those primarily engaged in managing fraud control (including prevention and detection activities) and investigation.

\[123\] ANAO Audit Report no.34 2008/09 The Australian Taxation Office’s Management of Serious Non-Compliance, p.21. Furthermore, the ANAO 2002 survey found: “Agencies reported that 694 of the 2,382 fraud investigators had relevant qualifications including Diploma in Government (Fraud Control Investigation) and Certificate IV in Government (Fraud Control Investigation). A further 1309 fraud investigators were in the
The use of AFP outposted officers adds to quality assurance across Commonwealth investigations. Outposted officers also benefit the AFP organisationally, in terms of broadening skills and relationships across Commonwealth agencies. While these quality assurance roles require experienced Federal Agents, additional outpostings may be a good training ground for more junior Federal Agents under supervision, as an alternative to community policing in gaining experience in preparation of and appearances in court for less complex matters. They also provide a mechanism for evaluating matters for referral to the AFP.

**Finding 3.1:**

The number of Commonwealth agencies with investigative capacities has increased and the resources being applied to investigations have increased significantly.

**Finding 3.2:**

The AFP works with each of these investigative agencies. It is important that the existing protocols are subject to regular review to ensure there is clarity about who handles what and that the AFP has a role in ensuring the overall quality of investigations.

**Finding 3.3:**

Continuing the AFP’s focus on matters of significant seriousness, complexity, national security sensitivity or which go to the probity and trustworthiness of government institutions ensures that the Commonwealth’s most highly skilled criminal investigative resources are applied to the most serious and complex crimes

**Recommendation 3.1:**

*The Attorney-General’s Department and the AFP should review the training requirements in the Commonwealth Fraud Control Guidelines and the Australian Government Investigations Standards, and current training levels to ensure they are appropriate and are being consistently applied across the Commonwealth.*

*The AFP should continue the practice of out-posting Federal Agents to Commonwealth agencies as a quality assurance measure and to reinforce a whole of government investigation culture.*
The availability of criminal sanctions, search warrant powers, and criminal and civil remedies in business law

Preserving efficient, honest and reliable markets for capital, goods, ideas and services is a key national interest – they underpin the national economy and directly affect the income and wealth of every Australian. The proposed Carbon Pollution Reduction Scheme will add another major market to these. These markets are vulnerable to illegal actions and crime – both insider crime and through penetration by organised crime. Corporate failure, market manipulation, manipulation of regulatory weaknesses and theft of ideas and identities can lead to losses of huge size which impact on many Australians and on the delivery of Government policy. Good behaviour is usually ensured by community and corporate norms, commercial disciplines and regulatory requirements enforced by civil remedies. But criminal sanctions can give a strong impetus to voluntary behaviour and compliance with regulatory requirements.

No doubt because they were developed at different times, there are differences in the extent to which criminal sanctions are reflected in legislation covering business regulation, and in the powers given to investigators to acquire evidence which could underpin criminal prosecutions or civil remedies. In addition, the provisions in these Acts, to the extent that they allow for search warrants, vary between each other and from those in the Crimes Act 1914.

The main Commonwealth search warrant power is in the Crimes Act, which at the Commonwealth level can only be exercised by the AFP. While material seized under the Crimes Act can be provided to other agencies, it can only be used to support criminal proceedings, civil action. Some agencies have search warrant powers within their own legislation, under which seized material can be used for either criminal or civil purposes. It is frequently not certain whether criminal or civil remedy is preferable until the evidence has been acquired. For this reason, the ability to use evidence for either purpose is important. However, these search warrant powers can be limited in their effectiveness compared to those available to the AFP.

Due to these limitations, some agencies prefer to use the AFP’s Crimes Act powers or reluctantly rely on civil remedies. The latter course is reinforced to the extent that the AFP does not share their priorities or does not have the specialist skills to get across these matters quickly and understand their significance, which can lead to delays in the AFP providing search warrant assistance. Delay is often disadvantageous so far as securing evidence and avoiding damage is concerned in corporate cases. This reinforces the inclination of some agencies to use civil approaches.

125 State and Territory Police can also execute search warrants under the Crimes Act 1914.
126 Williams v Keely [2001] FCA 1301 – restriction on the use of AFP warrant acquired evidence other than for purpose of criminal prosecution.
127 For example, under the Australian Securities and Investment Commission Act 2001, ASIC can only apply for a search warrant if a notice to produce has not been complied with. This means that the relevant person is already aware of ASIC’s interest in them and are in a position to destroy any material prior to the execution of the search warrant.
Some agencies noted that they would prefer to use criminal remedies more frequently because of the deterrent effect and the impact it can have on voluntary compliance. It is important that there is an overall Commonwealth appreciation that the use of criminal sanctions can serve a significant deterrent purpose.\(^\text{128}\) For example, as a result of the highly publicised Project Wickenby (discussed below), the Australian Taxation Office has seen increased compliance by high wealth individuals (see Appendix 2). The further use and development of criminal sanctions may facilitate this.

Finding 3.4:

There are significant differences in the access to warrant powers and the purposes for which evidence so gathered may be used across the Commonwealth’s investigative and regulatory agencies.

Finding 3.5:

The extent of use of criminal sanctions to support business regulation varies across the Commonwealth. Appropriate pursuit of criminal prosecutions can be very effective in reinforcing norms of behaviour and improving compliance. The AFP has very low workforce attrition rates, and its recruitment courses for new Federal Agents are heavily over-subscribed. However there are areas of specialist expertise where recruitment and retention of contemporary skills are challenging, such as combating corporate crime and money laundering. This limits its capacity to support business regulation agencies, meaning matters referred to the AFP are prioritised.

Recommendation 3.2:

The Attorney-General’s Department should lead a working party including the Australian Federal Police, the Commonwealth Director of Public Prosecutions, the Treasury, the Australian Securities and Investments Commission, the Australian Prudential Regulatory Authority, and the Australian Competition and Consumer Commission, and the Department of Climate Change to examine:

i The scope to make criminal sanctions more consistently available to regulatory agencies and use them more actively to deter breaches and reinforce voluntary compliance.

ii The availability and use of warrant powers to the principal business regulatory agencies and whether evidence acquired through AFP warrant powers should be able to be used for any relevant remedy, including civil remedies, under the regulatory body’s legislation.

iii The case prioritisation protocols, likely ongoing workload and need for development of AFP investigative skills relevant to corporate crime types.

iv Conduct a more considered review of the ‘lessons learned’ issues raised with the Audit identified at finding 3.6A below.

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\(^{128}\) The ANAO Audit Report no.34 2008/09 The Australian Taxation Office’s Management of Serious Non-Compliance also stressed the need to increase deterrent activities in the area of taxation.
Information sharing

In areas where agencies work together, inconsistency in case management systems can create difficulties. There is currently a multitude of different case management systems used within the Commonwealth, and no integrated approach to sharing information. This can create inefficiencies, particularly in joint investigations and in matters the AFP takes on as referrals from other agencies, and can present problems for both investigations and intelligence. For example, in Operation Inca the key agencies involved had been targeting different individuals within the same drug importation syndicate, and it was not until the agencies came together in an intelligence forum that this was identified and they could move forward together.

While there are good examples of information sharing, such as the AFP being able to access immigration databases, formal information sharing is not widespread. Some agencies have attempted to share case management systems. For example, the Australian Customs and Border Protection Service tried to use the Australian Crime Commission’s system; however it was found that their requirements were not supported by the technology – the system could not be accessed in real time, which created difficulties. Furthermore, there can be obvious security issues relating to information sharing.

The practicality of moving to one case management system is unclear given that demands and timeframes differ. Nonetheless, it is important that interfaces work smoothly even if back office systems remain different to reflect different priorities and needs. The AFP’s Spectrum Project has facilitation of this approach as a key priority.

The interoperability of case management systems across the Federation is discussed below.

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129 The 2007 large scale ecstasy seizure – see the 07/08 AFP Annual Report, p.3.
Collaborative policing efforts have significant benefits. The effectiveness of multi agency taskforces have been demonstrated in areas of criminal activity as diverse as people smuggling and tax fraud. In the context of terrorism investigations, the Street Review also recognised the value of joint taskforces, particularly where there is co-location of agencies and shared access to databases. Project Wickenby is one such example of agencies working together effectively to achieve good outcomes.

Project Wickenby is a multi-agency attack on internationally promoted tax schemes which involve tax evasion and large scale money laundering. It combines eight Commonwealth agencies that bring with them different law enforcement capacities:

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<tr>
<th>Australian Taxation Office</th>
<th>Commonwealth Director of Public Prosecutions</th>
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<td>Specialist skills in auditing and accounting</td>
<td>Specialist skills in prosecution</td>
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<td>Specialist skills in taxation administration</td>
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<td>ATO powers</td>
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<th>Australian Crime Commission</th>
<th>Attorney-General’s Department</th>
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<td>Compulsory examination powers</td>
<td>International crime cooperation capability, specifically in the area of mutual assistance</td>
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<td>Intelligence assessments</td>
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<th>Australian Securities and Investments Commission</th>
<th>Australian Transaction Reports &amp; Analysis Centre</th>
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<td>Specialist skills and powers in corporate regulation</td>
<td>Specialist skills in monitoring and implementing banking and financial sector reporting requirements</td>
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<td>Extensive data base for intelligence purposes</td>
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<td>Investigative and forensic skills</td>
<td>Provision of legal expertise to Commonwealth agencies</td>
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<td>AFP law enforcement capabilities and powers</td>
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The Project is a joint taskforce led by the Australian Taxation Office. It has a formal governance framework and works under a specific new policy initiative. The agencies have made arrangements for secondments and additional training.

The whole of government approach provides for a multiplier effect whereby each agency’s specific capabilities expand the effectiveness of the Project. The use of the joint taskforce minimises gaps or overlaps in the investigation.

Project Wickenby has already resulted in 40 people being charged with indictable offences, and 76 people referred to the Commonwealth Director of Public prosecutions for summary offences. Over $240 million has been collected or assets restrained, and revenue receipts from high wealth individuals and information from the community have both increased.

Project Wickenby has demonstrated that federal and foreign law enforcement agencies working together to detect, deter and deal with international tax evasion can have an impact far beyond that of any single agency working alone.
3.10 Connecting Policing Across the Federation

Current arrangements

There are areas of significant overlap between Australian jurisdictions in serious and organised crime. For example, in the areas of drugs, terrorism and child exploitation, the Commonwealth, States and Territories all play important roles. In addition, the jurisdictions work together in certain areas of national policing, such as at airports, and within the International Deployment Group, where State and Territory officers work with the AFP.

This makes effective collaboration in policy and operational matters essential. This is done in a number of ways, including through the Ministerial Council for Police and Emergency Management, the Standing Committee of Attorneys-General and the Police Commissioner’s Conference. In operational matters, this is done through specific arrangements such as joint taskforces.

For example, Joint Counter Terrorism Teams have been established in all States and Territories. The teams comprise AFP officers and secondee from State/ Territory police forces, and include specialist staff such as linguists, intelligence analysts and undercover operatives. These have proven to be very effective. There are also similar arrangements in relation to identity fraud and people trafficking, and temporary arrangements have also been used, such as the APEC 2007 taskforce. Joint taskforces are essential in areas where police could not otherwise combat crime in isolation.

While some inter-jurisdictional arrangements are working well, there are many areas in which agencies could work better together. An area in which significant improvement in collaboration can be made is in information sharing and the development of national infrastructure. There are currently many impediments to effective interoperability, including legislative inconsistencies, disparate standards and incompatibility of data.

Issues

The key issues for connecting policing from the national perspective are:

- **Interoperability of case management systems.** Currently in Australia there are over 30 different case management and related systems that are not interoperable. This can create significant inefficiencies in national law enforcement efforts.

- **Forensic expertise.** It is inefficient for every jurisdiction to have specialist skills. More needs to be done on a national level to share these identified skills.

- **Intelligence.** The intelligence and law enforcement community must recognise the primacy of the need to share, carefully and with appropriate safeguards, over the need to know.

130 For example, using Transnational Sexual Exploitation and Trafficking Teams the AFP works collaboratively with State and Territory police under the Australian Policing Strategy to Combat Trafficking in Women for Sexual Servitude. The AFP also works with a number of other Commonwealth agencies to detect, investigate and prosecute trafficking offences and provide victim support. Transnational Sexual Exploitation and Trafficking Teams also liaise with non-government organisations and other community interest groups to encourage reporting of trafficking and referral of victims for assistance.
• **Telecommunications interception.** Law enforcement agencies need to work collaboratively to keep pace with technological developments and gain efficiencies over criminal activity.

• **The Australian Crime Commission.** The ACC is currently overstretched, and has extended its reach beyond combating multi-jurisdictional crime. Its current governance arrangements are somewhat atypical, and might develop further over a longer time frame.

• **Professionalisation of policing and workforce planning.** There is no national policing labour market in which effective workforce planning can be conducted and police can move readily between jurisdictions.

**Consideration of issues**

**Interoperability of case management systems**

As part of the five point plan for policing, the Australian Government is establishing a National Crime Database to better enable the sharing of resources and information and bolster a national approach to policing. This has been recommended by a number of inquiries.\(^{131}\)

Consistent with the recommendations from the Parliamentary Joint Committee on the Australian Crime Commission, CrimTrac is currently conducting a feasibility study into national case management which will explore the viability of progressing a common approach to sharing incident and event information nationally to support:

- a national view of incidents;
- identification of links between incidents; and
- cross-jurisdiction investigations.

This feasibility study will provide a national perspective on how jurisdictions manage criminal incidents and occurrences. It is a critical step in identifying significant opportunities for improvement in information sharing and achieving improved operational effectiveness.

State and Territory law enforcement agencies have indicated that, in principle, interoperable case management systems would be extremely beneficial. For example, Queensland indicated that in terms of national capabilities this would be their number one priority. Currently there are multiple and disparate case management systems across and within all jurisdictions. There has been heavy investment in these systems which are entrenched within their organisations and are critical to local operations.

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\(^{131}\) A national case management system for major police investigations was recommended by the Clarke Inquiry, November 2008 (Recommendation 9). In 2007 the Parliamentary Joint Committee on the Australian Crime Commission also recommended that the Commonwealth Government provide funding for a feasibility study into the development of a single national case management system.
Furthermore, joint operations in Australia and abroad have also highlighted differences in concepts of operation, command and control approaches, equipment and communications systems which also need to be considered and evaluated in moving towards a common approach nationally. For example, these types of issues arose in the Oil for Food Taskforce investigations. Following the recommendations of the Clarke Inquiry, the National Counter-Terrorism Committee has established an Investigation Management System Working Group which is examining the major investigation requirements for the development of a National Investigation Management System for cross agency matters. This will be informed by CrimTrac’s feasibility study. All Police Commissioners agree, in principle, that there is a need for improved interoperability.

The merits of enhancing national case management have been discussed for years without much practical progress. Without a high level commitment to a common goal by a specific date it is unlikely that substantive progress will be made and maintained. Progress towards compatible systems, integration with intelligence holdings, common standards and business practices would be beneficial and should be an important goal for CrimTrac, the Spectrum Project, the Australia New Zealand Policing Advisory Agency and the National Counter-Terrorism Committee.

**Finding 3.6:**
Investigations, including in the national security field, money laundering, tax evasion, child protection, serious and organised crime and corporate crime, increasingly require cooperation, including through taskforce arrangements similar to those which have previously proven successful, extending across jurisdictions and between investigative agencies. Taskforce arrangements create particular stresses and require all jurisdictions to commit to ongoing development of compatible concepts of operation, command and control, case management and communications.

**Finding 3.6A:**
Work being undertaken by the Commonwealth in the development of the Organised Crime Framework, as well as the Oil for Food Taskforce investigations, have identified issues that require Government consideration to enhance the ability of regulatory agencies and the AFP to reduce the harm caused to the Australian community by activities that contravene regulatory requirements. Matters arising with a legislative dimension include impediments to sharing information for criminal intelligence purposes, the sharing of information for regulatory and criminal enforcement action, and the impact of legal professional privilege claims.

**Finding 3.7:**
Ongoing investment by governments in effective national frameworks for access to data holdings (such as fingerprints, criminal records and DNA profiles held by CrimTrac and the financial data held by the Australian Transaction Reports and Analysis Centre), intelligence, and the development of common case management protocols, common or at least interoperable information and communications technology, will become increasingly important.
Recommendation 3.3:

Further to the commitment made by the Commonwealth Government, and recommendations made by the Clarke Inquiry and the Parliamentary Joint Committee on the Australian Crime Commission, it is essential that interoperable case management systems be developed as soon as practicable.

The Commonwealth should take the initiative in securing a firm commitment at the Council of Australian Governments level to having interoperable case management systems in place by 2015. CrimTrac’s feasibility study should inform future Council of Australian Governments commitments in relation to this.

Without prejudicing whole of Federation initiatives, the AFP’s Spectrum Project should continue to facilitate a move by Commonwealth agencies towards interoperable case management systems, common standards and business practices.

Forensic Expertise

Each Australian policing jurisdiction has a core forensic expertise that is essential to investigating crime, such as fingerprint and basic DNA analysis. While these capabilities obviously need to be maintained by each jurisdiction, there are some specialist forensic specialities which are required too infrequently to necessitate a permanent capacity in every jurisdiction. For example, not every jurisdiction would need a high-end forensic explosives analysis capacity or mitochondrial DNA expertise. In fact, it would be inefficient for every jurisdiction to resource and maintain specialist expertise.

One way of achieving efficiencies in this area would be to develop specialist skills in one or two jurisdictions that could be used by all jurisdictions. This has already developed on an ad hoc basis. For example, the CSIRO in South Australia are specialists in soil comparisons and can conduct analyses on behalf of other jurisdictions. These types of arrangements should be further developed. In doing this, it will be essential to develop networks and agreements that allow easier sharing of, and access to, these limited specialist capacities, as well as user pays arrangements. State and Territory Police Commissioners agree that centres of forensic excellence would be beneficial.

There may be evidentiary impediments to doing this more formally and widely which should be considered. For some types of evidentiary material there may be legislative barriers to the interstate movement of exhibits or for the use of statements produced in one jurisdiction to be used in another. Legislative reform may be required to facilitate the effective use of centres of excellence.

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132 The Senior Managers of Forensic Laboratories for Australia and New Zealand have endorsed the need for such specialisation and support the concept that it is highly desirable that such specialisation should exist in at least two locations.

133 For example, the AFP has entered into cooperative agreements with NSW Police, Victoria Police and the Victorian Institute of Forensic Medicine, under which it engages in shared research, exchanges information and offers mutual support. The AFP also has similar agreements with DSTO, ANSTO and CSIRO and an extensive network of collaborations with academic institutions, such as the National Centre of Forensic Studies with the University of Canberra and the Canberra Institute of Technology.
In relation to illicit drugs, in some jurisdictions the law does not allow drug samples to be shared. Unlike the drugs seized from importations where drug profiles can be developed, at the domestic level there is no equivalent comprehensive national intelligence database. All jurisdictions should be able to share drug samples at least for the purpose of research and establishing a domestic drug profile database.

At the practical level, given that forensic capacities are limited compared with the demand, and expensive, it is unlikely that greater reliance on access to national centres of excellence will be feasible without agreed protocols for setting priorities and sharing costs.

Finding 3.8:
A national network of centres of excellence in specialist forensic skills would reduce costs and increase the scientific rigour of forensic operations in support of criminal investigations. The AFP is committed to a national domestic drug signature profile database to complement its existing international drug profile database, to provide important intelligence to all police agencies. This drug signature profile database requires complementary commitment and protocols from all jurisdictions, including in some jurisdictions removal of legislative impediments to sharing drug sample profiles. The Audit notes the AFP is developing a policy proposal for Government under the auspices of the Organised Crime Strategic Framework to help all jurisdictions progress a complete intelligence picture of the domestic illicit drugs industry through forensic analysis, which would also then enable intelligence dissemination to all jurisdictions.

Recommendation 3.4:
The Australia New Zealand Policing Advisory Agency should progress the establishment of national centres of excellence in specialist forensic skills on a formal basis including protocols associated with the charging and prioritisation of access to these scarce forensic skills. A domestic drug signature profile database should be developed to provide a domestic equivalent of the international drug profile database.

A Commonwealth/State taskforce driven by the Attorney-General’s Department should identify the barriers in evidence and other law to the establishment of a genuinely national forensic framework, including a domestic drug signature profile database, and propose remedies.

Intelligence
The interoperability between law enforcement and the Australian intelligence community was identified as a key area of improvement by the Clarke Inquiry and the Street Review. As noted in the Smith Review, the need to share information is critical, but enhanced intelligence exchange within the broader criminal law enforcement community is also critical.

With the AFP dealing with intelligence, and the intelligence community’s involvement in criminal investigations, there is a need for improved mutual understanding of the role of intelligence, as distinct from evidence. With respect to intelligence, there is a need to protect sources and at times capacities, but also a need to understand that intelligence might need to be disclosed in criminal trials. The intelligence community needs to take this into account when gathering and recording information. The AFP also needs to take this into account when using and referencing intelligence.

In law enforcement, even with mutual access to formal intelligence holdings, at times there are cultural issues in sharing intelligence. This is particularly important in the early stages of investigations, as was noted above in relation to Operation Inca. The Government should prioritise areas where joint intelligence work is useful, and actively build cross-agency team links and networks. This is a key objective of the proposed Australian Security College.

With so many agencies working in the intelligence space, there is significant potential for gaps and overlaps. To this end, consideration needs to be given to a central capacity to broker intelligence exchange to avoid duplication of efforts, and to ensure intelligence is being disseminated widely enough, to the right agencies.\(^\text{135}\)

One way of addressing this within the criminal purview would be to improve the central intelligence database capacities within the ACC;\(^\text{136}\) however some agencies have expressed difficulties with the ACC’s system not operating in real time. Furthermore it is unlikely that ACC would have the information and communications technology expertise and budgetary resources to build a real time interchange system for intelligence brokerage. CrimTrac with its extensive experience in the real time linking of databases might be better placed to perform this central function.

If this approach is taken, it would allow the ACC to concentrate on its key roles of intelligence gathering and analysis, and the distribution of value added intelligence product.

While the imperative to share is critical, the protection of databases from corrupt or improper access and interference is also critical. In order to share information appropriately, secure infrastructure will need to be in place. In recommendation 5 of the Street Review, the Committee recommended:

That the AFP ensure full adoption of, and adherence to, national security standards and practices for counter-terrorism investigations, with particular focus on the areas of intelligence handling, storage and office infrastructure. Necessarily this will include the need to strictly adhere to caveats on the use of intelligence

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\(^{135}\) Smith noted that information sharing should be addressed by a National Security Chief Information Officer (Ric Smith AO PSM, The Review of Homeland and Border Security, 2008. The AFP CIO is currently looking to coordinate IT systems across agencies to ensure compatibility.

\(^{136}\) The ACC operates the Australian Criminal Intelligence Database, which has been established as a secure, centralised, national repository for criminal intelligence. However, the Parliamentary Joint Committee Inquiry into the future impact of serious organised crime on Australian society (Parliamentary Joint Committee on the Australian Crime Commission, September 2007) noted that it had heard that the database was not functioning at its optimum potential because contribution by individual law enforcement agencies was inconsistent (para 8.40).
This recommendation is being progressed, and while expensive, needs to remain a priority. The Audit notes that significant features in the design of the AFP’s new national headquarters in Canberra reflect this priority, as well as aspects of building projects in many of its other offices across Australia.

Recommendation 3.5:

As recommended in the Street Review, the Audit agrees that the Australian Government should place a high priority on developing strong mechanisms that will facilitate intelligence sharing among Commonwealth, State and Territory law enforcement agencies, and which carefully manage the risks of the compromise of that information.

Telecommunications interception

Law enforcement is facing increasing challenges in accessing communications among criminals and combating high technology crime. Substantial resources and technical skills are increasingly required to keep pace with rapidly developing technologies and the use of the internet, such as peer to peer networks and Voice over Internet Protocols. These also raise legal issues such as the future relevance and completeness of the forms of interception covered by existing legislation and the number of, and nature of, warrants required.

The capacity to effectively protect, track and prosecute attempts to breach Australia's e-security is of utmost priority. The global nature of modern communications means that Australia cannot act alone. Cooperation between domestic and foreign focused arms of Australian agencies and overseas agencies is therefore critical.

Telecommunications interception is a vital tool to assist in the investigation of serious computer-based crime, including cybercrime offences, such as unauthorised access to data held on a computer. The recommendations of Mr Blunn in 2006 about international cooperation and greater technical collaboration between Australian agencies remain as important, or more important, than they were then.

Finding 3.9:

Cooperation among governments and greater technical collaboration between Australian agencies is critical to enabling Australia to deal effectively with the implications of the rapid changes in the ICT environment.

The Australian Crime Commission

The ACC is a statutory authority established to meet the challenges of combating nationally significant serious and organised crime. It is principally funded by the Commonwealth. It has both intelligence and investigative powers, including coercive powers in relation to attendance of persons, the provision of evidence, information and data and the answering of questions. It has an unusual governance structure in that its Board approves the determinations it addresses, and its Chief Executive Officer is responsible for its administration, budget and allocation of resources under the Financial Management and Accountability Act 1999. This means that the Board can approve the determinations without any formal requirement to assess whether they can be addressed within the available budget.

The Board has been described as being too large. It is comprised of 14 members,\textsuperscript{138} eight of whom are from Commonwealth agencies,\textsuperscript{139} including the Chair who is the Commissioner of the AFP. This is mandated by the ACC Act. There is still clearly some resentment from State and Territory agencies that the Commissioner of the AFP chairs the Board – although the most recent incumbent’s role and leadership is widely acknowledged. The AFP believes that it is important that the ACC be led by the most senior State, Territory and Federal law enforcement officers in the nation, and that, reflecting its national role its chair should be the head of the AFP. In the AFP’s view this is essential to maintaining the necessary operational links to active crime investigations, ensuring that the ACC’s contribution is relevant to national policing priorities and ensuring that the ACC receives the necessary support from Australian government, State and Territory policing and law enforcement agencies.

There are obviously unique governance challenges for the ACC in Australia’s federal environment. The current arrangements reflect that the ACC is principally funded by the Commonwealth, but exists to provide interaction between all jurisdictions. However, the combination of the Board’s size, its representative character and the lack of a requirement to prioritise its determinations against budget are argued to have contributed to the ACC failing to focus tightly on issues of national significance and being spread too thinly across a large number of projects.

With respect to size, at fourteen members the Board is unusually large – it would be most atypical for a corporate or statutory board to be of this size. This is because large boards, by their nature, tend to be unwieldy and accountability is not focused. It is thought to be more difficult to develop a sense of corporate identity and purpose in such large boards.

‘Representativeness’ is often contrasted with ‘independence’ in board structures. The notion of an independent board typically has three dimensions – one is independence from management (and the ACC Board meets that test with only one executive director), while another is independence from direction (and the ACC Board meets that to the extent that Commissioners cannot be directed in relation to individual cases relating to their own jurisdiction – but any independent statutory board comprised of non-Commissioners would be similarly free of risk of direction if the founding statute so provided) and the third is independence from the representation of other interests.

\textsuperscript{138} The Board is comprised of the following members: Commissioner of the Australian Federal Police as Chair, Secretary of the Australian Government Attorney-General’s Department, Chief Executive Officer of the Australian Customs and Border Protection Service, Chairperson of the Australian Securities and Investment Commission, Director-General of Security Australian Security Intelligence Organisation, Commissioners of all State and Territory police forces, Chief Police Officer of the Australian Capital Territory, and Chief Executive Officer of the Australian Crime Commission (as a non-voting member). The Commissioner of the ATO has recently been added as the 14th member.

\textsuperscript{139} The ACT Chief Police Officer is currently a Federal Agent.
This last form of independence means that board members have no conflicts – conscious or otherwise – arising from their employment in related or interested parties. It ensures they have no disincentives to always act in the interests of the entity which they are governing. When board members are ex-officio representatives of other, and to some extent competing, organisations, it is difficult to say that this criterion is met. In the case of the ACC all the Board members, other than the executive member, are the chief executives of other law enforcement agencies. The literature, practical experience and advice to the Audit all suggest that competition between law enforcement agencies for influence, credit and turf has not been rare in the past. Certainly the Audit received advice that these sorts of conflicts in relation to priorities have arisen in the past and have contributed to the ACC being asked to tackle projects not of national significance. That this has not been more marked, and is greatly diminished, is a tribute to the chairmanship of Mr Keelty, and the increasingly corporate stance taken by the Board as a whole. It is not a product of the governance model.

In regard to the question of the provision of strategic direction to the ACC and the determination of its priorities, the Audit understands that it has not always received cogent advice from management in the past that reduces the risk of spreading the organisation’s resources too thinly over too many projects. This has been recognised by the Board and the Audit is advised that, at its meeting on 10 June 2009, the Board received financial advice, including in relation to the 2009-10 financial year to inform their decision making. This is clearly an important and positive move.

It is worth considering some other governance models for organisations focused on serious and organised crime or national organizations that exist to carry out functions on behalf of the Commonwealth and State/ Territory governments and their relevance to the ACC.

In the United Kingdom the nearest analogy to the ACC, the Serious Organised Crime Agency, is governed by a Board comprising six non-executive directors (including the Chair) and five executive directors (including the Director General). The non-executive directors are not drawn generally from a policing background. It contains a mix of public and private sector experience. The Board sets, under the Home Secretary’s broad direction, the strategic objectives for the organisation and monitors and reports to the Minister on its performance. Policing and other law enforcement agencies with which the Serious Organised Crime Agency cooperates are engaged through operational consultative mechanisms. Although it does not describe itself as a policing agency, the Serious Organised Crime Agency can, and does if required, operate as an independent investigative agency through to the point of prosecution. In this sense it is less dependent on cooperation from other British police authorities in the staffing of its operations, or their carry through to the point of prosecution, than is the case with the ACC. With its unitary government, the UK does not need to deal with the particular governance challenges that always come with federal arrangements.

Board members have included a retired head of MI5, the retired Chief of the General Staff, an expert in computing, communications and privacy and a partner of a global accounting practice.
In Australia, for other national agencies constructed under Commonwealth-State agreements, the boards are smaller in size, are chosen by the Commonwealth and the States working together. None of these boards are “representative” of States or organisations in the sense that their members are ex-officio appointees, or that they are appointed to reflect a particular State’s interests. Like the board of the Serious Organised Crime Agency they comprise individuals appointed in their own right on the basis of skills.

However, in all these areas there is a lengthy history of slowly won Commonwealth-State confidence and cooperation. As an example, in the energy sector it took well over a decade from the early 1990’s until 2005 to put in place the now totally integrated national regulatory system. This development started with a recognition that efficient and secure energy markets in a national economy that was exposed to global competition, needed to be developed on as wide a basis as possible, and that this was hampered by the existing market, infrastructure, ownership and regulatory arrangements. Initially States and Territories retained substantially independent regulators, although operating within harmonised rules. With growth in experience and confidence, and a recognition of the gains that had already been delivered by the national market, it was possible to move to the final step – a single national regulatory system. These changes have transformed the energy sector to Australia’s great advantage – but they happened through persistent leadership by, and a maturing relationship among, governments in the sector.

A further defining characteristic is that in all these areas is that the Commonwealth either has the constitutional powers to cover the field, or powers have been referred by the States, and in many the States and Territories have essentially withdrawn from the jurisdiction.

These circumstances do not apply in policing. State and Territory policing agencies will continue to cover the vast body of criminal investigation and accordingly generate much of the intelligence. It is these policing bodies in turn who provide members to staff joint task forces, and who will often carry through investigations from the intelligence phase to prosecution. These would not be fatal flaws to a non-representative, and smaller, ACC board in a situation where there was a mature relationship of confidence and cooperation between the Commonwealth and State agencies, or among State agencies. It is not clear that this is yet the case in relation to policing, and for the ACC to work it is critical to maintain the confidence and participation of all jurisdictions. Indeed the ACC Board is in some respects as much a committee to negotiate, on a case by case basis, whether agencies will commit their resources to support a joint project as it is a governance board for the ACC. If it becomes increasingly clear that dealing with serious and organised crime requires a committed national capacity, then the experience of the energy sector, and the development of national competition regulation, would suggest that institutional change will follow with the right leadership. There would be merit in re-examining the corporate governance and mission of the ACC at some time in the future to determine whether changes can and should be made.

141 Such as the Australian Consumer and Competition Commission, the Australian National Training Authority, the Australian Energy Markets Commission and the Australian Energy Markets Regulator.
There is pressure from some jurisdictions for the ACC to work on issues, or use its coercive powers, on crimes that are not concerned with serious and organised crime. There is an at least theoretical, risk of cost shifting, or the use of the ACC to access coercive powers that State or Territory parliaments have granted to state agencies in their own right. Some States and Territories have also suggested the Commonwealth has used its financial power to usurp the role of the Board;¹⁴² some comments were made in relation to its second referral in support of the Northern Territory Emergency Response. The ACC can only use its coercive powers where there is agreement by the Board. Commitment to determinations that are not of national significance distracts the ACC from the field where it can add the most value – that is, where the issue is cross-jurisdictional and of a nationally serious nature. One option would be to amend the legislation to enable the ACC to approve determinations and apply its coercive powers to support an individual jurisdiction, but only when there is full funding supplementation from that jurisdiction, and the CEO certifies that it will not prevent the ACC meeting the priorities determined by the Board.

National significance is worthy of some consideration. Generally crime issues that are of national significance will involve multi-jurisdictional matters. Of course some crime matters might be geographically limited in their commission, but have an impact on nationally significant institutions, economic or social interests. This issue should be given further consideration in the context of the development of a national strategy to tackle serious and organised crime.

Some agencies have queried whether the ACC should be involved in both intelligence and investigations. Outside critics have pointed to its declining convictions record and argued that it should be prioritising investigations rather than intelligence. The ACC currently performs a significant intelligence function, in terms of operating the Australian Criminal Intelligence Database, and preparing strategic assessments on law enforcement, as well as providing active intelligence support to investigative task force operations. Intelligence provided by the ACC underpins many successful prosecutions by the policing agencies it supports. There has also been a suggestion that the ACC should only perform intelligence functions, and not conduct investigations. However, this would leave a significant vacuum in terms of cross border investigations, and effective intelligence gathering requires active engagement in key investigations.

Finding 3.10:

The ACC is a pivotally important body in developing a national approach to combating serious and organised crime.

Finding 3.11:

The 14 member ACC Board is larger than would be normal for a corporate or statutory board. In determining ACC priorities it is important that it has due regard to the resources available to the ACC, and the recent moves to ensure that it does so on the basis of clear management advice are welcome.

**Finding 3.12:**

It is uncertain whether the ACC can undertake projects funded by the Commonwealth (or any other single jurisdiction) but which do not have the endorsement of the Board – in particular the use of the ACC’s coercive powers requires approval by a super-majority of the Board.

**Finding 3.13:**

Where actionable intelligence product is provided to an agency by the ACC, there should be a formal mechanism requiring and facilitating a report back to the ACC on the outcomes.

**Finding 3.14:**

In the longer term a more conventional governance model would be to move to a smaller board with members appointed on the basis of skill rather than ex-officio with jurisdictions and relevant agencies represented on a consultative body. The relationships between the Commonwealth and the States, and among the States, in relation to cooperation on serious and organised crime are not as yet sufficiently mature to support this model.

**Recommendation 3.6:**

The ACC should emphasise its role as a provider, coordinator and analyst of intelligence in support of the investigation of nationally significant serious and organised crime. As soon as feasible, the ACC should be relieved of tasks and obligations in relation to the investigation of crime other than nationally significant serious and organised crime.

**Recommendation 3.7:**

The ACC and its governance structure should be reviewed after a suitable period of experience and confidence building in developing and pursuing a national strategy on serious and organised crime (see Recommendation 8.1).

**Professionalisation of policing and workforce planning**

Employment groups, such as teachers, health professionals, engineers and lawyers can have their qualifications recognised across Australia. This facilitates mobility to the advantage of the individuals, their employers and the community more broadly. It is particularly important in an era where both partners in a relationship work. In most other fields, particularly for highly skilled staff, employers take advantage of national labour markets at all levels, not just at the entry and executive levels.

Policing is different. There is no national recognition of qualifications, and movement across jurisdictions is very limited other than at the top and the bottom. There are separate police academies in each jurisdiction, with no national agreement on core competencies and standards. Australia can support and accredit training for regional police officers at the Jakarta Centre for Law Enforcement Cooperation to UN certified standards for particular competencies, which are then recognised around the region. There is no Australian equivalent. There is no policing equivalent of the Australia New Zealand School of Governance, which brings together geographically widely distributed tertiary institutions to provide accredited courses which can be combined to support post-graduate qualifications.
which are recognised by all Australian and New Zealand public services. At the minimum the failure to support mutual recognition of core competencies developed to Australia wide standards must increase the national effort and cost for police education.

There are cultural and sometimes industrial issues surrounding this. Some Commissioners advised the Audit that they would not support mobility of officers above the base because they were concerned that officers from other forces did not have sufficiently rigorous training to operate in their State. Some Commissioners pointed to industrial difficulties, including that a more open market would lead to increased ‘poaching’ of staff and wage pressures.

The insularity of police forces and cultures, and the effect this can have on corruption has been remarked on in a number of inquiries into policing agencies in Australia and abroad. The Wood Royal Commission into the NSW Police Service and the Ferguson Report on the Royal Canadian Mounted Police are examples of this.

The lack of mobility, and the denial of the capacity to develop a national labour market, and exploit national career opportunities has been a live issue for over 20 years. However, little progress has actually been made. It is an issue highlighted by both the Police Federation of Australia, and the Australian Federal Police Association in their submissions to the Audit.

Australia could benefit from a national policing labour market, and greater collaboration on police education standards. The Australian Institute of Police Management goes some way in introducing training consistency at the management level, however further work needs to be done to do this across all levels of policing. This could include:

- further development of national institutions to bridge inconsistencies in national standards – this could be similar to the Australian and New Zealand School of Governance and/or the proposed National Security College;
- joint training courses/nationally recognised training and education initiatives; and
- recognition of qualifications – greater willingness to accept lateral above the base movement between services.

Workforce planning requires an understanding of the interaction between the demographics and workforce dynamics of individual police forces and the demographic, economic and geographic characteristics of the populations they serve. At the national level a better understanding of these dynamics will both support investment decisions by education institutions and better inform the Grants Commission when it is considering the cost of providing policing services. A better understanding of the relationship between policing needs, outcomes and the

143 The Audit notes that the AFP uses ANZSOG as part of its executive leadership development strategy.
146 AFPA recommendation 4.10: ‘That there is a national professional Police registration scheme to enable mobility and transferability between Police jurisdictions to provide a framework for the establishment of a formal “ready reserve” surge capacity for the AFP’. The Police Federation of Australia seeks ‘Support for the national police registration scheme and further professionalisation of policing’.
characteristics of the populations the different police forces serve would also help the Productivity Commission provide far more useful comparative data than is provided in its current Report on Government Services.\textsuperscript{147}

The Audit engaged with ANZPAA on the national policing perspective and workforce planning as required by its fifth term of reference.\textsuperscript{148} ANZPAA advised that it was not in a position to provide any assistance within the Audit’s time frame. This correspondence is at Appendix 3.

This is an important area where further work is required. In recent years the Productivity Commission has undertaken a study on the health workforce and is well positioned to undertake similar work examining the impact of institutional arrangements on the efficient and effective use of police resources.

A Productivity Commission review could focus on what would need to be done to create a coherent national policing workforce. This could include, at minimum, opportunities for the mutual recognition of skills, training and curriculum, but there would also be a need for changes in attitude among police forces to the lateral movement of officers above the base, as happens already in most other areas of employment. It could also examine and further develop the existing work on the interaction between the demographics and workforce dynamics of individual police forces and the demographic, economic and geographic characteristics of the populations they serve. This could assist in the development of more meaningful performance measures and comparative data.

\textit{Finding 3.15:}

Policing is a major category of employment across the Federation, but unlike other skilled occupational categories such as health professionals and workers, teachers and tradespeople there is little mutual recognition of skills and qualifications, and little interstate mobility of employment. There are separate police academies in each jurisdiction but no common core curricula or accreditation of competencies. Combined with limited lateral movement between police agencies, this restricts career opportunities and reinforces the insular nature of many police forces which has been the subject of negative comment by a number of Inquiries into police corruption, including the Wood Royal Commission.

\textit{Recommendation 3.8:}

The Productivity Commission should be commissioned, with the support of COAG, to conduct a study on the national policing workforce akin to that which has been conducted in relation to health. This should incorporate likely future demands, examine demographic drivers and alternative mechanisms for assisting police in determining the allocation of policing resources geographically. It should also examine barriers to the development of a national policing labour market, in particular barriers relating to qualifications and the mutual recognition of qualifications.


\textsuperscript{148} Term of reference 5: ‘Invite the Australia New Zealand Policing Advisory Agency to survey State and Territory capabilities and workforce planning issues to feed back to the Commonwealth in order to provide a nationwide perspective of challenges and opportunities in policing.’
3.11 Connecting Policing – International Crime Cooperation

In a globalised world where crimes are increasingly committed across borders, and people and information move much more freely around the world, international crime cooperation is essential. As the Australian Foreign Minister stated following the Third Ministerial Conference of the Bali Regional Process in April 2009:

So many of the issues we face today, many of the international community’s challenges, are challenges where it is often futile to act alone, whether it’s people movement, transnational crime, climate change, or the global financial crisis. The lesson of very many of these problems is the need to act together, regionally and multilaterally.\(^\text{149}\)

The ability of Australian law enforcement agencies to work closely with their foreign counterparts is greatly enhanced by the AFP’s International Liaison Network. There are 34 posts in 28 countries which are dedicated to enhancing international crime cooperation, and can focus on particular issues. For example, the Liaison Officers in Indonesia have a focus on counter-terrorism and people smuggling, and in Guangzhou, China, the focus is on drug syndicates.

This police to police cooperation should remain a key part of the AFP’s role into the future. The AFP is well placed to act exclusively on behalf of all Australian law enforcement agencies, and any suggestions that other agencies develop a capability at this level should be resisted. It is important that the AFP network is actively used by all agencies as it avoids the risks associated with law enforcement agencies travelling of their own accord.

The other key way in which Australia interacts with other countries through law enforcement is through the formal extradition and mutual assistance schemes.\(^\text{150}\) These international crime cooperation mechanisms are essential, and their use will only intensify in the future. In recent times legislative reviews have been conducted of Australia’s extradition and mutual assistance arrangements, and improvements are currently being proposed to these schemes.

An important fact of life for Australia and New Zealand is that as our economies become more integrated, our populations more mobile and the barriers to movement between the countries are reduced, the opportunity for organised and transnational crime, and criminals more generally, to exploit any weaknesses in our policing cooperation increases. It is important that New Zealand policing agencies are provided the opportunity to deepen their relationships with Australian policing, including through access to the developing Commonwealth-State policing infrastructure. This would be supported by regular meetings at the most senior levels of the AFP and the NZ Police Service, perhaps in the margins of other meetings such as the ANZPAA or the Police Commissioner’s Conference.

Finding 3.16:
With the continuing growth in transnational crime, and the benefit/cost of prevention of criminal targeting of Australia from off-shore, international cooperation is important, and will become increasingly so. International policing cooperation and operations frequently involve sensitive inter-governmental relationships with a direct relevance to Australia’s foreign policy.

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\(^{149}\) Joint press conference, Australian and Indonesian Ministers for Foreign Affairs, Bali, 15 April 2009.
\(^{150}\) These schemes are administered by the Attorney-General’s Department.
Recom mendation 3.9:  

Current levels of funding for the International Network should at least be maintained, and the AFP should continue to be the sole provider of international liaison for all Australian police forces, working in close collaboration with the Department of Foreign Affairs and Trade through its diplomatic missions.
Chapter 4

Governance & Capability

4.12 Introduction

Central to this Audit is a discussion of the capabilities required by Commonwealth policing agencies and in particular the AFP.

Capability is the capacity to deliver a function or service effectively. For the purposes of this Audit, capability has been defined as the functions, relationships and powers that enable the organisation to achieve its strategic objectives. Capability is developed through applying inputs such as specific skills and resources to deliver particular requirements.

As the nature of crime has changed, and Government objectives in turn have changed, the policing capabilities required to achieve them have also evolved.

Capabilities demand resources – resources that will not then be available to advance other objectives that have been agreed as priorities. This means that the Government needs to balance its policing objectives against competing demands. It needs to be sure that it has allocated its scarce resources between the many agencies which now have criminal law enforcement powers in a way that maximizes the overall reduction of harm from crime. And it needs to be confident that these agencies are working together to achieve its objectives.

Democracies like Australia have always insisted on the importance of policing agencies using their operational powers independently of political direction. This is enshrined in enabling legislation.

Establishing these balances – between competing Government objectives, between different law enforcement agencies and between proper democratic control and the operational independence of policing – is what good governance arrangements should do.

While the Audit recognises the effective and swift response demonstrated by the AFP to emerging Government strategic priorities, such as responding to terrorism threats and incidents, capacity building and stabilisation assistance in the pacific and East Timor, and to major domestic events like the Olympics and APEC, nonetheless within the AFP there is a need to more clearly enunciate its response to strategic directions from Government, establish priorities and ensure that these are carried through. This is the role of internal governance.

4.13 Current Arrangements

Whole of Government setting of objectives and priorities

The AFP is at the centre of the framework for Commonwealth criminal law enforcement. But it is only one of many agencies, and it is important to see it in that overall context.
Finding 4.1:

The strategic value of the AFP to the Australian Government is as its premier policing capability. There are many other agencies with investigative, and associated, powers, and the AFP supports a broad range of them.

While existing legislative arrangements allow the Government to establish objectives and priorities for the AFP, there is currently no overall framework to coordinate objectives and priorities and associated Commonwealth criminal law enforcement capabilities across the full breadth of the Commonwealth’s jurisdiction. A number of these agencies are grouped in the Attorney-General’s portfolio, but in the past the Attorney-General’s Department has not had a strong role in understanding and establishing overall portfolio criminal law enforcement priorities and reviewing budget bids from the law enforcement agencies. It is moving to address this. Furthermore, many of the agencies with important law enforcement responsibilities, such as the Australian Taxation Office, Centrelink, the Australian Quarantine and Inspection Service and the Australian Securities and Investments Commission, which are highly relevant to national security and serious crime, belong to other portfolios. Arrangements for coordination at the budgetary level are essentially ad hoc, and are rather focused on priority issues with clear requirements for whole of government action.

For example, the Government has developed and funded a series of cross-portfolio law enforcement initiatives over recent years – notably in relation to people smuggling, major fraud against the revenue (Operation Wickenby), identity and electronic security and the Northern Territory Emergency Response. These whole of government strategies provide some of the building blocks for better governance arrangements for determining priorities and allocating resources among law enforcement agencies.

This consideration of cross-government priorities has been further expanded in relation to national security. The Government has announced a major change to arrangements through its National Security Statement and the proposed National Security Budget which will enhance interagency linkages with a national security element. The Australian Intelligence Community and possibly substantial elements of the budgets of the AFP, the Australian Customs and Border Protection Service and the Attorney-General’s Department will be included in this whole of government analysis of budget proposals.

Finding 4.2:

No framework exists to coordinate the full range of Commonwealth criminal law enforcement authorities, their relationship to other policies and measures and to allocate scarce resources, although certain specific priorities, such as national security and border protection, are now being managed in a more coherent way at the policy level.

The existing framework for establishing priorities for the AFP

The relationship between the Australian Government, represented by the Minister for Home Affairs, and the AFP, represented by the Commissioner, should reflect both:
• the Government’s obligation to determine policy and national priorities concerning the enforcement of criminal law in accord with national interests (and the appropriation of resources to meet these priorities); and

• the freedom of the AFP Commissioner to exercise his or her lawful duties in the absence of political or bureaucratic interference (while remaining accountable for the expenditure of resources to the Government).

A balance must be reached that meets the Australian Government’s oversight obligations and accountability requirements while preserving the independence of the AFP Commissioner. The right balance will protect the interests of citizens and national institutions from the misuse of power while avoiding waste.

The *Australian Federal Police Act 1979* establishes the AFP and describes its constitution, mandate, powers, and the legislative basis for its operational independence from the Government. The key provisions of the Act are set out in Appendix 1. Central to the governance arrangements are the provisions of s 37 which enables the Minister to direct the AFP in relation to ‘the general policy to be pursued in relation to the performance of the functions of the AFP’ and ‘the use of common services’. This provision is implemented by means of a Ministerial Direction, which increasingly is developed in the context of the Budget and finalised after the Budget has been brought down. The current Ministerial Direction is attached at Appendix 5. The AFP’s strategic directions can also be influenced by:

• the way in which its funds are appropriated – effectively the narrower the appropriations, the less the flexibility available to the Commissioner in implementing the Act;

• more general statements of Government policy, such as the National Security Statement and the forthcoming white papers on aviation and national security;

• strategic intelligence priorities as endorsed by the National Intelligence Coordinating Committee; and

• whole of government initiatives – examples already outlined include the Northern Territory Emergency Response and Border Protection.

Currently strategic policing objectives can be described as those which include:

• protection of Australia and Australian interests from terrorist attacks both within and outside Australia;

• disruption of serious and organised crime, including transnational crime;

• safeguarding Australia’s economic interests from criminal activities, including intellectual property, money laundering and serious fraud; and

• maintaining and developing observance of the rule of law in the region and building law enforcement capacity, through peacekeeping operations, police capacity building, and participation in UN missions.

These are supported and amplified by the National Security Statement, which specifically identifies:

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151 **Common services** are defined as including computer systems, forensic science laboratories, research and planning systems, training institutions and/or anything of a like nature.
• combating the threat of terrorism;
• combating transnational organised crime, including drug trafficking, people trafficking, people smuggling;
• combating cybercrime/enhancing e-security;
• addressing implications of climate change; and
• regional engagement to promote stability and peace in the Asia-Pacific.

These objectives are translated into strategies through the AFP Business and Strategic Planning processes. These strategies influence operational priorities and decisions. At a broad level they are reflected in Portfolio Budget Statements, which describe objectives, deliverables and the Key Performance Indicators. The Annual Report details the degree to which these plans are realised.

The AFP Strategic Leaders Group has described the broad areas of capability for the AFP that are critical to meeting Government objectives. AFP capabilities, as described by its Strategic Leaders Group, are illustrated in the following diagram (Figure 4.1):

These capabilities allow the AFP to deliver its strategic obligations. For management and resource allocation purposes, the AFP structure has been developed around Functional portfolios. The AFP’s operational functional streams are Counter-Terrorism, Aviation, Protection, Intelligence, International Deployment Group, High-Tech Crime Operations, Economic and Special Operations, Border and International, and Forensic and Data Centres. Enabling services comprise separate portfolios under the Chief Operating Officer and the Chief of Staff. A copy of the AFP Organisational Chart is included at Appendix 6.
**External Scrutiny of the AFP**

Like other government agencies, the AFP faces external scrutiny processes as part of its overall governance environment. In the past these have included the normal reviews by the Auditor-General and parliamentary committees including the Senate Estimates processes. The AFP is also subject to the jurisdiction of the Australian Commission for Law Enforcement Integrity.

In response to recommendations of the Clarke Inquiry, the Government will expand the mandate of the Inspector-General of Intelligence and Security, thereby enabling him or her to extend their inquiries into relevant AFP activities. The jurisdiction of the Parliamentary Joint Committee on Intelligence and Security will be similarly extended to oversight relevant AFP activities, as will the mandate of the newly established National Security Legislation Monitor.

The Government will also establish a separate AFP Parliamentary Oversight Committee, most likely by expanding the mandate of the existing Parliamentary Joint Committee on the Australian Crime Commission.

**Finding 4.3:**

As a result of its increasing work in national security, certain AFP activities can now be examined by the Inspector-General of Intelligence and Security and the Parliamentary Joint Committee on Intelligence and Security. Furthermore, a new AFP Parliamentary Oversight Committee will provide additional oversight of the AFP’s activities. Ministers and Committee Chairs have expressed their strong appreciation for the AFP’s professional support to various Parliamentary committee processes. However the AFP has not had a Parliamentary Joint Committee with such a specific focus on the AFP, and therefore has not had to demonstrate the strong policy capacity or depth of experience in dealing with an AFP-specific Committee. The Audit also noted that other than at the Commissioner and Deputy Commissioner levels, the AFP executive staff have comparatively less experience appearing before Parliamentary Committees than their colleagues in other federal agencies.

**Finding 4.4:**

There is no need for additional external oversight of the AFP.

**Internal governance**

The Strategic Leaders Group is the peak advisory committee of the AFP, focusing on strategic issues for the organisation and assisting the Commissioner in making decisions and exercising his or her statutory responsibilities. It comprises the Commissioner (Chair), the Deputy Commissioners and Chief Operating Officer, the ACT Chief Police Officer, National Managers (and equivalents) and two non-Executive members.

The Strategic Leaders Group reviews and guides the AFP's strategic direction, consistent with the Ministerial Direction, advises on new policy proposals and emerging law enforcement policy issues, maintains oversight of the effectiveness of the AFP's corporate governance and risk management frameworks and supports the Commissioner in developing and enhancing partnerships with stakeholders.

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The National Operations Committee is a national, operationally-focused, forum which meets weekly to coordinate and support AFP operational outcomes. The National Operations Committee establishes a National Priorities Operations List and reviews the allocation of resources to operations. It is intended to take a whole of AFP view of operational workflow, capacity and priorities and facilitate the deployment of operational resources capacity to achieve priorities. The National Operations Committee also provides a national forum to discuss operational issues and activities across portfolios. In this way it is the key corporate means for translating policy determinations into action.

The National Operations Committee comprises the Manager AFP Operations Coordination Centre (Chair), functional Managers from all operations and operations support portfolios and Managers of the AFP regional offices where much of the investigative resources are located.

The AFP maintains an active risk management and internal audit program. The Audit Committee provides independent assurance and assistance to the Commissioner on the AFP risk, control and compliance framework, and its external accountability responsibilities. It has the capacity to require the provision of relevant data and reports.

The Committee comprises the Chief Operating Officer, three executive members from Outcome 1 and one from ACT Policing, and at least one non-executive (independent) member. Representatives of the Auditor-General’s financial statement audit and performance audit arms and a number of other key internal AFP stakeholders have a standing invitation to contribute at all meetings of the Committee. The Committee must meet at least four times a year and is required to report to the Commissioner on its operation and activities at least annually.

4.14 Issues ARISING

Whole of Government Setting of Objectives and Priorities

The inability of Government to define and set objectives and priorities across the whole criminal law enforcement environment, and allocate resources accordingly, remains an issue of concern. From the AFP’s viewpoint this means that, other than for issues covered directly by New Policy Initiatives or the Ministerial Direction, it has limited formal guidance on the Government’s broader law enforcement and national security priorities.

While the AFP’s Portfolio Budget Statement provides some reassurance to Government that finite investigative resources are directed to meet its highest priorities, there is little or no cross-portfolio consideration of the appropriate mix of civil and criminal remedies to address nationally significant problems. It provides no basis for defining the Commonwealth’s broader policing objectives and the required policing capabilities or resources to meet them.

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153 Information taken from the AFP Hub, at: http://afphub.afp.le/communication/committeesmeetings/committeeframework/deputycommish/afp-noe/Pages/default.aspx

154 Information taken from the AFP Hub, at: http://afphub.afp.le/aboutAFP/businessplanning/laba/internalaudit/Pages/AFPAuditCommitteeCharter.aspx
Setting the AFP’s objectives and associated capabilities

While there is careful consideration of New Policy Initiatives reflected in the Budget, the relationships between the Government’s overall policing priorities, the AFP’s capabilities and the resources available to the AFP are only loosely associated with the negotiation of the Ministerial Direction.

Internal Governance of the AFP to deliver on priorities

The Strategic Leaders Group works well in developing priorities and setting strategic directions. While it has two non-executive members, it is not used to link the AFP back to overall government structures (through cross-membership) in the way that is done in some overseas jurisdictions. However, the audit recognises that there are now multiple cross-agency fora such as the Secretaries Committee on National Security, the Heads of Commonwealth Law Enforcement Agencies, and the Deputy-level committees concerning border protection, counter-terrorism, law enforcement and national security in which the AFP senior executive actively participate.

The Audit has received consistent advice that the National Operations Committee is not working optimally to translate the Strategic Leaders Group’s whole of AFP priorities into operational outcomes. Furthermore, there is a strong tendency for the AFP’s functional streams to compete for and hoard resources. This reduces the flexibility of the organisation at the operational level in responding to priority investigations.

Since 2001, the AFP’s increased involvement in a broader range of whole-of-government policy-making fora has significantly increased those representational and decision-making expectations of the AFP’s Senior Leadership. This is creating increased pressures on the Senior Leadership to effectively engage with whole of government and/or deliver necessary functions of office.

4.15 Consideration of the Issues

Whole of Government Setting of Objectives and Priorities

Following the Prime Minister’s National Security Statement the Government is developing the means for defining and setting objectives and priorities across government in counter-terrorism and serious and organised crime and allocating resources accordingly. The scope and breadth of the National Security strategic planning and budget process is not yet clear. The Audit favours a broad approach to considering the National Interests that are vulnerable to criminality as a basis for driving priority setting. Identification and prioritisation of key National Interests could help define the limits of the National Security Budget.
Each of these National Interests could elicit a range of responses over short, medium and longer timeframes – some will be policy responses designed to avoid risk or mitigate possible consequences, while others will be Strategic Policing Objectives (the current whole of government work on Homeland and Border Protection is an example). Sometimes these policing and non-policing strategies will be complementary, while at other times they may be distinct alternatives. Important aspects of policing to advance a strategy can often be carried out by more than one agency (for example some of the powers and responsibilities of the AFP and the Australian Customs and Border Protection Service overlap) and it is important to think through which agency is best placed for each role.

It is the Audit’s view that the National Security framework should facilitate government consideration of these alternatives by a careful examination of groupings of national interests – in much the way that is being done for homeland security and border protection. It will also drive analysis of the policing and other capabilities necessary to achieve the strategic objectives. Capabilities demand resources – resources that will not then be available to advance other objectives that are desirable. This means that the Government needs to balance its policing objectives against competing demands and its financial capacity. It is vital to close this loop so that Strategic Policing Objectives and their associated capabilities are iterated with whole of government priorities and the budgetary resources available. See Figure 4.2 below for an illustration of this process.

Figure 4.4
The range of possible National Interests is broad. Some illustrative examples are set out in the table below. These examples demonstrate that a range of agencies is involved in each case from a policy and policing viewpoint, but that the AFP is a common factor. The National Security Adviser, as the overseer of the implementation of all national security policy arrangements, and the Attorney-General’s Department, as the agency responsible for the development and coordination of whole of portfolio policies on criminal justice, security and emergency management, could also potentially play a role in relation to each, and in a number of cases State/Territory or international agencies could also be involved if an effective strategy is to be developed.

Table 4.1

<table>
<thead>
<tr>
<th>National Interest</th>
<th>Commonwealth Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Efficient, transparent and reliable markets for capital, goods, ideas and services</td>
<td>Treasury, ASIC, APRA, ACCC, ACC, AFP</td>
</tr>
<tr>
<td>Efficient, equitable and reliable means to collect general government revenue</td>
<td>Treasury, ATO, ACC, AFP</td>
</tr>
<tr>
<td>Efficient, transparent and reliable expenditure of government funds</td>
<td>DOFAD, Treasury, Centrelink, departments and agencies, AFP</td>
</tr>
<tr>
<td>Secure borders</td>
<td>ACBPS, DIAC, DAFF, AQIS, DOD/ADF, AFP</td>
</tr>
<tr>
<td>Natural resource and environment protection</td>
<td>DEWHA, AFMA, DCC, AFP</td>
</tr>
<tr>
<td>Stable, prosperous region</td>
<td>DFCIT, DOD/ADF, AFP</td>
</tr>
<tr>
<td>Protecting Australians, their leaders and guests, key events and critical infrastructure and aviation from terrorism in Australia and abroad</td>
<td>PM&amp;C, DFAT, AGD, DITRD, ASIO, ASIS, ADF, AFP</td>
</tr>
<tr>
<td>Maintaining the efficiency, integrity and reliability of services provided over the internet so that Australians benefit from the economic, social, personal and intellectual opportunities it offers</td>
<td>DOBCIT, AGD, AFP</td>
</tr>
<tr>
<td>Meeting Australia’s international obligations, treaty and otherwise, in relation to combating crime</td>
<td>AGD, DFAT, AFP</td>
</tr>
<tr>
<td>Reducing the harm arising from the consumption of drugs</td>
<td>DOHA, AGD, ACC, ACBPS, AFP</td>
</tr>
<tr>
<td>Protecting Australia’s most vulnerable citizens from abuse</td>
<td>AGD, AFP</td>
</tr>
<tr>
<td>A safe, secure national capital and administered territories</td>
<td>AGD, AFP</td>
</tr>
</tbody>
</table>
Recommendation 4.1:

The scope and breadth of the National Security strategic planning, budget and other complementary processes should take a broad approach to considering the National Interests that are vulnerable to criminality as a basis for driving priority setting. It would be desirable to develop whole of government plans dealing with strategies over the short, medium and longer terms. Priorities for these whole of government plans should include flexibility to respond to changes in the environment, and encompass:

- counter terrorism;
- border protection (under way);
- serious and organised crime (under development);
- Australian policing deployments overseas in support of peacekeeping and development;
- e-security and e-crime; and
- law enforcement support for business regulation including the Carbon Pollution Reduction Scheme.

Strategic Policing Objectives, associated capabilities and budgets should be considered iteratively against the background of these strategies.

Recommendation 4.2:

These plans should progressively provide the framework within which the Minister’s direction to the AFP is developed, and against which budget proposals are considered.

Setting AFP objectives and determining associated capabilities

While the AFP has determined its capabilities, as illustrated at Figure 4.1, it has not previously had a requirement to define the inputs that generate AFP capability or bring consideration of the breadth and cost of these inputs to discussions with Government. This more operational approach has created an organisation that is responsive, resourceful and capable of adapting to a multiplicity of requirements with relatively limited resources. It has been an asset for Government, for stakeholders and partners and for the community. However, while the AFP has consistently delivered the Government’s new initiatives, frequently at very short notice, it has often been left with long term impacts on its budget and an impaired ability to meet its core responsibilities. Neither the AFP nor the Government has understood the full opportunity costs of these initiatives.

Finding 4.5:

While the AFP receives Ministerial Direction from Government and reports against this direction through its Annual Report and Portfolio Budget Statement, complementary to the greater budget flexibility recommended elsewhere in this report, there is a need for the Minister to formally use section 37 of the AFP Act to require the AFP to more explicitly document its response to strategic directions from Government. This will best be achieved by describing how it will give them effect, and for it to report on its success in doing so against agreed performance indicators.
Recommendation 4.3:

Greater clarity concerning the links between budget, capabilities and performance in the law enforcement and national security environment should be achieved through a closer and more structured dialogue between the Government, its principal policy advisers and the AFP.

The Audit’s view is that the AFP should provide a Statement of Intent in response to the Minister’s direction. This Statement of Intent (it could be a report for the purposes of s 37(6) of the AFP Act) should set out how the AFP intends to give effect to the Minister’s directions, and the implications for the AFP’s responsibilities. It should include the proposed performance measures, as enunciated in the Portfolio Budget Statement, against which the AFP would propose to report. This Statement of Intent would be negotiated with the Government in consultation with central agencies consistent with the development of the Minister’s directions. This process would both inform, and then be informed by, the development of the Government’s National Security Budget, and whole of government sectoral strategic plans. This increased transparency would provide the Minister, his department and the central coordinating agencies greater confidence in consolidating the AFP’s appropriations in a way that will both promote efficiency and flexibility. These issues are returned to in Chapter 5 which deals with Budgeting.

The process is illustrated in Figure 4.3 below.

Figure 4.5
Recommendation 4.4:

The Minister should request from the Commissioner a Statement of Intent under s 37(6) of the AFP Act, in response to the Ministerial Direction. This Statement of Intent should set out how the AFP intends to give effect to the Minister’s directions and the implications for the AFP’s responsibilities.

To provide such a Statement of Intent the AFP needs to have a much clearer view of how capabilities and the inputs that generate them relate to strategic objectives.

The inputs contributing to AFP capability and which should be managed against each change in requirements initiated internally or by Government are broadly:

- **Personnel** – including recruitment, development, conditions of service, salaries, wages and entitlements including superannuation, Certified Agreement impacts and composites and advancement costs over time;
- **Training** – including recruit training, language training, mentoring, development of the unsworn cohort, specialist development;
- **Organisational form** – to allow for ‘functional groupings with an appropriate balance of competency, structure and command and control to accomplish their tasks’;
- **Close Operational Support** such as forensics, telecommunications interception, high tech crime expertise – the nature of the close operational support will flow directly from the AFP’s strategic objectives such as supporting the investigation of the Bali and Jakarta bombings required the development of sophisticated portable analytic technologies to identify explosives;
- **Protocols** and arrangements for working across organisational boundaries including case management and intelligence sharing systems; and
- **Financial resources, capital facilities and equipment**, including information-communications technology.

Developing a clear definition of these inputs, the elements comprising the inputs and the costs associated with each element at each workforce and training level, will allow the AFP to align capabilities to budget, to cost accurately emerging requirements and to advise quickly on the impact of changes to priorities on budget.

The following diagram, *Figure 4.4*, illustrates the relationship between capabilities and inputs:
The complete hierarchy of the relationship between a nominated National Interest, a particular Strategic Policing Objective, AFP capabilities and AFP inputs could then be described as set out in Figure 4.5 below, which examines these relationships in the context of counter-terrorism as a national interest.
Identifying strategic objectives, the capabilities that allow the agency to deliver on those objectives and defining and costing inputs to capability will allow the AFP Commissioner and the senior executive to:

- plan for known requirements and priorities;
- develop responses to emerging issues identified through the AFP’s own scans, involvement with the National Security community and through other intelligence avenues; and
- respond to unplanned or emergency situations with a clear understanding of the costs of response and resultant impacts across the organisation and on budget.
Recommendation 4.5:

The AFP should maintain its new Budget Monitoring Committee processes conducted by the Chief Operating Officer and the Deputy Commissioners so as to strengthen its internal systems to better link strategic objectives to capabilities (and their necessary inputs) and hence to budgets. The AFP Commissioner should maintain the appointment of non-executive independent members to key committees such as the Strategic Leaders Group, the Audit Committee and strategic projects such as the Spectrum Program, to keep informing the AFP’s knowledge of and access to governance and strategic best practice.

Internal Governance

A number of overseas policing agencies and the NSW Police maintain formalised governance boards which provide for representation of local communities or links back to central government. As an example, the UK’s governance arrangements are set out in Appendix 7. While the AFP has no formal governance board, its formal management consultative board includes two non-executive advisors who sit on the Strategic Leaders Group. Currently these non-executive advisers are a retired Secretary of the Department of Defence and former diplomat, and a senior accountant with wide private sector experience.

It is acknowledged that the links between the Australian Government’s criminal law enforcement and national security agencies must be strengthened but also that the independence of the AFP Commissioner under the Act is not compromised. The Audit considered a number of processes to improve these links while ensuring that there is no impact on the operational independence of the Commissioner.

Finding 4.6:

It is important that the AFP maintains strong links between the Australian Government’s criminal law enforcement and national security agencies. The Audit noted that the AFP has progressed implementation of recommendations from the Smith, Street and Clarke reviews that will further strengthen these relationships.

Recommendation 4.6:

The incoming Commissioner should consider inviting the Secretary of the Attorney-General’s Department and the National Security Advisor to join the AFP Strategic Leaders Group’s discussions relating to future Budget bid priorities and new policy proposals for future budgets, and high level resource allocations against government and organisational priorities. This will complement AFP participation on the range of multi-agency executive fora, strengthen AFP awareness of whole of government priorities, and increase knowledge and understanding of AFP capabilities and needs in the policy and coordinating community.
The Audit received widespread comment that the current National Operations Committee processes were simultaneously highly time consuming and bureaucratic while failing to deliver an agile response to AFP-wide priorities. The Audit found that multiple reporting occurs to both the National Operations Committee and the Functional Streams on operational and business performance. Flexibility is further reduced by the emphasis within the AFP budget on many small, dedicated funding buckets financed by individual New Policy Initiatives which earmark resources for particular activities. Furthermore, the National Operations Committee is not working to translate the Strategic Leaders Group’s whole of AFP priorities into operational outcomes. The AFP has recognised these issues and has instituted a reform process for the National Operations Committee.

In time the Chair of the National Operations Committee could be provided by one of the members of the Strategic Leaders Group below the Deputy Commissioner level (for example the National Manager Intelligence).

**Finding 4.7:**
Current National Operations Committee processes are highly time consuming and bureaucratic and fail to deliver an agile response to AFP-wide priorities as established by the Strategic Leaders Group.

**Finding 4.8:**
There is widespread resentment and concern about the frequent, multiple and duplicative reporting of operational case and business activity to Functional Managers and the AOCC. Managers of regional and international offices report a weekly requirement of up to eight reports, each with different coverage and format.

**Recommendation 4.7:**
The link between the Strategic Leaders Group and the National Operations Committee should be strengthened to ensure that Committee reflects whole of AFP priorities and supports the flexible deployment of resources to achieve them. The Deputy Commissioner Operations should chair the National Operations Committee for a period of at least one year. Following this period, the Chair should remain the responsibility of a member of the Strategic Leaders Group, such as the National Manager Intelligence, to maintain the direct link to the Strategic Leaders Group.

While recommending the Deputy Commissioner as Chair of the National Operations Committee, the Audit acknowledges the increased workload expected of the AFP’s Senior Leadership (the Commissioner, the two Deputy Commissioners and the Chief Operating Officer) over recent years. Involvement in major policy and decision making bodies has grown to the extent that the Commissioner and two Deputy Commissioners are committed for considerable periods to participation in such activities. This has led to increased pressures on the Senior Leadership which may risk the AFP’s ongoing engagement with whole of government and the ability to deliver all other necessary functions of office, including the ability to make accurate and timely decisions on major policy issues.

These pressures could be alleviated via the appropriate delegation of decision-making responsibilities to members of the Senior Executive Service, at Assistant-Commissioner and Commander levels and be further supported by the creation of a third Deputy Commissioner position.
Recommendation 4.8:

The AFP should consider reviewing the delegation of decision-making responsibilities and creating a third Deputy Commissioner, in recognition of the increased expectations and obligations of senior AFP participation and decision-making across Government.
Chapter 5

Budgets & Programs

5.16 Introduction

The AFP Budget has grown substantially in recent years, from $385m in 2000-01 to $1,361m in 2009-10. However, this is related to specific additional responsibilities that have been allocated to the AFP and is not reflected as growth in core funding.

Current arrangements

The AFP’s budget is appropriated under two outcomes:

Outcome 1: Criminal Investigations – the investigation and prevention of crime against the Commonwealth and protection of Commonwealth interests in Australia and overseas and comprises:

- Output 1.1 – Border and International Network;
- Output 1.2 – Economic and Special Operations;
- Output 1.3 – Terrorism;
- Output 1.4 – International Deployment Group;
- Output 1.5 – Protection Services;
- Output 1.6 – Aviation Services; and
- Output 1.7 – High Tech Crime Operations.

Outcome 2: ACT Community Policing – Policing activity creates a safe and secure environment in the ACT

- Output 2.1 – Services to the ACT Government.

The AFP is dealing with more than 38 separate allocations which are either lapsing or terminating programs and a further 26 programs that are tied but ongoing and comprise about 73 per cent of total AFP funding.

Finding 5.1:

Seventy-three per cent of the AFP’s resources are provided through terminating, lapsing or otherwise time limited funding initiatives. This is a significant inhibition to medium to long term planning for the engagement and development of AFP staff, and the acquisition of appropriate equipment and capital items. This budget difficulty is exacerbated in the out years of the forward estimates period.

The AFP is currently structured along functional lines, a model developed and implemented in 2003-04 and currently under review to ensure that it continues to meet operational requirements for coordination across priorities; to improve strategic planning and policy development capability; and to meet the evolving transnational policing environment.
The AFP has invested significantly in the Functional Model and has a long term commitment to its effective management and operation to improve flexibility and provide greater focus on meeting AFP wide rather than sectional priorities.

The AFP has experienced significant growth in total revenue between 1995-96 and 2009-10. In 1995-96 the AFP had a total funding budget of $271m (in nominal dollars of that year) and the total funding received by the AFP reduced marginally due to whole of Government savings measures designed to reduce the budget deficit.

During the 1990s the AFP experienced significant problems delivering required outcomes within budget, resulting in the Government establishing the Ayers Review to examine AFP operations and funding. The Ayers Review resulted in an injection of additional Government funding under the AFP Reform Program totalling $115m over a three year period from 1998-99. Stage Two of the Reform program provided ongoing funding of approximately $28m per annum from 2001-02.

The other significant source of new funding was under the Government’s National Illicit Drugs Strategy. The first tranche of funding was received in 1997-98 and by the last tranche in 1999-2000 the AFP was receiving an additional $25m per annum. Performance measurements by the AFP, including through the Drug Harm Index confirmed that this temporary boost in expenditure was accompanied by an increase in seizures in Australia and abroad and a significant reduction in drug harm in the Australian community.

Figure 5.8

<table>
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<th>Year</th>
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<th>Total Gains</th>
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</table>

Notes: 1. The above table is denominated in nominal dollars for each year.
2. Total gains relate to gains/losses on the disposal of assets and resources received free of charge.
The primary drivers for the funding growth from 2002/03 onwards relate to additional responsibilities and New Policy Initiatives allocated to the AFP in the following activities:

- International deployments – establishment of the International Deployment Group and in particular to support major overseas deployments in Solomon Islands, Papua New Guinea, East Timor, Afghanistan and other countries (the various appropriations related to IDG measures is $281m in 2008-09);

- Counter Terrorism – following on from a number of terrorist related incidents there has been additional funding provided to support increased activity related to domestic counter terrorism activities, including enhanced protection activities and international activities focused on regional support and capacity building, primarily in South East Asia (the various appropriations related to counter terrorism measures total $53m in 2008-09);

- Aviation Security – substantial additional resources have been deployed to strengthen aviation security following on from the September 2001 terrorist attacks and the Wheeler Review into aviation security (the various appropriations related to Aviation measures total $199m in 2008-09);

- The Australian Protective Service business unit was transferred to an operating division of the AFP with effect from 1 July 2002. The transfer saw the integration of around 1,400 staff providing guarding and security services, counter terrorism first response and the Air Security Officer program. The funding in 2002-03 of $98m was made up of $31.6m in appropriations and $66.4m in commercial revenue; and

- There have been a number of other significant initiatives associated with Operation Wickenby (joint investigation with the Australian Taxation Office into tax fraud), future operational systems (Project Spectrum) and Additional Police Officers.

The traditional programs for Border & International and ACT Policing have experienced steady growth between 2001-02 and 2008-09. Economic & Special Operations has remained steady over the period, with an exception in 2004-05 due to the AFP response to the Boxing Day Tsunami. Counter Terrorism experienced a significant surge in 2002-03 in response to the Bali bombings and in 2004-05 following the Jakarta embassy bombing. The expenditure has increased following 2004-05 in association with New Policy Initiatives.

Protection Services experienced a significant increase from 2001-02 to 2002-03 which coincided with the transfer of the Australian Protective Service into the AFP. Growth since this time relates to the introduction of the Diplomatic Guarding Services New Funding Initiative and some expansion in cost recovery activity.
Table 5.2

<table>
<thead>
<tr>
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<td>1.1 Border and International Network</td>
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<td>151.7</td>
<td>157.3</td>
<td>154.7</td>
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<td>1.2 Economic and Special Operations</td>
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<td>128.5</td>
<td>116.5</td>
<td>139.5</td>
<td>110.8</td>
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<td>32.3</td>
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<td>51.7</td>
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<td>115.5</td>
<td>167.2</td>
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<td>251.6</td>
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<td>161.0</td>
<td>169.9</td>
<td>187.0</td>
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<tr>
<td><strong>Total Outcome 1</strong></td>
<td>314.1</td>
<td>503.7</td>
<td>596.5</td>
<td>717.5</td>
<td>814.6</td>
<td>986.9</td>
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<td>2 ACT Policing</td>
<td>73.1</td>
<td>80.5</td>
<td>86.5</td>
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<td>108.4</td>
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<td><strong>Total AFP</strong></td>
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<td>584.2</td>
<td>683.0</td>
<td>808.9</td>
<td>916.2</td>
<td>1,095.3</td>
<td>1,252.7</td>
<td>1,249.5</td>
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</table>

1) All costs are shown in nominal terms (not adjusted for the value of money over time)  
2) Corporate and enabling costs attributed to outputs  
3) 2007-08 impacted by $43m operating loss with the overhead elements smeared across all outputs

The most significant growth over recent years relates to the International Deployment Group and Aviation. The International Deployment Group now comprises 24 per cent and Aviation 22 per cent of total Outcome One expenditure.

**Budget 2009-10**

The revenue budget for the AFP for 2009-10 is $1.361 billion, an increase of $111 million compared to 2008-09. New AFP measures are in partnership with other agencies and include programs to increase AFP capability development activities in South East Asia, technical assistance (including forensic capability development) to key African countries, enhancement of AFP counter people smuggling capacity and to support the development of the Afghan National Police in Uruzgan Province.

Further funding was provided for leasing arrangements for airport operations and for Airport Uniformed Policing to fund a full complement of officers under the agreements with the State and Territory governments. A number of terminating or lapsing programs have been extended and funding was provided for capacity building within the region through the Regional Assistance Mission to the Solomon Islands.
5.17 Issues

The AFP is exposed by a number of terminating and lapsing New Policy programs over the coming four years. Only 27 per cent ($305m) of the AFP appropriation is defined as base/core funding that the AFP has to deliver on core ongoing objectives. The nature of the New Policy and terminating funds makes forward planning difficult in an environment of funding uncertainty and reduces the flexibility of the AFP in responding to changing priorities and crime and security ‘shocks’. It should be noted that operational priorities can change significantly and in much shorter timeframes than the timeframes around lapsing program reviews, which is normally every four years.

The funding provided for the additional 500 officers new measure does not cover the estimated cost to the AFP.

The affordable Full-Time-Equivalents for the AFP from 2008-09 onwards will decline as a result of unfunded increases in employee costs.

The International Deployment Group Future Strategies funding is significantly short of estimated funding requirements to maintain a staffing level of 1,200.

The AFP’s exposure to foreign currency movements can significantly impact its purchasing power and costs in relation to operating and capital expenditure.

5.18 Consideration of the issues

Tied budget funding

Tied New Policy Funds relate to specific deliverable requirements for example in relation to the various aviation measures, various protection measures, Operation Wickenby, Cyber Safety and the various International Deployment Group missions. These funds must only be used for the specified purposes. This significantly limits the flexibility of the AFP to allocate resources to meet emerging and immediate priorities. With 73 per cent of the AFP revenue base tied to specific initiatives and purposes, only 27 per cent is defined as base/core funding that the AFP has to deliver on core objectives.

Finding 5.2:

The high proportion of ‘temporary’ funding fails to recognise that fundamental demands for policing are not likely to reduce in the years ahead and presents a false picture of the likely reduction of future government outlays.

Tied New Policy Funding is classified as either subject to review (due to being lapsing or a specific decision), terminating or ongoing, depending on the Government’s decision regarding the treatment of funds within the AFP forward estimates. The below graph illustrates the percentage of the AFP’s 2009-10 Departmental appropriation funding that is classified as either Tied or base/core funding.
In addition to appropriation funding, and thus not included in these figures, the AFP receives additional revenue for the provision of goods and services. The AFP will receive as revenue from the ACT Government $132.0m in 2009-10 which is tied to the delivery of community policing services within the ACT, as well as revenue for the delivery of protective security services, policing services to Australia’s External Territories, criminal history checks, and the provision of training, information and communications technology and other services.

Figure 5.9

The below table details all major New Policy initiative funding within the AFP’s Departmental appropriation budget since 2001-02. Funding received prior to this time is considered to be core or base funding, and includes funding received by the AFP under the National Illicit Drugs Strategy and the Stage 2 of the AFP Reform Program.
### Table 5.3

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<tr>
<th>Major New Initiatives</th>
<th>2008-09 $'000</th>
<th>2009-10 $'000</th>
<th>2010-11 $'000</th>
<th>2011-12 $'000</th>
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<td>Aviation Security - enhancement</td>
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<td>Enhanced Aviation Security</td>
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<td>PNG</td>
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<td>Offshore CT rapid deployment capability</td>
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<td>Jakarta Centre for Law Enforcement Cooperation</td>
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<td>Continued presence and support in Melanesia</td>
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<td>Surveillance - Enhanced capabilities and oversight</td>
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<td>Fighting Terrorism at its Source</td>
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<td>Aviation Security (Phase 2)</td>
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<td>Contribution to East Timor</td>
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<tr>
<td>Addressing Violence &amp; Child Abuse in Indig Comm's</td>
<td>877</td>
<td>677</td>
<td>-</td>
<td>-</td>
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<td>National E security National Agenda</td>
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<tr>
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<td>877</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>6,482</td>
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<td>1,475</td>
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<td>Combating Illicit Drugs - Expansion of the ILO Network</td>
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<td>Sudan - AFP's Contribution for the UN Mission</td>
<td>1,097</td>
<td>1,762</td>
<td>1,292</td>
<td>-</td>
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<tr>
<td>Intellectual Property Crime</td>
<td>5,056</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>Oil For Food task Force</td>
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<td>1,403</td>
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<td>Aviation Security - UPM - Airport Accommodation</td>
<td>15,306</td>
<td>18,306</td>
<td>17,646</td>
<td>17,646</td>
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<tr>
<td>Northern Territory Emergency Response</td>
<td>9,159</td>
<td>9,270</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Additional Police Officers - Recruitment and Retention program</td>
<td>5,000</td>
<td>5,000</td>
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<tr>
<td>Australian Assistance in Iraq</td>
<td>5,783</td>
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<td>3,989</td>
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<tr>
<td>Timor Leste Police Development</td>
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<td>26,686</td>
<td>26,686</td>
<td>26,686</td>
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<tr>
<td>Deployment to Afghanistan Part B</td>
<td>9,060</td>
<td>16,023</td>
<td>-</td>
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</tr>
<tr>
<td>Pacific Policing Development Program</td>
<td>6,132</td>
<td>11,027</td>
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<td>8,897</td>
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<td>Additional Police Officers</td>
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<td>10,686</td>
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<td>54,933</td>
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<td>Cyber-Safety</td>
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<td>Developing Regional Law Enforcement Capacity</td>
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<td>1,308</td>
<td>979</td>
<td>889</td>
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<td>Enhancing Australia’s Approach to People Smuggling</td>
<td>683</td>
<td>650</td>
<td>658</td>
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<tr>
<td>Pakistan Law enforcement contribution</td>
<td>3,252</td>
<td>3,315</td>
<td>3,349</td>
<td>-</td>
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<tr>
<td>UPM at Airports - Leasing Costs</td>
<td>-</td>
<td>2,213</td>
<td>12,779</td>
<td>-</td>
</tr>
<tr>
<td>UPM Supplementary Funding</td>
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</tr>
<tr>
<td>Strengthening Rule of Law in Africa</td>
<td>1,187</td>
<td>1,199</td>
<td>1,213</td>
<td>-</td>
</tr>
<tr>
<td>Police Training - Afghan National Police</td>
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<td>2,546</td>
<td>2,694</td>
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<td>People Smuggling - Enhanced Technical &amp; Surveillance</td>
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<td>756,633</td>
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<td>304,634</td>
<td>312,660</td>
<td>318,044</td>
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<td>1,111,636</td>
<td>1,051,653</td>
<td>1,074,677</td>
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</tbody>
</table>
New policies subject to review

The AFP’s budget for 2009-10 includes $404 million or 37 per cent classified as being subject to review, either a lapsing program review or other Government required review. The most significant programs relate to Aviation, International Deployment Group Future Strategy funding and Protection. Following is a summary of the existing programs for AFP subject to review during the period of the forward estimates.

Table 5.4

<table>
<thead>
<tr>
<th>SUBJECT TO REVIEW</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
<th>2011-12</th>
<th>2012-13</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>$'000</td>
<td>$'000</td>
<td>$'000</td>
<td>$'000</td>
<td>$'000</td>
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<tr>
<td>Aviation</td>
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<tr>
<td>Aviation Security - enhancement</td>
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<td>1,486</td>
<td>3,040</td>
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<td>Aviation Regional Rapid Deployment teams</td>
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<td>4,611</td>
<td>4,611</td>
<td>4,611</td>
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<td>Joint Airport Investigation Teams</td>
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<td>9,133</td>
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<td>Airport Police Commander</td>
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<td>Aviation Unified Policing Model - Phase 1</td>
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<td>18,887</td>
<td>18,887</td>
<td>18,887</td>
<td>18,887</td>
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<td>Joint Airport Intelligence Group</td>
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<td>60,185</td>
<td>60,622</td>
<td>60,622</td>
<td>60,622</td>
<td>60,622</td>
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<tr>
<td>Aviation Security - UPM - Airport Accommodation</td>
<td>15,306</td>
<td>18,306</td>
<td>17,646</td>
<td>17,646</td>
<td>17,646</td>
</tr>
<tr>
<td>UPM at Airports - Leasing Costs</td>
<td>2,213</td>
<td>12,779</td>
<td>21,661</td>
<td>21,661</td>
<td>21,661</td>
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<tr>
<td></td>
<td>199,325</td>
<td>205,707</td>
<td>208,814</td>
<td>219,580</td>
<td>228,262</td>
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<td>IDG</td>
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<td>AFP International Deployments (IDG IFS))</td>
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<td>Other NPP</td>
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<td>30,401</td>
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<td>5,131</td>
<td>5,131</td>
<td>5,131</td>
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<tr>
<td>Counter Terrorism Liaison and Capacity Building</td>
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<td>5,327</td>
<td>5,327</td>
<td>5,327</td>
<td>5,327</td>
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<td>National Missing Persons Coordination</td>
<td>881</td>
<td>772</td>
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<td>772</td>
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<td>Telecommunication Interception</td>
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<td>2,660</td>
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<td>404,012</td>
<td>407,119</td>
<td>417,685</td>
<td>426,567</td>
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</table>

Finding 5.3:

Finely disaggregated funding sources could provide a mechanism for inappropriate interference by central agencies and political government in operational decisions, which should be managed by the AFP Commissioner and his senior officers.

Terminating programs

The AFP is exposed by a number of terminating programs over the coming few years. The following table identifies the affected programs, which total some $231m in funding reductions in 2009-10, or approximately 21 per cent of the AFP appropriation funding.
Table 5.5

<table>
<thead>
<tr>
<th>TERMINATING PROGRAMS</th>
<th>2008-09 $'000</th>
<th>2009-10 $'000</th>
<th>2010-11 $'000</th>
<th>2011-12 $'000</th>
<th>2012-13 $'000</th>
<th>Terminating Year (ended)</th>
</tr>
</thead>
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<td>128,974</td>
<td>109,730</td>
<td>105,790</td>
<td>100,686</td>
<td>90,980</td>
<td>2012-13</td>
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<tr>
<td>Operation Wickenby</td>
<td>13,569</td>
<td>13,593</td>
<td>7,851</td>
<td>7,461</td>
<td>7,373</td>
<td>2012-13</td>
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<tr>
<td>Contribution to East Timor</td>
<td>3,858</td>
<td>5,880</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2009-10</td>
</tr>
<tr>
<td>Addressing Violence &amp; Child Abuse in Indig Comm's</td>
<td>877</td>
<td>677</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2009-10</td>
</tr>
<tr>
<td>Contribution to Afghanistan</td>
<td>877</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2008-09</td>
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<tr>
<td>Sudan - Providing an AFP Contrib’n for the UN Mission</td>
<td>1,002</td>
<td>1,762</td>
<td>1,292</td>
<td>-</td>
<td>-</td>
<td>2010-11</td>
</tr>
<tr>
<td>Intellectual Property Crime - Investigation &amp; Prosecution</td>
<td>5,056</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2008-09</td>
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<td>3,662</td>
<td>1,403</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2009-10</td>
</tr>
<tr>
<td>Northern Territory Emergency Response</td>
<td>9,159</td>
<td>9,270</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2009-10</td>
</tr>
<tr>
<td>Additional Police Officers - Recruitment and Retention program</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>-</td>
<td>-</td>
<td>2010-11</td>
</tr>
<tr>
<td>Australian Assistance in Iraq</td>
<td>5,783</td>
<td>3,952</td>
<td>3,989</td>
<td>-</td>
<td>-</td>
<td>2010-11</td>
</tr>
<tr>
<td>Timor Leste Police Development</td>
<td>14,543</td>
<td>26,689</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2009-10</td>
</tr>
<tr>
<td>Deployment to Afghanistan Part B</td>
<td>9,060</td>
<td>16,023</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2009-10</td>
</tr>
<tr>
<td>Pacific Policing Development Program</td>
<td>6,132</td>
<td>11,027</td>
<td>9,615</td>
<td>8,897</td>
<td>-</td>
<td>2011-12</td>
</tr>
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<td>UPM Supplementary Funding</td>
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<td>9,026</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2009-10</td>
</tr>
<tr>
<td>Strengthening Rule of Law in Africa</td>
<td>1,187</td>
<td>1,199</td>
<td>1,213</td>
<td>1,227</td>
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<td>2012-13</td>
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<tr>
<td>Police Training - Afghan National Police</td>
<td>1,199</td>
<td>2,546</td>
<td>2,694</td>
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<td></td>
<td>2010-11</td>
</tr>
<tr>
<td>People Smuggling - Enhanced AFP &amp; Regional Capability</td>
<td>8,952</td>
<td>6,735</td>
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<td>2010-11</td>
</tr>
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<td>Enhanced AFP People Smuggling Strike Teams</td>
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<td>2,847</td>
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<td>2,692</td>
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<td>2012-13</td>
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<td>People Smuggling - Enhanced Technical &amp; Surveillance</td>
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<td>3,064</td>
<td>3,098</td>
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<td>Total Funding for Terminating Programs</td>
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</table>
**Tied ongoing funding initiatives.**

The remaining 15 per cent of the AFP’s tied funding relates to initiatives with funding classified as ongoing within the AFP forward estimates. These initiatives relate mainly to AFP functions of Border, Counter Terrorism and Protection.

Table 5.6

<table>
<thead>
<tr>
<th>TIED ONGOING FUNDING</th>
<th>2008-09</th>
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<th>2010-11</th>
<th>2011-12</th>
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<tr>
<td></td>
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<tr>
<td>Pakistan Law enforcement contribution</td>
<td>3,252</td>
<td>3,315</td>
<td>3,349</td>
<td>3,129</td>
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</tr>
<tr>
<td>Other</td>
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<td>Offshore CT rapid deployment capability</td>
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<tr>
<td>People Smuggling strike team</td>
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<tr>
<td>Surveillance - Enhanced capabilities and oversight</td>
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<td>National Protection Operations Centre</td>
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<td>Fighting Terrorism at its Source</td>
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<td>Collection, Assessment and Storage of Sensitive Intel</td>
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<td>7,628</td>
<td>8,570</td>
<td>8,570</td>
<td>8,570</td>
<td></td>
</tr>
<tr>
<td>Maritime Security</td>
<td>370</td>
<td>383</td>
<td>383</td>
<td>383</td>
<td></td>
</tr>
<tr>
<td>National Security National Agenda</td>
<td>4,377</td>
<td>4,090</td>
<td>4,104</td>
<td>4,104</td>
<td></td>
</tr>
<tr>
<td>Implementing the Anti-Terrorism Act (No. 2) 2005</td>
<td>4,831</td>
<td>4,878</td>
<td>4,878</td>
<td>4,878</td>
<td></td>
</tr>
<tr>
<td>Increased Human Source Capacity for the AFP</td>
<td>1,082</td>
<td>1,085</td>
<td>1,103</td>
<td>1,103</td>
<td></td>
</tr>
<tr>
<td>Future Operational Systems (Spectrum)</td>
<td>6,482</td>
<td>11,030</td>
<td>14,317</td>
<td>10,131</td>
<td></td>
</tr>
<tr>
<td>Combating Illicit Drugs - Enhanced AFP Inv Capacity</td>
<td>1,449</td>
<td>1,475</td>
<td>1,489</td>
<td>1,489</td>
<td></td>
</tr>
<tr>
<td>Combating Illicit Drugs - Expansion of the ILO Network</td>
<td>1,138</td>
<td>1,152</td>
<td>1,292</td>
<td>1,292</td>
<td></td>
</tr>
<tr>
<td>Additional Police Officers</td>
<td>5,574</td>
<td>10,686</td>
<td>17,514</td>
<td>54,933</td>
<td></td>
</tr>
<tr>
<td>Cyber-Safety</td>
<td>6,956</td>
<td>12,809</td>
<td>13,309</td>
<td>13,042</td>
<td></td>
</tr>
<tr>
<td>Developing Regional Law Enforcement Capacity</td>
<td>1,308</td>
<td>979</td>
<td>889</td>
<td>890</td>
<td></td>
</tr>
<tr>
<td>Enhancing Australia's Approach to People Smuggling</td>
<td>683</td>
<td>650</td>
<td>658</td>
<td>658</td>
<td></td>
</tr>
<tr>
<td>Enhanced Protective Security</td>
<td>27,942</td>
<td>27,942</td>
<td>27,942</td>
<td>27,942</td>
<td></td>
</tr>
<tr>
<td>Total Funding for Tied Programs</td>
<td>151,549</td>
<td>171,504</td>
<td>181,998</td>
<td>214,916</td>
<td></td>
</tr>
</tbody>
</table>

**Finding 5.4:**

Finely disaggregated funding sources limit the AFP’s ability to respond flexibly to changing priorities and circumstances, increase administrative costs and reduce efficiency. They drive yet more proposals for specific purpose funding to support new, or newly important activities.
Additional 500 officers

The increase in sworn AFP officers new measure was to implement the Government’s election commitment to fund an additional 500 sworn AFP members over five years. The Government agreed to funding arrangements in the 2008-09 Budget of $191.9m over five years as follows:

Table 5.7

<table>
<thead>
<tr>
<th>Year</th>
<th>Annual increase</th>
<th>Cumulative increase</th>
<th>$m</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008-09</td>
<td>30</td>
<td>30</td>
<td>6.9</td>
</tr>
<tr>
<td>2009-10</td>
<td>30</td>
<td>60</td>
<td>11.5</td>
</tr>
<tr>
<td>2010-11</td>
<td>40</td>
<td>100</td>
<td>8.3</td>
</tr>
<tr>
<td>2011-12</td>
<td>200</td>
<td>300</td>
<td>60.8</td>
</tr>
<tr>
<td>2012-13</td>
<td>200</td>
<td>500</td>
<td>94.4</td>
</tr>
</tbody>
</table>

Ongoing funding of $83.2m was provided from 2013-14, noting that this is less than the 2012-13 funding as the funding for that year included recruitment and training costs associated with the final year of 200 officers.

This new measure was introduced to respond to the identified reduction in the AFP capacity to effectively address key areas of criminal threats impacting on the Commonwealth. It will enable the AFP to increase its investigative capacity in priority areas of threat, with a particular emphasis on:

- disrupting transnational crime and organised criminal activity including:
  - Terrorism;
  - Major fraud;
  - Drug trafficking; and
  - High Tech Crime.
- targeting the profits generated from criminal activity through the use of Proceeds of Crime provisions; and
- reducing the opportunities for criminal activity by addressing and disrupting criminal methodologies.

The funding for this new measure is less than the actual cost to the AFP of the additional officers. The funding shortfall can be attributed to the following issues.
The agreed costing provided only for the indexation of employee costs in line with the wage cost index less efficiency dividend (approx 1 per cent per annum). The real cost to the AFP of employees increases an average of 6 per cent per annum (4 per cent salary increase plus increment associated with progression). The below table illustrates the shortfall to the AFP when compared to the estimated full employee cost of the additional 500 officers;

**Table 5.8**

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
<th>2011-12</th>
<th>2012-13</th>
<th>Total</th>
<th>Ongoing</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Government Agreed Cost</strong></td>
<td>6.9</td>
<td>11.5</td>
<td>18.3</td>
<td>60.8</td>
<td>94.4</td>
<td>191.9</td>
<td>83.2</td>
</tr>
<tr>
<td><strong>Full employee cost to the AFP</strong></td>
<td>6.9</td>
<td>12.2</td>
<td>20.0</td>
<td>67.4</td>
<td>108.6</td>
<td>215.0</td>
<td>99.0</td>
</tr>
<tr>
<td><strong>Funding shortfall</strong></td>
<td>0.0</td>
<td>-0.7</td>
<td>1.7</td>
<td>6.5</td>
<td>-14.2</td>
<td>-23.1</td>
<td>-15.8</td>
</tr>
</tbody>
</table>

The agreed funding does not include any funding for close unswnorn operational support staff required to provide specialised investigative and intelligence support as well as forensic & technical support for the additional 500 operational staff. For sworn officers to be used effectively on the identified priorities they need support from specialist services generally staffed by unswnorn employees. These include forensics (such as crime scene support, drug analysis, forensic accountants, computer forensics), technical experts (such as police technical teams, telephone intercept, communication support), intelligence analysts and investigative assistants.

The cost of Forensic Support is currently part of the AFP New Policy Initiative costing template at a rate of 7 per cent of base salaries, although this was not incorporated into the costings for the Additional 500. If allowed for, this cost alone is calculated at $8.2m over four years and $4.1m each year from 2013-14;

The funding provided for the additional 500 officer new measure therefore does not cover the estimated cost to the AFP, to the extent of $31.3m over the five years of the proposal. A further shortfall of $20.0m per annum is estimated on the ongoing funding from 2013-14, which will need to be drawn from the existing base funding of the AFP at the expense of other priority areas. One potential priority area could be these close operational support areas, meaning that these skills and resources, which were not increased in proportion with the additional 500 sworn investigators, could potentially actually be reduced to meet the funding shortfall on the sworn investigators salaries. The end result will be that the net effectiveness of the additional 500 sworn investigators will not be increased as much as it would have been if AFP were provided with the full budget amount and allowed to determine the appropriate resource mix to achieve an improvement in the objectives nominated by the government.
Finding 5.5:

Policing capabilities require the complementary combination of inputs including sworn police members, expert civilian analysts and technicians, scientists, administrative support staff and logistic, technical, and scientific equipment and capital facilities. An over-emphasis on sworn police numbers and their funding fails to recognise these complementarities.

**AFP affordable Full-Time Equivalent staff**

The AFP is subject to the ongoing efficiency dividend of 1.25 per cent per annum although activities funded from external revenues are exempt, such as ACT Policing and commercial activities performed by Protection.

While the AFP receives wage and cost indexation on its total appropriations (2.6 per cent for 2009-10), after taking into account the efficiency dividend, the net indexation to the AFP funding base for 2009-10 amounts to 1.3 per cent.

The employee costs are projected to increase in the 2009-10 financial year by 8 per cent due primarily to:

- a salary increase of 4 per cent under the Collective Agreement;
- advancements and increments provided to employees if certain requirements are met;
- increased superannuation contributions (an additional 3.7 per cent for the Public Sector Superannuation scheme and 0.7 per cent for the Commonwealth Superannuation Scheme); and
- an increase in the proportion of composites that will count for superannuation purposes (an additional 8 per cent will be incorporated).

The AFP has made an assumption of a 6 per cent annual growth in the average cost per employee for the years beyond 2009-10. This represents a real reduction in purchasing power of $50m in the 2009-10 financial year. Furthermore, a one-off Efficiency Dividend of 2 per cent was introduced with effect from 1 March 2008 with a part year effect in 2007-08 and a full year effect in 2008-09. While this was a one-off dividend, it reduced the ongoing appropriation base for each year into the future and it will reduce the AFP appropriation by $20m for each year from 2008-09 onwards.

The AFP also has a number of contracts for operational and support services that incorporate annual price increases linked to the Consumer Price Index or similar indices. These indices are likely to be in excess of the net indexation to the AFP funding base of 1.3 per cent (Wage Cost Index less annual efficiency dividend). For example, the AFP has annual expenditure of approximately $70m for the provision of property, including overseas locations. The lease agreements generally provide for annual fixed rent increases with periodic rent reviews.
These future funding pressures directly impact on the affordable Full-Time Equivalent from 2008-09 onwards. Internal projections forecast that the AFP will exceed its affordable Full-Time Equivalent in each of the out years as well as being 73 (2009-10) and 181 (2010-11) above the affordable Full-Time Equivalent going into each financial year based on an adjusted attrition rate of 4.63 per cent. This modelling includes the offset associated with the Additional 500 Sworn Officers New Policy Initiative. If the increase in Sworn Officer numbers is applied in accordance with the Additional 500 NPI, it is clear that the burden of any net reductions in Full-Time Equivalent numbers will fall disproportionately on non-sworn employees – including close operational support areas like Forensic, Technical support and Intelligence as well as corporate support.

Finding 5.6:
Increases in employee costs are affecting numbers of Full-Time Equivalents that the AFP can afford to maintain. If the reduction in Full-Time Equivalents is linked with the increase in sworn officer numbers it is clear that the burden of reductions will fall heavily on non-Sworn employment – including close operational support areas like Forensic, Technical support and Intelligence as well as corporate support.
International Deployment Group Future Strategies

The AFP received new measure funding in 2006-07 to secure the long term funding for international deployments undertaken within the International Deployment Group. An additional $493.2m over five years was provided in 2006-07 and subject to two requirements. Firstly, funding would be reviewed in the 2010-11 budget process to assess any changes that may be required. Secondly, staffing costs were provided on a ‘no win/no loss’ basis with unspent costs returned to the budget.

In addition to this funding, the AFP received mission specific funding to cover the costs of actually undertaking a specific mission. The funding of mission costs through separate New Policy Initiatives greatly reduces the flexibility of the International Deployment Group moving funding between missions if circumstances change.

In the 2008-09 Budget, the Future Strategies funding was reduced by $10m as a one-off savings measure, resulting in a reduction of 67 staff.

The below table compares total funding included in the AFP forward estimates for Futures Strategies with the estimated funding requirements for 1200 Full-Time Equivalents. This comparison excludes supplier expenses, although it is envisaged that there is a shortfall in supplier funding.

<table>
<thead>
<tr>
<th></th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total IFS funding</td>
<td>119.8</td>
<td>120.9</td>
</tr>
<tr>
<td>AFP estimated funding requirement</td>
<td>168.3</td>
<td>178.1</td>
</tr>
<tr>
<td><strong>Shortfall</strong></td>
<td>(48.5)</td>
<td>(57.2)</td>
</tr>
</tbody>
</table>

The funding shortfall and the impact of it are further considered in Chapter 6: International Deployment Group.

The shortfall in employee expenses is directly related to the increase in average salary costs associated with Future Strategies staff ($130k actual versus $90k included in the original costings). This increase is due to:

- the impact of the AFP Collective Agreement primarily associated with salary and associated allowances increases;
- changes in the Future Strategies staffing profile, with the nature of the work requiring staff at a higher band level than was originally anticipated; and
- the average salary rates originally used in the proposal was found to have been inadequate.
The Audit notes that a review of the Future Strategies program and funding will be conducted in preparation for the 2010-11 budget process. The Government will need to decide whether to increase funding or reduce capacity and accordingly modify achievable strategic objectives.

Finding 5.7:
The existing Future Strategies funding within the AFP budget is significantly short of estimated funding requirements to maintain 1,200 staff. The shortfall is estimated to be in the order of $48.5m per annum. In the review of the Future Strategy (see Governance and Capability chapter and IDG chapter) it will be critical to develop realistic cost estimates and for the Government to decide whether to increase funding or reduce capacity and accordingly modify the achievable strategic objectives. The Audit notes the target of 1,200 staff was a commitment by the previous Government, and it is being re-examined in the context of future strategy review. In general the Audit favours the use of required capability descriptions rather than a specific staff target.

Foreign exchange pressures
The Global Financial Crisis, which has escalated over the course of the 2008-09 financial year, will continue to have a significant impact on the AFP’s purchasing power, both domestically and overseas. Whilst there is direct exposure in terms of overseas operations, the most significant impact will be in relation to the domestic purchase of imported goods.

The key areas that are impacted by any changes in the exchange rate are:

- goods and services purchased overseas by the International Network, managed by the Department of Foreign Affairs and Trade ($16.9m), of which approximately $3m relates to locally engaged staff;
- direct and indirect purchase of goods and services overseas, via logistics arrangements in place to support International Deployment Group overseas deployments ($45m per annum);
- overseas allowances paid to staff, exclusive of the International Deployment Group ($1m);
- the purchase of routine information technology and technology equipment ($8m per annum); and
- a further $100m of generic supplier expenses could be impacted to varying degrees by significant and sustained fluctuations in exchange rates.

The exchange rates applying to AFP expenditure do fluctuate and this exposes the AFP Budget to risks of unexpected cost changes.

Finding 5.8:
The decline in the Australian dollar could result in additional costs associated with operating expenditure and capital expenditure depending on the degree of significant and sustained fluctuations in exchange rates.
Revised program structure

Up to and including the 2008-09 Portfolio Budget Statements the AFP has reported against Outcomes and Outputs. In accordance with the requirements of Operation Sunlight, the AFP reviewed its Outcomes and created a six-Program structure for reporting with effect from the 2009-10 Portfolio Budget Statements.

Operation Sunlight is the Commonwealth Government’s budget model which is designed to improve the openness and transparency of public sector budgetary and financial management and to promote good governance practices.

Operation Sunlight has six key objectives:

• tightening the outcomes and outputs framework;
• changing the Budget Papers to improve their readability and usefulness;
• improving the transparency of estimates;
• expanding the reach of budget reporting;
• improving inter-generational reporting; and
• improving the financial framework.

The Audit considered the appropriateness of consolidating AFP funding (that is encompassing the current lapsing and terminating programs to the extent that the Government recognises that these are an ongoing requirement) into a number of programs under two Outcomes. In consolidating the AFP budget into four programs, there is a need to have robust and transparent reporting requirements to Government through the Department of Finance and Deregulation in relation to those programs, and the arrangements under which funding might be able to be reallocated between programs within the budget cycle in the event of changing circumstances.

In developing a program budget framework for the AFP, the Audit is conscious of the approach being considered by the National Security and International Policy Division in the Department of Prime Minister and Cabinet and for the National Security Budget. At the time of writing, the extent to which the AFP budget will form part of the National Security Budget is yet to be determined and is the subject of negotiation. However, it is anticipated the proposed four program budget will complement the National Security Budget framework and will facilitate new National Security measures being initiated as a whole of government approach.

The Audit has suggested that the conceptual approach to relate capabilities to objectives and budget could be viewed as:

• identify relevant national interests – the focus of Government attention enunciated for the AFP in the Ministerial Statement, the National Security Statement and other statements of the Prime Minister or Minister relevant to the AFP;
• set strategic policing objectives relevant to the national interests – this is already undertaken broadly through negotiating the Ministerial Statement. Development of a Statement of Intent similar to that used by Centrelink or CrimTrac or an exchange of letters such as the process established in AusAID could formalise the agency commitments to meeting the broad strategic directions established by the Minister;

• determine capabilities and the inputs that generate capability; and

• align capabilities and strategic policing objectives with available funding.

There would be significant efficiency and flexibility gains, and a more realistic picture of forward estimates for the AFP if funding is consolidated into a smaller number of programs, each of which would share a common broad aim. This would enable the AFP to respond to priorities without automatic recourse to New Policy Initiative programs.

The suggested program breakdown for this model is:

**Outcome 1:**

**Program 1: Security and Protection**

*National Interest: Protecting Australians, their leaders and guests, key events and critical infrastructure and aviation from terrorism in Australia and abroad*

• Counter Terrorism including critical infrastructure
• Protection of key establishments and people
• Aviation

**Program 2: Regional Policing Support**

• International Deployment Group including the Operational Response Group

**Program 3: Protection of the Australian Community from Crime including serious and organised crime**

• Border and International
• Economic and Special Operations
• High Tech Crime

**Outcome 2:**

**Program 4: Community Policing**

• Services delivered to the ACT under purchaser/provider arrangements
• Administered Territories policing

*Corporate Overheads and Close Operational Support* – including Commissioner, Senior Executive, Intelligence, Policy and Future Strategies, Human Resources, Forensics and Data Centres, Information Services, Finance to be funded across all programs through a mix of central allocation, user pays and service agreements.
**Recommendation 5.1:**

The existing core, lapsing and terminating funding (other than mission specific terminating funding) provided in the AFP Budget should be consolidated into base funding under two outcomes into four programs in accordance with the objectives of Operation Sunlight and to provide the flexibility to meet emerging and new priorities as follows:

- **Outcome 1**
  - Program 1: Security and Protection
  - Program 2: International Deployments
  - Program 3: Serious Crime
- **Outcome 2**
  - Program 4: Community policing for the AFP and the directly policed Territories.

**Recommendation 5.2:**

These revised Budgetary arrangements should recognise:

- the increased transparency that will flow from both the revised governance arrangements and the development of agreed performance measures;
- the unlikelihood of any significant overall reduction in the need for policing resources from around their current level;
- the scope for some operational efficiencies and associated savings; and
- the scope for greater flexibility to absorb changing future priorities that will flow from consolidated budgetary arrangements.

**Recommendation 5.3:**

In the future the AFP Budget should be retained in a flexible base allocation so that its application can be adjusted to reflect the changes in the government’s strategic policing objectives and associated required capabilities and inputs. This base funding structure should be maintained throughout the forward estimates and beyond so the flexibilities (and concurrent additional accountabilities) anticipated by the preceding recommendations are sustained.
Chapter 6
The International Deployment Group

6.19 Introduction

The AFP International Deployment Group (IDG) was established in February 2004 to contribute to the development, maintenance or restoration of the rule of law in our region and to contribute to Australia’s UN commitments.

Prior to the establishment of the IDG, AusAID was responsible for arrangements for police capacity-building in the region. However, that responsibility now lies primarily with the AFP, working in conjunction with Department of Foreign Affairs and Trade/AusAID, the Department of Defence, the Australian Defence Force and the Attorney-General’s Department.

6.20 Current arrangements

Australia’s engagement in the region through the IDG (and, prior to its inception, the Regional Assistance Mission to Solomon Islands[155]) reflects a significant shift in Australian foreign policy with respect to the stability and security of our Pacific neighbours, from a position focused primarily on development policies and provision of aid to a position of substantive engagement with an emphasis on improving governance.[156] It reflects a growing recognition at the international level that strengthening policing capacity in weak, failing or failed States is critical to establishing security and adherence to the rule of law. Security, maintenance of the rule of law and functioning governance frameworks are in turn fundamental to economic and social development. This may be demonstrated graphically as follows:

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[155] The Regional Assistance Mission to Solomon Islands, which commenced in July 2003, was subsumed within IDG operations upon the establishment of the IDG in 2004.

Implementation of Australian Government commitments to capacity-building activities in the region and beyond, including police capacity-building, necessitates effective whole of government strategy and coordination. The Regional Assistance Mission to Solomon Islands (RAMSI) represents a comprehensive whole of government strategy, involving the Department of Defence, the Australian Defence Force, the Department of Foreign Affairs and Trade/AusAID, the Attorney-General’s Department, the Department of Finance and Administration and the Treasury.

AusAID recognises law and justice governance as a key pillar in development strategy and supports the current apportionment of responsibilities between AusAID and the AFP. Coordination between agencies and implementation of a whole-of-government strategy is currently managed very effectively in the Solomon Islands in particular, through the Office of the Special Coordinator.157 AFP officers have been seconded to AusAID’s Fragile States Unit and the Office of Development Effectiveness to build on cooperative efforts between the two agencies.

The Department of Foreign Affairs and Trade likewise strongly supports the AFP’s continuing involvement in peacekeeping and humanitarian assistance missions in the region. Consultations during the course of the audit indicate that liaison and coordination between the Department of Foreign Affairs and Trade and the AFP is generally highly effective and productive.

The Australian Defence Force view is that all future peacekeeping and humanitarian assistance missions should involve an inter-agency response, including an AFP component.

In missions involving the Australian Defence Force and AFP engagement to date, some issues of interoperability have arisen. In 2006, the National Security Committee of Cabinet directed both organisations to develop interoperability.158

A Memorandum of Understanding on Interoperability between the Department of Defence and the AFP was signed by the Secretary of the Department of Defence, the Chief of the Defence Force and the Commissioner in September 2008.

‘Interoperability’ is defined for the purposes of the Memorandum as the ability of the participants to train, exercise and operate effectively together in the execution of assigned missions and tasks. The Memorandum provides a framework for cooperation between the participants in the preparation for, and conduct of, operations.

A Joint Steering Committee on Defence/AFP Interoperability, to provide management and coordination arrangements to plan, direct and monitor programs and activities has been established and three AFP liaison officers have been deployed with the Australian Defence Force to support interoperability, in the Australian Defence Force Joint Operations Command, Canberra and Sydney, and the Australian Defence Force Warfare Centre in NSW.

157 A Department of Foreign Affairs and Trade post. For recent commentary on the role of this post, see Volker Boege, Australian approaches to state fragility in the South Pacific Region, a paper presented at the 49th Annual International Studies Association Convention, San Francisco, California, 26-29 March 2008 – Panel: ‘Donor perspectives on state fragility’.

158 The Senate Committee report on Australia’s involvement in peacekeeping operations released in August 2008 found that there was room for improved interoperability between the Australian Defence Force and the AFP when deployed overseas. The Committee recommended that the Australian Defence Force and the AFP work together to devise and implement programs and develop shared doctrine to achieve this objective.
IDG structure

There are three core components of the IDG:

- **Australia-Based** – executive, analysis, planning, administrative, training, intelligence and technical support for deployed personnel;
- **Operational Response Group** – ready response, highly skilled tactical policing capability for rapid deployment in crisis situations internationally and domestically; and
- **Mission Component** – sworn and unsworn personnel deployed to, or ready to deploy to, missions and other operations as required.

IDG missions

The IDG currently deploys personnel to 12 missions that vary significantly in size and function:

- **Afghanistan** – current deployment of 8 personnel (with a further 10 announced), focussed on strategic capacity-building and targeting high-level narcotics trafficking
- **Cambodia** – senior adviser placed with AusAID-funded Criminal Justice Assistance Program to assess opportunities to implement police reform;
- **Cyprus (UN)** – contribution of 15 police to UN Peacekeeping Force in Cyprus;
- **Nauru** – deployment of 4 personnel to Nauru Police Force Capacity Building Project;
- **Papua New Guinea** – deployment of 13 personnel to a scoping mission under the PNG/Australia Policing Partnership;
- **Solomon Islands** – deployment of 172 personnel to the Participating Police Force, focused on police capacity-building;
- **Sudan (UN)** – deployment of 10 police to the UN Mission in the Sudan, focused on police capacity-building;
- **East Timor (bilateral)** – deployment of 39 personnel under the Timor-Leste Police Development Program;
- **East Timor (UN)** – deployment of 50 police to the UN Mission in Timor-Leste, providing support to the Policia Nacional de Timor-Leste with interim law enforcement, training, capacity-building and institutional development;
- **Tonga** – four police advisers deployed under the Tonga Police Development Program, directed at enhancing the capacity of the Tonga Police for effective community policing;
- **Vanuatu** – deployment of 10 personnel under the Vanuatu Police Force Capacity Building Project; and
- **Northern Territory** – deployment of 62 personnel to participate in the Northern Territory Emergency Response (facilitated through the Department of Families, Housing, Community Services and Indigenous Affairs).
A more detailed description of the current AFP missions is set out at Appendix 8.

The missions primarily focus on either regaining stability and basic security (UN Missions) or supporting the capacity development of indigenous police services (Timor-Leste Police Development Program, Vanuatu Police Force Capacity Building Project) and, in some cases – such as RAMSI – both.

The form of each mission will reflect the socio-political context and practical security considerations and depend on the needs of the partner country and the objectives of the Australian Government. For example, police capacity development in a small, homogenous and relatively stable country, such as Tonga, would involve an entirely different approach from capacity development/capacity-building in post-conflict East Timor.

As with the Australian Defence Force, for each member serving on a mission there is a need for an Australia-based contingent to provide logistic and administrative support, training, post and pre-deployment services. There is a need for mission members to cycle through periods in Australia to recover and retrain for the next mission.

**IDG Future Strategy**

On establishment, the IDG was resourced through the amalgamation of the AFP’s Law Enforcement Cooperation Program and the incorporation of existing missions such as RAMSI and the then existing Papua New Guinea Enhanced Cooperation Program.

In May 2006, in the context of concurrent crises in the Solomon Islands and East Timor, the National Security Committee of Cabinet noted that the AFP’s total overseas deployment exceeded the numbers originally foreshadowed when the IDG was established (500) and agreed that a strategy to address AFP capacity in the long term to meet international deployment demands should be brought forward for consideration.

In reaching this conclusion, the National Security Committee of Cabinet also took into account the following matters:

- the AFP had been able to provide a rapid response to crises in the Solomon Islands and East Timor in 2006 only because of resources made available by the withdrawal from the Enhanced Cooperation Program in Papua New Guinea and by diverting resources from other priority activities;
- the existing funding for IDG activities, deriving from Enhanced Cooperation Program funding and RAMSI funding, was insufficient to provide the necessary long-term infrastructure and capacity to support a number of concurrent IDG commitments;
- the mission-specific program approach to funding IDG was not suitable to meet and plan for current, future and enduring demands for AFP offshore policing deployment; and
- the AFP had reached an unsustainable position relying on ad hoc requests to State and Territory police to supplement its IDG deployments.
The IDG Future Strategy proposal explored the risks of the AFP’s 2006 arrangements, and identified options to mitigate them. The strategy was developed from a whole-of-government perspective in consultation with the Department of Defence, the Department of Foreign Affairs and Trade/AusAID, the Department of Prime Minister & Cabinet, The Department of Finance and Administration and the Attorney-General’s Department. The proposal sought to achieve the following objectives:

- a standing Operational Response Group capacity which could lead a police intervention, deliver smaller stand-alone deployments, or deploy as part of a joint military/police intervention;
- provide for two large and one medium long-term capacity-building mission, with durations of three to five years;
- 140 personnel to field seven smaller missions of 20 personnel each to support UN commitments and shorter-term bilateral assistance projects; and
- an enhanced Australian-based support structure able to raise, train and sustain continuous operations including through enhanced training, logistic and equipment capacities.

In August 2006, the Government announced additional funding to increase the AFP IDG capacity to 1,200 sworn and unsworn members within the following components:

- Mission Component personnel (see discussion on deployable mission pool below) – 750
- Australia-Based personnel – 250; and
- the Operational Response Group (see discussion below) – 200.

This measure, known as the IDG Future Strategy, was to be delivered over four phases, based on six-monthly recruiting cycles. However, recruitment to the proposed levels has not proceeded following Government savings measures in the 2008-09 budget.\footnote{\textsuperscript{159}}

As at May 2009, the IDG was funding 1,078 personnel as follows:

- 537 Mission Component (situated both in Australia and overseas);
- 223 Australia-Based;
- 125 Operational Response Group;
- 30 surge capacity with ACT Policing;\footnote{\textsuperscript{160}} and
- 149 standing capacity (encompassing skill sets in the broader AFP to support the IDG such as intelligence, forensics and technical operations).

\footnote{\textsuperscript{159} Prior to the last budget the AFP agreed with Government to delay the phase four recruitment and hold the IDG complement steady at approximately 1,140 personnel for the 2008-2009 financial year. This resulted in a savings measure of $10m.}

\footnote{\textsuperscript{160} This surge capacity will cease on 30 June 2009.}
Deployable mission pool

The concept of a standing international policing capacity was agreed to by the Government in its approval of the Future Strategy in 2006. As indicated above, the Future Strategy proposal for 1,200 IDG personnel envisaged a mission component of 750 personnel with the capacity to support one major deployment (long-term capacity-building), three medium-sized missions and six small deployments.

Prior to the establishment of the standing capacity, support to IDG missions was dependent upon personnel being recruited from the broader AFP, supplemented by personnel from State/Territory jurisdictions. However, this approach proved unviable in circumstances of three concurrent regional crises in 2006 (East Timor, Solomon Islands and Tonga). Ensuring appropriate consistency in operating procedures and in interoperability with the Australian Defence Force is also more difficult if the staffing for the IDG is drawn from a number of police services on an ad hoc basis.

Development of the mission component has been predicated on the assumption that work undertaken offshore to date represents a fair indication of the work that the IDG will undertake in future.

One particular benefit of the standing force concept is that recruitment to the mission pool can be directed at personnel with specific required skill sets and experience. Skills requirements are mission-dependent. Missions principally focused on capacity-building require personnel with broad policing and investigative skills, learning and development skills, and experience in the international environment.

A related benefit is retention of experience and skills acquired during the course of overseas deployments. IDG experience to date has demonstrated that members deployed to overseas missions are gaining abilities in capacity development which cannot emerge only from short-term deployments.

The mission pool concept also results in savings from a training perspective. By reducing the turnover of staff, deployment training requirements are reduced, along with supplier costs associated with uniforms and equipment.

Budgetary framework

The AFP budget for IDG funding for 2008-2009 is $281m. Funding is sourced from seven mission-specific New Policy Initiatives and one staffing New Policy Initiative (the Future Strategy):

- RAMSI;
- Timor-Leste Police Development Program – TLPDP;
- United Nations Mission in Timor-Leste – UNMIT;
- Northern Territory Emergency Response – NTER;
- Afghanistan;
- Pacific Police Development Program – PPDP;
- United Nations Mission in Sudan – UNMIS; and
- IDG Future Strategy.
The IDG Future Strategy provides funding to meet salary and associated costs of IDG personnel. The AFP receives mission-specific funding to cover the costs of undertaking particular missions, including in-country costs for logistics and communications. The funding of mission costs through separate New Policy Initiatives greatly reduces flexibility for moving funding between missions if requirements change.

In the 2008-2009 Budget the Government reduced the AFP budget for Future Strategy funding by $10m as a one-off savings measure, resulting in a reduction of approximately 67 in the number of staff to be recruited under the Future Strategy in the current financial year.

The 2009-2010 Budget provides mission costs funding for an additional 10 AFP members to be deployed to Afghanistan to support the development of the Afghan National Police in Uruzgan Province, including through police training programs.

The 2009-2010 Budget also provides continued funding to support Australia’s commitment to the United Nations Mission in Sudan – the current program is due to lapse in September 2009.

The level of ongoing funding for the AFP for its IDG will be subject to a review in the lead-up to the 2010-2011 Budget process, involving evaluation of the outcomes of additional funding provided and assessment of the impact of any changes in the regional security environment on the services provided by the IDG. Some of the issues relating to the funding of the IDG are discussed in Chapter 5 dealing with the AFP budget.

### 6.21 Issues

The principal issues arising in relation to the structure and operation of the AFP IDG may be summarised as follows.

An initial issue is the scope for measuring and assessing the success of IDG operations as a component of Australia’s foreign policy.

Another issue is the adequacy of the budget base to maintain the concept and scale of operations envisaged by the IDG Future Strategy, assuming that it is appropriate to continue to pursue this Strategy.

Thirdly, there are issues associated with maintaining a capacity such as the AFP Operational Response Group, particularly in terms of engagement of members of the Group when they are not required for deployment or training.

Fourthly, an issue has been raised by interlocutors outside of the AFP as to whether the AFP should establish a paramilitary capability.

### 6.22 Consideration of the issues

**Measuring and assessing success**

The assessment of the success of a particular deployment is a complex task. Ultimate success and failure can only be judged over the long term, and there are many intervening factors. Often the level of reporting and statistics in relation to fundamental policing outcomes – the impact on crime, perceptions of security, and the incidence of corruption – in the countries where the AFP is deployed is weak.
AFP engagement in the region has received broad support both at the domestic level and the international level. In its 2007 submission to the Senate Committee Inquiry into Australia’s Involvement in Peacekeeping Operations, Department of Foreign Affairs and Trade made the following comments on RAMSI:

The participation since December 2006 of all sixteen Pacific Island Forum member nations, and successive endorsements of RAMSI by PIF Leaders’ Meetings, and by the Forum Eminent Persons Group, demonstrates the level of regional support for RAMSI and adds to the mission’s credibility as a regional initiative. … Endorsement by the Commonwealth Secretariat and the United Nations demonstrated the level of wider international support for RAMSI.

In its report on Australia’s involvement in peacekeeping operations released in August 2008,162 the Senate Standing Committee on Foreign Affairs, Defence and Trade made the following findings about the AFP:

The committee believes the establishment and expansion of IDG and the development of tactical capability through the ORG are necessary for the AFP to be able to participate in, and contribute to, international peacekeeping operations. The committee acknowledges the pioneering nature of the ORG which epitomises the AFP commitment to developing the particular skills necessary for the challenges of modern peacekeeping. It supports the AFP’s work in this area and believes that the AFP is now at the forefront in developing a broad-based capability to assist other countries to deliver an effective policing service.

The Committee also expressed support for the AFP’s relationship-building programs with its counterparts in the Pacific region. The Committee referred to the AFP’s provision of assistance to the Nauru Police Force, the AFP involvement in the Vanuatu Police Force Capacity Building Project and the programs delivered by the Pre-Deployment Training Team including participants from many Pacific Island nations. The Committee recommended that exchange programs and joint exercises with personnel from countries relevant to peacekeeping operations in the region continue as a high priority.

The Committee also commended the AFP for its pre-deployment training, stating that it believes the training equips AFP personnel to assist other nations build capacity in the area of law and order.

The AFP international training complex at Majura (which was officially opened in June 2005) delivers training in the areas of capacity development, human rights, cultural awareness and basic skills such as handling four wheel drive vehicles and field first aid.

The UN Department of Peacekeeping Operations has certified the IDG pre-deployment training program as a program that meets the UN peacekeeping training standards.

The UN Secretary-General and Security Council and the Commonwealth Secretary-General all expressed support for the RAMSI initiative at the time of its commencement in 2003.164

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161 Submission by the Department of Foreign Affairs and Trade to the Senate Standing Committee on Foreign Affairs, Defence and Trade Inquiry into Australia’s involvement in peacekeeping operations, March 2007 (para. 46): http://www.aph.gov.au/senate/committee/fadt_ctte/peacekeeping/submissions/sublist.htm
The AFP’s approach and contribution to developing and assisting the Policia Nacional de Timor-Leste has been recognised at the international level by the UN Office of the Rule of Law and Security Institutions.165

In evidence given to the Senate Standing Committee on Foreign Affairs, Defence and Trade in July 2007, the then National Manager of the IDG made the following comments about international interest in the IDG:

With the establishment and expansion of the IDG, we have had a lot of visitors to the AFP and to the IDG. There is an enormous amount of interest globally within law enforcement about what we are doing, because it is pretty cutting edge.166

The United States, Canada and the United Kingdom are considering the development of similar capacities to the IDG. See Appendix 9 for a discussion of these developments.

There are some obvious long-term benefits of AFP operations in the region, including direct benefits for the AFP itself, such as the opportunity to develop and strengthen bilateral working relationships with foreign law enforcement agencies. Extensive regional engagement by the AFP demonstrates Australia’s commitment to assisting our neighbours, whether in circumstances of civil unrest, or more generally in enhancing policing capacities across the region. As a result, there is less likelihood that neighbouring countries will need to rely upon support from major powers outside the region.

From a short term perspective, there are various preliminary indicators of AFP mission success in the region.

In April-June 2007, a Pacific Islands Forum Task Force conducted a review of RAMSI. The Task Force concluded that:

… RAMSI has strong and widespread support throughout Solomon Islands. There was a unanimous view that the Regional Assistance Mission had to remain in place for some time yet. This took into account the still uncertain security situation, the excellent work being done to strengthen key government institutions, the improvements in the national economy and the need to maintain external investor and donor confidence. At the same time, the Task Force found, there was considerable scope for further regionalisation of RAMSI and closer alignment of key RAMSI activities with Solomon Islands Government priorities.167

The AFP’s role in the Participating Police Force within RAMSI has been the subject of a performance audit conducted by the Australian National Audit Office in 2007. The outcome of the audit was generally positive. The Audit Office concluded:

The planning and delivery of the AFP’s role in restoring and then consolidating law and order in Solomon Islands was well managed and the outcomes have been highly regarded internationally.

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165 In a letter dated 11 December 2008 from the Assistant Secretary-General for the Rule of Law and Security Institutions (Dmitry Titov) to Australia’s Permanent Representative to the United Nations in New York, Mr Titov expressed appreciation for the ‘exemplary role played by your Government in both assisting Timor-Leste as well as in supporting numerous activities of OROLSI [Office of Rule of Law and Security Institutions]’. Mr Titov also advised that he had strongly recommended expanding interaction between his Office and the IDG, through their Police Division.

166 Inquiry into Australia’s involvement in international peacekeeping operations, 25 July 2007.

167 Report of the Pacific Islands Forum Review of the Regional Assistance Mission to Solomon Islands (RAMSI), April-June 2007. The Task Force made a substantial number of recommendations directed principally at reinforcing the regional character of RAMSI and at strengthening consultation and coordination between RAMSI and Solomon Islands Government.
The subsequent third phase of the mission, to assist in the capacity building and development of the Solomon Islands Police Force, was commenced without a clear, staged strategy for implementation … Over time, the AFP has provided more targeted pre-deployment and in-mission preparation and training for AFP personnel involved in capacity building activities.

Overall, the capacity building and development phase has been progressing steadily. However, the Audit Office made several recommendations directed at improving elements of the AFP approach to planning, executing and sustaining its overseas deployments (see Appendix 8).

The Audit Office has acknowledged the difficulties in identifying definitive measures of performance for long-term capacity development missions. However, it noted that RAMSI has taken steps to attempt to measure the success of its programs, including through the conduct of a stocktake of capacity-building effort and progress across the three RAMSI program pillars in 2005-2006.

Where missions involve capacity-building initiatives, it will generally be difficult, and would arguably be inappropriate, to determine a set exit deadline. For instance, with respect to RAMSI, the Pacific Islands Forum RAMSI Review Task Force described the position as follows:

The Task Force sees RAMSI’s drawdown over time as involving a series of jointly agreed, indicative and condition-based timelines rather than a blanket, arbitrary exit deadline. A phased downsizing over time will occur as key institutions across several sectors build capacity and attain sustainability.

The Task Force expressed the view that this issue is most relevant to the law and justice sector.

The AFP has funded a project at the University of Queensland aimed at developing a comprehensive framework for assessing the performance and effectiveness of international policing missions, including peace operations and police capacity building. The project, which comprises four stages, is well advanced and currently focused on the second stage, involving the development of appropriate criteria and measures. This component of the project is expected to be finalised within a year.

**Finding 6.1:**

The AFP has provided an effective and flexible response to growing problems of instability in the region. This is likely to have long term benefits both in terms of sustainable development for those countries and for Australia and Australian interests through the denial of soft targets for exploitation by organised crime networks.

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169 Ibid.


172 The University of Queensland Social Research Centre has noted that existing performance indicators are often problematic and insufficiently focussed on outcomes.
Budgetary and capability issues

Capacity-building operations in the Solomon Islands and East Timor are likely to continue with a high level contribution by the Australian Government for a number of years into the future. The slow, and at times discontinuous nature of development can be illustrated as follows:

As indicated above, the 2007 Pacific Islands Forum review of RAMSI found that there was a widespread view at a community level in the provinces and around Honiara that the Participating Police Force needed to remain in place for the medium term to maintain stability and security in the law enforcement context. In an appearance before the Senate Standing Committee on Foreign Affairs, Defence and Trade in November 2008, the then National Manager of the IDG stated as follows:

While the achievements of RAMSI have been substantial, our work in the Solomon Islands is far from over and our achievements do not represent, at this stage, an enduring state of rule of law. As is evident from the RAMSI People’s Survey, public confidence in the Solomon Islands institutions remains low and there exist collective fears of a return to intercommunal violence should RAMSI withdraw.

Any deployment to Papua New Guinea in the foreseeable future is likely to be on a relatively small scale and to focus on capacity development/institutional reform.
However, the Government is likely to continue to receive requests for the AFP to assist in incidents of civil disturbance in our region. Pacific Island nations are likely to face ongoing challenges in maintaining internal security, with an anticipated trend towards increasing instability across the Pacific.\textsuperscript{177} Exploitation and consequent serious depletion of resources such as fish stocks and forests, if not addressed, will exacerbate environmental, governance and law enforcement challenges.

The AFP is also required to maintain an ongoing commitment to UN peacekeeping operations. The AFP currently contributes 50 police officers to the UN Mission in Timor-Leste. The demands on the AFP with respect to policing assistance in East Timor have spiked a number of times over the past ten years with various emergency deployments. The outlook for the future is unlikely to change in terms of ongoing demand for AFP assistance, with the anticipated downsizing of other UN police personnel contributions and the Australian Defence Force-led International Stabilisation Force.

Further assistance may be sought from the AFP in the near future in Iraq, Afghanistan\textsuperscript{178} and possibly also Pakistan.

**IDG Future Strategy**

In 2006-2007, an additional $493.2m was provided to the AFP over five years to support the IFS. This funding has been provided on a ‘no win/no loss’ basis, subject to the requirement that unspent IDG costs be returned to budget. However, the IDG budgetary position does not reflect this proposed outcome, for the following reasons.

At the time the Future Strategy was submitted, modelling for the required staffing levels was based on the regional engagement experience the AFP had prior to that date. In effect, it was premised on a regional community policing role. However, the IDG regional engagement model has developed in the intervening period towards a much greater capacity-building role. Such a capability requires highly experienced and skilled officers undertaking complex mentoring and advisory functions. However, Future Strategy funding has been provided on the basis of a higher numbers of officers with lower classifications.\textsuperscript{179}

\textsuperscript{177} AFP Submission to the Senate Standing Committee on Foreign Affairs, Defence and Trade Inquiry into the main economic and security challenges facing Papua New Guinea and the Island States of the Southwest Pacific, October 2008.

\textsuperscript{178} The 2009-2010 Budget includes provision for deployment of ten additional AFP officers to Afghanistan to train and advise the Afghan National Police.

\textsuperscript{179} The IDG will have an overspend for the 2008-2009 financial year.
Deployable mission pool

The configuration of the mission component in the Future Strategy is based on a number of factors, including an analysis of Australia’s strategic outlook at the relevant time and into the future, provided by the Office of National Assessments and the Australian Intelligence Community, the AFP’s engagements across the Pacific to date and emerging UN commitments. The numbers are based on analysis of actual missions or scenarios generated by the intelligence assessments. For example, a ‘large mission’ contemplates sufficient human resources to provide continuous policing for a large regional city in an emergency situation, whilst smaller capacity-building numbers are based on what is required to maintain a traditional AFP UN commitment such as in Cyprus.

While there are funding pressures on the IDG’s ability to maintain the deployable mission pool at the required levels, to date the standing capacity has enabled the IDG to service its mission requirements while minimising the impact on the broader AFP or State police colleagues. However, as at May 2009, of the 61 officers not deployed, there are none either not already allocated to a deployment or not deployable for medical or other reasons. This effectively means that there is a limited pool from which to source additional sworn officers to provide a surge capacity.

A mission such as the Northern Territory Emergency Response reduces capacity to maintain a deployable pool. However, it is proposed that the AFP contribution to the Emergency Response decrease during 2010-2011 to about 36 members, subject to the successful recruitment of 30 new members by NT Police.

The AFP has developed an allocation model to facilitate engagement of mission component members on other AFP tasks and across regional hubs between deployments. However, the model has not as yet been fully tested as there have been few staff between deployments.

Due to staffing pressures, officers are generally being given end-of-mission leave and undertaking any necessary training prior to being scheduled for redeployment. This places considerable pressures on officers and their families and there are significant questions about how sustainable this pattern would be in the long run.

Operational Response Group

In 2006, the AFP was required to respond to three crises involving mass public disorder in the Solomon Islands, East Timor and Tonga. This significantly stretched AFP resources and led to the conclusion that a dedicated crisis response capability was required. The outcome was the establishment of the AFP’s Operational Response Group.

The Operational Response Group was designed to supply tactical and specialist capabilities to concurrent operations. The Group consists primarily of three Operational Response Units and an Operational Support Unit. Each Operational Response Unit comprises two Stability Response Teams and one Tactical Response Team.
Tactical Response Teams provide an immediate high-level tactical response to support AFP national and international operations. They are specially trained police units which have responsibility for initial response, containment and resolution of high-risk incidents. Tactical Response Teams are trained to undertake the following tasks:

- rapid crisis response in international operations;
- high risk searches, search warrants and arrests;
- support public order policing;
- conduct remote rural patrols;
- conduct immediate safe evacuation of Australian nationals situated offshore and effect recovery of those persons to Australia or a similar designated safe country; and
- support to the security of members deployed to mission.

Stability Response Teams provide an immediate response to incidents of civil disorder and riot situations in support of AFP national and international operations. They provide a high level public order management capability and are trained to supplement and support tactical functions.

The Operational Support Unit provides specialist capability support to the Operational Response Unit and to other AFP activities.

The current staffing level of the Operational Response Group is 125\(^{180}\) from an establishment base of 172.\(^{181}\)

Tactical Response Team composition is based on a response number of 16, constituted by 12 team members, one team leader, marksmen in support and an operations manager. Stability Response Teams are comprised of 13 members – 12 team members and one team leader.

The configuration of Tactical Response Teams and Stability Response Teams is developed on the basis of the minimum number of personnel considered to be required for a first instance response to a high risk incident at an appropriate level of effectiveness, whilst preserving officer safety. Operational Response Group experience has shown that a reduction in team numbers from the standard level has the consequence of limiting the team’s ability to perform a response function effectively and maintain an appropriate level of team member safety.

\(^{180}\) As at May 2009.

\(^{181}\) The previous Operational Response Group establishment figure was 192; however this figure has been revised to take into account the transfer of 20 Specialist Operational Support Team positions to High Tech Crime Operations.
The original objective of the Operational Response Group was to maintain a capacity to service up to three concurrent off-shore operations. However, the Operational Response Group has now assumed an on-shore role in support of high risk AFP domestic operations and is recognised by the National Counter Terrorism Committee. There are current concerns within the IDG that existing staffing levels and relevant capacities are insufficient to support three concurrent operations overseas and provide for a high level domestic emergency.

**IDG support function – scope for rationalisation/consolidation**

The constituent elements of the Australian-based support function comprise:

- Office of National Manager IDG;
- Missions and Operations – conducts, supports and sustains IDG missions and tasks and includes designated staff to support individual large missions, and collected smaller missions;
- Development, Design and Evaluation – plans, prepares and validates IDG Operations;
- Operations Support – intelligence, training, plans, media and marketing and governance;
- Corporate Support – Human Resources, Finance, Contracts, Logistics, Wellbeing and Medical Services.

In total the Australia-Base establishment figure is 262, with current staffing levels (as at May 2009) at 223. These figures do not include the support functions embedded within the Operational Response Group, sits outside the A-Base support structure.

There is an important question about whether and to what extent these corporate support systems, which sit outside the core AFP corporate support structures, could be more efficiently and economically provided from the centre. Wherever these corporate services are provided the nature of overseas postings (including the complex industrial provisions), the demands of operations (in terms of logistical support), the need to provide for well being and OH&S services to members serving in and returning from high risk, and sometimes traumatic, environments, is such that corporate support will inevitably be more resource-intensive than for domestic functions.

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182 Recent Operational Response Group operations (two on-shore operations and the deployment to East Timor in February 2008) have demonstrated a lack of tactical capacity within the Operational Response Group, which is amplified with concurrent operations.
The scope for rationalisation of some IDG corporate functions is currently under consideration within the AFP through the One AFP – One Corporate project. This is discussed further in Chapter 10 Internal AFP Systems. The fundamental aim of this project is to deliver improved corporate service functionality and levels of service and determine a unified delivery model, while decision making on personnel and finance issues is delegated to the lowest level consistent with maintaining accountability and applying policies uniformly. It is also examining the extent to which recruitment can and should be centralised. Parallel with this project, the AFP is examining the feasibility, costs and benefits of moving a number of currently manual operational systems into the AFP SAP (Systems Applications and Products) system.

These are important projects that raise the prospect both of some savings and improved functionality. The extent of potential savings is not able to be estimated at this stage, as information about IDG corporate support costs is not currently available. In any event, any potential savings are quite unlikely to be sufficient fully to bridge the gap between current funding and that which would be required to maintain the full operational capability, and rotational strategies, envisaged in the IDG Future Strategy.

Finding 6.2:

At current resourcing levels it is not possible to maintain the approved IDG Future Strategy at the levels of capability envisaged. While there are potential savings to be made from the streamlining of corporate support for IDG through the One AFP One Corporate project, these are not likely to be sufficient fully to bridge the gap. At current resourcing levels the AFP could not simultaneously provide for the deployments envisaged in the Future Strategy as a basis for planning in the scenario requiring:

- two large and one medium significant long term capacity building missions, with durations of three to five years, each in the order of 100-250 staff and providing the ability to sustain 80-200 personnel in mission for 365 days a year;

- a further 140 personnel to field seven smaller missions of 20 personnel each to support UN commitments and shorter-term bilateral assistance projects; and

- an enhanced Australian-based support structure able to raise, train and sustain continuous operations including enhanced training, logistic and equipment capacities.

Recommendation 6.1

The Government should consider whether it will re-define in capability terms (instead of the 1,200 staff capacity terms originally announced) the mission and resourcing base for the AFP IDG, after it has received a report from the whole of government review of the AFP International Future Strategy which should examine AFP capability requirements in the context of Australia’s foreign and development policy objectives and complementary ADF capabilities.
**Operational Response Group – availability of members to respond to other operational exigencies**

The Australian Defence Force strongly supports the AFP maintaining a comprehensive ‘forward command’ or ‘ready response’ capacity to respond immediately to crisis situations, including a command, control and communications structure. There may be circumstances where such a capacity would need to be deployed in advance of Australian Defence Force involvement, such as where a policing response would be a more appropriate initial response than a military intervention.

The Operational Response Group complements Australian military responses to international crisis situations, such as in East Timor in 2006 and 2008. Once the environment has stabilised, the longer term policing response (investigations, general duties etc) integrates with the Operational Response Group to complete the demilitarisation process and effect a transition into longer term capacity-building programs.

At present, the Group capacity is such that a complete Operational Response Unit (one TRT and two SRTs) can be deployed to any international incident in the Asia-Pacific region within 24-48 hours, subject to requirements for transport of equipment, vehicles and dangerous goods. Domestic incident response times are within 2-8 hours. In the event of a major incident the complete Operational Response Group could be deployed.

A requirement for rapid deployment to regional crises would be difficult to sustain without a permanent capability such as the Operational Response Group. Reliance on a reserve capability, where members are distributed across a number of work areas and regions, would create difficulties in ensuring the maintenance of essential skills to respond effectively to a high-risk operating environment. It would also increase the mobilisation time. Similarly reliance on State police force tactical units for overseas operations would be difficult on a number of dimensions. It would inevitably be more time consuming – negotiations with the States on the appropriateness of the deployment, risks to the States from having a diminished capacity to deal with unexpected domestic contingencies, and difficulties in maintaining the level of interoperability with the Australian Defence Force would all suggest that it is not feasible to rely solely on State provision of these capabilities. That said, the option for, and planning to facilitate, State and Territory support for a large-scale regional emergency that would tax the Operational Response Group resources, and for which Australian Defence Force resources were either not available, or not appropriate, should not be discarded.

Resource configuration for Operational Response Units is assessed on the basis of required capability ratios to particular tasks, depending on the nature and relative complexity of a particular task and drawing on experience gained in previous deployments.
The Operational Response Group can provide an additional capacity to Australian jurisdictions under the National Counter-Terrorism Committee arrangements.\textsuperscript{183} Consultations during the course of the audit revealed that the willingness of States to accept Operational Response Group deployment in response to domestic contingencies, including terrorism incidents, in anything other than extraordinary circumstances is not universal. This raises the question of whether the response to a major domestic incident outside the Commonwealth’s normal remit, concurrent with a number of overseas operations, should be a planning requirement when estimating required Operational Response Group resources. Of course, the probability of concurrent major domestic and international demands is not high, so in normal circumstances the Operational Response Group would have some capacity to assist if called on. The States appear willing to accept assistance from the Operational Response Group in natural disaster situations – during the Victorian bushfires earlier this year multiple contingents of logistically self-sufficient Operational Response Group members were deployed in support of Victoria Police.

There is some potential for the creation of greater AFP organisational efficiencies by the Operational Response Group taking over other functions within the ACT and in the airport policing environment.

One possibility would be for the Operational Response Group to absorb the ACT Policing Specialist Response and Security Tactical Response Teams. These teams maintain a similar tactical capability to the ORG to service ACT Policing needs. This possibility is under consideration by the AFP executive.

A second possibility might be for the Air Security Officer program to be integrated with the Operational Response Group. Whether this will yield efficiencies depends on the extent to which training requirements differ so much that little is gained by embedding the Air Security Officer program in the Operational Response Group. The operation of the Air Security Officer program is under review by the Government.

**Finding 6.3:**

At current resourcing levels it is similarly not possible for the Operational Response Group simultaneously to provide sustained support for a major domestic emergency and concurrently either lead a major police intervention in the region, while retaining the flexibility to deliver smaller stand-alone deployments, or deploy as part of a joint military/police intervention.

**Recommendation 6.2**

*Whilst the AFP Operational Response Group has been recognised as a Police Tactical Group within the National Counter-Terrorism Committee arrangements, and it has good networks with State and Territory-based tactical groups, the National Counter-Terrorism Committee should remain cognisant of the Operational Response Group’s priority role as part of the Government’s offshore specialist and tactical response capability. Opportunities for utilising available Operational Response Group capacity to service operational exigencies in the broader AFP, including ACT Policing, should continue to be examined closely and implemented as appropriate.*

\textsuperscript{183} The Operational Response Group has now been recognised as a Police Tactical Group within the National Counter-Terrorism Committee arrangements. This provides a dedicated Commonwealth tactical capability to service national counter-terrorism and other federal operations. It could also support States/Territories in the event of a State-led response to a terrorism incident.
**Paramilitary capability for the AFP**

During the course of audit consultations, it was suggested by interlocutors outside of the AFP that perhaps the AFP should develop a paramilitary capacity for the purpose of responding to crises in the region.

A paramilitary force is essentially an auxiliary military force. Paramilitary groups can serve many different functions. Some are created by governments as paramilitary police (gendarmes) or other internal security forces. Examples of gendarmerie units are the Carabinieri in Italy and Chile and the Guardia Civil in Spain. Gendarmes are often deployed in military situations, sometimes in their own countries and often in peacekeeping operations abroad.

Paramilitary security forces are typically light infantry forces which generally play a defensive role. They are less capable of offensive action or sustained combat operations due to a lack of heavy weapons, professional military training and effective logistics support. Examples of this kind of paramilitary force include the Indian Paramilitary Forces and the People’s Armed Police in the People’s Republic of China.

The AFP does not currently maintain a paramilitary capability. The function of the Operational Response Group is not a paramilitary function, although it is comparable to a paramilitary unit in many aspects of its capabilities. The Operational Response Group complements military responses and in this role, responds to serious civil unrest by deployment of weapons, munitions and proven police tactics and techniques consistent with the domestic use of force governance framework and Police Tactical Group doctrine.

The Audit is not satisfied that any particular requirement for a paramilitary capability within the AFP has been established. The common view amongst interlocutors, including the AFP executive, was that it would be inappropriate for the AFP to develop and maintain any such capacity. The paramilitary concept diverges significantly from the traditional concept of policing in Australia. There does not appear to be any legitimate reason for AFP members to be undertaking the role of ‘war-fighting auxiliaries to the armed forces’ as opposed to the role of protecting the public ‘from violent predation’, whether in our region or in combat zones such as Iraq and Afghanistan. Unless there were an intention to place AFP resources in the front line in countries such as Afghanistan/Iraq there would not appear to be any need to consider a paramilitary/gendarmerie capability.

Indeed, the deployment of such a capability in regional peacebuilding missions has the potential to be counterproductive. It would suggest a different role for the AFP from the current first response and police capacity-building role undertaken by the IDG and as such, would involve a departure from currently agreed whole of government strategies for engagement in the region. Further, it is important that the AFP not project an image of an occupying or interventionist power in regional missions.

Another significant factor militating against the development of such a capability within the AFP is the excessive expenditure which would be required to sustain it.

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185 Ibid.
That said, the AFP and the Australian Defence Force will at times operate in environments where a considerable element of policing is delivered by paramilitary forces. Afghanistan is an example. In these cases capacity building requires some knowledge of paramilitary operations, and the difference between them and normal policing or light infantry doctrines. The AFP and the Australian Defence Force should examine the scope to work together to provide capacity building training in these circumstances.

**Finding 6.4:**

It is not appropriate that the AFP (IDG) embark on the development of a paramilitary capability, an option that was suggested to the Audit by non-AFP interlocutors. The current approach involving complementary roles for the Australian Defence Force and the AFP in responding to circumstances of civil unrest in the region should be maintained, with the Australian Defence Force having the primary armed force stabilisation role, and support for and protection of AFP personnel in higher risk areas. This requires reliance upon improving interoperability between the two agencies. The capability and capacity of the Operational Response Group should be assessed periodically to ensure that it keeps pace with the intensity and scale of civil disturbances it may be called upon to respond to.

**Recommendation 6.3:**

_The current respective roles of the AFP and Australian Defence Force in their contribution to peacekeeping operations in the region should be maintained. The current approach involving complementary roles for the Australian Defence Force and the IDG in responding to circumstances of civil unrest in the region should be maintained._

_The Australian Defence Force and AFP should continue to work together to improve interoperability and should develop joint training and development programs for use where relevant with paramilitary forces in countries to which the IDG deploys._

_The capability and capacity of the AFP Operational Response Group should continue to be assessed periodically to ensure that it keeps pace with the intensity and scale of civil disturbances for which it may be called upon to respond._
**Chapter 7**

**Security**

### 7.23 Introduction

As outlined in Chapter 2: Futures Scan there is a continuing level of threat of politically motivated violence, including terrorism. The increase of terrorism focused on Western interests globally has changed Australia’s security environment by way of:

- actual threats and harm to Australians and Australian interests abroad; and
- a number of planned terrorist operations that have been prevented or disrupted within Australia.

Aviation has been recognised since the 1970s as providing a particular target for terrorist attacks both as a locus of an attack and, as demonstrated by September 11, 2001 and earlier aircraft hijackings, as a weapon itself. Aviation and its facilities, as a major mode of transport, is also a target of serious and organised crime as a node through which contraband must pass. As a result, global agreements have been concluded on the protection of aircraft, aircraft facilities and the domestic imperative to harden these potential targets.

Holders of high office, both Australian, and foreign officials representing nations with which Australia has treaty obligations for protection, have always been at some risk from the actions of disgruntled or disturbed individuals. In recent years this risk has been elevated by the growth of terrorism, both directed at particular Australians and against third parties, national representatives or facilities.

The common theme in these activities is the recognition of this heightened threat environment, its common roots, and the need to seamlessly share core intelligence and to prioritise the allocation of resources in a way that minimises the risk. Over the past decade funding to these resources has relied heavily on lapsing programs.

**Finding 7.1:**

It is extremely unlikely that the risk profile facing Australians and Australian interests and holders of high office will diminish sharply over the next five years. The multiple funding sources that support these capabilities and the uncertainty of ongoing funding reduce the opportunity to allocate resources flexibly to meet the highest priority objectives.

**Recommendation 7.1:**

*Funding for these programs should be consolidated into a single Program under Outcome 1.*

A consolidated program would enable the AFP to manage short term operational demands and exigencies. However, any sudden sustained increase in threat, requiring extensive allocation of resources, for example for Close Personal Protection, or for major Counter Terrorism operations, should provide a basis for either:
(a) the transfer of funds in the following order of preference

  (i) within an activity
  (ii) within a program
  (iii) between programs; or

(b) temporary additional funding through a specific lapsing program.

**AVIATION**

**7.24 Introduction**

Australia’s aviation network is a key component of our national infrastructure. ‘Some 23.5 million people moved across our borders in 2007, including an estimated 5.4 million tourists who generated some $40 billion for our economy. More than 99 per cent of people movements are by air.’ Post ‘9/11’, the security of Australia’s airports remains high on the national agenda and is rarely far from the collective public consciousness. The issue of airport security was again brought into sharp focus earlier this year following the death of a motorcycle gang affiliate at Sydney Airport. Criticism in the media of agency responses to this incident, combined with suggestions that current airport policing numbers are insufficient or poorly deployed, hint at the underlying complexities of national airport policing and poor media and community understanding of the arrangements. The Audit notes the formal review of this incident confirmed the police response was appropriate despite the media commentary.

In the 50 years since commercial aviation became a prominent feature of the Australian way of life, a variety of arrangements dividing the responsibilities of Commonwealth and State/Territory authorities over airport security and policing have been trialled. Rarely were these arrangements consistent across States and Territories, making the conceptualisation of a nationwide aviation security network near impossible. Under the Unified Policing Model, agreed at the Council of Australian Governments (COAG) meeting of 27 September 2005, the AFP has primary responsibility for policing and security at Australia’s eleven major airports, namely Cairns, Brisbane, Gold Coast, Sydney, Canberra, Melbourne, Hobart, Adelaide, Perth, Alice Springs and Darwin. The Unified Policing Model consolidates command and control of all policing resources located at each of these airports and provides for a nationally coordinated aviation security framework.

However, it is clear that the administrative, legal and political complexities endemic to the aviation environment have hampered the sustainable operation of the Unified Policing Model, as has the continued reluctance, or inability, of some States to accept policing duties or provide police in the numbers agreed by COAG at major airports in their jurisdictions. The Unified Policing Model has added a layer of complexity to an already convoluted system.

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### 7.25 Current arrangements

The 1944 Convention on International Civil Aviation (the Chicago Convention) is an international instrument which establishes ‘certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be operated soundly and economically’.\(^{187}\) Annex 17 of this Convention sets out the basis for the International Civil Aviation Organisation security program and seeks to safeguard civil aviation and its facilities. As a signatory to the Chicago Convention (and its annexes), Australia is obliged to comply with its standards and enact all substantive provisions into domestic law. These standards are regularly updated to ensure international aviation remains responsive to global challenges and needs. Australia also has obligations under the Convention for Suppression of Unlawful Acts against the Safety of Civil Aviation (the Montreal Convention), which are implemented under the Crimes (Aviation) Act 1991.

The Wheeler Review\(^{188}\) was commissioned in 2005 following a number of events which called into question the appropriateness and sufficiency of the security arrangements which underpinned Australia’s national aviation framework. The review identified command-and-control problems founded in the splitting of policing functions at Australia’s major airports between Commonwealth and State/Territory authorities and, in the related gaps, in acceptance of responsibility and deployment of resources. It was found that policing at major airports was often inadequate and security systems were typically uncoordinated. While the Counter-Terrorism First Response (CTFR) function was performed by dedicated Protective Service Officers (PSO) at the eleven major airports, community policing and the investigation of serious and organised crime at these airports remained the responsibility of the local State/Territory police.

The review ascribed the underlying causes of this dysfunction to bureaucratic turf protection and unresolved conflicts between the Commonwealth and the States/Territories over resources. As such, the Wheeler Review recommended that all police functions be unified under the command of a newly established AFP Airport Police Commander at each of the eleven major airports. It was also recommended that additional operational elements at airports, including an appropriately sized contingent of State/Territory police specifically trained to perform airport policing duties and a joint intelligence cell, be established under the command of each Airport Police Commander.

When COAG met in September 2005 it agreed to support the findings of the Wheeler Review, particularly the implementation of a single command structure at Australian airports. The Commonwealth has subsequently funded the AFP to deliver, in conjunction with the agreement of State/Territory law enforcement partners, the Unified Policing Model across Australia.

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\(^{187}\) *Convention on International Civil Aviation*, Preamble.

The Unified Policing Model

The AFP Aviation portfolio received Government funding during 2008-09 of $200.8m to deliver the Unified Policing Model. The Unified Policing Model has a workforce of approximately 1,000 Full Time Equivalent nationally, including 328 uniform police Full Time Equivalent provided by State/Territory police jurisdictions to perform Airport Uniform Police (AUP) functions. The eleven major airports have an operational Unified Policing Model which consists of seven primary elements. Appendix 10 briefly describes these elements and Appendix 11 summarises personnel, by numbers and positions, deployed across the Unified Policing Model. All police participating in the Unified Policing Model wear an AFP uniform.

Commonwealth ownership of the underlying land title of ten of the 11 major airports (the exception being Cairns) and the interstate and international nature of aviation provides the Commonwealth with a clear legal capacity to operate in this environment. The physical location of airports within States/Territories creates a direct nexus to local jurisdictions. State/Territory authorities also have access to vital local criminal intelligence, human sources and community contacts and are often more experienced in responding to State-type offences. Similarly, the carriage of these matters through court, particularly those related to summary offences, are more appropriately dealt with by State/Territory police prosecutors or the local DPP.

Finding 7.2:

Currently policing at airports is carried out under a Commonwealth-State hybrid model where the Commonwealth provides Counter-Terrorism First Response, investigations and intelligence capabilities and the Airport Police Commander, while the States provide police members on secondment to the AFP as a uniformed police presence. The Commonwealth funds State members, and provides an additional on-cost. These arrangements are in place as a result of the COAG response to the recommendations of the Wheeler Review into Aviation security in 2005.

Funding of the Unified Policing Model comprises twelve separate appropriations. Lack of funding certainty as programs lapse and a lack of spending flexibility across the disparate programs represents significant budget risks to the Aviation portfolio. It also impedes the ability of management to redeploy resources in a flexible manner in response to changing dynamics or new threats in the aviation environment.

189 The Aviation portfolio has one terminating program (re Airport Uniform Police supplementary funding) before 30 June 2010, four lapsing programs in 2010-11 (Joint Airport Investigation Teams, Airport Police Commanders, Air security Officers and Police Aviation Liaison Officers) which will be considered for funding pending the current review of aviation security, four ongoing programs (UNITED POLICING MODEL Phase 1, Joint Airport Intelligence Groups, CTFR and Aviation Security Phase 2) which require review by 30 June 2010, and three ongoing programs (relating to Regional Rapid Deployment Teams, Accommodation and Leasing arrangements).
Finding 7.3:
Currently, the AFP Aviation portfolio is funded via 10 lapsing appropriations. This fails to reflect the ongoing nature of Commonwealth responsibilities and the implausibility of any significant, sustained reduction in threat levels from terrorism or organised crime over the next decade. It also restricts the flexibility of the deployment of resources to meet threats within the aviation sector, or within the Security portfolio more broadly.

It has not been possible to fully implement the Airport Uniform Police component of the Unified Policing Model as agreed at COAG because some State police jurisdictions have been unable or unwilling to provide and maintain the full complement of agreed personnel, largely due to competing policing priorities and limited human resources in these jurisdictions (most notably Victoria, Queensland and WA). Despite recent significant recruitment activity, the long term sustainability of staffing arrangements under the Unified Policing Model remains a concern. Furthermore, there are ongoing tensions between police drawn from an AFP background and those seconded from the States/Territories which threaten the overall effectiveness of the Unified Policing Model in a number of jurisdictions. These tensions can reflect cultural and procedural differences in the approach to policing, and differences in terms and conditions of employment between the groups.

Finding 7.4:
Since its introduction, some States have been unwilling or unable to provide agreed policing numbers to maintain the Unified Policing Model at the levels of staffing agreed by COAG.

The National Counter-Terrorism Plan outlines responsibilities, authorities and the mechanisms to prevent, or if they occur, manage acts of terrorism and their consequences within Australia. It affirms that States and Territories have the primary operational responsibility to respond to terrorist incidents within their jurisdiction, including in relation to Commonwealth places such as Federal Courts, Official Establishments and Defence facilities. The Plan obliges the Commonwealth to support the States and Territories in responding to terrorism within their jurisdictions. Similarly, although the Commonwealth has international treaty obligations to protect aviation facilities and systems from terrorist attack, it has arranged to discharge elements of these duties through the National Counter Terrorism Plan. In the case of a terrorist incident at an airport, the National Counter-Terrorism Plan reiterates that ‘the AFP Counter-Terrorism First Response team will provide initial response to an incident, pending State or Territory police attendance’. This thus it is recognised that States/Territories will always maintain the primary capability to respond to large-scale emergencies.

However, acknowledging this reality simply recognises the importance of making clear and dependable agreements between the AFP and States/Territories as to where specific roles and responsibilities of each agency begin and end. Just as arrangements within State police services already dictate where the responsive role of uniform/community police ends and the investigational roles of detectives begin, and how this transition should be made, delineations between the roles of Commonwealth-staffed Airport Uniform Police and local authorities can also be

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negotiated. Across the eleven major airports, the AFP has entered into arrangements through Memoranda of Understanding with respective State/Territory policing services in relation to establishing cooperative arrangements dealing with incident response, crime and security issues. The arrangements in place establish respective roles, functions and hand-over arrangements.

It is similarly recognised that much of the operational policing environment within airports, particularly in terms of community policing, focuses on crimes against State/Territory law rather than Commonwealth law. The skills and resources required to sufficiently investigate serious State offences would be more widely available in State police services. Furthermore, rarely are crimes of this nature isolated incidents committed by persons with no previous criminal records. The vast majority of intelligence on the local criminal environment is held by local police agencies. Similarly, many related investigations would naturally occur outside the airport environment by non-airport police with specialist skills and the requisite jurisdictional authority.

Just as State/Territory authorities are most appropriately equipped to respond to local crime types, the Commonwealth, with a national and international network transcending State boundaries, is better equipped to deal with cross-border and transnational crimes. The AFP, through its PROMIS database, can share sophisticated information in real time across the country and, through its International Network, around the world. The very nature of airports means that many persons of interest have links to other States/Territories and/or countries, sometimes through networks that have penetrated aspects of the aviation industry. Similarly, the intrinsic status of airports as the focus for a variety of transnational and transborder criminal activities make them locations of considerable importance in terms of strategic and operational interests under the serious and organised crime framework. With incompatible case management systems and less incentive to maintain system wide operational contacts, the ability of State authorities to quickly and accurately share or transfer information and intelligence across State boundaries focused on the aviation sector is more limited in such an environment.

Finding 7.5:
The policing of airports raises difficult jurisdictional issues. The Commonwealth is responsible for aviation regulation generally and has specific international treaty obligations in relation to aviation security. Almost all international and major domestic airports are Commonwealth places. Airports are one of the loci of serious and organised transborder crimes. There is a national interest in a common approach to and standard of policing at airports, but it would be very expensive for the Commonwealth to develop a capability that could deal with every contingency that could arise at an airport without State assistance. Much of the crime at airports falls within State legal frameworks and has a close nexus with criminal activities in the community more broadly. State police forces have the capacity and responsibility under Commonwealth-State agreements, to respond to major violent crime or terrorism incidents at airports. The recent Wilkins Review of an incident at Sydney Airport found that police responded in a timely and professional manner, but nonetheless the hybrid model is flawed.
Finding 7.6:
Noting the nexus between airports and their local communities/environment, it is vital that clear arrangements enabling a) the transfer of information and b) full operational interoperability between Commonwealth airport police and local State/Territory police are maintained.

Recommendation 7.2:
The ongoing agreement between the Commonwealth and States to remain focused on incidents and crime types most relevant to their respective policing responsibilities should be maintained, with clear arrangements for the full operational interoperability between Commonwealth airport police and local State/Territory police.

Alternative airport policing models
The 2008 Review of Border and Homeland Security by Mr Ric Smith found that, while the Unified Policing Model has ‘produced good results’, the current Commonwealth-led model faces ‘a number of management difficulties… which are seriously testing the relationships between the AFP and state and territory police.’ Mr Smith identified a number of key risks to the sustainability of the Unified Policing Model, which includes:

- State and Territory police forces are finding it increasingly difficult to sustain the commitment of seconded officers to the Airport Uniform Police;
- the respective roles and responsibilities of federal and state and territory police when responding to and investigating incidents are still unclear;
- the model for ongoing management and staffing of the Airport Uniform Police, using short-term secondments from State and Territory police, is expensive and gives the AFP very limited capacity to select staff and develop a consistent national culture; and
- there is limited flexibility between the roles of Airport Uniform Police and Counter Terrorism First Response personnel.

In July 2008, COAG tasked the National Counter-Terrorism Committee with investigating a revised and more sustainable airport policing model. As such, the National Counter-Terrorism Committee examined the likely effectiveness, efficiency, sustainability and appropriateness of the following four airport policing models:

Option 1 – retention of the existing Unified Policing Model with enhancements to its arrangements on a jurisdictional basis;

Option 2 – the State/Territory Only (‘All Out’) model. States/Territories would adopt complete command, control and staffing responsibilities, with each jurisdiction accountable for the delivery of policing capabilities and services, including the Counter Terrorism First Response function, at the major airports;

Option 3 – the Commonwealth Only (‘All In’) model. The AFP would adopt complete command, control and staffing of all airport policing capabilities and services at airports, requiring States and Territories ceding certain jurisdictional police responsibilities to the AFP; and

Option 4 – Consolidating policing capabilities into a single airport crime and community policing team, led by the AFP with jurisdictions and the AFP providing equal numbers of police officers.

One particular problem facing the Unified Policing Model is the incompatibility of case management and online information systems between State/Territory police services and the AFP. Currently, with the exception of the AFP and the NT Police Service, no two police agencies maintain compatible case management systems. At an operational level within individual airports, this lack of interoperability means that the same information must often be uploaded into the case management systems of both the State service and the AFP. This duplication of effort has clear implications for the efficiency of Airport Uniform Police personnel. It would also pose a higher level problem under an ‘All Out’ model in terms of ensuring the effective sharing of information between States – currently achieved through the AFP PROMIS network.

Despite the acknowledged problems with the Unified Policing Model and the offer to explore alternative models, individual jurisdictions were unable to reach a consensus on what the alternative should be. As such, COAG directed the National Counter-Terrorism Committee to focus its efforts on enhancing the current Unified Policing Model arrangements, noting that agreement on this model had at least been reached in 2005.

Finding 7.7:
As found by successive reviews into the policing of major airports in Australia, there are considerable financial, cultural and industrial costs and difficulties, as well as efficiency losses, associated with Commonwealth-State hybrid policing models, such as the existing Unified Policing Model.

Counter Terrorism First Response and the Airport Uniform Police

Consultations with a broad range of senior airport policing stakeholders have revealed a recurring concern over the practical difficulties of having the Counter Terrorism First Response capability carried out by Protective Service Officers with lesser powers than the sworn members who provide the management leadership, investigative and community policing functions. Systemic differences in powers, conditions and operational constraints lead to tensions and inefficiencies. It was the near to universal view among senior State and AFP officers responsible for airport operations that the Counter Terrorism First Response function could be successfully performed by sworn police officers as a component of their broader policing duties. Their view was that significant efficiencies and performance improvements would flow from fully amalgamating the work forces.

Finding 7.8:
Flexibility and service quality gains at airports may be achieved through the merging of Counter Terrorism First Response and airport policing services, with both functions performed by sworn police officers.
The legal complexities of airport policing under a Federal system

Many of the criminal activities that take place within an airport environment may be in breach of State laws applied as Commonwealth laws. This, of itself, creates subtle differences in provisions that might apply from airport to airport.

Offences under State laws are generally investigated by State police and prosecuted through State prosecutorial systems. But State laws do not apply in Commonwealth places unless applied as Commonwealth law under the Commonwealth Places (Application of Laws) Act 1970. In applying State laws to airports, the Commonwealth chose to limit federal police investigative powers in respect of applied State offences committed in Commonwealth places (including Australian airports which are Commonwealth places) in those States where it was able to secure an agreement with the State that their police would carry out these duties. This was intended to facilitate arrangements under which State police could investigate these offences, as they would were they to occur elsewhere in the State. As a result the AFP has certain powers available to it to conduct preliminary investigations into applied State offences committed at airports (with the exception of Cairns Airport), but would generally hand over responsibility for further investigation/prosecution to State authorities.

If the Australian Government were to determine, on policy grounds, that the ‘All In’ model of airport policing should be adopted, consideration might need to be given to whether the Commonwealth Places (Application of Laws) Act should be amended to lift the limitations on federal police investigative powers in respect of applied State offences. This would not be essential if States were prepared to empower Commonwealth officers to apply State laws through their swearing in as special members of State police forces. While the Commonwealth has traditionally allowed the enforcement of Commonwealth law, and the exercise of the relevant powers by State police, the reverse is not always true. An, at least theoretical, alternative in relation to airports which are Commonwealth places would be to legislate to apply relevant criminal code provisions directly for example by adopting and applying the Criminal Code of the ACT in these airports.

The legal position is further complicated by the status of the Tasmanian and Cairns airports. In Tasmania, AFP officers have full federal police powers to investigate all offences committed at an airport, including applied State offences. This is because there is no existing agreement between the Commonwealth and the State of Tasmania under the Commonwealth Places (Application of Laws) Act. As a result, there are no limitations on the exercise of federal police investigative powers at an airport in that State.

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193 Where there is an arrangement in place between the Governor-General and the Governor of the relevant State under s 6(2) of the Commonwealth Places (Application of Laws) Act 1970; see s 5(3) of the Act.
Cairns Airport is not a Commonwealth place. Accordingly, the Commonwealth Places (Application of Laws) Act has no application to Cairns Airport. This means that Queensland State law containing criminal offences has direct application at Cairns Airport and AFP officers would have very limited powers available to them to investigate such offences unless they had been sworn in as special constables of the Queensland Police Service. While it may be open to the Commonwealth to create Commonwealth offences corresponding to many State offences relying on various heads of Constitutional power such as the trade and commerce power, there is considerable doubt whether Commonwealth Constitutional power would support the enactment of sufficiently comprehensive criminal law at an airport that is not a Commonwealth place to cover the full range of relevant circumstances and offences. Accordingly, the preferred option to facilitate exercise of powers by AFP officers in respect of State offences at Cairns Airport would appear to be to seek a referral of power from Queensland in relation to general policing at Cairns Airport, in conjunction with an arrangement with the Queensland Government (for example, under which AFP officers are appointed special constables under Queensland law).

If the AFP is to take on the role of airport policing on the basis of an ‘All In’ model, it would seem desirable to achieve a uniform investigation regime across all major airports, so that AFP officers would be in a position to exercise the full range of Commonwealth investigative powers in respect of all offences committed at airports.

7.26 Issues arising

The Audit has identified the following issues as being of fundamental importance to the current airport policing environment in Australia:

1. The lack of flexibility to respond to changing priorities in aviation policing and security caused by multiple budget appropriations;

2. Concerns raised by the inability or unwillingness of some States and Territories to maintain or meet staffing commitments;

3. The operational and administrative inefficiencies of the current ‘hybrid’ policing model;

4. The need to ensure and sustain close State Police-AFP relationships and information sharing, noting their clear mutual interests in airport-related criminality;

5. Whether an ‘All In’ model (Commonwealth) or ‘All out’ (State) policing model at airports would be preferable to the current hybrid model; and

6. The possible advantages of incorporating Counter Terrorism First Response capabilities into the AUP function.
7.27 Consideration of the issues

Aviation funding

Ten separate, and temporary, budget allocations to cover aviation security and policing services leads to uncertainty, administrative costs and an inability to smoothly adjust resources to meet changing pressures and priorities. It also fails to reflect that, under whatever arrangements will apply in the future, the Commonwealth will have an ongoing funding responsibility in relation to airports and aviation security. It is time to recognise that this is an ongoing function, that over the foreseeable future the threat assessment for aviation is unlikely to be greatly diminished and that the opportunity to use funds more flexibly will yield efficiency dividends.

Recommendation 7.3:

Funding for all aspects of airport policing, including lapsing programs, should be rolled into the consolidated core Security program to provide greater certainty and flexibility.

Implementation and sustainability of the Unified Policing Model

By persisting with the current model the Audit notes airport policing in Australia will continue to be hampered by the inherent problems of the Unified Policing Model. The difficulty or unwillingness of some States/Territories to meet and then maintain staffing commitments when faced with competing political and policing demands will likely continue. This is a fundamental problem for the Unified Policing Model, particularly if the desire is to maintain a nationally consistent level of effort. It is no secret that police agencies are traditionally suspicious of outsiders and protective of their own methods and corporate values. Hybrid systems inevitably face a range of cultural factors which inhibit their smooth operation.

While it is acknowledged that COAG reaffirmed its commitment to the Unified Policing Model for three years on 29 November 2008, the Audit has concluded that adoption of either an ‘All In’ or ‘All Out’ model is the simplest way to ensure sustainability into the future. Adoption of either of these models would address many of the organisational and administrative problems experienced by the Unified Policing Model and create clear obligations on either the States/Territories or the Commonwealth to maintain an appropriately staffed and high quality airport policing capability.

Finding 7.9:

The provision of core airport policing and Counter Terrorism First Response services (that is staffing, command and control) by either a) the States (‘All Out’) or b) the Commonwealth (‘All In’) would be preferable to the existing State/Commonwealth hybrid model of airport policing.
**State/Territory Police-AFP relationships and information sharing**

Whether an ‘All In’ or ‘All Out’ model is adopted, both State/Territory and Commonwealth agencies have clear operational interests in criminality within the airport environment and a keen interest in ensuring that airport operations connect well with both State and national networks. One of successes of the Unified Policing Model has been to bring State/Territory police and AFP personnel and other key Commonwealth agencies together under the Joint Airport Investigations Teams and Joint Airport Intelligence Groups. An important role of the Joint Airport Intelligence Groups is to ensure aviation-relevant information and intelligence is accessible and transferable at the national level. The States/Territories benefit from this cross-jurisdictional access just as the Commonwealth benefits from access to local-level intelligence. The continued collocation of State police and AFP within these joint teams under either model would allow both States/Territories and the Commonwealth to maintain access to the full range of criminal intelligence in line with their respective operational mandates. The ability to access such information in complex interstate, international and/or aviation specific investigations (as opposed to traditional/responsive community policing roles) remains especially important.

*Finding 7.10:*

The Joint Airport Investigations Teams and Joint Airport Intelligence Groups are important facilitators of State/Commonwealth law enforcement coordination in the airport environment.

*Recommendation 7.4:*

The Joint Airport Investigations Team and Joint Airport Intelligence Group capabilities as per the current Unified Policing Model should be maintained, by deployment of members from local State/Territory police agencies in recognition of shared interests in the airport environment.

*‘All In’ or ‘All Out’ – how should we police airports?*

As noted, Australia has treaty obligations in relation to aviation security under the Chicago and Montreal Conventions. The *Aviation Transport Security Act 2004* and Aviation Transport Security Regulations 2005 enact these standards, making the safety and security of Australia’s major airports a Commonwealth responsibility. The Commonwealth retains the ultimate responsibility to ensure its national airport security systems are cohesive, effective and sustainable. The Commonwealth can ensure sustainable and ongoing consistency across Australia’s aviation network by undertaking and managing these duties itself. Furthermore, a number of bilateral arrangements with international partners oblige Australia to maintain an Air Security Officer presence on certain overseas sectors and, in accord with the Chicago Convention, Australia is required to promote the deployment of in-flight security officers onboard aircraft. The deployment of Air Security Officers can only be coordinated at a national level due to the interstate and international nature of their work. Failure to coordinate at a national level may result in instances of duplication, where multiple Air Security Officers are assigned to the same flight in ignorance of the other, or gaps in coverage of the aviation network. Thus, for both practical and political reasons, State/Territory services would be unable to perform an effective Air Security Officer function.
Finding 7.11:

A number of bilateral arrangements, in addition to obligations under the Convention on International Civil Aviation, require Australia to maintain an Air Security Officer function. The effective deployment of Air Security Officers can only be coordinated at a national level due to the interstate and international nature of their work.

Federations around the world have taken different approaches to policing airports. In Germany and Brazil, airport policing is a national police responsibility. In the US a number of federal agencies are involved in airport policing and security at a policy level, such as the Department of Transportation, Department of Homeland Security and the FBI, but policing itself is carried out by a wide range of local and state agencies. In Canada, some airports are policed by the Royal Canadian Mounted Police on a contract basis, while others are policed at a local level. There has been considerable criticism in Canada of their current arrangements:

There is no doubt that major security problems persist at Canada’s airports. One major component of good security is intelligence. ... Another major component is effective policing. The Senate committee has repeatedly argued that the RCMP should be restored as the police agency responsible for security at all Canadian airports. Policing is primarily in the hands of local police forces at the moment, which undermines a coordinated national approach to airport security. (Senator Colin Kenny, chair of the Senate Committee on National Security and Defence).

The policy choice to favour an ‘All In’ or ‘All Out’ model will reflect judgements about:

- whether the Commonwealth can reliably devolve the operational discharge, on some purchaser-provider basis, of its fundamental responsibilities for aviation security to the States/Territories;
- whether this would be accepted by the community;
- the importance ascribed to the combating of transnational and trans-state organised crime at airports as against the efficiencies that would come from strong linkage to the investigation of community, and local serious and organised crime, by State/Territory police forces;
- whether adequate legal powers are available, through Commonwealth law or agreement with the State/Territories to enable a Commonwealth staffed policing operation to be effective;
- the costs of additional training that would accrue to the Commonwealth as against any benefits that might be derived by having an additional community and investigative policing field in which to provide career opportunities and experience; and
- whether it would be possible to negotiate an effective ‘All Out’ approach that sustained standards at a cost of payments to the States/Territories that was reasonable.
In discussions with State/Territory and Commonwealth police chiefs there was a common view that an integrated policing operation at each airport provided by one jurisdiction for each airport was preferable to the current hybrid model with separate protection and policing streams. However, there was not unanimity on whether this integrated policing operation should be provided by the Commonwealth or the States/Territories. One submission that favoured the ‘All Out’ model, that is state/territory provision of this function, argued that:

- an ‘All In’ model would require the AFP to be dependent on state policing resources and a state legislative basis for the effective delivery of policing service;

- should the ‘All In’ model be pursued, there is a risk that current barriers to the cost effective delivery of airport policing on a national basis will be amplified. For instance, the move to an ‘All In’ model will not overcome legislative issues such as the reluctance by the States to grant ‘special constable’ status to AFP officers. Likewise, the ‘All In’ approach will not improve the AFP’s access to local State information and intelligence databases;

- an ‘All Out’ model is preferable to the ‘All In’ model and is preferable to the existing State-Commonwealth hybrid model of airport policing. An ‘All Out’ model would involve the provision of core airport policing and Counter Terrorism First Response by jurisdictional police services. Under an ‘All Out’ model, the Air Security Officer Program would continue to be maintained through the AFP, under the Protection function. Furthermore, operational interoperability is maintained under existing Commonwealth-State arrangements, as for example, those that apply for the Joint Counter Terrorism Teams. In cases involving taskforce activity, interoperability and clear lines of demarcation are established consistent with the scope of reference. Accordingly, the ‘All Out’ model continues to satisfy these key factors; and

- moving to an ‘All Out’ model for the provision of airport policing and national aviation security services is not inconsistent with the functions required of the AFP by the Act and/or Ministerial Direction. The ‘All Out’ model would avoid complex areas of legal uncertainty of the ability of AFP members to exercise appropriate powers over State offences.

On balance, and with an element of reluctance, the Audit has reached the view that the ‘All In’ model under which the Commonwealth accepts clear responsibility to fund and staff airport policing and security is more likely to be sustainable in the long run. The Audit has carefully considered, but respectfully does not agree with the view that an ‘All Out’ model is the first preference. This conclusion is based on a careful examination of the arguments put above against the ‘All In’ model.
In the first instance, an ‘All Out’ model would equally make the discharge of the Commonwealth’s obligations dependent on state policing resources and a state legislative basis for the effective delivery of policing service. State law could only be applied to the principal airports as Commonwealth law, pursuant to the Commonwealth Places (Applications of Laws) Act. And of course this approach would explicitly make airport policing totally dependent on state policing resources. The States would have a choice of whether to actually enforce these Commonwealth laws. While some would embrace the opportunity, others have indicated to the Audit that they are not prepared to assume what they regard as a Commonwealth responsibility. Those that have indicated a willingness to take the function on comprehensively, add the caveat that it would have to be on financial terms no less generous than those currently available. These are more costly than direct Commonwealth provision of the policing resources (see below), and even on the current generous terms not all the States have provided and sustained the pledged resources.

Again, the Audit does not accept that ‘current barriers to the cost effective delivery of airport policing on a national basis will be amplified’.

Take the question of cost. Currently, the Commonwealth pays each State/Territory police service an agreed fee for each member seconded to the Unified Policing Model (see Appendix 12 for costs of seconded members, per person, by jurisdiction). The Commonwealth, through the AFP, also pays the salaries and allowances of these seconded members. It would relieve the AFP from the not inconsiderable burden associated with the daily administration, including the development of interagency agreements, of seconded State/Territory members under the Unified Policing Model.

An ‘All Out’ model would involve periodic bargaining rounds with the States with some, perhaps considerable, risk that agreements would break down and costs balloon.

In summary, transitioning to an Airport Uniform Police model consisting of AFP sworn members only, based on current average staffing costs and team model structure, would realise a significant net annual saving once implemented – on the advice provided to the Audit by the AFP of the order of $7m per annum – and reduce a future financial risk factor. There would be initial additional training and recruitment costs (see below), but the Net Present Value of the savings associated with an ‘All In’ system is likely to be large and positive – in excess of $50m measured over the next 20 years. It would obviate the current practice of paying States/Territories a ‘service fee’ in excess of the costs immediately incurred for the use of their resources.

The Audit finds it difficult to agree that ‘barriers to the delivery of airport policing on a national basis (emphasis provided) will be amplified’. The greatest benefit of the ‘All In’ model is its ability to impose a coherent and consistent framework of airport policing across Australia that allows a proper assessment of national priorities and combat of serious and organised crime targeting or using the sector.
The Audit does not share the view that the ‘All Out’ model is the only way to “avoid complex areas of legal uncertainty of the ability of AFP members to exercise appropriate powers over State offences.” It is true that on the basis of the current drafting of the Commonwealth Places (Application of Laws) Act and given the arrangements in place under that Act with most, but not all, States, federal police investigative powers are limited in respect of applied State offences committed at most CTFR airports. However, as is clear from the discussion of the legal framework above, this need not necessarily be so. The Commonwealth has it within its powers to amend the Act, or to renegotiate the agreements made with States that lead to the extinguishment of AFP officers’ full investigative powers in relation to the implementation of these applied laws. Indeed, in relation to all Australia’s major airports (with the exception of Cairns), the Commonwealth has the legal competence, should it be of such a mind from a policy viewpoint, to apply a common body of criminal law, based for example on that applying in the ACT. In relation to Cairns airport, the Commonwealth could withdraw completely, relying only on its aviation security and terrorism powers to enforce standards, or alternatively request a referral of powers by the State or the conferring of special constable status on AFP officers.

The Audit accepts that the ‘All In’ model will not of itself “improve the AFP’s access to local State information and intelligence databases”. Similarly the ‘All Out’ model will not of itself guarantee access to national intelligence flows. Maintaining these important and proper intelligence, interoperability and joint task force relationships will always be a function of continuing good leadership by the heads of policing agencies. In particular there should be a high priority on the maintenance of the highly valuable Joint Airport Intelligence Groups, Joint Airport Investigation Teams and the Joint Counter Terrorism Teams.

In the final analysis, the Audit’s view is that it is the relative importance to be placed on the Commonwealth’s guaranteed ability to discharge its national security and transnational and serious and organised crime responsibilities, as against the efficiency of the discharge of important but more routine community policing that should determine the outcome. If it is surety of the consistent discharge of those national responsibilities that is the top priority, then in the Audit’s view the ‘All In’ model is preferred. Or failing a sufficiency of agreement from the States/territories and an unwillingness to use the Commonwealth’s legislative capacity, the Audit would accept that an ‘All Out’ approach is preferable to the current hybrid model. The Audit has reached this view reluctantly, recognising that some have argued the view “that the Government pursue the ‘All Out’ model as the preferred solution, but that if that is not achievable the ‘All In’ model be the preferred, second best solution.”

In the Audit’s view the ‘All In’ model has a number of other advantages. It will for example improve the flexibility and adaptability of the airport policing environment, particularly when linked with consolidated budgetary provisions. The increased certainty of staffing levels sourced from one agency under this model would be similarly beneficial in ensuring staffing, training and common standards.
It would provide additional recruitment, development and career opportunities to the AFP, which could have system wide benefits over time. The AFP would have to recruit and train an additional 328 full-time AFP members (to replace the seconded police) in order to perform this function under a sustainable ‘All In’ model. While this initial recruitment and training phase may take between one and three years to complete, it would provide an opportunity to broaden skill sets across the AFP. By building airport policing into the broader organisational workforce planning model, a far greater number of AFP members will be exposed to community policing roles during their careers. Currently, many new recruits begin their policing careers in regional offices and miss the opportunity to develop valuable uniform/community-style policing skills. Increasing the capacity of the AFP to perform community policing roles will improve the overall flexibility of the workforce, noting movement opportunities to the International Deployment Group and ACT Policing as well as other investigational streams. Thus, in addition to those members who are naturally attracted to work in the airport environment, new recruits and members seeking further professional development and/or promotion could benefit from exposure to airport policing.

That said, there would be important risks to be managed to ensure that the vital and proper connection between airport policing and security, and the conduct of community policing and the investigation of serious crime by the State police forces is as smooth and seamless as it can be. There would also be transitional issues to be dealt with, such as the time it would take the Commonwealth to recruit and train the additional officers.

It would be vital to ensure that there was State and community acceptance of the move, and effective arrangements to cover a seamless meshing of Commonwealth and State systems. It would be ideal if States were prepared to swear Commonwealth officers as ‘special constables’ to apply State laws, and exercise the full relevant range of powers. Some States do this already, and the Commonwealth generally empowers State officers to apply Commonwealth law.

This will only happen with the strong leadership that COAG can give.

**Finding 7.12:**

Having particular regard to Commonwealth international obligations, its broader responsibilities concerning the regulation of aviation more generally, and the public expectation of consistently high standards and approaches to aviation security across the nation, the ‘All In’ model is likely to be more sustainable in the long run. The ‘All In’ model also represents significant cost savings to the Commonwealth.

**Recommendation 7.5:**

*The Commonwealth should vigorously pursue the replacement of the existing Unified Policing Model with an ‘All In’ model under which the Commonwealth accepts the responsibility of funding and staffing nationally coordinated airport security and policing services, noting that this will likely take several years before being fully operational.*
Recommendation 7.6:

Under the ‘All In’ model, the AFP should seek agreement from all State Police Commissioners to swear in AFP Airport Uniform Police members as special members of the State police forces and/or make any necessary legislative amendments to ensure that the powers of AFP members policing airports are clear and adequate to the task.

Incorporation of Counter Terrorism First Response into Airport Uniform Police functions

While under an integrated system performance of the Counter Terrorism First Response function may be achievable using fewer personnel, the salary costs of employing sworn police officers are higher than those of Protective Service Officers. On average, the annual cost to the AFP of employing an AFP police officer is $119,225, whereas the cost of employing a similarly experienced Protective Service Officer is $99,000. As such, with fewer members at a higher cost, the net difference to the Aviation function in terms of overall cost is likely to be negligible. Thus any decision to amalgamate the Counter Terrorism First Response and Airport Uniform Police functions should not be based upon an assumption of immediate cost savings but rather on the improved performance that would arise from greater workforce flexibility.

The AFP is currently conducting a national review of the Counter Terrorism First Response function, including its existing capacity and capabilities, in order to examine the potential costs and benefits of integrating the function and more rigorously test these expected efficiencies.

If the Counter Terrorism First Response function is integrated into the Unified Policing Model, it is recommended that Protective Service Officers already performing Counter Terrorism First Response duties be given first opportunity to transition into the AFP as police officers through the standard AFP recruitment process. Redeploying those Protective Service Officers who are neither suitable nor interested in transitioning into the policing stream would require careful consideration and sensitive handling.

Recommendation 7.7:

The Audit supports the review by the AFP Aviation portfolio of the Counter Terrorism First Response function, which should expand analysis of the requirements, costs and benefits of potential delivery options.

Recommendation 7.8:

Subject to findings of the Aviation review, the Audit gives its in-principle support for integration of Counter Terrorism First Response into the Airport Uniform Police. If supported by the review, the AFP should recruit additional police to perform this function, giving first priority to any existing AFP Protective Service Officers who are capable and interested in applying for the AFP base recruit course.

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195 Based on 2009-10 projections including allowances, penalties and all on costs, the total average cost for a PSO is $99,000. The total average cost for an AFP sworn member is $119,225. Information provided by Aviation portfolio on 21 May 2009.
PROTECTION

7.28 Introduction

The Protection function of the AFP provides personal protective services to Australian and foreign high office holders, personal protection and monitoring of designated witnesses assisting law enforcement authorities, and a security guarding presence for certain Commonwealth and foreign legation premises. The AFP designates these functions respectively as Close Personal Protection, Witness Protection and Uniform Protection. These three elements, although related, are somewhat discrete in their operation and each will be examined separately. The Audit notes that this AFP function was last comprehensively externally reviewed in the Sadleir Review of 2003.196

7.29 Current arrangements

Close Personal Protection

The AFP provides Close Personal Protection to a number of Australian and non-Australian high office holders, based upon assessed threats and international obligations.

The National Counter-Terrorism Plan identifies the Protective Security Coordination Branch of the Attorney-General’s Department as responsible for coordinating the protection of Australian high office holders, diplomatic and consular staff premises, Internationally Protected Persons and other foreign dignitaries. This is achieved through the application of a risk assessment methodology by the Security Coordination Sub-Committee of the Australian Government Counter-Terrorism Committee. The Security Coordination Sub-Committee is chaired by the Protective Security Coordination Branch, with representatives from the AFP, ASIO, and the Departments of Foreign Affairs and Trade and Prime Minister and Cabinet. The Protective Security Coordination Branch also coordinates security for designated major event planning, such as the Anzac Day commemorations each year at Gallipoli. AFP Protection is also routinely involved in security for major or special events.

The National Counter-Terrorism Plan allocates the AFP responsibility for the provision of Close Personal Protection, with the support of State and Territory police services as required. Close liaison is maintained with State and Territory police services to ensure adequate support when protected persons are travelling within or attending engagements in each jurisdiction.

In the 2007-08 financial year, the AFP was involved in over 18,000 movements of Australian and non-Australian high office holders, including visiting dignitaries.197 At the time of writing the AFP provides full-time Close Personal Protection to nine Australian and non-Australian high office holders.

197 AFP Annual Report 2007-08, Operational Outputs
Australian high office holders

The physical protection of Australian high office holders is necessary to maintain the reputation of Australia as a stable and sovereign democracy, the dignity of the offices themselves and the personal safety of the individual office holders.

Although violent actions directed against Australian high office holders are infrequent, the risk of serious incidents remains. These may be carried out by disgruntled individuals, groups of violent protesters or other persons seeking to criminally disrupt the policies or smooth functioning of the Australian Government.

For Australian high office holders, Close Personal Protection is provided on a permanent basis for the Governor-General and the Prime Minister. Depending upon threat levels and other circumstances, Close Personal Protection may also be provided to the Deputy Prime Minister (particularly when acting as Prime Minister) and to former high office holders. In some circumstances Close Personal Protection is also provided to Australian diplomatic staff posted overseas and to Australian high office holders, usually Government Ministers, when they are travelling internationally.

In addition to Close Personal Protection, the AFP provides Uniform Protection services to a number of premises associated with Australian high office holders.

Non-Australian high office holders

Australia has clear responsibilities under international agreements to provide protection to a range of non-Australian high office holders and visiting dignitaries. The Commonwealth Crimes (Internationally Protected Persons) Act 1976 specifically refers to the United Nations Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents 1973. Article 1 of this Convention includes in the definition of ‘internationally protected person’ heads of state, heads of government, ministers for foreign affairs, representatives and officials of States or international inter-governmental organisations and their families.

The threat of attack on the person, family, freedom or dignity of the hundreds of foreign officials in Australia naturally varies enormously, and comprehensive protection is not provided to all such officials. Consideration of threats does not normally include the risk of these persons being the victims of unrelated crime, like any other Australian resident, as opposed to politically motivated violence. The threat is assessed and Close Personal Protection is provided on that basis.

For diplomatic premises, the AFP also provides Uniform Protection services, both static and mobile.
Witness protection

Under the provisions of the Commonwealth *Witness Protection Act 1994*, the AFP Commissioner is required to establish and administer the National Witness Protection Program. The National Witness Protection Program is designed to provide protection to witnesses identified as being at risk as a result of the assistance they are to provide or have provided to law enforcement agencies. Participants can be referred to the National Witness Protection Program by the AFP, State and Territory police services, certain other Australian law enforcement agencies, overseas police services and the International Criminal Court. This function is in addition to similar, though less comprehensive, services provided by State police services for their own jurisdictions.

Internal referrals to the National Witness Protection Program are funded by the AFP. Other agency referrals are funded on a cost recovery basis, as are international referrals.

The operation of the National Witness Protection Program is security classified to protect the participants. The Minister for Home Affairs reports annually to Parliament on certain aspects about the operation of the Program.

Uniform protection

The AFP provides a range of both Government-appropriated and commercial purchaser-provider funded uniformed protective security services. These services are provided for foreign diplomatic premises in Canberra and several State capital cities, and some Commonwealth premises. There is a limited surge capacity for instances of increased demand for services.

Establishments protected under the auspices of Government appropriation funding are determined on a risk basis by the Security Coordination Sub-Committee. The establishments protected via Government appropriation are: Government House; Admiralty House; the Lodge; Kirribilli House; some foreign diplomatic missions and consulates; and the Commonwealth Parliamentary offices in Sydney and Melbourne.

Other establishments are protected via a commercial purchaser-provider model. Each client agency assesses the risk to its establishments via internal processes and then negotiates with the AFP to provide protective services to agreed levels and costs. These establishments are: Parliament House; the Australian Nuclear Science and Technology Organisation (ANSTO) facility in Sydney; the Department of Foreign Affairs and Trade R.G. Casey building in Canberra; certain Australian diplomatic missions overseas; and a number of Department of Defence facilities in Canberra and across the country.

Internationally, Uniform Protection officers are also deployed to several Australian diplomatic missions and additionally form a part of the AFP contribution to the Regional Assistance Mission to Solomon Islands.

In December 2006, in response to a number of enquiries, the AFP established a streamlined process to allow Protective Service Officers to convert to sworn police status, after appropriate re-training. At the time of writing, 257 Protective Service Officers had applied for this conversion training, of whom 25 have completed police recruit training and a further 92 are being assessed for suitability.
**Funding**

AFP Protection receives appropriated funding from ongoing allocations, lapping programs, and revenue from commercial activities under formal agreements.

The AFP receives ongoing funding ($27m for 2008-09) to provide Close Personal Protection as an element of Outcome 1 of the AFP core budget. Annual allocations are determined by the AFP reflecting the number of holders of high office approved for protection and their travel programs. Total spending on Close Personal Protection has remained relatively stable in recent years.

Witness Protection is funded under a separate ongoing program, the details of which are security classified.

The majority of funding ($47m for 2008-09) for AFP Protection comes from the purchaser-provider commercial guarding activities of Uniform Protection for Parliament House, the Department of Defence, the Department of Foreign Affairs and Trade and ANSTO.

The AFP receives lapping program funding ($30m for 2008-09) for Uniform Protection to provide security to Official Establishments and diplomatic premises guarding.

Under current funding projections, the Protection Full Time Equivalent workforce will decline from 780 in 2008-09 to 644 in 2011-12. This is likely to impact upon the extent of AFP Protection services.

**7.30 Issues**

**Close Personal Protection**

Close Personal Protection officers are frequently sent to liaise with foreign law enforcement agencies and Australian authorities overseas in relation to official Ministerial travel. The costs of this liaison are borne by the AFP and are not recovered by Protective Security Coordination Branch from the relevant Department or agency. Frequent Ministerial travel over which the AFP has no input has a substantial impact on the Protection budget.

Close Personal Protection officers undergo significant initial and ongoing training. Any decision to expand its Close Personal Protection capacity requires the AFP to identify and train appropriate staff from other areas within the agency. Whilst there are, due to staff rotations and advancement, always a number of officers employed elsewhere within the AFP with previous Close Personal Protection experience, there is no formal structured surge capacity in the event of circumstances dictating a sudden expansion of deployed Close Personal Protection officers. In view of other AFP ongoing operations at any time, many of these former Close Personal Protection staff would be engaged in core-type investigations, so any additional capacity for Close Personal Protection would inevitably draw resources from what may be other high-priority AFP activities.
Uniform Protection

AFP Uniform Protection offers significant non-cost advantages over any other comparable guarding or security entity. AFP Protective Service Officers are highly trained in use of force options, are subject to a stringent integrity regime, possess some arrest and other powers under legislation, have access to AFP intelligence and technological resources, and can draw upon additional surge capacity when required. No other security agency, public or private, can replicate these features, which of course results in higher unit pricing.

Government appropriated funding for official establishments and foreign diplomatic premises is provided under a lapsing program.

7.31 Consideration of the Issues

Roles and performance

In the existing security environment there is a clear requirement to maintain adequate protective services for both persons and premises considered to be a significant priority to Government. This need has been underlined by the increase in risk of politically motivated violence against government and international high office holders over recent years. With the full integration of the Australian Protective Service in 2004, the AFP assumed responsibility for the major Government-related protective service guarding functions, in addition to the existing Close Personal Protection and Witness Protection elements.

An effective protective security service is one where there are nil adverse incidents, or where adverse incidents are minimised or managed successfully. Likewise the absence of any adverse incidents may be due to a current lack of threat, or where those posing the threat have decided that the possibility of success is too low, or the risk of detection and apprehension is too high. By these measures AFP Protection has performed well in a challenging environment.

There is no superior alternative to the existing AFP Close Personal Protection service. The AFP performs this task to a high standard, assisted by State and Territory police services as required. The latest AFP business satisfaction survey recorded that 90 per cent of Close Personal Protection clients were either Very Satisfied or Satisfied with the service provided. This was within the set benchmarks.

The AFP-administered National Witness Protection Program efficiently and effectively carries out the sensitive task of protecting high-risk prosecution witnesses. There are no significant shortcomings in the operation of the AFP Witness Protection service. The designated key performance indicator for Witness Protection is the degree of compliance with the Witness Protection Act 1994. The latest recorded assessment disclosed a 100 per cent compliance rate.

\[198\] Portfolio Budget Statements 2009-2010: Attorney-General’s Department
\[199\] Portfolio Budget Statements 2009-2010: Attorney-General’s Department
AFP Uniform Protection provides an effective service, with the latest AFP business satisfaction survey recording that 90 per cent of Uniform Protection clients were either Very Satisfied or Satisfied with the level of service provided. This was within the set benchmarks.

Although Uniform Protection is not commercially competitive with private security agencies, the breadth and level of service which can be provided by the AFP is beyond any comparable public or private agency. Advances in security technology are likely to continue, increasing the effectiveness of technical monitoring facilities and perhaps reducing the need for a static physical presence. The AFP is continuing to explore these advances to provide a more effective and efficient service. The purchaser-provider model for guarding services delivers agreed measurable outcomes, and should be retained.

With the exception of internal Witness Protection Program participants, AFP Protection essentially provides a measurable service to external clients, whether they be, for example, Close Personal Protection for the Prime Minister, witness protection for domestic and international agencies, or guarding services for Commonwealth Departments and agencies.

Protection is currently funded by a mixture of:

- core funding through appropriations to the AFP (Close Personal Protection and Witness Protection for AFP clients) – $27m in 2008-09 for Close Personal Protection;
- lapsing Programs (Official Establishments and Diplomatic Premises) – $30m in 2008-09;
- full cost recovery (Parliament House, selective Defence and DFAT facilities and ANSTO) – $47m in 2008-09; and
- marginal cost recovery – external clients of the Witness Protection Program.

It has already been recommended that, in general, lapsing funding for activities covered by the proposed Security Program be consolidated into the base funding. However, although protection of Official Establishments and Diplomatic Premises is a lapsing program funding a long-standing commitment, and is unlikely to change without a major shift in Government policy, the AFP would be better placed to plan and manage resources if this program was to be funded by Government on an ongoing, cost recovery or purchaser-provider basis. Funding could be provided through a central appropriation to either the Attorney-General’s Department, or the Department of Prime Minister and Cabinet. Separating financial responsibility from demand for a service often leads to excess demand. Although the 2009-10 Budget renewed this lapsing program, it remains a non-ongoing program for what is an ongoing requirement.
Finding 7.13:
Protection services have been reviewed on a number of occasions, most recently by Mr David Sadleir AO. Mr Sadleir recommended reduced reliance on fixed guard posts and greater reliance on mobile patrols and technology. These recommendations have not been fully implemented by the relevant area of the Attorney-General’s Department, however the Protective Security Coordination Branch is in the process of finalising a review of arrangements and recommending future approaches. The Department of Prime Minister and Cabinet and the AFP are closely involved in this review.

Finding 7.14:
Following the Sadleir recommendations funding for protection of Official Establishments and Diplomatic Premises is appropriated to the AFP as an element to be rolled into its core budget, noting that currently these are lapsing monies that are not in the AFP’s base budget funding, while the requirement for, and level of, protection services required is determined by the Protective Security Coordination Branch. The separation of responsibility for determining the requirement for and level of protection from the responsibility for funding that protection is likely to encourage over-demand for these services.

Finding 7.15:
Current resource levels and charging arrangements for other programs continue to be appropriate.

Recommendation 7.9:
Funding for the protection of Official Establishments and Diplomatic Premises should be provided through ongoing appropriations to the Department of Prime Minister & Cabinet and the Department of Foreign Affairs and Trade, subject to periodic review. Risk assessments should continue to be coordinated across the Commonwealth and State sources by the Protective Security Coordination Branch. The AFP should provide these services on a tied purchaser-provider basis as it does for Parliament House, certain Department of Defence and Department of Foreign Affairs and Trade establishments and the Australian Nuclear Science and Technology Organisation. A limited surge capacity could be provided by Protective Service Officers employed within other AFP programs.

COUNTER TERRORISM

7.32 Introduction
The AFP Counter Terrorism function was established in 2002 following the September 11 2001 terrorist attacks in the United States. The AFP, as Australia’s national policing agency, has a central role in countering terrorist threats to, and preventing terrorist incidents against, Australia and Australian interests domestically and internationally. The AFP has specific responsibility to investigate the terrorism offences contained in Part 5.3 of the Criminal Code which were enacted following the September 11 attacks.201

201 The Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002 inserted Division 72 into the Code, incorporating offences relating to explosives and lethal devices. Subdivision A of Division 72 creates
The AFP’s role contributes to the overarching Commonwealth coordination responsibility to counter terrorism in accordance with the Agreement on Australia’s National Counter Terrorism Arrangements between the Commonwealth and all State/Territory jurisdictions of Australia. This Agreement also recognises the joint responsibility of the Commonwealth, States and Territories in contributing to the development and maintenance of a nation-wide capability to counter terrorism and the importance of cooperative partnerships across all jurisdictions.

7.33 Current arrangements

The AFP’s counter terrorism strategy is based on ‘zero tolerance’ of a terrorist attack. The strategy embodies four key principles:

- prevent – through counter terrorism intelligence-gathering, intelligence-sharing and investigations by dedicated counter terrorism teams; capability development on and offshore; developing counter-radicalisation strategies; offshore placement of counter terrorism liaison officers and advisers and regional cooperation teams;
- prepare – counter terrorism exercises and training, both domestically and internationally, including at the Jakarta Centre for Law Enforcement Cooperation;
- respond – investigations into actual terrorist attacks offshore; disaster victim identification and other forensic expertise; and
- recover – ongoing investigative and intelligence-gathering activities in the aftermath of terrorist incidents, including activities directed at identifying the source of terrorist attacks and threats.

The primary aim of the Counter Terrorism portfolio in the current environment is prevention. The legislative framework establishing terrorism offences, including providing or receiving training connected with terrorist acts, and acts done in preparation for, or planning, a terrorist attack, allows for early intervention to prevent a terrorist act occurring. These offence provisions are triggered prior to a terrorist act and do not require the actions to be for a specific terrorist act or that a terrorist act subsequently occur.

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offences relating to international terrorist activities using explosive or lethal devices and gives effect to the International Convention for the Suppression of Terrorist Bombings.

The Security Legislation Amendment (Terrorism) Act 2002 inserted Divisions 101 and 102 into the Code. Division 101 created offences of engaging in a terrorist act, providing or receiving training connected with terrorist acts, possessing things connected with terrorist acts, collecting or making documents likely to facilitate terrorist acts and other acts done in preparation for, or planning, terrorist acts. Division 102 created offences relating to terrorist organisations, including membership of a terrorist organisation, recruiting for a terrorist organisation, training a terrorist organisation or receiving training from a terrorist organisation, and providing support to a terrorist organisation.


Signed on 24 October 2002

These principles also direct the work of the National Counter Terrorism Committee.

Section 101.2 of the Criminal Code.

Section 101.6 of the Criminal Code.
Additionally the AFP works with domestic and international partners to reduce the risk of extremist views leading to violence or terrorism through community engagement and counter-radicalisation measures. The AFP also maintains response and recovery capacities, responding to terrorist attacks impacting upon Australian interests and Australians within our region. This capacity was demonstrated in support of the Indonesian National Police following the 2002 Bali, 2003 Jakarta Marriott and 2005 Australian Embassy bombings. The AFP participates in both domestic and international training exercises and capacity development programs to prepare for the potential occurrence of a terrorist incident. In particular the AFP has played an important role in cooperative efforts to build counter terrorism capabilities across the ASEAN region.

**Activities**

The networked, decentralised and devolved characteristics of the global terrorist threat require a counter terrorism strategy to include both domestic and international components. The domestic component of AFP Counter Terrorism activities comprises central Counter Terrorism management, coordination, governance, capability development, training and operations support, and State/Territory Joint Counter Terrorism Teams.

Joint Counter Terrorism Teams have been established in all State and Territory capitals. The teams, which consist of AFP sworn and unsworn officers and officers from State/Territory police forces, include specialist staff such as linguists, intelligence analysts and undercover operatives.

The international component comprises operational, forensics and intelligence support to regional law enforcement partners through Regional Cooperation Teams. Regional Cooperation Teams have been established in Jakarta \(^{206}\) and Manila \(^{207}\). The Jakarta Centre for Law Enforcement Cooperation (JCLEC), a joint initiative with the Indonesian National Police, is a key element of these capacity-building initiatives, \(^{208}\) as is the Multi National Operational Support Team \(^{209}\). The AFP also has Counter Terrorism liaison officers and secondments to partner law enforcement agencies in a number of countries. \(^{210}\)

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\(^{206}\) The Jakarta Regional Cooperation Team (JRCT) assisted the Indonesia National Police during the investigation of the second Bali bombings, the bombing of the Australian Embassy in Jakarta and the bombing of the Marriott Hotel in Jakarta. The Team has been directly involved in investigations which resulted in the arrest and conviction of Jemaah Islamiyah leaders, dismantling of JI cells, the recovery of arms and explosives and the prevention of terrorist attacks on Western targets.

\(^{207}\) The Manila Regional Cooperation Team (MRCT) has provided direct support for operations resulting in the prevention of a planned bomb attack in General Santos City, the arrest of manufacturers of improvised explosive devices and the recovery of improvised explosive devices.

\(^{208}\) The Department of Foreign Affairs and Trade has recognised the importance of the AFP’s relationships with counterpart law enforcement agencies in our region, and capacity-building assistance to regional nations in combating terrorism and transnational crime, including in Indonesia. See Advancing the National Interest – Australia’s Foreign and Trade Policy White Paper (2003, p 11, pp 36ff, p 76).

\(^{209}\) The Multi National Operational Support Team (MNOST) is an AFP led and funded, regionally focused Counter Terrorism team directed towards examining and countering the threat of terrorism within Southeast Asia. MNOST is based within Indonesian National Police headquarters in Jakarta and includes police representatives from the AFP, Indonesian National Police, Royal Thai Police, Philippines National Police and the Singapore Police Force. Negotiations are continuing to progress the attachment of a Royal Malaysia Police officer to MNOST, the Royal Malaysia Police currently hold Observer status. Key Projects undertaken by MNOST in 2008 included the examination of Counter Terrorism prisoners in the region; terrorist exploitation of smuggling routes; and the outcomes of the symposium at the Jakarta Centre for Law Enforcement Cooperation in regard to threats of radicalisation in prisons and possible solutions.

\(^{210}\) There are currently 23 AFP members deployed to counter terrorism liaison posts, primarily in the South-East Asian region, but also in London, Washington and Bangkok. In addition to the liaison officer positions, the AFP has an officer seconded to the Federal Bureau of Investigations Counter Terrorism Taskforce in Los
**Funding**

The Counter Terrorism function is predominantly funded through five New Policy Initiatives. However, these initiatives have an offshore focus and do not resource domestic counter terrorism investigations.

The New Policy Initiatives include Fighting Terrorism at its Source (to provide the AFP and its regional law enforcement partners with enhanced capabilities to investigate and disrupt terrorist activity) and Jakarta Centre for Law Enforcement Cooperation (capacity and capability development of Indonesian and regional law enforcement and criminal justice agencies and institutions).

In the 2009-10 Budget funding for the lapsing Fighting Terrorism at its Source initiative was renewed. Ongoing funding for this initiative amounts to $82.773m over four years. The deliverables of the initiative include:

- investigative and intelligence advice to support counter terrorism operations;
- the maintenance of forensic capability in Jakarta and Manila and the provision of specialist skills for testing of explosive materials; and
- the development and enhancement of intelligence capacity to optimise counter terrorism investigations and/or support to regional law enforcement agencies.

The 2009-10 Budget has also provided ongoing funding for the Jakarta Centre for Law Enforcement Cooperation, and funding for an increased law enforcement contribution to capacity development in Pakistan. Objectives of this program in Pakistan are:

- to increase the investigative and forensic capacity of Pakistan law enforcement agencies and increase the AFP’s ability to collect and exchange criminal and forensic intelligence leading to enhanced operational and intelligence outcomes; and
- to enhance the ability of the AFP and Pakistan authorities to jointly investigate and disrupt terrorist activity.

These objectives will be advanced through the presentation of an International Cooperation in Counter Terrorism Workshop by the AFP and a range of other counter terrorism training initiatives.
Staffing

The cross-jurisdictional Joint Counter Terrorism Teams presently comprise 167 members. This includes AFP sworn and unsworn members and 64 officers from state Police forces. The counter terrorism portfolio has identified potential surge capacity staffing in each regional office, outside the counter terrorism functional stream, which can be relied upon to supplement base staffing levels during periods of intensified operational activity. Officers are included on the surge list on the basis of investigational experience and relevant skills sets, and are all required to undergo counter terrorism-related training courses in preparation for possible engagement in counter terrorism operations.

7.34 Current issues

Terrorism is likely to endure as a serious ongoing threat for the foreseeable future. Extremism leading to violence or terrorism continues to pose a direct threat to Australia and Australian security interests.

Despite this recognition of terrorism as an enduring threat, the absence of a terrorist attack on Australian soil, and success in disrupting domestic and regional terrorist operations, could give rise to public complacency as to the level of threat faced. As outlined in Chapter Two, threat assessments indicate that the threat of terrorism is unlikely to abate.

However, given the intensive resources required for counter terrorism investigations, it must be considered whether the current level of capacity in and resourcing of Counter Terrorism should be maintained. While the threat of terrorism will continue, its form is likely to evolve and diversify. The AFP must ensure that its activities keep pace with this dynamic threat and investigators maintain a deep cultural understanding of the various terrorist groups which pose a threat to Australian interests.

Countering this diverse threat also requires a collaborative approach, at a strategic level, aided by strong working relationships with the Australian Intelligence Community, and at the local level, through work with State and Territory police services. The effectiveness of these relationships has been commented upon in a report commissioned by the AFP Commissioner, titled the Street Review of Interoperability between the AFP and its National Security Partners, and the report commissioned by the Government titled the Report of the Inquiry into the Case of Dr Mohamed Haneef. Implementation of the recommendations of these inquiries is essential to countering the diverse terrorist threat.

211 These State/Territory police officers are sworn in as AFP special members, providing them the same police powers as AFP members, and are given access to Counter Terrorism training facilitated by AFP Learning & Development. These figures are correct as of 12 March 2009.
213 March 2008
214 November 2008
7.35 Consideration of issues

The need to maintain the current capability in and resourcing of counter terrorism

In the course of the Audit, Australian and international intelligence assessment bodies have confirmed to the Audit that there is likely to be an ongoing regional and global threat to Australians and Australian interests for the period covered by this Review. There is a continuing risk associated with Australian citizens and residents joining overseas insurgencies, and acquiring both weapons training and being further radicalised. The growth of insurgencies in Sudan and Somalia, and the presence in Australia of new communities drawn from those regions provides a new dimension to a threat that we have encountered previously in relation to the Middle East and the sub-continent.

Finding 7.16:
Terrorism will continue to be an ongoing domestic, regional and global threat for the foreseeable future.

Finding 7.17:
Australians and Australian interests have been the subject of actual, or planned but disrupted, terrorist attacks abroad and within Australia.

Finding 7.18:
There is a continuing risk of Australians engaging in insurgencies in foreign countries, receiving training in terrorist techniques and returning to Australia to motivate and skill others to undertake terrorist operations.

The need to maintain a capability to respond to this threat is therefore clear, however, the issue is to what level should this capability be maintained? Is the AFP currently devoting too many or too few resources to this particular threat?

The symbolic significance and political power of a terrorist threat leaves decision making on counter terrorism activities susceptible to being ‘overwhelmed by political, social, cultural, economic, security or other non-quantifiable grounds’.215

Terrorism is qualitatively different from other crime types, involving heavily intelligence-based investigations with the goal of the deterrence and prevention of a threat which may never materialise.

Counter terrorism activities, therefore, do not fit easily into common policing performance measures which rely on post event data, not available for pre-emptive counter terrorism investigations. The use of cost-benefit analysis to determine the cost effectiveness of counter terrorism measures has been proposed by the Australian Strategic Policy Institute.216 However, quantifying the benefits obtained from preventative measures is difficult, given uncertainties surrounding threat assessments, potential consequences of a terrorist attack, and the effectiveness of counter terrorism measures. In particular, it is difficult to attribute the prevention of a terrorist attack to the effectiveness of one agency’s contribution.


Assessments of the costs likely to be incurred by the occurrence of a terrorist attack provide one way of estimating the benefit of counter terrorism activities such as the regional capacity building initiatives and domestic investigations performed by the AFP. These activities are all focused on preventing a terrorist attack and were not in place the economic, social and political costs would be significantly high. This discussion focuses on the economic impacts of a terrorist attack to demonstrate costs incurred as these are the easiest to quantify.

The financial impact of a terrorist attack is felt beyond the immediate costs associated with loss of life and damage to property and infrastructure. International experience suggests terrorist attacks also have enduring economic repercussions, such as steep declines in tourism, property values, and taxation revenue.

Both the 2002 Bali bombings and September 11 attacks in the United States resulted in a significant decline in tourism revenue. Given that tourism contributes 3.7 per cent of gross domestic product to the Australian economy and employs 5.2 per cent of the total workforce, a terrorist attack would be particularly detrimental to this aspect of the Australian economy. In total the direct economic impacts of the September 11 attacks, such as loss of capital, taxation revenue and costs to government, were estimated at $US84 billion. This estimate did not include losses sustained by financial markets, disruption of trade, and loss of consumer and investor confidence.

The cost of the 2005 London subway bombing was reported to be £2 billion. Based on the London experience, Hook estimates the cost of a terrorist attack of a similar scale in Australia would be in the vicinity of $AUD1.2 billion, however, he notes deficiencies in this estimate, as it does not account for social costs, including medical recovery costs for victims, losses in productivity and efficiency arising from the imposition of more stringent security measures on, for example, public transport etc.

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217 Immediate costs arising from a terrorist attack include human fatalities, injuries, property damage (including symbolic value of the target), rescue efforts, post attack crisis management, disruption to financial markets and businesses, investigations, a public inquiry, court costs, and victim support services.

218 In Bali “[b]eyond the sharp initial decline in tourist arrivals and the impact on the hotel and travel industry, there was an immediate shrinking in demand for industries that directly cater for tourism, such as taxi drivers and local handicraft producers.” Conflict Prevention and Recovery Programmes – UN Development Programme, Indonesia, 2003 cited in Department of Foreign Affairs and Trade: Economic Analytical Unit, Combating Terrorism in the Transport Sector: Economic Costs and Benefits, Commonwealth of Australia, 2004.


The financial impact of the Bali, Marriott and Jakarta Australian Embassy bombings on Australia has not been estimated, but the loss of Australian life and injuries incurred and the direct and indirect costs were significant. These bombings also constituted an attack on one of our most important regional partners. Supporting a stable, prosperous Indonesia within the integrity of its borders is an important foreign policy and humanitarian objective. The impact on the Indonesian economy and society of these events was significant.

Avoiding costs in the order of this magnitude provides an estimate of the scale of benefit obtained from the successful prevention of a terrorist attack. The Economic Analytical Unit of the Department of Foreign Affairs and Trade notes other benefits of increasing security measures and maintaining counter terrorism activities.  

Unchecked terrorism increases costs and heightens perceptions of risk, therefore, having the potential to undermine trade and reduce investor confidence in a market. As such, there is value in the deterrence of terrorism not only from a societal perspective but also from an economic one.

The costs of terrorism are clearly high and the continued threat of terrorism demands preventative action. The AFP’s activities in preventing terrorism through capacity building and community engagement, investigating terrorism offences and preparing briefs for prosecution – and the intelligence and forensic capabilities on which these depend – are plainly crucial elements of prevention and deterrence. These activities accrue significant benefits, take a considerable time to put in place and rely on the development of mature relationships and networks at home and abroad. These capabilities cannot be created quickly and there would be significant risk in dismantling them prematurely because of a perception that immediate threats might have somewhat diminished. That said, there can be considerable variability on the investigative and forensic resources required, depending on the breadth and complexity of investigations of identified high risk situations, or in response to external events.

Finding 7.19:

A domestic terrorist event of the nature seen in London in July 2005 would likely result in economic costs if replicated in Australia of over $1billion. This economic assessment does not include the social costs, which are of their nature difficult to quantify.

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225 As the cost of security precautions are included in insurance premiums and higher cargo freight rates and fares.
Finding 7.20:
To fight terrorism at its source, it is critical to develop institutional capacities and practices at home, in our region, and in the countries with active insurgencies with links to significant Australian domestic communities. This requires long term, sustained engagement to develop and maintain relationships with at risk communities and with regional partners, to build relationships amongst regional partners and to work with allies in countries where we are supporting anti-insurgency programs.

Finding 7.21:
It is unlikely that there could be an early reduction in the core capability required by the AFP for counter terrorism operations, although there could be significant year to year variations in funding required depending on the number of active police and security operations underway. Increasing the scope for the AFP to reallocate resources by consolidating funding as proposed in Recommendation 5.1 will provide it with the flexibility to surge counter-terrorism investigative and surveillance capabilities as new active domestic threats emerge.

Cultural understanding of terrorist threat groups
As described in Chapter Two: Futures Scan, contemporary terrorism operates on a global, networked, decentralised and devolved basis, and there continue to be some conventional liberationist or secessionist terrorist groups with sympathisers in the Australian population. This has resulted in a dynamic terrorist threat, across groups with significant cultural differences. The AFP operates among diverse cultural groups across our regional interests and at home. It is not possible to carry out effective intelligence, policing, capacity building and counter-radicalisation programs without a sensitive understanding of the cultures of these key groups and some language skills.

At the international level, the AFP International Network offers important international linkages and is key to informing the AFP’s understanding of terrorist threat groups and international trends and developments. The AFP continues to maintain liaison posts across South East Asia, Central and West Asia and the Middle East, including five specific Counter Terrorism Liaison Officers. Funding in the 2009-10 Budget has been allocated to increasing Australia’s law enforcement presence in Pakistan and developing the capacity of Pakistani law enforcement agencies to investigate terrorism. This will also strengthen the AFP’s relationship with Pakistani law enforcement agencies, aiding cooperation for joint investigations and intelligence sharing.
The AFP has identified the need to enhance Counter Terrorism investigators’ cultural understanding and has established a Culture and Language Centre to coordinate culture and language training for members of the AFP and partner agencies. Further to Recommendations 7-10 of the Clarke Inquiry, the National Counter-Terrorism Committee, through the Investigations Support Capability Coordination Sub-Committee, is also developing and facilitating exercises and training initiatives that specifically respond to the problems involved in investigating and prosecuting terrorist offenders in Australia.

The work undertaken by the AFP Culture and Language Centre has increased members’ understanding of religious, cultural and ethnic issues, and continues to develop language skills across the AFP. Since October 2006, 1,080 participants have attended AFP Islamic Awareness Programs within Australia of which 635 were AFP staff and 445 from partner agencies including State and Territory police, Australian Customs and Border Protection Service, Attorney-General’s Department and the Department of Immigration and Citizenship.

These initiatives are important to ensure investigators have an understanding of the culture and language of particular communities at risk and individuals predisposed to radicalised behaviour within Australia. A further component of this counter-radicalisation work is the AFP’s contribution to the whole of government Countering Violent Extremism Strategy which aims to develop an approach to countering extremism through early intervention strategies for at-risk individuals and groups.

However, it was submitted to the Audit that counter terrorism investigations have encountered a limited capacity for translation and interpreting in relation to some key language groups. These resources could be even more restricted for newly arrived communities. When required, the AFP does supplement its capacity with whole of government resources, however, large scale simultaneous investigations or incidents could tax these resources beyond their limits, potentially creating significant bottlenecks and risks.

Finding 7.22:
Counter-radicalisation programs and effective investigation and intelligence gathering in counter terrorism all depend on good language skills and strong cultural understanding of the at-risk communities.

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226 November 2008
227 The Report of the Clarke Inquiry outlines some problems which arose due to the need to translate material seized under search warrants in Operation Rain, namely, discrepancies in translations prepared for the AFP and the Australian Security Intelligence Organisation (see para. 3.4.1), the initial need for the AFP to forward documents to the Metropolitan Police Service in the United Kingdom for translation (see para 3.3.1), and the delays that were involved in translating this material (see paras 3.2.9, 4.4.6).
Finding 7.23:
The AFP has developed its language and cultural skills, but while these resources have been very effective, the skills base is still inevitably thin. The AFP relies on whole of government resources when required. The translation and interpretation services, with the necessary security clearances, available to the law enforcement community are limited for some language groups. Dealing with multiple events or targets could place them under great pressure, and deficiencies could handicap operations and/or prosecutions by some or all members of the police and security community at Commonwealth and State level.

Finding 7.24:
The model of the AFP’s regional engagement with respect to counter terrorism, notably the Jakarta Centre for Law Enforcement Cooperation, the Jakarta Regional Cooperation Team, the Multi National Operational Support Team, Bomb Data Centres and other forms of forensic support, has been highly successful and could provide a model that might be of relevance to other regions. Australia should support the use of this framework beyond our immediate region.

Recommendation 7.10:
The efforts of the AFP Culture and Language Centre, and an active program to reach out to and recruit members of the AFP from at risk communities should be maintained and deepened, to ensure relevant skills are developed in line with future threats.

Recommendation 7.11:
There should be a whole of government consideration of the adequacy of, and any necessary steps to improve, security cleared translation and interpreting services for at risk groups.

Implementation of the Street and Clarke reviews

Given the novel and controversial character of counter terrorism legislation, the enforcement of these laws by the AFP is the subject of continued scrutiny by various interest groups. Since 2007, the AFP has been the subject of two specific reviews in regards to its counter terrorism activities, the Street Review and the Clarke Inquiry. Both these reviews made recommendations which directly and indirectly affect the AFP. It is imperative to the continuing public confidence in the work of the AFP that these recommendations be implemented promptly. The Audit was satisfied that implementation is progressing well within the AFP.

Street Review

In 2007 the AFP initiated a review of the AFP’s national security operations and the effectiveness of the interaction between the AFP and its national security agency partners. The AFP works closely with the Australian Intelligence Community, specifically the Australian Security Intelligence Organisation (ASIO), both on and offshore.
The Street Review made ten recommendations, regarding the effectiveness of operational decision making processes, joint taskforce arrangements, and training and education. These recommendations focused on enhancing the relationship between the AFP and ASIO. A number of these recommendations have been fully implemented and the implementation of the remainder is progressing.

The following recommendations have been implemented:

- pursuant to Recommendation 1, a committee comprising the AFP Commissioner, Director-General of Security and the Commonwealth Director of Public Prosecutions (CDPP) has been established to discuss issues relevant to national security, strategic priorities, and enhanced interoperability;
- pursuant to Recommendation 2, an interim Joint Operations Protocol between the AFP and ASIO has been adopted;
- pursuant to Recommendation 3, Counter Terrorism Prosecution Guidelines have been drafted by the CDPP and have been subsequently endorsed and distributed;
- pursuant to Recommendation 8, the AFP and ASIO have enhanced their training relationship through reciprocal invitations to courses and workshops, joint training programs and exercises, and executive level secondments between agencies; and
- pursuant to Recommendation 9, future National Counter-Terrorism Committee Exercises will address the problems involved in investigating and prosecuting terrorist offenders.

The remaining recommendations are the subject of ongoing projects, particularly regarding the upgrade of AFP security measures and information technology under Project CASSI (Collection, Assessment and Storage of Sensitive Information). Improvements under this Project will provide consistent security standards and allow the co-location of ASIO officers in Joint Counter Terrorism Teams and the development of an integrated information technology system. Memoranda of Understanding outlining the governance framework for each Joint Counter Terrorism Team are also currently being redrafted, in consultation with the individual jurisdictions, to include ASIO officers into the Joint Counter Terrorism Team structure.

**Clarke Inquiry**

The AFP is also working with other Commonwealth agencies and the National Counter-Terrorism Committee to implement the recommendations of the Clarke Inquiry. This inquiry made ten recommendations, some of which directly impact upon the activities of the AFP.
Work had already been initiated on some of these recommendations following the outcomes of the Street Review. For example, Recommendation 2 of the Clarke Inquiry proposed a Committee, similar to that recommended in Recommendation 1 of the Street Review, to conduct a review to dispel misapprehensions about the respective roles, functions and responsibilities of government agencies in a counter terrorism context. Additionally, Recommendations 7-9 of the Clarke Inquiry, concerning operational protocols, the review of Joint Counter Terrorism Team arrangements and a national case management system, were in line with recommendations of the Street Review.

**Effectiveness of cross jurisdictional taskforces**

Both the domestic and international components of Counter Terrorism involve collaboration with State police, other Commonwealth agencies and international partners. The joint taskforces that are established and capacity building efforts undertaken are a key element of the investigation and prevention of terrorism.

Counter terrorism investigations conducted by the Melbourne and Sydney Joint Counter Terrorism Teams provide useful examples of the effectiveness of cross jurisdictional taskforces and significant lessons learnt for future operations.

The effectiveness of collaboration within the Joint Counter Terrorism Team structure appears to be significantly hindered where obstructions to secure flows of information and intelligence exist. A number of initiatives, including the use of a common case management system, as discussed below, and the co-location of participating agencies, have enhanced collaboration. The members of the Sydney Joint Counter Terrorism Team, consisting of the AFP, NSW Police, NSW Crime Commission and an ASIO liaison officer, are now co-located within the AFP Sydney Office. This arrangement has been significantly more effective, encouraging greater collaboration.

The early involvement of the CDPP in counter terrorism investigations was also considered to be of great benefit to the Melbourne Joint Counter Terrorism Team. This assisted the investigators to determine what evidence was required to ground the charge and the various offences available. This has been particularly useful given the new and complex nature of the counter terrorism legislation.

**Interoperable case management and communication systems**

The task of managing information in a multi-agency taskforce arrangement has proven immensely difficult in the experience of the Sydney Joint Counter Terrorism Team. The participating agencies involved in investigations and brief preparation all use different case management systems. This, compounded by the differing security standards of information technology platforms, has obstructed the flow of information and intelligence between agencies and resulted in significant duplication of effort. This has been highlighted by the recommendations of both the Street Review and the Clarke Inquiry.

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229 The Clarke Inquiry recommended the membership of this Committee be expanded to include senior representatives of Prime Minister and Cabinet, Department of Immigration and Citizenship and Attorney-General’s Department.

230 AFP, NSW Police and NSW Crime Commission.

231 Street Review citation, recommendation re: single case management system

232 Clarke Inquiry citation, recommendation re: single case management system
By comparison, the Joint Counter Terrorism Team in Melbourne has identified significant benefits from the use of a common system. The Victoria Police participating in the Joint Counter Terrorism Team have utilised the AFP’s case management system, PROMIS. This has ensured the consistency of data and that information is shared instantaneously.

The varied experiences of the Sydney and Melbourne Joint Counter Terrorism Teams provide significant impetus for the development of interoperable case management systems to be used in cross-jurisdictional counter terrorism investigations.

The need for a National Case Management System for major police investigations to be developed and adopted as a matter of urgency was noted in Recommendation 9 of the Clarke Inquiry. This is supported by findings from the Parliamentary Joint Committee on the Australian Crime Commission Inquiry into the future impact of serious and organised crime on Australian society. The implementation of Recommendation 9 will be progressed through the National Counter Terrorism Committee. CrimTrac is presently conducting a feasibility study to explore the viability of a common approach to National Case Management.

As highlighted in the Street Review, the issue of information management extends beyond the need for interoperable case management systems.\(^\text{233}\) The management of classified information in concurrent AFP and ASIO joint operations was also identified as an issue of concern by the Joint Counter Terrorism Team in Sydney. As part of Project CASSI (Collection, Assessment and Storage of Sensitive Information) the AFP is in the process of upgrading its security arrangements to facilitate the storage of classified material. Once fully implemented these initiatives should assist increased intelligence sharing and communication.

Finding 7.25:

Initial joint operations between Commonwealth and State and territory agencies, with support from the CDPP revealed deficiencies in sharing information, communications, cultural understanding between law enforcement and intelligence agencies and infrastructure for holding highly classified information. These were the subject of consideration and recommendations in the Street Review and Clarke Inquiry.

Finding 7.26:

Much has been done to implement the recommendations of the Street Review and Clarke Inquiry, improvements to information security infrastructure are being made and important work remains to be done including in relation to the establishment of interoperable case management systems. A working group established by the National Counter-Terrorism Committee is progressing this issue and CrimTrac is currently conducting a feasibility study. This issue should remain a high priority for the Government and the AFP (see Recommendation 3.3 above).

\(^{233}\) Initiatives have also commenced to implement the Street Review’s recommendations regarding upgrading procedures for intelligence handling, storage and office infrastructure in line with national security standards and practices for counter terrorism investigations, and increasing the availability of secure communications technology.
Finding 7.27:

The arrangements for the Joint Counter Terrorism Teams are progressing well, particularly when participating members are co-located.

Recommendation 7.12:

The AFP, ASIO and the Commonwealth Director of Public Prosecutions should continue to give a high priority to the implementation of the recommendations of the Street Review and Clarke Inquiry. Consistent with the findings of those reports, the Audit recognises that domestic counter terrorism activities continue to require ongoing resourcing for proactive preventative investigations.
Chapter 8

Serious Crime

8.36 Introduction

The Serious Crime Program, proposed in Recommendation 5.1, is to cover the resources currently available to the Economic and Special Operations, Border and International Network, and High Tech Crime Operations portfolios. This Program covers the gamut of Outcome 1 crime types outside the Security and International Deployment Group Programs. As noted in Chapter One: Introduction and Chapter Two: Futures Scan there have been qualitative and quantitative changes to the nature of much of this crime. Increases in transnational criminal operations, association with organised crime syndicates and the use of technology for criminal advantage are all developments that are pertinent to the Commonwealth’s criminal jurisdiction. Criminal syndicates are increasingly business-like and opportunistic in their operations, a trend which facilitates the continual emergence of new crime types.

There are a number of characteristics which cut across the activities of these three functions which comprise the Serious Crime Program, particularly the need for a collaborative approach, across disciplines and jurisdictions, to counter the increasingly expansive and diverse range of crime encompassed by this Program. The AFP retains the lead Commonwealth role in serious crime investigations, however, as noted in Chapter Three: Connecting Policing, the AFP is not the sole investigative agency, and the Australian Crime Commission and state policing agencies are critically involved.

Other common characteristics relate to the involvement of organised crime across all crime types covered by the Program; the increasing importance of the sophisticated use of Information and Communications Technology and identity theft or false identity creation to facilitate criminal activity; and a common need across a number of these crime types to launder large volumes of illegally gained funds.

Tackling serious crime requires flexibility in funding and investigative task force arrangements to facilitate a prompt response to changed priorities. The investigation of these crime types would also benefit from an integrated national strategy focused on profits as the driver of serious crime.

This Chapter will outline the current arrangements in the functional portfolios that will contribute to the Serious Crime Program. It then discusses issues present across these portfolios which will affect their operations into the future.
8.37 Current Arrangements

Border & International Network

The Border and International Network portfolio covers two functions. The Border function has responsibility for three crime types, illicit drugs, people smuggling and human trafficking. The International Network represents Australia’s law enforcement interests internationally through a network of liaison officers. The transnational nature of Border investigations is supported by the portfolio’s co-responsibility for the International Network. However, the International Network is an important resource for all AFP functions as seventy per cent of AFP investigations feature an international component.

The Border function utilises strategies of cooperation and coordination to efficiently achieve its objectives. It contributes to whole of government approaches, working in partnership and taking direction from whole of government strategies.

The AFP plays a critical role in the supply reduction objective of the Government’s National Drug Strategy in conjunction with the Australian Customs and Border Protection Service and the Australian Crime Commission. The key aspects of the AFP’s role include:

- the disruption of the manufacture and supply of illicit drugs through seizures of border controlled drugs and precursors;
- involvement in national and international cooperative and collaborative efforts to counteract and prevent importation of border controlled drugs and precursors and implementation of strategies to dismantle drug trafficking syndicates;
- the improvement of technical and investigative capabilities to detect and combat illicit drug trafficking; and
- the maintenance of key forensic capacities and databases including the Australian Illicit Drug Intelligence Program 234.

The AFP is also a major participant in the whole of government approach to the disruption and prosecution of organised people smugglers. The People Smuggling Strike Team coordinated by the Australian Customs and Border Protection Service includes a number of co-located AFP members. This team seeks to:

- collect intelligence;
- prevent people smuggling activities, through the disruption of people smuggling conspiracies and the investigation and prosecution in Australia or offshore; and
- build the capacity of foreign law enforcement agencies to support intelligence collection and preventative action.

In particular the AFP has worked closely with Indonesian National Police on capacity development and through the provision of support for intelligence analysis.

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234 The Australian Illicit Drug Intelligence Program, a joint project of the AFP and National Measurement Institute analyses the composition of drugs imported into Australia to identify regions of origin, manufacturing trends or spread within a drug market. This information assists in targeting resources available to law enforcement, as well as further developing an understanding of the illicit drug trade. As discussed in Chapter Three: Connecting Policing, a similar database to record data on drugs seized domestically would be useful.
The AFP’s Transnational Sexual Exploitation and Trafficking Team, with intelligence and investigative capacities, is a key element of the Government’s strategy to combat human trafficking. The AFP maintains strong working relationships with other Commonwealth agencies and State/Territory police in implementing the Australian Policing Strategy to Combat Trafficking in Women for Sexual Servitude. This Strategy focuses on prevention, capacity and resources, victim assistance (coordinated by the Office of Women), partnerships, training and education, and regulation and legislation.\(^{235}\) The AFP also engages in substantial liaison and training in the region to combat human trafficking, including in Thailand, as the primary source country for trafficking victims, working with the Royal Thai Police on transnational investigations.

The AFP International Network, established in 1973, currently has 34 posts in 28 countries, with 88 Liaison Officers deployed, including five positions dedicated to counter terrorism. The International Network acts to:

- represent Australia’s law enforcement interests internationally;
- establish relationships of confidence with international law enforcement and other agencies;
- gather intelligence on criminal activities/criminal groups in support of AFP crime management strategies and national intelligence collection priorities;
- share intelligence in support of international law enforcement efforts;
- broker collaboration with international law enforcement agencies for multi-agency investigations; and
- provide advice and coordination on training and technical measures for international law enforcement to tackle transnational crime.

Transnational crime types and the exchange of criminal intelligence are of particular focus to the International Network. Given the increasingly transnational nature of serious crime,\(^{236}\) this collaboration and intelligence sharing will be continue to be of importance into the future.

The AFP’s international engagement is guided by a strategic framework, the International Engagement Strategy, which informs the allocation of resources offshore to address risks posed to Australian interests.\(^{237}\) The Strategy is reviewed by the Strategic Leaders Group annually, taking into account AFP Strategic Intelligence Updates. This strategy enables the AFP to prioritise and develop programs through the Network that are in alignment with corporate priorities and whole of government initiatives. The AFP also conducts environmental scans and reviews on an ongoing basis to ensure liaison officer posts are located in the most appropriate and productive locations.

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\(^{235}\) Other key partners in this Strategy include the Department of Immigration and Citizenship, the Commonwealth Director of Public Prosecutions and the Attorney-General’s Department.

\(^{236}\) As outlined by Chapter Two: Futures Scan.

\(^{237}\) Assessment of key risks is based on Ministerial Direction, government policy and AFP intelligence. Current key risks include terrorism, illicit drugs, people smuggling, human trafficking, online child exploitation, high-tech crime, identity crime, intellectual property crime and money laundering.
The International Network serves an important function of implementing Government law enforcement policies abroad through a dedicated and skilled resource with strong links to foreign law enforcement agencies. For example, in the Pacific region the AFP has four liaison posts and several officers attached to regional bodies. A specific focus of the International Network’s Pacific engagement has been the establishment of the Pacific Transnational Crime Network, a tactical transnational criminal intelligence network for Pacific law enforcement agencies.238 This is the major component of the Government’s Pacific Engagement Strategy to combat transnational crime.

Given the Commonwealth’s responsibility for foreign affairs, and the increasing importance of policing issues to international relations, it is appropriate that this international liaison be through the Commonwealth, and, among the Australian policing agencies, the domain of the AFP. The AFP, working with the Department of Foreign Affairs and Trade, should facilitate and provide the conduit for State and Territory liaison with foreign police services.

**Economic & Special Operations**

The Economic and Special Operations function maintains responsibility for a broad range of criminal offences. The types of crime investigated by Economic and Special Operations have been fluid, based on prevailing trends in patterns of criminality and government referrals. The responsibilities of Economic and Special Operations are broadly divided into two streams of operations.

Firstly, the economic operations stream responds to financial crime such as money laundering, proceeds of crime, identity crime, serious and complex fraud and tax evasion. This stream also provides assistance and support to Commonwealth agencies involved in fraud prevention and control.

Secondly, the special operations stream investigates a broad range of matters including emerging crime types, international referrals on corruption, foreign bribery, war crimes and requests for mutual assistance, environmental crimes, family law orders and any special references received from Government. For example, in response to a Government referral, Economic and Special Operations established the Oil-for-Food Taskforce to investigate potential breaches of Australian law arising from the findings of the Cole Inquiry.239

Intellectual property crime is an area of focus for Economic and Special Operations and the AFP, recognising the trend towards intellectual property crime becoming attractive as an additional portfolio to organised crime. DVD piracy in particular offers a higher profit margin than, for example, narcotics and a perceived lower risk of enforcement.

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238 Criminal intelligence is centrally coordinated through the Pacific Transnational Crime Coordination Centre in Apia, Samoa, which is supported by an AFP adviser.

Whether the ends are financial gain or terrorism the means are the same. Counterfeiting is widely used to generate cash for diverse criminal organizations. In the case of DVD film piracy, criminal groups are moving to control the entire supply chain... consolidating power over this lucrative black market and building substantial wealth and influence in virtually every region of the globe.240

In responding to the diverse range of crime types assigned to Economic and Special Operations, profit is recognised as a common driver of organised crime and Economic and Special Operations employs strategies focused on pursuing the proceeds of crime, and investigating money laundering and identity crime as facilitators of crimes as well as individual crime types. Economic and Special Operations also maintains a collaborative approach to policing, contributing to whole of government efforts and working in partnership with other domestic and foreign law enforcement agencies to maximise the disruption of organised crime syndicates.

**Economic and Special Operations – whole of government activities**

A comprehensive response to the complexity and breadth of contemporary criminal activity requires multi-agency collaboration. As discussed in Chapter Three: Connecting Policing, the AFP has been involved in a number of successful whole of government initiatives investigating people smuggling, tax evasion, money laundering, online child sexual exploitation etc. Such whole of government approaches, utilising each agency’s particular expertise, provide significant benefits by employing a more strategic approach, avoiding duplication, resolving gaps, and ensuring a more efficient use of existing resources and that a particular agency’s resources are not overextended.

The activities of Economic and Special Operations provide pertinent examples of collaborative efforts undertaken by the AFP to implement whole of government or inter-agency approaches.

**One-off taskforces established for a particular investigation**

Project Wickenby, further discussed in Chapter Three: Connecting Policing utilises the investigative, legal, prosecutorial and administrative capabilities of Commonwealth and foreign agencies to confront tax evasion and money laundering. Project Wickenby has achieved a variety of significant outcomes to date including increased efficiencies in tax fraud investigations, enhanced collaboration between agencies, a strong deterrent effect, and a sustainable whole of government approach to detect, deter and deal with tax evasion.

Recognising the challenges that arise from the differing mandates and objectives of the agencies involved in Project Wickenby, a Cross Agency Advisory Committee has been established. This Committee provides high level oversight and direction for investigative and project implementation matters to reduce the potential for inter-agency conflict.

The AFP’s involvement in Project Wickenby has improved the knowledge and skills of members involved in the investigation, developed cooperation and collaboration between agencies, and has established a platform for a whole-of-government response to these types of crimes.

Standing taskforces or joint efforts

Economic and Special Operations regularly works in partnership with other Commonwealth agencies. For example, Financial Intelligence Teams have been established in Sydney, Melbourne, Brisbane, Adelaide and Perth. These teams include officers seconded from other Commonwealth agencies such as the Australian Taxation Office and Australian Transaction Reports and Analysis Centre (AUSTRAC). The AFP is also one of eight Commonwealth agencies participating in the Australian Crime Commission-led Financial Intelligence and Assessment Team. This Team aims to minimise the damage to the Australian economy caused by organised crime through financial intelligence analysis and cohesive response strategies.

Additionally, Asset Forfeiture Teams, specifically tasked with utilising the provisions of the Proceeds of Crime Act 2002 to inter alia disrupt and dismantle organised crime syndicates, have been established in Perth, Melbourne, Adelaide, Sydney and Brisbane. These teams comprise experienced investigators, financial analysts, financial investigators, and at times representatives from other Commonwealth agencies including the Australian Customs and Border Protection Service and the Australian Taxation Office. The relationships fostered by these partnerships have improved information sharing and cooperative efforts between these agencies.

AFP out-posted officers

The role of Economic and Special Operations in providing assistance to other Commonwealth agencies in fraud investigations requires it to have an extensive network of out-posted officers. Economic and Special Operations currently has out-posting arrangements in place with a number of Commonwealth agencies including Centrelink, the Australian Taxation Office, the Department of Environment, Water, Heritage and the Arts, the Department of Foreign Affairs and Trade and the Department of Immigration and Citizenship.

These positions provide quality assurance, training to the host agency’s investigators, and assist with the execution of search warrants for the host agency. For the AFP these arrangements broaden the skills of AFP members and develop relationships and networks of use to members and the broader AFP.

These out-posting arrangements and other whole-of-government initiatives which have provided investigations training to Commonwealth agencies involved in fraud investigations have allowed the AFP to confidently defer more minor fraud investigations to other Commonwealth agencies. Rather than expand the AFP’s capacity to take on more fraud investigations, the AFP has facilitated these collaborative arrangements to increase efficiencies. This has enabled it to concentrate on high priority cases identified through its rigorous Case Categorisation Prioritisation Model.

Whole of government and inter-agency approaches generally increase the effectiveness of criminal investigations, by extending networks, resources, and expertise. AFP officers who participate as members of inter-agency initiatives learn specialised skills of value to AFP operations. The increasing connections between crime types, particularly the prevalence of financial crime and cybercrime, require these technical skills in all investigations.
Finding 8.1:

The AFP has been correct in focusing on the investigation of high priority, complex cases of fraud against the Commonwealth. The AFP should not be involved in routine fraud investigation, including for example most Centrelink fraud. These crimes should be principally investigated by the specialist agencies, but with AFP oversight with respect to quality control, and the use of secondments to these agencies as a developmental opportunity for more junior AFP investigators.

It is important that the legislative and practical impediments, outlined in Chapter Three: Connecting Policing, are removed to ensure closer coordination between Commonwealth agencies. A more strategic whole of government approach to tackling organised crime is currently being developed and will assist in facilitating a cultural shift towards collaboration as a regular tenet of all criminal investigations.

High Tech Crime Operations

High Tech Crime Operations as a functional portfolio of the AFP was established in March 2008 further to the recommendations of an external review addressing the AFP’s ability to meet the diverse policing challenges of cybercrime. Factors driving the development of High Tech Crime Operations include the increase of:

- information and communications technology, Internet developments and consumer trends which allow criminals to exploit human and technical vulnerabilities;\(^{241}\),
- criminal use of technology to avoid detection or to assist criminal activity;\(^{245}\)
- technology threats to the collection of evidence;\(^{244}\) and
- evolving obligations for police to respond to new information and communications technology criminal threats.\(^{245}\)

High Tech Crime Operations comprises specialist online investigative teams which focus on matters such as online child sexual exploitation, National Information Infrastructure protection and ‘new’ financial crime such as phishing.\(^{246}\) However, an understanding of the technologies available and how they can be used is crucial to investigations across all functions of the AFP. The education component of High Tech Crime Operations provides an opportunity to raise the wider AFP’s core knowledge base and capacity to investigate cybercrime.

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\(^{241}\) Including emerging issues such as identity fraud, the first generation of online users and their culture of social networking on the Internet and a lack of understanding of the Internet leading to poor security practice and the exposure of private information.

\(^{242}\) Vulnerabilities include the widespread use of Internet services such as Internet banking the migration of government services to online delivery and the development of mobile telephones into mobile computers and the trust placed in the security of stored information.

\(^{243}\) Through the use of encryption, secure chat rooms, Peer to Peer networks, and the use of mobile phones and the Internet to facilitate multiple anonymous identities in communications.

\(^{244}\) For example, the use of Internet based services results in evidence being stored in foreign jurisdictions, the mobility and anonymity of communications requires mobile interception solutions, the increasingly large volumes of Internet data seized and intercepted requires increased resources for processing.

\(^{245}\) Due to, for example, the public expectation that industry and/or law enforcement will ensure the delivery of safe online services.

\(^{246}\) ‘Phishing’ refers to the fraudulent process of attempting to acquire sensitive personal information, such as passwords and credit card information, by feigning to be a trustworthy entity in an electronic communication.
High Tech Crime Operations has assisted in the development of training programs to empower all AFP investigators to address cybercrime and provides technical support to investigations across the AFP. The establishment of High Tech Crime Operations has also found opportunities for efficiencies in AFP operations through the use of new technology, including in the presentation of evidence and advanced tools for searching large databases.

Externally, High Tech Crime Operations seeks to develop strong partnerships with State/Territory and international law enforcement agencies, the industry, and academia. It has enhanced the AFP’s influence and input into the development of Government policy and new legislation. It also seeks to educate users and prevent crime through raising awareness of the risks associated with the use of information and communications technology.

Finally, High Tech Crime Operations coordinates cybercrime matters across Australian law enforcement agencies and at the international level. This role includes the dissemination of intelligence, liaison and consultation in the private and public sectors, and the provision of investigative input.

8.38 Current Issues

Issues raised with or identified by the Audit include:

- a decline in the number and experience of AFP members devoted to serious and organised crime overall;
- the success of past flexible investigative task forces, facilitated by an investigative operational pool, and the difficulty of maintaining these successes in the face of budgetary arrangements which have focused a majority of funding into a series of discrete New Policy Initiative allocations;
- the increasing tendency for organised crime to be flexible, networked and profit oriented, rather than relying on traditional ‘crime specialisations’ and ‘families’ – and the tension that poses for an approach based on ‘crime types’;
- the increasingly transnational, and interstate, nature of serious including organised crime;
- the growth in the Commonwealth’s criminal jurisdiction and the increasing relevance of Commonwealth powers to modern serious and organised crime; and
- the success of past and current joint operations (between the AFP and other Commonwealth and State/Territory agencies, often with cooperation from international policing agencies), but the lack of an overall framework to prioritise and coordinate Commonwealth and State/Territory efforts to combat serious, including organised crime.

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This technical support includes conducting telecommunications interception and electronic surveillance.
8.39 Consideration of the Issues

Pressures on the AFP response to Serious Crime

Funding for the Border and International Network and Economic and Special Operations portfolios, which form the core of the capabilities for investigating serious and organised crime, has remained relatively stable in money terms over the period since 2001. However, rising staff costs, competing demands for skilled and experienced investigators, the reduction of the flexible operations pool and the constraints imposed by an increasing proportion of tightly tied funding have all combined to impact on operational capabilities for a number of areas.

This has put at risk some of the strategies that the AFP has pursued successfully in the past. The creation of taskforces within the AFP has proven to be a highly successful measure in combating serious and organised crime. An example of this was Operation Avian, which involved the establishment of mobile strike teams to target the upper echelons of drug trafficking syndicates. Operation Avian was funded under the 1997-1998 National Illicit Drugs Strategy and its objectives were to identify and disrupt and/or dismantle syndicates at their source. The intelligence-driven teams comprised investigators, surveillance officers, analysts and support staff, including financial analysts to trace proceeds of drug trafficking activities.

Operation Avian had a major impact on drug trafficking activities in Australia, with increased drug seizures (predominantly heroin), a resulting reduction in drug supply and a substantial decline in overall illicit drug use in Australia (cannabis, cocaine and heroin). As outlined in Chapter Five: Budget and Programs,

Performance measurement by the AFP, including through the Drug Harm Index, confirmed that this temporary boost in expenditure was accompanied by an increase in seizures in Australia and abroad and a significant reduction in drug harm in the Australian community.

Finding 8.2:
The National Illicit Drugs Strategy was accompanied by an increase in seizures, success in overseas disruption of proposed imports of drugs into Australia and a reduction in drug harm as measured through the Drug Harm Index

The Operation Avian strike teams no longer exist, due to a number of factors including efficiency dividends applied to base funding items, including ongoing National Illicit Drugs Strategy funding, and increased staffing costs. Better coordination across the Commonwealth, with the States/Territories and internationally has resulted in some spectacular successes, although this also demands resources.

The expansion of the AFP’s international engagement has been highly effective but it requires considerable resources. For example, Border is now heavily involved in offshore investigations particularly regarding people smuggling and human trafficking, and Economic and Special Operations is often called upon to handle mutual assistance requests received from foreign jurisdictions.

248 Heroin shortage – the cause, Platypus No. 76, September 2002
249 For example, Operation Inca, a joint AFP/Australian Customs and Border Protection Service operation, culminated in 22 arrests and the seizure of more than 4.4 tonnes of ecstasy and 150 kilograms of cocaine.
**Increased staff costs and scope of investigations**

Average staffing costs per AFP employee have increased by 59 per cent over the past decade, while the cumulative net indexation rate of AFP funding provided by the Government\(^{250}\) has increased by just over 8 per cent. These increased staffing costs represent a real reduction in the AFP’s purchasing power.

When this is combined with the growth in the scope of AFP investigations – the introduction of new telecommunications crimes, increased international effort on people smuggling, new obligations on people trafficking and sex tourism, the growth of intellectual property crime and identity theft – the competitive pressure on scarce investigative resources is obvious. Tackling these crimes effectively relies increasingly on the AFP’s international engagement which is resource intensive and requires the careful and persistent development of both networks and AFP staff capacities. Again this places pressures on investigative resources and skills.

Much of the investigative effort to support the core of the AFP’s traditional serious crime portfolio, border operations (drugs, people smuggling), economic investigations (fraud and related crime types), and special operations (for example, family law, war crimes), was, and is, funded from base funding which is subject to an ongoing efficiency dividend of 1.2 per cent. This funding was also subject to an additional one-off efficiency dividend of 2 per cent applied for the 2008-09 financial year. This reduced the Outcome 1 base funding appropriation by $4.5 million in 2007-08 and $19.6 million in 2008-09 and will reduce the ongoing base funding appropriation for each year into the future.\(^{251}\)

The general, and appropriate, justification for efficiency dividends is that in the public sector, as in the private sector, efficiency increases with growth in human capital, changes in technology and in working practices so that achieving the same level of outcome ought to be possible with progressively declining levels of resources. Unfortunately, those same technologies that have enabled police to work more efficiently have been utilised equally effectively by the criminal milieu. While there have been a number of New Policy Initiatives which have supported effort on particular areas of work (most recently on people smuggling), there has been no overall increase in base funding so that it has progressively shrunk in real terms. In short, in real terms, the effective level of resources devoted to some areas of ‘traditional’ serious crimes has in all probability declined, and will decline further.

This is illustrated most directly by drug investigations, which according to internal AFP finance figures are probably less well resourced than at any other time in modern AFP history. Narcotics teams are now mainly working in response to border detections by the Australian Customs and Border Protection Service and proactively in furthance of intelligence generated internally, rather than by pursuing the intelligence led taskforce operations that were so successful in reducing drug imports during the late 1990s and the first years of this century. It is not yet clear whether this has had any implications for the level of drug harm done to the Australian community.

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\(^{250}\) The net indexation rate is calculated as the annual wage cost index applied to the AFP’s appropriation by Government less the application of the annual efficiency dividend (including the one off additional 2 per cent efficiency dividend applied in 2008-2009).

\(^{251}\) Going forward it is likely to reduce base funding by $20 million each year from 2009-10 onwards.
Experienced officers moving to new areas of AFP work

In 1999-2000, AFP Outcome 1 sworn members were almost exclusively investigating traditional crime types, such as drug trafficking and fraud. Working arrangements provided for a ‘flexible operations pool’, that is, a pool of sworn members with investigations experience who could be assigned to investigate any form of serious, including organised, crime. However, since 2001-02 there have been significant additional demands placed on this existing cadre of experienced sworn AFP members.

It has been argued to the Audit that the AFP has witnessed an ‘experience drift’ from ‘traditional’ areas of policing (serious, including organised, crime) to newer areas of the AFP (in particular Counter Terrorism, International Deployments and Aviation). Whilst the number of AFP sworn investigators has grown steadily over the past decade, this is in large part due to the influx of new recruits. This mix of inexperience and the shift of key personnel to new and genuinely high priority functions also impacts on the AFP’s capabilities in relation to traditional areas of serious crime, including drug importations.

Additionally, the funding of the flexible operations pool is derived from base funding and is therefore subject to the effects of efficiency dividends. While the number of AFP investigators has grown steadily over the past decade, this has often been due to the needs of an expanding organisation and facilitated through funding provided by New Policy Initiatives. Contrastingly, the funding to the flexible operations pool has remained relatively constant while the costs of investigations (and investigators) have increased, therefore placing pressure on the number of investigators able to be maintained for the flexible pool.

Limitations on flexibility inherent in over-reliance on New Policy Initiatives

New Policy Initiatives have been a vital way of increasing funding to offset the decline in the base. They are a critical means for funding new skill sets if the base allocations are so bare that they cannot support the reordering of priorities otherwise necessary. For example, the Intellectual Property Crime Enforcement New Policy Initiative temporarily greatly increased the number of investigations undertaken and supported the establishment of an AFP Liaison Officer position to research intellectual property crime throughout the South-East Asia and Pacific regions.

They rely on demonstrating an unmet, and politically attractive, policing need – they are often generated by political government in response to particular events or to demonstrate firm action on issues that are of general public concern, or of concern to particular constituencies. New Policy Initiatives are one of the principal ways by which governments have sought to ensure that their priorities are delivered. They are the stuff of budget announcements and press releases. It is important that they are delivered – hence there are tight controls on the reallocation of funding for other purposes.
Over-reliance on New Policy Initiatives creates difficulties for integrated policing operations as they are often a time-limited source of funding and limit flexibility. The budget for Economic and Special Operations in 2008-09 was predominantly comprised of New Policy Initiative funding (52 per cent). Examples of this funding include Identity Security Strike Team, Project Wickenby, Oil-for-Food Taskforce, National Missing Persons Coordination, and Intellectual Property Crime Enforcement. This funding is not ongoing and is subject to review. Due to the tight control on the use of the funding, over-reliance on New Policy Initiatives reduces the operational flexibility of the AFP.

As an example almost half of the High Tech Crime Operations budget derives from New Policy Initiatives. Examples of these New Policy Initiatives include the National Child Protection Initiative, the National E-Security National Agenda, Cyber-safety, and Telecommunications Interception. Tied funding restricts flexibility to address emerging issues, which is particularly pertinent to the rapidly evolving developments on the Internet and in online crime. A proactive forward-looking response would require a core of flexible funding and would recognise that a capacity to identify, stay ahead of developing areas of criminality and combat high tech crime, as well as using advanced techniques for policing purposes, should be regarded as an ongoing important part of the overall AFP capability set, and hence reflected in its base funding.

**Finding 8.3:**

Financial resource levels for traditional crime types combated by the AFP have been relatively static. This has placed pressure on the ability to maintain the numbers of investigators devoted to the deterrence, detection, disruption, investigation and prosecution of other crime, including serious and organised crime. Previous funding for New Policy Initiatives such as the National Illicit Drug Strategy has lapsed and the AFP has responded to the increased Government priority and new resources given to Counter Terrorism, Aviation and Protection. Some skilled investigators have transferred to these areas of national security focus. The AFP has progressively had less flexibility in its capability to respond to changing patterns of serious including organised crime, as the proportion of funds provided by New Policy Initiatives has increased – See Recommendation 5.1 proposing the consolidation of existing core, lapsing and terminating programs for serious, including organised, crime into Program 3 of Outcome 1.

**The extent and impact of serious and organised crime**

Given the serious challenges Australia faced, and continues to face, arising from terrorism, to protect its borders and aviation and to support our regional neighbours it is understandable that the AFP’s relative priority for combat of organised crime has reduced. This reflects government and community perceptions of risk and its overall resource allocation.

However, serious and organised crime is a major and growing problem. As noted in Chapter Two: Future Scan:
In a report released in September 2007, the Parliamentary Joint Committee on the Australian Crime Commission found that ‘transnational crime poses a significant and growing threat to Australia’. Organised crime groups are evolving into more flexible and entrepreneurial networks and are becoming more sophisticated in their business practices and methodologies, which presents increasing challenges for law enforcement.

The Australian Crime Commission (ACC) has estimated that organised crime cost Australia at least $10 billion in 2008.

Finding 8.4:

While estimates of the net economic costs associated with serious and organised crime are difficult, the ACC has estimated that the cost to the Australian economy to be at least $10 billion per annum.

The nature of serious crime

Serious crime is perpetrated in an increasingly businesslike and entrepreneurial manner. Activities are planned and organised, employing sophisticated techniques and methods with financial gain as the primary motivation. Serious crime is increasingly committed by organised groups, some of which are strictly controlled and hierarchical; others of which comprise more flexible network structures for the purposes of progressing short or longer term ‘business ventures’. These associations facilitate access to a variety of products, services and skills required to carry out a broad scope of criminal activity and blend legitimate business interests, structures and processes with their criminal activities.

The type of criminal activity engaged in by these groups is fluid, responding to the focus of law enforcement, market dynamics and emerging opportunities. The Australian Crime Commission’s 2009 publication on Organised Crime in Australia makes a number of observations about ‘high-threat’ organised crime groups in Australia, including that they:

- have transnational connections;
- have a broader geographical presence and generally operate in two or more jurisdictions;
- operate in multiple crime markets;
- intermingle legitimate and criminal enterprises;
- are increasingly using new technologies; and
- are able to withstand law enforcement interventions and rebuild quickly following disruption.

As such, the traditional association of organised crime and drug trafficking has diversified to include fraud, intellectual property crime, identity theft, money laundering and other financial sector crimes, and corruption.

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253 Organised Crime in Australia 2009
254 For example, technological advancements provide opportunities for novel criminal activity, such as cyber-based extortion and fraud, and an enhanced capability to perpetrate financial crimes, distribute pornography and secure communications.
Corruption in law enforcement undermines the effectiveness of legitimate measures that are designed to protect the Australian economy, businesses and individuals from the threat of serious and organised crime. Accordingly, the control of corruption is a central concern of government and it is important to ensure that there are controls sufficient to ensure the integrity of agencies with law enforcement and criminal intelligence functions.

Law enforcement agencies have a high inherent risk of corruption due to their size, complexity, geographical spread, law enforcement methods, activities and information holdings. Some areas of work are more susceptible to corruption than others, for example community policing, informer management, drug-handling and international deployment, particularly in cultures where corruption may be commonplace. Apart from the high inherent risk, these same factors also lead to the likelihood that subcultures could arise that, if unchecked, could undermine organisational integrity.

The AFP and the Australian Crime Commission direct considerable attention and resources to seek to ensure each agency has a high resistance to corruption. Strategies include professional standards arrangements, promotion of leadership and values, the policy and governance framework, and other practical measures.

The Audit supports the role of Australian Commission for Law Enforcement Integrity as part of the overall integrity regime for the AFP and the Australian Crime Commission, and is a key corruption-detection and deterrence measure.

Finding 8.5:

Serious and organised crime is increasingly businesslike in its focus on returns and profits, its opportunism, its formation of temporary and flexible project based alliances and partnerships and its use of social networking models. It is increasingly transnational and the importation and manufacture of illicit drugs continues to be a highly lucrative business line, as is people smuggling. Increasingly the Internet, identity theft, compact disc and DVD piracy, and counterfeiting of goods are offering attractive opportunities for low-risk crime with high returns and hence entering the portfolio of organised crime businesses.

Drug trafficking, people smuggling, people trafficking, money laundering, intellectual property crimes, counterfeiting, many cybercrimes, the illegal movement of weapons, and identity crime all have strong transnational links. Echoing the developments in the economy and the society at large these are likely to increase. Globalisation is as applicable to crime as it is to economic opportunity and the exchange of ideas and people. Liaison with foreign law enforcement bodies will, as was pointed out in Chapter Two: Futures Scan, be an increasingly important component of the AFP’s contribution to Australian policing. As noted above, the AFP has been increasingly effective in developing a range of relationships with key international partners to tackle, offshore, transnational crime that could impact on Australia. Internal AFP estimates, with a particular focus on drug trafficking, suggest that the return, in terms of harm prevented in Australia, on each dollar of investment in cases which involve the International Network is $9.20, compared to $5.80 for AFP drug cases overall.255

**Finding 8.6:**
Increasingly criminal threats to Australia originate from, are financed from, involve transport of goods or people from, or are serviced from other countries. The benefit: cost ratio of assisting overseas police forces to deter, disrupt, detect and prosecute these crimes before they impact on Australia domestically is high. It is fundamental to the AFP’s contribution to Australian policing that the International Network is maintained and that Liaison Officers continue to be strategically positioned to address future criminal threats.

The range of crime types, which forms the subject of investigations under the Serious Crime Program, is clearly diverse, however, most feature profit as a common driver (there are exceptions which could include child exploitation, sex tourism and war crimes – however, the profit motive, including the provision of services by professional criminals, could be involved in each of these). Following the money, making the Australian market less attractive for organised crime, and disrupting criminal networks are therefore the key strategies required to combat the assortment of crimes falling within the ambit of the Serious Crime Program.

Tackling crime motivated by profit, intelligently using all the skills and facilities of modern business and technology, crime event by crime event will not succeed in reducing the overall incidence of these crime types. Too often this strategy results in individual successes against service providers, retailers and operators low down in the crime chain, without impacting those directing resources, reaping returns and entrepreneurially directing new crime businesses.

Employing an approach focused on reducing the risk adjusted profit from criminal activities rather than the individual crime events would ensure that the whole criminal enterprise, including the directors of organised crime, is targeted. This would ensure that those criminals who profit from, but distance themselves from the criminal act, are forced to consider whether they wish to continue to operate in the business, or to do so in Australia.

This approach would involve a range of strategies from focusing on the proceeds of crime – both from an intelligence viewpoint and with a view to seizure – to a variety of means for making it less easy, and comfortable, to operate in these business lines in Australia. This is easier to say than to do. It potentially raises sensitive civil liberty issues. It would require coordination across a wide range of Commonwealth and State/Territory agencies. But it offers the possibility of a significant productivity breakthrough that would offer some prospect of policing agencies keeping pace with, and reducing, the incidence of serious and organised financially motivated crime.

Tactics central to this approach are to follow the proceeds of crime, and to use unexplained movements of funds, and unexplained wealth as an intelligence tool. This approach would require strong investment to provide agencies with sufficient flexibility to meet the dynamic challenges of serious crime.
Following the money – the work of the AFP to date

Following the money, pursuing the financial base of organised crime through investigating money laundering, tax evasion and using the legislative tools provided by the Anti-Money Laundering and Counter Terrorist Financing Act 2006 and the Proceeds of Crime Act 2002 is a key focus of Economic and Special Operations.

The AFP has also delivered a number of training programs to integrate financial investigations as a key component of all AFP investigations. Training programs designed to provide AFP investigators with more advanced skills in proceeds of crime and money laundering investigations have been rolled out across the AFP. However, these types of investigations remain largely considered as the domain of Economic and Special Operations. This attitude has resulted in this work being thought of as an adjunct investigation to the investigation of the predicate offence. Financial investigations need to be integrated across all areas of AFP operations and should be considered to be a proactive intelligence and investigative tool, rather than a follow on from a criminal investigation.

The AFP has sought to remedy this perception through the delivery of a Financial Investigation Awareness campaign. This campaign, Money the New DNA, seeks to initiate a cultural shift to encourage members to consider traces left by financial records in the same way they would DNA, and to develop a financial strategy for all operations.

These training programs recognise the importance of financial investigations, however, the practical implementation has been limited outside of Economic and Special Operations. This can be attributed to a number of factors – practical, cultural, skills based and legal. Performance objectives are often thought of in terms of prosecutions and convictions. And indeed, many officers and prosecutors are uncomfortable with using the Commonwealth proceeds of crime and anti-money laundering legislation without a conviction on a predicate criminal offence. Other jurisdictions more explicitly reverse the onus of proof, through ‘unexplained wealth’ legislative provisions, requiring wealth holders or funds controllers, to demonstrate that wealth has, or funds have, been legally acquired, against a civil test. If a wealth owner or funds controller cannot demonstrate, on the balance of probabilities, that the wealth or funds have been legally gained, the funds are forfeit.

Finding 8.7:
‘Following the money’ and reducing the economic return from serious and organised crimes is a critical strategy to reducing all forms of serious and organised crime. While this has been promoted within the AFP, and by the Government more broadly, it remains at this stage an area for significantly greater attention by law enforcement agencies. There needs to be closer coordination across the Commonwealth and a central focus on the objective of making Australia a less profitable venue in which to carry out serious and organised crime.
Possible deficiencies in Commonwealth legislation

The Parliamentary Joint Committee on the Australian Crime Commission is currently conducting an inquiry examining the effectiveness of current legislative arrangements to disrupt and dismantle serious and organised crime groups.²⁵⁶ The submission made by the Attorney-General’s Department²⁵⁷ describes the current Commonwealth legislative framework as criminalising the types of activities engaged in by serious and organised crime groups,²⁵⁸ targeting the profits of these criminal activities,²⁵⁹ and conferring powers upon law enforcement agencies to prevent, investigate and disrupt the activities of these groups²⁶⁰.

The challenge organised crime poses to the Australian criminal justice system was noted in Dr Andreas Schloenhardt’s submission.²⁶¹ Dr Schloenhardt observed,

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[t]he\ criminal\ law\ and\ law\ enforcement\ are\ traditionally\ designed\ to\ prosecute\ and\ punish\ isolated\ crimes\ committed\ by\ individuals.\ The\ structure\ and\ modus\ operandi\ of\ criminal\ associations,\ however,\ do\ not\ fit\ well\ into\ the\ usual\ concept\ of\ criminal\ liability.\ Moreover,\ it\ is\ difficult\ to\ hold\ directors\ and\ financiers\ of\ organised\ crime\ responsible\ if\ they\ have\ no\ physical\ involvement\ in\ the\ execution\ of\ the\ organisation’s\ criminal\ activities.
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Criminal liability may be extended beyond the individual commission of completed offences, along a time dimension, through, for example, the offences of attempt and incitement; and along a group dimension, by way of inchoate liability, accessorial liability and conspiracy. However, the remoteness of directors and financiers of organised crime prevent them from being held liable under these principles.²⁶²

In comparison, several foreign jurisdictions have enacted specific legislation to prevent and suppress serious and organised crime groups. The development of these legislative frameworks appears to follow two broad approaches.

Creating offences to outlaw serious and organised crime groups

Similarly to the framework proposed by the United Nations Convention against Transnational Organised Crime, some jurisdictions have enacted legislation which specifically targets local serious and organised crime groups. For example, legislation targeting Chinese triads has been enacted in China, Hong Kong and Macau. Canada and New Zealand have created specific offences for outlaw motorcycle gangs.

²⁵⁷ Attorney-General’s Department, Submission to the Parliamentary Joint Committee on the Australian Crime Commission: Inquiry into the legislative arrangements to outlaw serious and organised crime groups, August 2008.
²⁵⁸ For example, international illicit drug and precursor trafficking offences, people trafficking and smuggling offences, and money laundering offences.
²⁵⁹ Through, for example, money laundering offences, financial transaction reporting requirements, and proceeds of crime legislation.
²⁶⁰ For example, telecommunications interception powers and access to telecommunications data.
²⁶¹ Dr Andreas Schloenhardt, Submission to the Parliamentary Joint Committee on the Australian Crime Commission: Inquiry into the legislative arrangements to outlaw serious and organised crime groups, August 2008, p 74.
²⁶² Under inchoate liability conduct must be sufficiently proximate and not merely preparatory, Britten v Alpogut [1987] VR 929 at 939 per Murphy J. Accessorial liability is primarily established on the basis of physical collaboration. Conspiracy, often, including in the Commonwealth jurisdiction, requires proof of an agreement and an overt act committed pursuant to that agreement (subsection 11.5(2)(c) of the Criminal Code), Ibid, p 75-79.
Each jurisdiction defines organised crime differently, however, the elements required to outlaw an organised crime group are structured similarly: a group, engaged in common activities or with common objectives, connected to crime of a serious nature. In jurisdictions surveyed by the Attorney-General’s Department submission there are generally two processes for outlawing organised crime groups, a legislative test determined by a court on a case by case basis and proscription by a government official.

Once an organisation has been deemed to be criminal, jurisdictions list substantive offences for varying degrees of involvement. For example, in Hong Kong it is an offence to lead, be a member of, recruit or support a criminal organisation; the New Zealand Crimes Act 1961 contains an offence for participation in a criminal organisation; and in South Australia, association with a criminal organisation is a criminal offence.

**Extending police powers to implement strategies to combat organised crime**

Following the publication of the 2004 White Paper and the establishment of the Serious Organised Crime Agency, the United Kingdom has entered into a number of legislative reforms to curb organised crime by reducing the profit incentive, disrupting activities and increasing the risk. These reforms include:

- additional powers under the *Serious Organised Crime and Police Act 2005* for the investigation of serious and organised crime, including greater arrest powers and the ability to compel information pursuant to a disclosure notice;
- providing the Serious Organised Crime Agency with civil and criminal powers to reduce the impact of organised crime;
- imposing financial reporting orders on an offender where there is a sufficiently high risk of that offender committing another specified offence; and
- empowering a court to issue a serious crime prevention order where there are reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in the United Kingdom.

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263 Attorney-General’s Department, *Submission to the Parliamentary Joint Committee on the Australian Crime Commission: Inquiry into the legislative arrangements to outlaw serious and organised crime groups*, August 2008. outlines the particular requirements of each jurisdiction, pp 6-8.

264 For example, see Part 2, *Serious and Organised Crime (Control) Act 2008* (SA).


266 Under these financial reporting orders the subject must report his or her financial affairs. Orders can be in place from five to twenty years, depending upon the particular circumstances of the case. Failure to comply with an order is a criminal offence punishable by between six months and 51 weeks imprisonment: Attorney-General’s Department, *Submission to the Parliamentary Joint Committee on the Australian Crime Commission: Inquiry into the legislative arrangements to outlaw serious and organised crime groups*, August 2008., p 15.

267 Serious Crime Prevention Orders can contain prohibitions, restrictions, requirements or other terms as the court sees necessary, for example, an individual’s financial or property holdings, working arrangements, communication and association with others, access to or use of certain premises or any domestic and international travel. These orders can be in place for up to five years and failure to comply is an offence carrying a penalty of between 12 months and 5 years imprisonment and/or a fine. The court can also order the forfeiture of anything in possession of the person which the court considers has been involved in the offence: Attorney-General’s Department, *Submission to the Parliamentary Joint Committee on the Australian Crime Commission: Inquiry into the legislative arrangements to outlaw serious and organised crime groups*, August 2008., p 16.
These additional powers and court orders enable investigators to target the directors of organised crime whose interest lies in the profit rather than the commodity. These reforms also facilitate intelligence collection and intelligence-led policing, which through effective information sharing develops a more comprehensive understanding of the nature and scale of organised crime.

In seeking to enhance Commonwealth legislative mechanisms to prevent and disrupt organised crime, the Standing Committee of Attorneys-General noted that the Commonwealth will consider the introduction of a package of legislative reforms to:

- strengthen criminal asset confiscation, including unexplained wealth provisions;
- to the extent practical and effective and having regard to constitutional power, introduce consort or similar provisions that prevent a person associating with another who is involved in organised criminal activity;
- enhance police powers to investigate organised crime, including model cross-border investigative powers for controlled operations, assumed identities and witness identity protection;
- facilitate greater access to telecommunication interception for criminal organisation offences; and
- address the joint commission of offences.

These proposed reforms aim to support the Organised Crime Strategic Framework which is currently under development.

These legislative reforms, if implemented, will require additional support staff and the continued development of the investigative skills and technical capabilities of all the relevant Commonwealth agencies, and in particular the AFP, to make them effective.

Finding 8.8:

There are limitations in existing Commonwealth law, or no laws, in relation to the seizure of criminal assets, the targeting of unexplained wealth, the imposition of control or reporting orders on those reasonably believed likely to commit or to commit another, offence and membership of serious and organised crime groups. Some jurisdictions in Australia and overseas have made more aggressive use of legislation including one or more of these features. The Standing Committee of Attorneys-General has noted that the Commonwealth will consider a legislative package to:

- strengthen criminal asset confiscation, including unexplained wealth provisions;
- to the extent practical and effective and having regard to constitutional power, introduce consort or similar provisions that prevent a person associating with another who is involved in organised criminal activity;

Standing Committee of Attorneys-General, Summary of Decisions, April 2009.
• enhance police powers to investigate organised crime, including model cross-border investigative powers for controlled operations, assumed identities and witness identity protection;

• facilitate greater access to telecommunication interception for criminal organisation offences; and

• address the joint commission of offences.

Finding 8.9:

Tracking and interpreting money flows, and linking them to criminal activities demand considerable forensic financial and accounting skills. These skills have not traditionally been a focus of police recruitment or training in all jurisdictions. The AFP has specifically focused on these skills as part of its Financial Intelligence Teams initiative, which attracted high calibre staff with these skills. It remains a weak skills area for the police workforce nationally outside of a small number of discrete teams.

Finding 8.10:

Finding 8.11:

Due to the increased reliance on computers, including those with hand-held capabilities, to facilitate the activities of organised crime networks, and the rapid development of this technology, computer literacy is increasingly a key ability for investigators and high tech crime investigations are demanding a larger share of policing resources. The demand for computer forensic capabilities to support activities across the organisation is also of increasing importance.

Commonwealth organised crime framework

As noted above, there has been considerable progress and success in the use of whole of government taskforces to tackle particular crime issues such as people smuggling and Project Wickenby in relation to tax evasion. Furthermore by its nature, tackling organised crime requires cooperation between a range of Commonwealth and State/Territory, and where appropriate international, agencies to match data, share intelligence and cooperate on joint operations. However, there has not yet been developed a framework within which the fight against serious and organised crime can be prioritised and organised.

An environmental analysis of serious organised crime in Australia carried out by the Australian Crime Commission and the Attorney-General’s Department in 2008 concluded that there is considerable scope to impede and prevent serious organised crime activity more effectively through enhanced whole-of-government focus and coordination.
Finding 8.12:

While there have been important ‘one off’ initiatives like Operation Wickenby in relation to taxation evasion, and joint operations between the AFP, the
Australian Crime Commission and the Australian Customs and Border
Protection Service, there is as yet no whole of Commonwealth strategic plan
for tackling organised crime. Similarly, while the Australian Crime
Commission, individual State forces and a number of national taskforces have
done good analytic work and conducted effective joint operations, there is no
agreed national set of priorities to drive the fight against organised crime. This
has been recognised by the Australian Crime Commission and the
Commonwealth law enforcement community.

At the end of 2008, the Heads of Commonwealth Operational Law Enforcement
Agencies (HOCOLEA) tasked the Deputy Secretary-level Working Group with
developing an organised crime strategic framework to better combat organised
crime from the whole-of-government perspective. The Attorney-General’s
Department is coordinating this project.

The Australian Government indicated in the National Security Statement that it
proposes to define clearly the role of the Commonwealth in combating serious and
organised crime and enhance coordination among Commonwealth agencies.

The organised crime strategic framework is intended to facilitate multi-agency
collaboration to more effectively disrupt, prevent, investigate and prosecute
organised crime. The broad objectives of the Framework are to:

- develop whole of government leadership, focus and coordination in countering
  serious organised crime;
- attack the profit from organised crime;
- foster an intelligence-led response to organised crime which informs policy,
  regulatory, investigative and business/community engagement activities;
- enhance data, information and intelligence sharing;
- focus on innovative interventions into organised crime activity utilising a
  multi-agency approach to information/intelligence, specialist expertise and
  powers; and
- establish and maintain closer links with industry and the community to
  promote awareness, information sharing and target hardening.

A coordinated whole of government response is premised on a better understanding
of the threat posed by organised crime and the harm it causes. The model of the
Framework is for an Organised Crime Threat Assessment to be prepared biennially
from which Government priorities will be set in an Organised Crime Response
Plan. This Plan will be implemented through specific Intervention Task Forces
which will comprise relevant Commonwealth agencies and, where appropriate,
industry representatives to develop targeted and innovative interventions.

It is envisaged that the implementation of the Framework will lead to enhanced
intelligence capability, more effective multi-agency investigations, improved
capacity to recover the proceeds of organised crime and enhanced engagement with
the private sector. The AFP is expected to play a significant role in the implementation of measures set out in the Framework.

**Recommendation 8.1:**

The work underway led by the Attorney-General’s Department to develop a ‘whole of Commonwealth’ strategy for tackling serious and organised crime should receive a high priority with the aim of bringing forward a submission on the strategy to National Security Committee of Cabinet in the lead up to the 2010-11 budget.

**Recommendation 8.2:**

The strategy needs to reflect that no single Commonwealth law enforcement agency alone can implement an effective strategy – an effective strategy will be one which combines the most appropriate skills and legislation to target key organised crime groups and business lines and:

(a) fully engage State police forces, and crime commissions;

(b) provide the framework, including through HOCOLEA and the Australian Crime Commission, under which there can be an agile response to fast moving organised crime patterns through ad hoc joint Commonwealth, and Commonwealth-State intelligence and investigative task forces;

(c) carefully review Commonwealth legislation and its application to ensure that it effectively targets the economic returns to crime;

(d) focus on the tracking of financial flows as a key input to intelligence about organised crime activities;

(e) ensure that the Commonwealth effort is appropriately coordinated with action by State law enforcement agencies through building on-going arrangements between HOCOLEA and the Australian Crime Commission;

(f) underline the importance of the ACC providing both a strategic intelligence and analysis capability and concentrating its resources on the highest priority targets and business lines;

(g) recognise the importance of international cooperation, capability development and information exchange in combating transnational crime, and the role that the AFP has played in that through its international liaison network, Multi National Operational Support Team and Jakarta Centre for Law Enforcement Cooperation;

(h) encompass the need to enhance telecommunications interception capabilities and associated legislative provisions so that law enforcement can keep pace with changes in Information and Communications Technology and their use by organised crime;

(i) canvass the need to enhance other intelligence-gathering capabilities such as human sources and undercover operations;

(j) recognise the requirement to upgrade means for sharing intelligence within the Commonwealth and between the Commonwealth and the States and Territories and developing national forensic databases and capabilities; and

(k) incorporate a consideration of skill development issues – particularly in relation to the tracing of money flows through complex corporate structures and computer literacy for investigators.
Chapter 9
Community Policing

9.40 Introduction

On its formation in 1979 the AFP, by incorporating the Australian Capital Territory Police, assumed responsibility for community policing in the Australian Capital Territory (ACT). Oversight of the policing of the ACT remained vested in the Commonwealth.

In 1988 Federal Parliament passed a series of Bills to establish self-government for the ACT. The *Australian Federal Police Act 1979* was also amended to declare that policing of the ACT was one of the functions of the AFP. In 1990, following the examination of policing options for the ACT, the Commonwealth and ACT governments signed an Arrangement for policing services to the ACT to be provided by the AFP. This Arrangement was last renewed in 2006, for a further five years. The ACT Department of Justice and Community Safety oversees the Arrangement on behalf of the ACT Government. Policing the ACT remains a significant element of the AFP, with the equivalent of 878 full-time staff budgeted for in 2008-09.

The policing of Australia’s External Territories – Jervis Bay, Norfolk Island, Christmas Island, and the Cocos (Keeling) Islands, have a similar history, but involves only a small number of staff. In 2008-09 the AFP allocated the equivalent of 14 full-time staff to this function, with the addition of some locally-engaged Special Members.

Up to 1979 Jervis Bay was policed by the ACT Police, when it was incorporated into the AFP. Norfolk Island was policed by the Commonwealth Police when it was likewise incorporated into the AFP the same year. Prior to 1979 Christmas Island possessed its own small local police force, which was replaced by the AFP. The Cocos (Keeling) Islands had no dedicated policing presence until the AFP stationed officers there in 1993. Prior to 1993 AFP officers from Christmas Island were deployed there on a short-term basis to investigate any incidents.

9.41 Current Arrangements

The Commonwealth-ACT Policing Arrangement allows for an annual Purchase Agreement to be entered into by the relevant ACT Government Minister, the AFP Commissioner and the ACT Chief Police Officer, who is a senior AFP officer. The Purchase Agreement was last renewed in August 2008. The Purchase Agreement sets out the principal policing outcomes and principal performance indicators against those outcomes, a required minimum number of policing personnel purchased, and the reporting requirements.

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269 An Arrangement between the Minister for Justice and Customs of the Commonwealth and the Australian Capital Territory for the Provision of Police Services to the Australian Capital Territory 2006

270 2008-2009 Purchase agreement between the ACT Minister for Police and Emergency services, the Commissioner, Australian Federal Police, and the Chief Police Officer for the ACT for the provision of policing services to the Australian Capital Territory
The Purchase Agreement lists the following outputs:

- crime and safety management;
- traffic law enforcement and road safety;
- prosecution and judicial support; and
- crime prevention.

There are a number of listed performance measures stemming from these outputs. Some of these performance measures list numerical or percentage targets to be met, whilst others are benchmarked against National Average statistics.

The Arrangement also allows for the relevant ACT Minister to issue written Ministerial Directions to the ACT Policing element of the AFP, to be appended to the Purchase Agreement. The current Ministerial Direction, issued in August 2007 by the Minister for Police and Emergency Services, requires the AFP to report quarterly on identified ‘Special Areas of Focus’ for the financial year 2007-08. These relate to:

- police response times;
- increasing police visibility to the community;
- road safety;
- property crime;
- illegal drugs; and
- outcomes for victims of crime.

The ACT Policing Annual Report 2007-2008 listed 36 performance measures for ACT Policing. Of these, the set targets were achieved in all but nine of the measures.

**External Territories**

Since September 2008 the AFP International Deployment Group has been responsible for the policing of the External Territories, due to the broad similarity of personnel posting arrangements and employment conditions. Oversight by the International Deployment Group also provides a more responsive surge capacity via the Operational Response Group and better access to AFP support services. Before September 2008, External Territories policing had been overseen by the Economic and Special Operations portfolio of the AFP for several years. Prior to that, it was administered by the ACT Policing function, though with separate funding arrangements.

**Jervis Bay**

AFP staff at Jervis Bay report directly to the International Deployment Group. The police station and infrastructure is provided by the Attorney-General’s Department, while the AFP funds salaries and supplier costs.
Indian Ocean Territories (Christmas Island and Cocos [Keeling] Islands)

The Indian Ocean Territories are policed under the terms of Memoranda of Understanding agreed in 2006 between the Attorney-General’s Department and the AFP. The Attorney-General’s Department funds the provision of police salaries and supplier costs and receives quarterly and annual performance reports from the AFP.

In addition, the AFP receives funding to provide Immigration and Customs services in the Cocos (Keeling) Islands, under a Memorandum of Understanding with the Australian Customs and Border Protection Service.

Norfolk Island

The AFP polices Norfolk Island under the auspices of a 1993 Arrangement between the Commonwealth of Australia and the Administration of Norfolk Island Concerning the Provision of Services to the Administration of Norfolk Island by the AFP. A new draft Arrangement has been prepared and is being reviewed by the relevant parties. AFP officers posted to Norfolk Island are sworn into the Norfolk Island Police Force, whilst Special Constables residing there are recruited directly. The AFP team leader reports to the Norfolk Island Police Minister and to the International Deployment Group.

Through the 1993 Arrangement, the Norfolk Island Government provides the police station and equipment, vehicles and staff accommodation. Salary and supplier costs are shared, with the Norfolk Island Government responsible for 70 per cent of the expenditure and the AFP 30 per cent. The AFP initially funds all expenditure and cost recovers the 70 per cent from the Norfolk Island Government.

9.42 Issues

Should the AFP continue to have a role in community policing?

Some of the Audit’s interlocutors have suggested that the AFP role in the ACT should be carried out under contract by the NSW police, or alternatively that the provision of the service should not be tied to the AFP, but that the ACT government should have the opportunity to tender for policing on a contractual basis or to establish and directly employ its own police force. It was argued that this would enable the AFP to focus exclusively on its national roles – security, serious crime and international deployments.

The Audit had no sense that this was a view shared by either the ACT Government or the Commonwealth Government. The weight of comment was that the AFP provides the best available service.

Is purchaser-provider a good model for ACT Policing?

There have been some minor criticisms of the ACT Government/ACT Policing purchaser provider model, which is unique amongst Australian jurisdictions and not widely used in other countries with a similar legal background. Policing arrangements for some Canadian provinces bear the closest similarity. There is a view that the ACT Government has limited ability to deal with any problems arising within ACT Policing, except during the re-negotiation of the annual Purchase Agreement.
In recent years there have been some instances of ACT judicial criticism of the provision of forensic evidence for criminal proceedings, both in terms of completeness and timeliness. There have also been criticisms of the quality and timeliness of some of the prosecution briefs of evidence submitted. Related to this, there is a perception that ACT Policing possesses too high a ratio of junior, less experienced officers, which may contribute to a higher rate of unsuccessful prosecutions. Another minor issue raised by interlocutors was some slight disconnect in the governance and decision making arrangements for capital works programs, with the ACT Government owning and funding infrastructure for ACT Policing use.

The Audit had no sense that these issues detracted from the overall soundness of the purchaser-provider arrangements. This is a view shared by the ACT Government at the senior levels, which remains very positive about the nature of the relationship.

**External Territories Policing**

Funding sources for External Territories policing services are summarised in the accompanying table:

Table 9.10

<table>
<thead>
<tr>
<th>Location</th>
<th>Memorandum of Understanding</th>
<th>Funded by</th>
<th>Budget Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jervis Bay</td>
<td>No</td>
<td>AFP</td>
<td>100</td>
</tr>
<tr>
<td>Indian Ocean Territories</td>
<td>Yes</td>
<td>AGD</td>
<td>100</td>
</tr>
<tr>
<td>Norfolk Island</td>
<td>Yes</td>
<td>Norfolk Island Government/AFP</td>
<td>70/30</td>
</tr>
</tbody>
</table>

Having three separate funding sources for salaries and supplier expenses, namely the AFP, the Attorney-General’s Department and the Norfolk Island Government, creates an unnecessary degree of administrative complication.

**9.43 Consideration of the Issues**

*Should the AFP continue to have a role in community policing?*

While there is a superficial attractiveness to the argument that the AFP should be an elite national police force focusing on serious crime with a national dimension, this overlooks the important role that community policing plays in the development of police investigators. The experience of interviewing witnesses, taking statements, questioning suspects, preparing briefs of evidence and giving testimony in court gained in community policing is important for officers who then might wish to specialise in investigation of more serious and complex crimes. The Commonwealth Director of Public Prosecutions has pointed to the risks to prosecutions, and to investigations that have consumed large amounts of resources, that can arise if Federal Agents make their very first appearance in court on large and complex matters.
In addition, the nation as a whole, through the location of the Parliament of Australia and associated infrastructure, has an interest in the policing of the seat of government. It is unlikely that either the Parliament or the Commonwealth Government would be willing to place the security, protection and policing of the national capital into the hands of either a State or a Territory government. Attempting to distribute national and territory functions between two policing organisations (the AFP and either a local police force or a State force acting as an agent of the ACT Government) would be a recipe for major administrative and operational difficulties in a community so inherently involved in the provision of national government services.

Finding 9.1:
The AFP should continue to deliver community policing services to the ACT.

ACT Policing

The ACT Policing/ACT Government purchaser-provider model is useful to designate objectives and provides a degree of government control over priorities while maintaining operational independence. The lack of ability by the ACT Government to flexibly re-direct priorities is mitigated by ongoing dialogue with the ACT Policing Executive. Performance measures in the Purchase Agreement are reviewed and may be adjusted from year to year to reflect changing trends and identified community concerns.

There is no flawless model for the operation of a police force, nor is there universal agreement on the relative balance between democratic political control and operational policing independence. Policing agencies have to be both recognised as an arm of democratic government operating under appropriate controls with community input and to have, and be seen to have, the necessary degree of independence to provide a professional service without undue influence. The ACT purchaser-provider model appears to provide a workable and responsive policing service that compares well with similar jurisdictions, both domestically and overseas. Further assessment would be beneficial. In particular, the Productivity Commission reference proposed in Recommendation 3.8 will examine the relationships among demographic and economic drivers of crime, geography and allocation of policing resources. This should provide the basis for a more sophisticated understanding of the relative performance of the AFP in ACT policing, as well as providing some assistance in the geographic allocation of resources in the Territory. This would be of assistance both to the ACT Government and the AFP in the development of the service agreement.

ACT Policing shares forensic capacity with the rest of the AFP. Although the type of forensic support required varies somewhat between national level investigations and community policing, it is clearly a finite resource. Demand for forensic capacity is variable across the AFP’s operations, including within ACT Policing itself. The question of prioritising relative forensic capacity has operational and judicial implications.
The ACT Government currently arguably has access to more forensic capacity than necessarily provided for under the Purchase Agreement, but has less control over the prioritising of that capacity for ACT related court matters. This is an issue that could be addressed in negotiations for the next Purchase Agreement. ACT Policing and the AFP Forensic and Data Centres portfolio have recently established a Memorandum of Understanding to better prioritise ACT Policing forensic requirements. This may lead in itself to a sufficient improvement in service delivery to negate or minimise the issue.

The issue of police training and experience levels, and their impact upon the potential quality of prosecution briefs of evidence is especially relevant to ACT Policing. AFP recruits, after initial training, are usually deployed to either ACT Policing or to national investigations in the regional offices. Those officers deployed outside the ACT are engaged as junior members of investigative teams, involved mostly in high priority or very high priority investigations. These junior officers are progressively exposed to more responsibility, but would rarely be called upon to oversee the preparation of a prosecution brief of evidence in a major investigation.

The situation for junior officers in community policing in the ACT is substantially different. ACT Policing officers work extensively in first response roles, involving substantial contact with members of the public, investigating, albeit under supervision, a very wide range of criminal offences of variable priorities, and preparing prosecution briefs of evidence to support these. This is normal for community police officers worldwide, and is essential in providing a training and development framework. The higher individual volume of prosecutions, and the sometimes tight timeframes involved, can lead to shortcomings in brief of evidence standards, despite set benchmarks in vetting and supervision.

In addition, close liaison with the prosecuting counsel of the ACT Director of Public Prosecutions is necessary, and police and prosecutors may, in the course of a prosecution, legitimately hold different views on whether a brief of evidence is sufficient to secure a conviction. It is important to note that, in the event of a magistrate or a judge criticising a prosecution case in court, the brief of evidence upon which it was based would have in turn been subjected to both the ACT Policing and the Director of Public Prosecutions evidential vetting process.

Effective community policing requires a regular infusion of new officers to maintain organisational functionality, prevent ossification, provide career opportunities and minimise the risk of corrupt behaviour. Mistakes will be made, but maintaining high standards of supervision and development can keep this to acceptably low levels.

Any lack of clarity about governance arrangements for capital works programs is similarly one which could be constructively addressed during the negotiations over the annual Purchase Agreement.

**Finding 9.2:**

The purchaser-provider arrangement for community policing in the ACT by the AFP functions well, delivering agreed and measurable outcomes. The arrangement has been regularly reviewed and is subject to effective oversight.
Recommendation 9.1

Performance under the Memorandum of Understanding to better prioritise ACT Policing forensic requirements should be reviewed before the next purchase agreement, and if progress has not been adequate, alternative means for ensuring that the ACT receives the priority it is prepared to fund should be considered and reflected in the next agreement.

External Territories Policing

There is a clear need to maintain an adequate and responsive policing presence for the External Territories. The AFP is best positioned to provide a comprehensive community policing service, with additional levels of support available if required.

The existing corporate model of operation for policing at Jervis Bay is the model preferred by the AFP, with the Attorney-General’s Department responsible for infrastructure and the AFP responsible for salary and supplier costs. The funding model for the Indian Ocean Territories, with full Attorney-General’s Department funding also operates effectively. Despite this, the provision of policing services is vulnerable to even small adjustments in the Attorney-General’s Department allocated budget. If the financial arrangements for the Indian Ocean Territories were modified to conform to the arrangement applying to Jervis Bay, with the AFP directly funded for salary and supplier costs, efficiencies would be likely to be achieved, as well as simplification in administration.

The existing cost recovery arrangement with the Norfolk Island Government is not functioning optimally, with no reimbursement for expenses received since 2007-08. This imposes a financial burden upon the AFP, with future payments likely to continue to be irregular unless the arrangements are modified. It is desirable this will be addressed in the new policing Arrangement being negotiated.

Finding 9.3:

The AFP performs an efficient and effective service in the policing of the External Territories. Certain funding arrangements could be streamlined.

Recommendation 9.2

The Attorney-General’s Department and the AFP review funding arrangements for the Indian Ocean Territories and Norfolk Island to determine whether it would be possible and appropriate to bring the funding under the AFP core budget.
Chapter 10

AFP Internal Systems

10.44 Introduction

The AFP’s corporate services reflect the general move across the agency towards consolidation for the future. These areas are critical to building and managing resources through activities as diverse as policy development, financial management, resource management and provision of specialist training and development programs.

The Audit acknowledges that corporate services have been the subject of active review both as a result of internal AFP initiatives and of directions on whole of government approaches to services such as financial management and reporting and Information and Communications Technology. Many of the issues that have been raised with this Audit in relation to delivery of corporate functions in the AFP are already the subject of consideration.

10.45 Current Arrangements

Internal

The AFP has experienced a period of substantial growth since 2001, and this has occasioned commensurate growth in the corporate areas. This growth has occurred as staff were dedicated to establishing new functions such as the International Deployment Group and as the agency absorbed staff already employed when existing functions such as the Australian Protective Service became a part of the AFP. As some of these functions were established they were provided with independent corporate support or developed independent systems, both information and communications technology (ICT) based and manual, to support their corporate functions.

This dispersed model for service delivery was necessary at the time for the AFP to respond locally to demanding operational requirements in different parts of its business, but it has created inefficiencies which the AFP is seeking to remedy through its One AFP One Corporate review. The AFP and other agencies in the portfolio are also working with the Attorney-General’s Department to identify areas where development of a bureau service for transactions would provide efficiencies.

In tandem with these activities, the Human Resources management portfolio is engaged in managing implementation of the Additional 500 Sworn Investigators initiative and the Recruitment and Retention Strategy, while Information Services supports the Spectrum Program. These three initiatives have been funded by Government.

External

There are, in addition to this internal review and implementation activity, the whole of government changes imposed by decisions of such Government reviews as Operation Sunlight and the Review of the Australian Government’s Use of Information and Communications Technology (Gershon Review).
Issues

Models for service delivery
The dispersed model for service delivery is no longer the most appropriate. The Audit has been advised that the AFP has identified that delivery of a range of corporate services has been disaggregated. This disaggregation occurred as the AFP delivered specific objectives such as implementation of the International Deployment Group. It has been recognised that maintaining separate capacities in the corporate area is inefficient and has impacts in terms of cost and consistency in service delivery.

Consolidation of transactional functions
Opportunities may exist for increased efficiency of corporate service delivery by consolidating transactional functions across the Attorney-General’s Department portfolio. Agencies, such as the Australian Crime Commission, which have reduced capacity following the budget could potentially benefit from the savings such a proposal could provide.

Workforce strategic management
There is room for improving the AFP’s strategic workforce management system. Particular areas of concern include:

- the ratio of sworn to unsworn officers and whether current workforce composition in the AFP is appropriate and meets the needs of the Government and the community;
- failure to invest consistently in Learning and Development in line with the recommendations of the Ayers Review;
- while it is over subscribed in terms of new police recruits, and has a very low attrition rate, the AFP experiences difficulties in attracting, recruiting and developing some specific skills and a workforce reflecting the broad cultural composition of Australian society; and
- the full costs of the Collective Agreement on the AFP’s on-going capacity to buy necessary resources and the need to prepare more effectively for the negotiation phase of the next agreement.

These are all matters for consideration and review.

Information services capacity
The AFP’s information services capacity is at risk in the long term. The AFP is an information-dependent and technology-reliant organisation. The Information Services portfolio supports the work of the AFP, providing infrastructure and skill sets critical to the AFP’s ability to deliver against strategic objectives of Government. The portfolio has not been consistently resourced, although a significant injection of funds in the current financial year went some way to redressing that immediate issue. There remain some significant challenges if Information Services is to continue to support a modern police force. Some of these include:
the impact of the Gershon review;
• predicting and servicing the future ICT needs of a diversified police force nationally and internationally;
• the impacts of AFP growth on providing effective ICT support; and
• recognition of the essential nature of ICT and the need to invest effectively to meet strategic aims.

10.46 Consideration of Issues

Models for service delivery

The growth of the AFP has led to the development of dispersed corporate functions. This is an expected, and in some cases, necessary outcome of rapid and continued growth but brings with it both additional costs and loss of cohesion in service delivery. The AFP has recognised that consolidation is essential. The current economic climate has placed pressure on the AFP budget providing a further driver to examine the guidance provided by the Early and Robinson reviews into corporate services.

The Audit has been advised that the One AFP One Corporate Project is in the scoping stage and will focus on streamlining processes and functions and providing opportunity for improved delivery of corporate services across the AFP. All aspects of the Corporate Services of the AFP will be included in the project, ranging from the Policy function, Media and Marketing, Information Services, Finance and Human Resources Management.

One AFP One Corporate will also take stock of the impact of a range of external reviews and decisions of Government including those encompassed in the Gershon review and in Operation Sunlight, with a view to gaining efficiencies in corporate processes and procedures. The project will also aim to:

• implement recommendations from earlier reviews that have not been implemented to full effect;
• deliver improved corporate service functionality and levels of service and determine a unified delivery model; and
• have clearly defined accountabilities for the corporate functions.

This project offers a unique opportunity to consolidate corporate activity and to ensure that the services and support provided across the spectrum of corporate services, support the strategic outlook for the AFP over the next five to ten years.

Finding 10.1:

The One AFP One Corporate Project is scheduled for completion after the publication of the Audit report. The Audit strongly supports its priority.
**Consolidation of transactional functions**

While outside of the scope of the *One AFP One Corporate* review, the opportunity to consider bureau services across the Attorney-General’s Department portfolio is one that offers some significant benefits if managed properly. While other Commonwealth portfolio agencies have delivered services this way, the results have not always been optimal. Active involvement in this process would be essential to achieving efficiencies and savings, and there are probably limits to the returns to scale. The Chief Financial Officer of the Attorney-General’s Department is undertaking a business case analysis of a shared service arrangement for transactional activities across the portfolio and the AFP is involved in that project.

**Finding 10.2:**

Involvement in portfolio initiatives to deliver generic and agency specific transactions in a more cost efficient way have the potential to provide benefits to the AFP, the Australian Crime Commission, CrimTrac and other law enforcement bodies in the Attorney-General’s Department portfolio over time.

**Workforce Strategic Management**

The Ayers Review recommended that the AFP:

Commit a minimum of 4% of salaries allocation to the development of properly structured and focused training programs to continually enhance investigative and other skills [Finding 24].

The Audit notes that as a part of the corporate function, Learning and Development funding and delivery will be considered under the *One AFP One Corporate* process. The Audit notes concerns that opportunities for training and development in specialist investigative areas are not being resourced. This has implications for retention of sworn officers in the longer term if they are not encouraged to develop and improve their skills or given the opportunities to use the skills, once developed. It will also have an impact on the National Teams Model and on the AFP’s ability to provide appropriately skilled officers for Commonwealth taskforces. The Audit has been advised that the AFP National Manager Human Resources has developed and received in-principle endorsement from the AFP executive for a new investigator development strategy to address this workforce risk.

Similar to other corporate services, training delivery across the AFP has become fragmented, leading to a drain on available resources to support this function effectively. The AFP College is a Registered Training Organisation delivering programs in accordance with the Australian Quality Training Framework. For the purposes of developing AFP skill sets, it is likely that the conclusion of the *One AFP One Corporate* review will be to centralise training resources within the Learning & Development framework.

The proportion of budget spent on this function should be determined through an assessment of training requirements against capabilities to ensure that the programs delivered support the aims of the AFP. It should not be a fixed percentage.

**Finding 10.3:**

The Audit notes that funding commitments to Learning and Development will be reviewed under the *One AFP One Corporate* process.
Recommendation 10.1:

In previous chapters the Audit has recommended the maintenance and deepening of the AFP’s language and cultural sensitivity programs, as well as noting the increasing demand for financial analysis and information and communications technology skills in investigation teams. Sufficient funding should be made available to develop and sustain the staff skills required to deliver in these areas.

Training need not relate specifically to classroom delivery. Development opportunities in the Commonwealth environment are likely to be enhanced through the offerings of the proposed National Security College, as previously discussed in Chapter 3.

The Audit also notes the opportunities to develop more effective networks and training relationships through secondments and training development with agencies undertaking investigative functions such as the Australian Crime Commission, the Australian Security Intelligence Organisation, Centrelink, the Australian Taxation Office, the Australian Securities and Investment Commission, the Department of Immigration And Citizenship, Australian Customs and Border Protection Service, and the Attorney-General’s Department. The Australian Federal Police Association also saw merit in this proposal.

Finding 10.4:

The Audit notes the need to develop specialist investigative skills and supports retention of an effective training function at the AFP College. The Audit also notes that skills related to some emerging areas of crime may be delivered by or with other agencies particularly skills for High Tech Crime, Counter Terrorism and Customs and Border Control where shared understanding of methods and processes would be beneficial.

Workforce Planning

Over the course of the Audit a number of workforce planning issues were raised, including the slow growth in the number of sworn officers since 2001 and its potential impact on investigations. The Audit has already pointed to the actual reduction in the number of investigators dealing with serious crime – such as major fraud, illicit drugs and people trafficking. Sworn officers are the core of the AFP’s investigative capability as part of an integrated team with non-sworn members such as intelligence analysts, financial and information and communications technology experts, lawyers and forensic scientists.

The Australian Federal Police Association noted that there were 2,074 sworn employees in the AFP in 2000, while in April 2009 there were 2,789 – indicating a growth of 37.6 per cent or around 4.1 per cent per annum over that period. This is consistent with growth in the public sector at large. During this period, the AFP has had to deal with a significant growth in demand for investigations in relation to areas such as counter terrorism and people smuggling.
Over the same period the number of unsworn officers increased by 200 per cent. Partly this is attributable to the transfer of the Protective Services function, which has large numbers of officers who are not sworn police officers. There has also been an increase in forensic services, intelligence and High Tech Crime Operations, which are heavily dependent on skill sets more commonly held by non-sworn staff. There was also a significant increase in administrative support staff. As noted above, the One AFP One Corporate project will ensure that these costs are at an efficient minimum.

The Audit notes the Government’s commitment, discussed in Chapter 5, to the recruitment of an additional 500 sworn officers over the next five years. However, as indicated in that chapter, there will nevertheless be an overall decline in the number of AFP officers as per capita employment costs outstrip the net budget employment cost supplement, less the efficiency dividend.

While the addition of further sworn officers is desirable, it is clear that the skills provided by the unsworn cohort in the modern AFP are also critical, particularly when that group includes staff with skill sets in the areas of forensics, information technology, intelligence, finance, accounting, the law, policy and learning and development. The Audit was advised, for example, by the United Kingdom Serious and Organised Crime Agency that it has a relatively low number of members with a conventional policing background. This reflects the demands for skill sets across a range of disciplines in undertaking intelligence-led investigations in complex crime sectors. On the other hand, community policing with its real time demands for the use of police powers, requires a very high ratio of sworn officers. Ultimately the balance between sworn and unsworn officers will be reviewed and managed in line with the agency requirements for particular skill sets and this will be an important consideration for the Workforce Strategy currently being developed for the AFP.

A further concern expressed to the Audit has been the use of sworn officers in purely administrative roles. While the Audit acknowledges that the involvement of sworn officers in managing some administrative functions ensures that the service supports police and operational needs, police officers are an expensive and highly trained resource and should be deployed operationally to maximise their benefit to the agency and the community.

The recent move by the Department of Defence to identify critical roles for service personnel and to use civilians where possible recognises that recruitment to services has become an issue, and consideration must be given to more creative solutions. In proposing a capability model for the AFP, the Audit seeks to acknowledge the importance of the sworn officers to AFP’s operational success and to ensure that their skills are focused appropriately while unsworn staff provide both vital complementary skills and necessary administrative support.

The Audit further considers that staff numbers and skill sets are an internal decision for the AFP and that the Commissioner should be free to determine the skills required and the composition of the workforce in line with strategic policing objectives and resource envelope agreed with Government.
Finding 10.5:

The Audit notes that the growth in number of sworn officers and skilled complementary staff has not kept pace with the overall growth in the investigation demands on the AFP and that as a result, the actual investigation effort directed to some important areas like serious crime other than terrorism has actually declined over the past decade. It also acknowledges the role of the unsworn workforce in performing administrative and specialist/technical functions. The Audit considers that staffing should be a matter for the Commissioner and decisions on workforce composition should be made in tandem with decisions on strategic objectives. The setting of particular goals or headcounts for different categories of staff is too blunt an approach to be helpful.

One recruitment issue raised and noted in discussions with AFP managers was the impact of the current disjointed approach to recruitment of sworn members. Concerns have been expressed about the time taken for recruitment and from existing members when large numbers of new recruits require mentoring. A more consistent and planned approach to recruitment and training is recommended, although the Audit acknowledges that recruitment is dependent on the capability model and the availability of funding.

Finding 10.6:

The Audit acknowledges that recruitment occurs currently as budget allows and reiterates the value of a capability model in supporting strategic planning and resource impacts.

Targeted Workforce Strategies

The AFP currently enjoys an extremely high level of interest in sworn recruitment which is achieved through a recruitment strategy that does not need to include overt media advertising. Attrition rates for the AFP’s workforce are remarkably low, especially amongst sworn police members. The challenge for the AFP will be to maintain vigilance and understanding of external workforce dynamics. Specifically, targeting and recruiting some of the specialised skills discussed in previous chapters and building levels of representation from a range of communities (including at risk communities) into the workforce for the next decade.

An advantage for the agency at this time is the Recruitment and Retention Program, under which the Government has provided funding for the AFP to develop a Workforce Strategy. This offers an opportunity to establish necessary frameworks for reviewing and planning the workforce to deliver AFP core capability as well as managing the impacts of unexpected and emerging activity on resourcing.

The Audit has been advised that AFP Human Resources management has engaged Yellow Edge, a commercial provider specialising in organisational performance, to develop and implement a workforce strategy under this initiative. The Workforce Strategy will comprehend the Human Resources Framework and an integrated Workforce Planning Strategy. These are currently in development and will not be completed when the Audit reports.
In the broad, the Human Resources Framework will identify agency priorities and assist the Human Resources management portfolio to work in a more integrated manner with other areas of the AFP. It is expected to assist the AFP to meet commitments to attracting and retaining a diverse workforce including improving uptake of positions by indigenous Australians, women, and culturally and linguistically diverse Australians.

A focus on these target groups in the Human Resources Framework is critical to the future of the AFP. Traditionally uptake of positions by the members of these groups has been low, despite the AFP offering generous leave provisions and a range of flexible employment arrangements and policies to support families and carers.

The Audit notes the relatively low uptake of positions in the AFP by women and recommends overt support from the executive for the arrangements expressed in the Collective Agreement as well as more robust support through the approval processes specified in the Governance Framework.

The Workforce Planning Framework will leverage off the Human Resources Framework and the Audit has been advised that the focus will be on both development of a flexible and responsive workforce as well as managing the needs of that workforce for development, training and support. This work is in its initial stages as at the time of reporting.

The funding available under the Recruitment and Retention New Policy Initiative for developing this Workforce Strategy offers an important opportunity to the AFP to develop and deliver a framework that interacts effectively with the other recommendations of this Audit.

The AFP is in a consolidation phase where understanding the strategic use of its workforce will be critical to meeting priorities and responding to emerging situations. Overall staff numbers are likely, on current expectations, to decline somewhat over the period ahead. Development of an understanding of personnel or workforce as a strategic input to support Strategic Objectives and Capabilities, as defined in Chapter 4, and managing them accordingly will be a key outcome that should be anticipated from the Workforce Strategy currently under development.

**Finding 10.7:**

The Audit notes the commitment by Government to funding the development of an AFP Workforce Strategy. This Strategy must be informed by and support the strategic objectives, capabilities and inputs outlined through the governance and planning approaches set out in Chapter 4.

**Collective Agreement**

In line with industry best practice, negotiations for the next AFP Collective Agreement will begin in 2010 as the current agreement will continue to operate until 2011. The current agreement delivered to the AFP a single source for terms and conditions across the agency, effectively consolidating three varying industrial instruments and hundreds of individual arrangements.
The key criterion was to create a single document that provides a more flexible model for staffing and delivering resources where they are needed. It was developed primarily to deliver increased capacity to manage under a fully flexible model by changing working patterns. At the time the agreement was rolled out, managers were advised that the cost of the agreement would be determined by how they managed its provisions. The financial impact of the Collective Agreement on the AFP has been discussed in the Budget and Programs Chapter.

An issue raised during the Audit involved the adequacy of the financial modelling during negotiations for the current Collective Agreement 2007-2011. The Audit notes that preliminary work for the next agreement has commenced. This activity is concerned with understanding fully the industrial landscape in which the AFP will be negotiating and with undertaking compliance and cost audits of the current Collective Agreement.

These audits will inform cost modelling for the next negotiation round. The AFP generally outsources cost modelling to an external provider. Ernst and Young has costed the last two agreements. It is important this modelling accurately projects changes over time in likely incremental advancement and classification patterns so that the overall impact of the interaction between changes in the Collective Agreement, these factors and available funds on the sustainable number of Full Time Equivalent staff can be fully appreciated by both the AFP and the staff representatives.

Finding 10.8:

The Audit notes that negotiations for the next Collective Agreement will commence in 2010 and supports the use of independent financial modelling to identify the real cost of the Collective Agreement in the out years.

**AFP information services capacity**

Information and communications technology (ICT) is critical to modern policing. It supports real time access to fundamental investigative and community policing resources like criminal records, fingerprint data bases, intelligence and case management systems. The ability to track and correlate information and to communicate instantly across teams and between organisations is critical. This has already been highlighted in Chapter 3. ICT also underpins the management of priorities and resources, as well as the normal support functions of any organisation.

In his *Strategic review of the Australian Federal Police’s (AFP’s) Financial Outlook*, Mr Len Early PSM identified significant under-investment in ICT. In the current financial year an injection of funds has improved the situation. However, there are developments that raise considerable concerns for the future.

**The Gershon Review**

The Gershon Review has had a significant effect across Government ICT delivery. The review was tasked to report on the efficiency and effectiveness of the Australian Government’s current use of ICT, the Government’s realisation of return from its ICT investments, and the institutional arrangements in place to maximise this return. While the Government endorsed the recommendations of the review and implementation has commenced, many of the precursor governance recommendations made by Gershon have not been implemented and the focus of activity has been on cuts.
The Gershon targets currently being implemented in the AFP include:

- ‘Target to move from 77:23% split between business as usual and the creation of new capability in 2007-08 to 70:30% in 2011-12’;
- ‘reducing the business as usual ICT budgets of the 28 large agencies by 15% on average from 2007-08 actuals’; and
- ‘a 5% average reduction in the first year, the balance in the second year and the aggregate … with 15% reduction sustained in subsequent years’. [Gershon Review]

In response to the recommendation, the AFP has identified viable cost reduction initiatives to achieve the 5 per cent average reduction of the business as usual budget in 2009-10. In the next phase of work a further 10 per cent cost savings in business as usual will need to be identified for 2011-12.

Relative to other agencies and any reasonable assessment of needs the AFP has a history of low budget spending on ICT and a 15 per cent reduction on ICT business as usual spending will therefore present a significant risk. There should be no doubt that there will be an impact on the level of services that the AFP can provide and a corresponding increased risk that the AFP will be unable to respond in an emergency situation when the most stress is placed on ICT systems.

One of the results of the project conducted by the Australian Government Information Management Office in response to Recommendation 3 was some initial benchmarking of the 28 agencies. It should be noted that the AFP placed well in those comparisons.

**Finding 10.9:**

The impact of the Gershon Review is likely to erode further the already low commitment to ICT investment in the AFP at considerable risk to the AFP’s performance including in mission critical situations.

**Future ICT needs**

Information Services has met the needs of a growing and diversifying AFP over a period of sustained growth. It has managed integration of the Aviation and the additional Protection functions and supported the International Deployment Group locally and internationally while delivering business-as-usual services to the whole of the AFP nationally and internationally. As with other areas in the AFP, review and consolidation are now necessary. Investment in this activity will be essential to allow Information Services to find ways of reducing the number of systems and managing essential systems more effectively.

The AFP manages a wide range of aging systems as well as utilising leading edge technology to meet growing organisational needs for agile ICT response.
One of the major issues for ICT in the AFP has been ensuring informed strategic oversight of technology investment. Many AFP strategic and management processes are currently under review or have been recently improved. The Technology and Science Strategic Capability Committee has been established to deliver more effective management of the AFP’s investment in technology and science. Funding is managed against strategic objectives and this process provides Information Services with a cohesive approach to systems development and management and a formal planning framework, while also engaging the Strategic Leaders Group actively in decisions about the future needs and directions of the AFP in this area.

Internally Information Services has responded to both Gershon and internal audit recommendations and commenced implementation of the IT Infrastructure Library, the standard best practice in provision of IT service management. This will place the AFP within the same framework as partner agencies in the Commonwealth and facilitate better technology outcomes for the AFP.

Finding 10.10:
The Audit notes the improved governance arrangements provided by establishing the Technology and Science Strategic Capability Committee. This approach will deliver a more holistic approach to ICT investment and ensure that technology is developed to meet the strategic objectives of the AFP.

The Spectrum Program

The Spectrum Program, a business change program funded by Government and currently underway in the AFP, will have significant impacts on Information Services and on how the AFP will operate in the future, as it will lead development and implementation of the next generation of operational and intelligence systems.

Six high level benefits for system and process users were specified to Cabinet in 2007:

- improved support for AFP operations;
- greater ICT reach;
- improved information aggregation and discovery;
- productivity gains;
- reduced maintenance and support costs; and
- better whole of government outcomes.

This Audit, in Chapter 3, has already identified the important priority attached to improving whole of AFP, whole of Commonwealth and whole of Federation systems to underpin access to databases and intelligence, support a common approach to case management and facilitate secure communications between the AFP and the intelligence community.
Finding 10.11:

The Spectrum Program is central to, and must have as an objective, the goal of improving interoperability across the AFP, the Commonwealth and the Federation. It is therefore important that it considers these wider objectives as well as those relating only to the AFP.
## Appendix 1

Defendants dealt with by the Commonwealth Director of Public Prosecutions in 2007-08

The table below demonstrates the broad range of agencies referring matters to the Commonwealth Director of Public Prosecutions. It shows the number of defendants dealt with by the Commonwealth Director of Public Prosecutions in 2007-08.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Summary</th>
<th>Indictable</th>
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</thead>
<tbody>
<tr>
<td>Australian Bureau of Statistics</td>
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<tr>
<td>Australian Communications and Media Authority</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Australian Competition and Consumer Commission</td>
<td>3</td>
<td>50</td>
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<tr>
<td>Australian Crime Commission</td>
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<td></td>
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<tr>
<td>Australian Customs Service</td>
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<td>16</td>
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<tr>
<td>Australian Electoral Commission</td>
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<tr>
<td>Australian Federal Police</td>
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<td>Australian Fisheries Management Authority</td>
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<td>1</td>
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<tr>
<td>Australian Government Solicitor</td>
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<td></td>
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<tr>
<td>Australian Maritime Safety Authority</td>
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<td></td>
</tr>
<tr>
<td>Australian Passport Office</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>Australian Postal Corporation</td>
<td>51</td>
<td></td>
</tr>
<tr>
<td>Australian Prudential Regulation Authority</td>
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<td></td>
</tr>
<tr>
<td>Australian Quarantine and Inspection Service</td>
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<td></td>
</tr>
<tr>
<td>Australian Securities and Investments Commission</td>
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<td>48</td>
</tr>
<tr>
<td>Australian Sports Anti-Doping Authority</td>
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<td></td>
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<tr>
<td>Australian Taxation Office</td>
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<td>43</td>
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<tr>
<td>Australian Trade Commission</td>
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<td>Centrelink</td>
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<tr>
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<tr>
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<tr>
<td>Department of Education, Employment and Workplace Relations</td>
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<td></td>
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<tr>
<td>Department of the Environment, Water, Heritage and the Arts</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>Dept of Families, Housing, Community Services &amp; Indigenous Affairs</td>
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<td>8</td>
</tr>
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</table>
### Summary vs Indictable

<table>
<thead>
<tr>
<th>Organization</th>
<th>Summary</th>
<th>Indictable</th>
</tr>
</thead>
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<tr>
<td>Department of Foreign Affairs and Trade</td>
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<td></td>
</tr>
<tr>
<td>Department of Health and Ageing</td>
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<tr>
<td>Department of Immigration and Citizenship</td>
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<td>1</td>
</tr>
<tr>
<td>Department of the Treasury</td>
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<td></td>
</tr>
<tr>
<td>Department of Veterans' Affairs</td>
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<td>1</td>
</tr>
<tr>
<td>Great Barrier Reef Marine Park Authority</td>
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</tr>
<tr>
<td>Insolvency and Trustee Service Australia</td>
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<tr>
<td>Medicare Australia</td>
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<td>5</td>
</tr>
<tr>
<td>Non Commonwealth Agencies</td>
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<td>5</td>
</tr>
<tr>
<td>National Offshore Petroleum Safety Authority</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Office of the Australian Building and Construction Commissioner</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>State DPP</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>State or Territory Police</td>
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<tr>
<td>Therapeutic Goods Administration</td>
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<td>1</td>
</tr>
<tr>
<td>Workplace Ombudsman</td>
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<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5557</strong></td>
<td><strong>588</strong></td>
</tr>
</tbody>
</table>

Source: Commonwealth Director of Public Prosecutions Annual Report 2007/08, p.87
Appendix 2

Comparative average net tax payable – Wickenby clients compared to Australians in the top 4% taxable income range

The red line denotes pre and post Wickenby period.

This graph shows the performance of the Wickenby group as a whole (as at March 2009) as measured against a control group of Australian taxpayers who, since 2003, have been in the top 4% taxable income range. Wickenby averages were calculated using data from those Wickenby individuals who have lodged across all relevant years – at March 2009 this is a base group of 556 clients.

Compared to an average of $43,955 in the pre-Wickenby years, the Net Tax Payable for Wickenby individuals increased in 2005 by $20,717, in 2006 by $29,521 and in 2007 by $56,240. This is an average increase across pre and post Wickenby years of approximately $35,492 or 81%. The change across the same timeframe for Australians in the top 4% Taxable Income range resulted in their average Net Tax Payable increasing by approximately $14,700 or 20%.
Appendix 3
Correspondence with ANZPAA

1 April 2009

ANZPAA
Level 6 Yarra Tower
World Trade Centre
837 Flinders St
Melbourne VIC 3005

Dear Ms Wilkinson

I am writing to you concerning the Federal Audit of Police Capabilities that I am carrying out for the Australian Government. I have attached the Terms of Reference (attachment A).

The scope of the Audit is broad, although recognising the role of the Australian Federal Police as the Australian Government’s primary law enforcement agency, there is a particular emphasis on that agency, and on related Australian Government agencies concerned with law enforcement.

As you are aware, one of my important Terms of Reference is to:

"5. Invite the Australia New Zealand Policing Advisory Agency to survey state and territory capabilities and workforce planning issues to feed back to the Commonwealth in order to provide a nationwide perspective of challenges and opportunities in policing."

This is a stand alone Term of Reference which can be read at face value. That said, I understand that it is a very broad and challenging task in its own right, particularly given the relatively short time frame within which I have been asked to report. I am seeking your assistance on the next way forward.

The Hon Rob Debus, Minister for Home Affairs wrote to the former Chair of ANZPAA Ms Christine Nixon APM, in the terms attached (see attachment B). In his letter the Minister makes particular note of the areas of intersection between Commonwealth and State and Territory policing activities where new demands have placed pressure on police resources.

With this in mind the following questions may be of assistance in focussing any contribution that ANZPAA is able to make:

1. What capabilities are necessary a) in your State, b) at the Commonwealth Agency level, and c) at a national level (eg Commonwealth/State collaborative arrangements like "CrimeTrak, ATT are) to deal with:
   - serious and organised crime;
   - trans-border crime;
   - terrorism;
The Allen Consulting Group

• aviation security;
•  regional stability and security; and
•  emergency response
•  supply of specialist services including forensic
•  sharing of intelligence, case management systems, ITC interoperability.

2. What are the gaps and overlaps?

3. With which Commonwealth agencies are the principal areas of intersection (for example, AFP, ACC, Australian Intelligence Community, ASIC, DIAC, ATO, Centrelink etc)?

4. What issues and opportunities do the states and territories see as arising from these intersections?

5. What are the consequent challenges and opportunities in policing?

6. How could Australia better position itself to ensure that there is an appropriate supply of the highly skilled officers, across the range of competencies required to meet the demands of modern policing?

As we discussed, I am very aware that the timeframe for the Audit is very short, and if at all possible I would welcome an input to the Audit by Friday 15 May.

To assist your consultations with Commissioners, many of whom I have now had the opportunity to meet with, I have provided a copy of this letter to them.

Thank you again for the time that you and your colleagues have given me and my team over a number of meetings since February. I look forward to working with you on these issues and making a contribution to the further development of policing capabilities across Australia.

Yours sincerely

Roger Beale AO
Independent Reviewer
Federal Audit of Police Capabilities

CC State Police Commissioners
Dear Roger

Re: Federal Audit of Police Capabilities

I write to you as the incoming Chair of the ANZPAA Board.

You will be aware that the ANZPAA Board met in Perth on 15 April 2009. The ANZPAA Executive Director, Sue Wilkinson, informed me she had let you know that the Federal Capability Audit would be discussed at that meeting.

The Board reviewed the Terms of Reference for the Audit, and also considered the questions your team had submitted with the request that ANZPAA should collate jurisdictional responses on your behalf.

The overall view was that the work requested is, in fact, a major project that will require significant resourcing and time to complete, and something that is not feasible within the timescales given or ANZPAA’s current Work Program. Moreover, it would substantially comprise of collating responses from the various jurisdictions. Consequently, it was agreed that a practicable solution would be for each jurisdiction to respond individually to your questions from their own varying perspectives.

I am confident you will receive a comprehensive set of contributions that will assist you as you move forward with the Audit.

Yours sincerely

(Malcolm A Hyde)
Commissioner, SA Police
Chair, ANZPAA Board

77 April 2009
Appendix 4

Key Legislative Provisions

Section 8 of the *Australian Federal Police Act 1979* sets out the AFP’s functions, which broadly include:

- the provision of police services to the ACT and the Jervis Bay Territory;
- the provision of police services in relation to laws of the Commonwealth and property of the Commonwealth;
- the safeguarding of Commonwealth interests;
- the investigation of State offences that have a federal aspect;
- witness protection;
- Proceeds of Crime activities;
- protective and custodial functions, as directed by the Minister;
- assistance to, or cooperation with, an Australian or foreign law enforcement agency, intelligence or security agency, and/or government regulatory agency; and
- the provision of police services to establish, develop and/or monitor peace, stability and security in foreign countries.

Section 37 of the AFP Act establishes the framework for the administration and control of the AFP, including the separation of the policy role of the Government and the operational independence of the AFP. Section 37 reads:

1. The Commissioner has the general administration of, and the control of the operations of, the Australian Federal Police.

2. The Minister may, after obtaining and considering the advice of the Commissioner and of the Secretary, give written directions to the Commissioner with respect to the general policy to be pursued in relation to the performance of the functions of the Australian Federal Police.

3. In addition to his or her power to give directions under subsection (2), the Minister may give written directions … to the Commissioner in relation to the use of common services\(^\text{271}\) in accordance with an arrangement made under subsection (5).

4. The Commissioner must comply with all directions given under this section.

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\(^{271}\) *Common services* are defined as including computer systems, forensic science laboratories, research and planning systems, training institutions and/or anything of a like nature,
(5) The Minister may, after obtaining and considering the advice of the Commissioner and of the Secretary, make an arrangement with the appropriate Minister of a State for the provision or development of common services and for the use of such common services by the Australian Federal Police and the Police Force of the State.

(6) The Commissioner must give to the Minister such reports as the Minister requests relating to the administration and the performance of the functions of the Australian Federal Police.

Section 37 was inserted into the *AFP Act* by the 1999 Bill (which made amendments to the Act in 2000 primarily to reform the AFP’s employment framework) as a re-enactment of the pre-existing s13. The policy basis of this section can be traced back to Sir Robert Marks’ 1978 *Report to the Minister for Administrative Services on the Organisation of Police Resources in the Commonwealth Area and Other Related Matters*, which recommended the establishment of the AFP. Sir Robert noted:

> Administratively, a police force should be seen to be accountable to government... Operationally, it should be seen to be as free as possible from political influence... Any operational decision by a police force unduly subject to political interference will never be generally acceptable with consequent impairment of the reputation and status of the force... The ideal relationship is that the Chief Police Officer should pay the closest attention to the views of those whom he is administratively accountable to but that he, and he alone, should make operational decisions.

Thus, s 37 re-enacts the power of the Minister to give written directions to the Commissioner and request reports on the AFP’s performance. Section 37 also re-establishes the Commissioner’s operational independence from the Minister by conferring on the Commissioner ‘the general administration, and control of operations, of the AFP’. In addition to this, s 38 enables the Commissioner to ‘issue [written] orders with respect to the general administration of, and control of the operations of, the AFP’.

Under s 37 of the AFP Act, the Commissioner is held accountable to Government through the furnishing of reports on ‘the administration and the performance of the functions of the AFP’. The Commissioner fulfils this duty through the tabling of Portfolio Budget Statements, which identify what the AFP plans to do in the coming year and the Key Performance Indicators which are used to measure activity against these targets, and Annual Reports, which detail the degree to which these plans are realised.

The Commissioner’s authority to independently direct and manage AFP resources in response to operational priorities is further supported by the *Financial Management and Accountability Act 1997*. The Commissioner, under s 44 of the Act, is the Chief Executive responsible for the financial management of the AFP. Under s 44, the Commissioner is obliged to manage Commonwealth resources in an efficient, effective and ethical manner, consistent with the policies of the Commonwealth.

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Appendix 5

Ministerial Direction

Minister for Home Affairs, the Hon Bob Debus MP

This Ministerial Direction is issued under subsection 37(2) of the Australian Federal Police (AFP) Act 1979 and outlines the Government’s expectations and priorities for the AFP. Under section 37(1) of the Act, the Commissioner has the general administration, and the control of the operations, of the AFP. It supersedes the Direction issued on 12 October 2007.

Statement of Expectations

The AFP is the Australian Government’s primary law enforcement agency. It is Australia’s international law enforcement and policing representative and the chief source of advice to the Government on policing issues. AFP functions are set out in section 8 of the AFP Act 1979. Within that framework, the AFP pursues clearly defined outcomes agreed by the Government.

In pursuing these outcomes, the AFP will adhere to Government policies including protection of privacy, occupational health and safety and workplace diversity. The AFP will continue to maintain and enhance a professional culture, based on its stated core values, that ensures high levels of community confidence in the honesty, effectiveness and accountability of its members.

An important part of maintaining community confidence involves the AFP workforce respecting and reflecting the diversity of the Australian community.

The AFP is expected to build a relationship of trust with the indigenous community. The Government expects the AFP to actively promote indigenous employment, enhance cultural sensitivity within its workforce, and improve engagement with Aboriginal and Torres Strait Islander people. Methods to achieve these objectives should include maintaining its Reconciliation Action Plan and Indigenous Employment Strategy.

The Government expects the AFP to take a major role in whole-of-government approaches to crime and security issues. The Government expects the AFP to work collaboratively with other law enforcement agencies, intelligence organisations, and other government agencies that require or facilitate law enforcement activity.

The AFP will actively pursue opportunities for cooperation, strategic alliances, and information sharing with Commonwealth, State and Territory agencies, departments with relevant policy and operational responsibilities, and with the private sector where appropriate.

The AFP will continue to develop relationships with overseas law enforcement organisations to support international operational and general law and order outcomes that benefit Australia’s domestic and international interests.

Continued provision of policing services to the ACT, through agreement with the ACT Government, is an important component of the AFP’s overall capacity to perform its role effectively.
The Government expects the AFP to manage its resources efficiently and responsively in accordance with the Financial Management and Accountability Act 1997 and the Finance Minister’s Orders.

**Statement of Priorities**

In performing its functions and prioritising its activities, the Government expects the AFP to give special emphasis to:

- countering the threat of terrorism to the safety and security of Australians and Australian interests, inside and outside Australia;
- preventing, deterring, disrupting and investigating serious and organised criminal activities impacting on the interests of the Australian community;
- safeguarding the economic interests of the nation from criminal activities such as serious fraud, money laundering, corruption, intellectual property crime and technology enabled crime;
- ensuring that specific individuals, establishments and events, identified by the Australian Government as being at risk, are protected;
- contributing effectively to the Government’s international law enforcement interests including matters involving cooperation to combat transnational organised crime, responses to emergencies, law and order capacity building missions, and participation in United Nations, or other internationally mandated, peace operations;
- achieving and maintaining a technological edge over criminals, including sharing knowledge and capabilities with strategic partners;
- identifying emerging criminal threats to the national interest and advising on appropriate policy approaches, strategies, and treatments, to counter such threats;
- contributing actively to broader government programs or initiatives where their successful implementation requires the engagement of law enforcement capabilities.

The Government is committed to the goal of the AFP being a law enforcement agency second to none. It is also committed to ensuring the AFP is adequately positioned and appropriately resourced to deal with a complex and shifting law enforcement environment.

**Reporting**

The Government expects the AFP to report regularly to the Minister for Home Affairs on its performance.

The Hon Bob Debus MP
Minister for Home Affairs
25 August 2008
Appendix 6

AFP Organisational Chart
Appendix 7

Governance of the United Kingdom Serious and Organised Crime Agency

The UK Serious and Organised Crime Agency (SOCA) is an executive Non-Departmental Public Body sponsored by, but operationally independent from, the Home Office. SOCA is an intelligence-led agency with law enforcement powers. It is governed by an 11 member Board,\(^{273}\) which includes six non-executive members, responsible for ensuring that SOCA discharges its statutory responsibilities and meets the strategic priorities set by the Home Secretary.\(^{274}\)

The functions of the Board are to:\(^{275}\)

- establish the overall strategic direction of SOCA;
- ensure the Home Office is kept informed of any changes likely to impact on the strategic direction of SOCA;
- ensure that any statutory or administrative requirements for the use of public funds are complied with;
- ensure that it receives and reviews regular financial and performance information concerning the management of SOCA;
- demonstrate high standards of corporate governance at all times, including using the independent audit committee; and
- set performance objectives for the Director General which give due weight to the proper management and use of public monies.

The strategic imperatives of SOCA, as set by the Board, include:

- to build knowledge and understanding of serious organised crime, the harm it causes, and of the effectiveness in tackling it;
- to increase the amount of criminal assets recovered and increase the proportion of cases in which the proceeds of crime are pursued;
- to increase the risk to serious organised criminals operating against the UK, through traditional means and by innovation within the law; and
- to collaborate with partners, join up domestic and international efforts to reduce harm.

The Home Secretary appoints the Chair and Director General of SOCA. The Chair is responsible for SOCA’s overall approach, for its relationship with Ministers and with Government generally, for SOCA’s strategy and, with the other non-executive directors, for oversight of its operational performance.

\(^{273}\) Details regarding the composition of the Board, tenure and remuneration of members etc. are set out in Schedule 1 to the Serious and Organised Crime Police Act 2005.

\(^{274}\) [http://www.crimereduction.homeoffice.gov.uk/organisedcrime/organisedcrime06.htm](http://www.crimereduction.homeoffice.gov.uk/organisedcrime/organisedcrime06.htm)

\(^{275}\) See SOCA’s Management Statement for further information.
The Director General is responsible for all operational and administrative outputs of the Agency. He or she is responsible for the day-to-day leadership of SOCA’s management team and, ultimately, for the appointment, accreditation and direction of its staff. As Accounting Officer, the Director General is also responsible for SOCA’s expenditure and accounting arrangements.

The Serious and Organised Crime Agency Act 2005 establishes the legislative framework which underpins the various governance structures, powers, responsibilities and authority of the Agency. The Act confers a number of powers on the Home Secretary, including:

- to determine the strategic priorities for SOCA; and
- to issue codes of practice relating to the exercise by SOCA of any of its functions.

To exercise these powers, the Home Secretary must first consult with the SOCA Board, the Scottish Ministers and other appropriate persons. The Home Secretary may also require SOCA to submit a report to him regarding the exercise of SOCA’s functions or its activities.

Her Majesty’s Inspectors of Constabulary are responsible for inspecting SOCA and reporting on its efficiency and effectiveness, ‘from time to time’ or when requested by the Home Secretary. Where an inspection report identifies any part of SOCA to be inefficient or ineffective, the Home Secretary may direct SOCA to submit an action plan setting out what remedial action it will take. Where considered inadequate, this action plan may be reviewed by the Home Secretary and progress reports must be made regarding the Plan’s implementation.

276 http://www.soca.gov.uk
Appendix 8

Current AFP Missions

RAMSI

The Regional Assistance Mission to Solomon Islands (RAMSI) commenced on 24 July 2003 as a partnership between the Government of Solomon Islands and fifteen contributing countries of the Pacific region. RAMSI was established at the request of the Solomon Islands Government, was endorsed by the Pacific Islands Forum and has its legal foundation in an Act of the Solomon Islands Parliament, which was passed in 2003.\(^\text{277}\)

The initial mandate of RAMSI was to help the Solomon Islands Government restore law and order. The focus of the mission then turned to longer-term projects including strengthening government institutions, rebuilding the Solomon Islands Police Force, reinvigorating the economy and economic reform. RAMSI’s mission is structured around three pillars:

- machinery of Government;
- economic Governance; and
- law and justice.\(^\text{278}\)

RAMSI’s policing function is performed by the Participating Police Force, which is currently constituted by 279 police and civilians from amongst the participating countries, with the AFP being the principal contributor in terms of staff numbers.\(^\text{279}\)

Initially, the Participating Police Force had a very direct role in restoring law and order. That security mandate continues to this day, and this role continues to be the public face of RAMSI. However, since January 2005, the Participating Police Force focus has been on working in partnership with the Royal Solomon Islands Police Force to develop its capacity through training and providing advice.

There were initially four proposed phases for the AFP’s role in the Participating Police Force:

1. restore law and order;
2. consolidate law and order;
3. capacity building; and
4. withdrawal.

The capacity building phase was expanded in June 2006 as follows:

1. consolidation of capacity enhancement;
2. Royal Solomon Islands Police Force capacity development;
3. knowledge and skills gap identification;

\(^{277}\) Facilitation of International Assistance Act 2003

\(^{278}\) [http://www.ramsi.org/node/6](http://www.ramsi.org/node/6)

\(^{279}\) 172 staff as at May 2009.
4. knowledge and skills gap filling;
5. knowledge consolidation and sustainability;
6. drawdown; and
7. sustainment and withdrawal.\textsuperscript{280}

The Participating Police Force is in Phases 4 and 5 of the planned engagement.\textsuperscript{281}

In the context of a 2007 performance audit of the AFP’s role in the Participating Police Force, the Australian National Audit Office made several recommendations directed at improving elements of the AFP’s approach to planning, executing and sustaining its overseas deployments, including:

- closer focus on early planning for capacity development missions;
- greater emphasis on recruiting personnel with appropriate capabilities and skills relevant to capacity development;
- ensuring the capacity development phase of the AFP mission in Solomon Islands is structured to provide the Royal Solomon Islands Police Force with identifiable and measurable short and long term improvements in its personnel’s skill sets; and
- increased emphasis on assisting personnel returning to mainstream policing duties from overseas deployments.\textsuperscript{282}

The AFP agreed with these recommendations and has put measures in place to implement them.

**Timor-Leste Police Development Program**

The Timor-Leste Police Development Program (TLPDP) commenced in July 2004 with an initial scheduled completion date of 30 June 2008. However, the work of the program was truncated by civil unrest in 2006 and it was determined in discussions between the governments of Australia and East Timor that a revised and more comprehensive program of assistance would be necessary to support long-term development of the Policia Nacional de Timor-Leste (PNTL).

The enhanced TLPDP, implemented on 1 July 2008, will see the progressive deployment of approximately 80 police and capacity development specialists to work in the critical area of police development. There are currently 39 AFP members deployed to East Timor as part of the enhanced TLPDP. There are also thirteen specialist advisers attached to the program who are contracted through an external agency.
The TLPDP is premised on close working relationships with the UN Mission in Timor-Leste283 and other bilateral donors, with a view to increased future coordination and cooperation.

The nine primary areas in which the TLPDP will operate are:

- development of PNTL leadership capability;
- development and enhancement of policing management skills;
- enhancement of PNTL vocational police skills;
- cooperative work and assistance with implementation of comprehensive corporate and governance arrangements;
- assistance with the compilation and implementation of comprehensive PNTL operational policies, practices and procedures;
- assessment and support for improvement of PNTL human capital;
- enhancement of PNTL accountability and transparency regimes;
- support and funding for three fellowships in policy or academic institutions within East Timor; and
- establishment of a project fund to overcome barriers or take advantage of opportunities in relation to ongoing development of the PNTL.

**Vanuatu Police Force Capacity Building Project**

The Vanuatu Police Force Capacity Building Project (VPFCBP) commenced in February 2006, following an interim phase of assistance which commenced in 2002. The interim phase of assistance resulted from a request by the Government of Vanuatu to the Government of Australia to provide assistance to improve the capabilities of the Vanuatu Police Force (VPF).

The current Project is funded by AusAID and managed by the AFP and has a timeframe of five years. It is a joint Government of Vanuatu/Government of Australia project, implemented by the AFP284 and the Vanuatu Police Force. The Project is directed at strengthening the capacity of the Vanuatu Police Force to prevent and detect crime.

The Project has six objectives:

- support the improvement of VPF operations to enhance community safety, crime prevention and victim support;
- support the improvement of community views/perceptions of the VPF through proactive policing;
- assist in the update/development of VPF legislation and policy;
- support organisational change and improve human resource development and management;
- support improvement of administrative systems and procedures; and

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283 See discussion below.
284 As at May 2009, there were 10 IDG staff deployed to this mission.
• support organisational planning and performance reporting.

In December 2008, a Mid Term Review of the VPFCBP was released. The Review Team found that the Project had contributed to a number of achievements on the part of the Vanuatu Police Force and that improved organisational capacity was evident across a range of areas including formal police training; planning and reporting regimes; establishment of systems and procedures in both administration and operations; and community safety/crime prevention activities. In terms of future directions, the Review Team concluded that particular assistance would be required to further strengthen Vanuatu Police Force planning, budgeting and financial management capacity and to improve frontline/general duties policing. The Team indicated that this would require revised long-term strategies, accompanied by a refocusing, and possibly increasing level, of assistance from the Australian Government. The Team noted that the Pacific Police Development Program provides opportunities for the Project to maximise the benefits of its support to the Vanuatu Police Force.

**Tonga Police Development Program**

The Tonga Police Development Program is a joint partnership between Tonga, Australia and New Zealand directed at enhancing the capacity of the Tonga Police Force for effective community policing.

The Program was established following a joint Australia/New Zealand assessment mission in 2007, conducted after riots that destroyed a large part of the Nuku’alofa central business district in November 2006. The response to the riots, which involved deployment of the Tonga Defence Force, resulted in a serious loss of confidence in the Tonga Police Force.

The Program is directed at addressing critical capability shortfalls in infrastructure and police equipment, promoting legislative reform and maintenance of the separation of powers, and vocational and specialist training.

To date, indications are that the public image and profile of the Tonga Police Force have been enhanced and that there is a growing sense of safety and security on the part of the public.

The AFP is currently providing support to the Program on the basis of joint AusAID/AFP funding totalling $2.6m for the 2008-2009 financial year. There is currently no new measure funding for the Program and it is not funded under the Pacific Police Development Program.

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285 The Review was conducted by a team comprising an independent consultant (Kevin Raue), the AusAID Law and Justice Adviser, a Superintendent of the IDG, the Deputy Commissioner of the Vanuatu Police Force and officers from the Vanuatu Ministry of Internal Affairs and the Office of the Prime Minister.

286 The Pacific Police Development Program is a joint AFP/AusAID initiative to assist police in Pacific nations to support the rule of law as a fundamental basis for economic, social and political development. This outcome is intended to be achieved by increased effectiveness of police services across the Pacific and increased community confidence in police. The PPDP has a four year budget of $80.5m with $75.5m managed by the AFP and $5m by the Attorney-General’s Department.

287 As at May 2009, there were four police advisers deployed in Tonga.
Papua New Guinea – Australia Policing Partnership

The PNG/Australia Policing Partnership is a component of the Pacific Police Development Program and operates within the context of the Treaty on Development Cooperation between PNG and Australia (2000) and the PNG/Australia Development Cooperation strategy (2007-2010) as well as other Australian whole of government support to the wider PNG law and justice sector.

The Partnership is being developed in two phases. Phase 1 seeks to build the foundations of a long-term partnership to support the Royal PNG Constabulary’s (RPNGC) contribution to maintenance of safety and security in PNG. Phase 1 of the Partnership commenced in September 2008 and involves examination of a range of functional areas within the RPNGC including district command needs, criminal investigations and associated financial investigations, transnational crime and intelligence, internal investigations, prosecutions support and community policing. The objective of Phase 1 is to assess potential organisational development needs and work closely in partnership with the RPNGC and other key stakeholders (including AusAID and non-government organisations) to develop a comprehensive future program of assistance (Phase II). The precise nature, size and focus of Phase II has not as yet been determined.

In terms of the possibility of future provision of ‘in-line’ policing assistance to the RPNGC, any such mission would require resolution of appropriate police powers and immunities for members of the IDG.

Nauru Police Force Capacity Building Project

The IDG mission in Nauru is focussed on capacity-building of the Nauru Police Force. The deployment commenced in November 2004 and is due to conclude in June 2009. It is funded under the Pacific Police Development Program and comprises the following components:

- prosecutions training;
- records management;
- workforce planning and professional development;
- development of administrative policies in recruitment, training, professional development, performance assessment and advancement; and
- support to improve infrastructure (equipment, vehicles and communications systems).

Cambodia

Australia and Cambodia are working together closely to combat people smuggling and trafficking, child sex tourism, narcotics trafficking and terrorism.

In February 2007, the AFP placed a senior adviser into the AusAID-funded Criminal Justice Assistance Program to assess opportunities to implement reform measures within the Cambodian National Police, with a focus on the following areas:

See note 201 above.
• strategic planning and management issues;
• executive capacity development;
• investigative skills and capacity; and
• training systems for review and reform.

However, the prospects for meaningful reform in the policing sector in Cambodia appear somewhat limited, and the means by which any such reform might be achieved have not as yet been conclusively determined.

**Afghanistan**

On 20 October 2007, the AFP deployed four members to Afghanistan, two as senior advisers to police development programs within the Combined Security Transition Command – Afghanistan, and two in support of a program to develop the Counter-Narcotics Police of Afghanistan.

Following the conclusion of that deployment, the AFP deployed a further eight members to Kabul, Tarin Kowt and Kandahar between October and December 2008.

As part of a whole of government response, the AFP deployment provides strategic, analytical, and intelligence advice on counter-narcotics activities being conducted as part of the international stabilisation operations in cooperation with the Government of Afghanistan. The AFP is focused on targeting high-level narcotics trafficking that links to current AFP transnational and international narcotics interdiction strategies.

**UN missions**

The AFP commitment to UN peacekeeping operations is drawn from the standing deployable capacity of the IDG. Excepting circumstances arising in which Australia would propose to provide a major long-term commitment to a UN mission, the IDG (if fully staffed) should be in a position to continue to meet obligations to the UN.

The Senate Committee report on Australia’s involvement in peacekeeping operations released in August 2008 recommended that Australian government agencies actively pursue opportunities to second senior officers to the United Nations.

An AFP Commander is currently attached to Australia’s Permanent Mission to the United Nations in New York to represent the Australian Government’s interests in the UN and international peacekeeping.  

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The potential significance of this role for general policing, and the potential level of interconnectedness, is evidenced by a recent Interpol report on a visit by the UN’s Police Advisor to Interpol’s General Secretariat to discuss ways of enhancing cooperation between the UN Department for Peacekeeping Operations and Interpol to combat transnational organised crime, in particular drug trafficking, in West Africa: [http://www.interpol.int/Public/News/2009/Visit20090115.asp](http://www.interpol.int/Public/News/2009/Visit20090115.asp)
**UN missions: East Timor**

The AFP has contributed 50\(^{(290)}\) police officers to the UN Mission in Timor-Leste (UNMIT)\(^{(291)}\) to assist UNMIT in the restoration and maintenance of public security through the provision of support to the Policia Nacional de Timor-Leste (PNTL), including support with interim law enforcement until the PNTL is reconstituted, training, capacity-building and institutional development. The mission commenced in December 2006 and will continue until 25 February 2010 pending assessment of future requirements.

Demands on the AFP in respect of policing assistance in East Timor have spiked a number of times over the past ten years with various emergency deployments. This situation is unlikely to change in the future with the likely downsizing of other UN police personnel contributions and the complementary downsizing of the Australian Defence Force-led International Stabilisation Force.

**UN missions: Sudan**

The United Nations Mission in Sudan (UNMIS) is a multi-dimensional peacekeeping operation established to support the implementation of the Comprehensive Peace Agreement (CPA) signed by the government of Sudan and the Sudan People’s Liberation Movement/Army, on 9 January 2005. The AFP contribution to the mission (ten members) commenced in March 2006 and was scheduled to end on 30 November 2009; however, additional funding has been provided in the 2009-2010 Budget to extend the initiative.

The mission is mandated to achieve a significant number of political and social outcomes across Sudan. In addition to disarmament, demobilisation and reintegration of former combatants, there is a heavy emphasis on special needs of women and children, human rights, reconciliation and peacebuilding, and agreement between the parties in promoting the rule of law. In support of the latter objective, UN Police are mandated to assist the parties to the CPA in restructuring the police services of Sudan consistent with democratic policing.

The AFP’s involvement in UNMIS contributes both directly and indirectly to improvements in the capability of the Sudanese Police Service through the development and delivery of a number of training packages in basic policing skills. These training packages have been endorsed and adopted by the UN and Dilling University in Kadugli, Sudan.

Despite the commitment being small in numerical terms, AFP members in Sudan usually hold field command positions and senior advisory positions to the UN Police Commissioner.

**UN missions: Cyprus**

The United Nations Peacekeeping Force in Cyprus (UNFICYP) was established in 1964 to prevent a continuation of fighting between the Greek Cypriot and Turkish Cypriot communities. UNFICYP supervises ceasefire lines, maintains a buffer zone, provides policing assistance to both the Greek Cypriot and Turkish Cypriot police and undertakes humanitarian activities.

\(^{(290)}\) As at May 2009.

\(^{(291)}\) UNMIT was established pursuant to UN Resolution 1704 which was adopted by the Security Council on 25 August 2006. The Resolution followed significant civil unrest in Timor-Leste earlier in 2006.
The AFP provides a contingent of 15 police to UNFICYP. The long-standing commitment of Australian police to UNFICYP and the capability of AFP members deployed to Cyprus has resulted in Australian police holding a number of key senior police positions including the Deputy Senior Police Adviser to the mission. The UN has made repeated requests for the AFP to provide police for senior positions within the mission.

**Northern Territory Emergency Response**

The Northern Territory Emergency Response involves the development, coordination and implementation of policing initiatives to combat child abuse in Aboriginal communities across the Northern Territory. The Response is facilitated through the Department of Families, Housing, Community Services and Indigenous Affairs and is a collaborative effort between the Northern Territory Police, the AFP, the Australian Crime Commission and the Northern Territory Department of Families and Children.

As at May 2009, the AFP had 62 members deployed in the Northern Territory participating in the NT Emergency Response:

- 46 members in 24 remote communities;
- 7 members deployed with the joint NT Police/AFP Child Abuse Taskforce; and
- 9 members based in Darwin including the Contingent Commander.

The AFP’s contribution to the NT Emergency Response provides support not currently available within the Northern Territory Police personnel base. However, it is proposed that the AFP contribution to the Taskforce decrease during 2010-2011 to about 36 members subject to successful recruitment of 30 new members by NT Police.
Appendix 9
Police Capacity-Building in Other Jurisdictions

United States

In 2004 the United States Government created the Office of the Coordinator for Reconstruction and Stabilization in the State Department, with responsibility for coordinating US Government civilian capacity to support overseas reconstruction and stabilisation operations in societies at risk of, or in transition from, conflict or civil strife. This Office is responsible for the development of a Civilian Response Corps, to provide the Government with a pool of qualified, trained and ready-to-deploy civilian professionals to support such operations, including civilians with expertise in policing and the rule of law. It is proposed that the Civilian Response Corps consist of three components: an Active Component, a Standby Component and a Reserve Component.

The US Government has contracted Noetic Corporation to undertake a project directed at informing the Government about issues relevant to ‘transitional law enforcement’ (the use of law enforcement or policing skills and capabilities to support the US Government on reconstruction and stabilisation operations). The first stage of the project involves the development of four papers, one of which comprises detailed consideration of the AFP IDG capability.

In the initial paper completed as part of the project, Noetic Corporation notes that while the AFP model would not necessarily be suitable for direct application to US requirements, it is worthy of detailed investigation as it offers several solutions that may be considered by the US Government.

Canada

In September 2005 the Canadian Government established the Stabilization and Reconstruction Task Force in the Department of Foreign Affairs and International Trade to enhance the Government’s capacity for international crisis response through a coordinated whole of government approach. The Royal Canadian Mounted Police (RCMP) is a partner in this Task Force.

The Task Force is comprised of an Executive Office and four sub-groups, including the Peacekeeping and Peace Operations Group. The Peacekeeping and Peace Operations Group manages Canada’s international police peacekeeping engagement.

The decision to deploy police to international peace operations is made within the framework of the Canadian Police Arrangement, a partnership between Foreign Affairs and International Trade Canada, the Canadian International Development Agency, Public Safety Canada and the RCMP. The RCMP manages police deployments to international peace operations.

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292 Specifically, the Emerging Capabilities Division within the Rapid Reaction Technology Office of the US Office of the Secretary of Defense.

293 Noetic Corporation, Considerations for the Employment of Transitional Law Enforcement Capabilities, Transitional Law Enforcement Project, September 2008
The objectives of the Canadian Police Arrangement (CPA) are as follows:

- to strengthen the Government of Canada’s ability to plan and develop rapid and coordinate whole of government responses to international crises in support of Canadian foreign assistance priorities;
- to enhance international capacity to promote comprehensive and sustainable rule of law through the re-establishment of effective public institutions such as law enforcement and judicial systems; and
- to provide police expertise, training and advice to police services in those states that require assistance, including those which have recently experienced or are threatened by conflict, so that local police services may carry out their responsibilities in accordance with democratic principles and international human right conventions.\(^{294}\)

First established in 1997, the CPA was significantly revised in 2006 to help Canada respond to foreign requests for police assistance in a more coordinated and proactive manner. The new CPA provides funding to support the deployment of 200 Canadian police to missions overseas, to be resourced from a pool of up to 600 candidates trained and available for rapid deployment.

Between March and May 2007, a superintendent from the RCMP International Peace Operations Branch spent three months on secondment with the IDG, with a view to assessing how they might build their overseas deployment capability along similar lines to those of the IDG.\(^{295}\) One of the proposals for developing Canada’s international police peacekeeping and peace operations capability is the establishment of a rapid deployment capacity.

**United Kingdom**

The United Kingdom does not have a national operational policing agency. Contributions to international peace operations are not managed by the police. Deployments are arranged by the UK Stabilisation Unit, which is jointly administered by the Department for International Development, the Foreign and Commonwealth Office and the Ministry of Defence.

In 2008, the Conflict Group of the UK Foreign & Commonwealth Office conducted a Review of Conflict Related International Policing, commissioned by the Foreign Secretary. The Review (whose report has not been finalised as yet) considered issues including:

- what scale and type of policing elements are required for international conflict related operations and how is the demand for these activities currently assessed;
- what models of international police support work elsewhere, in particular the Australian and Canadian models; and
- what are the options for more effective UK support for international policing?


\(^{295}\) Evidence given by the then National Manager of the IDG to the Senate Standing Committee on Foreign Affairs, Defence and Trade Inquiry into Australia’s involvement in international peacekeeping operations, 25 July 2007.
In the course of the Review, senior police officers from the UK International Policing Assessment and Planning Group carried out fact-finding visits to Australia and Canada, to study our models of international policing support.
Appendix 10
Components of the Existing Unified Policing Model

**Airport Police Commanders** are responsible for the unified command and control of policing at the eleven major airports.

**Airport Uniform Police** (AUP) members perform general policing duties at airports. Their visible presence also contributes to crime prevention and deterrence efforts. Nationally, the UPM has 328 uniform police, drawn from the host police jurisdictions, factored into the workforce model.

**Counter-Terrorist First Response** (CTFR) focuses on the deterrence, prevention and response to acts of terrorism and/or unlawful interference to aircraft (hijacking). This is a legislated function which predates the Wheeler Review, recognising Australia’s international obligations under Annex 17 of the International Convention on Civil Aviation. It is provided by uniformed AFP Protective Services Officers (PSO). Sixty-three CTFR members have also been trained to conduct preliminary bomb assessments. Under present staffing arrangements, the CTFR budget allocation provides for an affordability of 381 PSOs performing CTFR functions across the UPM (compared with actual numbers of 446).

**Joint Airport Investigation Teams** (JAIT), comprising AFP, State/Territory police and Australian Customs and Border Protection Service personnel, target serious and organised crime across the aviation network. JAITs are funded for 48 positions across the network, all of which are filled, and have members based at Brisbane, Sydney, Melbourne, Adelaide and Perth airports.

**Joint Airport Intelligence Groups** (JAIG) coexist with the JAITs and are jointly staffed by AFP, State/Territory police and ACBPS analysts to provide dedicated intelligence support to the UPM. JAIGs are funded for 35 positions across the network, all of which are filled.

**Police Aviation Liaison Officers** (PALO) are the primary communication conduits between the UPM and the wider aviation industry. These members also provide support to the special processing of dignitaries through airports. There are 18 PALOs in the network (although Government funding has only been provided for nine).

**Air Security Officers** (ASO) are deployed on domestic and limited international flights and act both as a deterrent and a tactical response to hijacking.

In addition to these seven primary elements, the Unified Policing Model also includes a national canine program delivering an explosive and firearm detection capability to all designated airports. The program is introducing a narcotics detection capability later this year. Furthermore, Regional Rapid Deployment Teams (RRDT), based at Brisbane, Melbourne, Perth, and Sydney, deliver counter-terrorism awareness training and other security activities. See Appendix 11 for staffing levels.
Appendix 11

Aviation Staffing Level at 11 Major Airports

The following table provides the full complement of operational uniformed and non-uniformed Unified Policing Model staffing across the 11 major airports as well as their roles, as at 29 May 2009:

<table>
<thead>
<tr>
<th>Airport</th>
<th>AUP</th>
<th>APC</th>
<th>CTFR</th>
<th>JAIT</th>
<th>JAIG</th>
<th>PALO</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adelaide</td>
<td>18</td>
<td>1</td>
<td>29</td>
<td>5</td>
<td>4</td>
<td>1</td>
<td>58</td>
</tr>
<tr>
<td>Alice Springs</td>
<td>4</td>
<td>1</td>
<td>13</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>18</td>
</tr>
<tr>
<td>Brisbane</td>
<td>32</td>
<td>1</td>
<td>60</td>
<td>10</td>
<td>5</td>
<td>3</td>
<td>111</td>
</tr>
<tr>
<td>Cairns</td>
<td>15</td>
<td>1</td>
<td>32</td>
<td>-</td>
<td>2</td>
<td>1</td>
<td>51</td>
</tr>
<tr>
<td>Canberra</td>
<td>12</td>
<td>1</td>
<td>19</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>33</td>
</tr>
<tr>
<td>Darwin</td>
<td>21</td>
<td>1</td>
<td>22</td>
<td>-</td>
<td>1</td>
<td>1</td>
<td>46</td>
</tr>
<tr>
<td>Gold Coast</td>
<td>13</td>
<td>1</td>
<td>31</td>
<td>-</td>
<td>2</td>
<td>1</td>
<td>48</td>
</tr>
<tr>
<td>Hobart</td>
<td>10</td>
<td>1</td>
<td>20</td>
<td>-</td>
<td>1</td>
<td>1</td>
<td>33</td>
</tr>
<tr>
<td>Melbourne</td>
<td>25</td>
<td>1</td>
<td>57</td>
<td>11</td>
<td>6</td>
<td>3</td>
<td>103</td>
</tr>
<tr>
<td>Perth</td>
<td>22</td>
<td>1</td>
<td>50</td>
<td>11</td>
<td>5</td>
<td>2</td>
<td>91</td>
</tr>
<tr>
<td>Sydney</td>
<td>53</td>
<td>1</td>
<td>112</td>
<td>14</td>
<td>5</td>
<td>3</td>
<td>188</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>225</strong></td>
<td><strong>11</strong></td>
<td><strong>445</strong></td>
<td><strong>51</strong></td>
<td><strong>31</strong></td>
<td><strong>17</strong></td>
<td><strong>780</strong></td>
</tr>
</tbody>
</table>
Appendix 12

Comparative Costs of Seconded Members, Per Police Officer, Across the Unified Policing Model by Jurisdiction

<table>
<thead>
<tr>
<th>State/Territory Police Service</th>
<th>Average total cost per police officer (2008-09)</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>$127,819</td>
</tr>
<tr>
<td>Victoria</td>
<td>$138,743</td>
</tr>
<tr>
<td>South Australia</td>
<td>$128,210</td>
</tr>
<tr>
<td>Tasmania</td>
<td>$140,250</td>
</tr>
<tr>
<td>Western Australia</td>
<td>$132,799</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>$142,558</td>
</tr>
<tr>
<td>Queensland</td>
<td>$124,155</td>
</tr>
<tr>
<td>ACT (Australian Federal Police)</td>
<td>$107,903</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td><strong>$130,121</strong></td>
</tr>
</tbody>
</table>
Appendix 13

Consultation List

Ministers

The Hon Robert McClelland MP, Attorney-General of the Commonwealth of Australia

The Hon Bob Debus, the then Minister for Home Affairs, Commonwealth of Australia

The Hon Simon Corbell, ACT Minister, Police and Community Services, Attorney-General

Organisations

ACT Department of Justice and Community Safety
ACT Director of Public Prosecutions
Attorney-General’s Department
AusAID
Australian Competition and Consumer Commission
Australian Crime Commission
Australian Customs and Border Protection Service
Australian Federal Police Association
Australian Federal Police
Australian Institute of Criminology
Australian Institute of Police Management
Australia New Zealand Policing Advisory Agency
Australian Federation against Copyright Theft
Australian Prudential Regulation Authority
Australian Security Intelligence Organisation
Australian Securities and Investments Commission
Australian Taxation Office
Centre for Excellence in Policing and Security, Griffith University
Centrelink
Commonwealth Director of Public Prosecutions
Community and Public Sector Union
CrimTrac
Bundeskriminalamt (BKA) Germany
National Narcotic Board (BNN) Indonesia
Department of Defence
Department of Finance and Deregulation
Department of Foreign Affairs and Trade
Department of Immigration and Citizenship
Department of Infrastructure, Transport, Regional Development and Local Government
Department of Prime Minister and Cabinet
Federal Bureau of Investigation (United States of America)
Law Council of Australia
Lowy Institute
Ministry of Public Security (Peoples’ Republic of China)
New Zealand Police
Office of National Assessments
Police Federation of Australia
Polisi Republik Indonesia
Productivity Commission
Serious Organised Crime Agency (United Kingdom)
State/Territory Police – Victoria, South Australia, Queensland, New South Wales, Tasmania, Northern Territory, Western Australia, ACT
Treasury

**Individuals**

Rob Cornall: Retired Secretary of the Attorney-General’s Department
Len Early: Management Consultant
Will Laurie: Member of the AFP SLG
Alistair McGibbon: IT security consultant
Ken Moroney: Retired Commissioner of NSW Police
Rob Robinson: Retired Commissioner of New Zealand Police
Ric Smith: Retired Secretary, Department of Defence, Member of AFP SLG