

## AFP Commissioner Opening Statement

### February Additional Estimates - 2019

- Good morning Chair, Committee members. Thank you for the opportunity to make a brief opening statement.

There are a number of recent issues that have been the subject of commentary that I'd like to address before we take questions from the Committee.

- The Australian Federal Police take great pride in the work we do as Australia's national police force, and – just as importantly – in the trust placed in us by the community.
  - o I do not take this trust lightly and I know AFP members do not take this trust lightly. Keeping the trust and confidence of the Australian community is an extremely high priority for myself and for all members of the AFP
- For this reason I want to ensure that the public record is clear and accurate with regard to the AFP's role in relation to some recent highly publicised matters.
- The first of these relates to the recent circumstances surrounding Hakeem al-Araibi's detention in Thailand and his welcome return to Australia.
- Over the two months, there has been varied reporting on this already. Today's Senate Estimates is an appropriate place and opportunity to put the AFP's involvement on the record.
- There was criticism from some quarters about the length of time it took for the AFP and for me to make a public statement on this matter. This was a decision made in what we thought was in the best interests of Mr al-Araibi. While Mr al-Araibi was in detention, Australia was working hard to secure his safe and speedy return – While it did not sit well with my members to be subject to wrongful speculation about the AFP's involvement in this matter, the priority was to ensure a safe return to Australia for Mr Al-Araibi.

- While we are happy to go into specifics about the AFP's actions regarding Mr Al-Araibi I will briefly provide the Committee with an overview of the AFP involvement in this matter.

As the Committee would know

- The AFP hosts the Australian INTERPOL National Central Bureau (or NCB) and AFP staff are seconded to the NCB.
  - On 8 November 2019, at the request of Bahrain, Interpol issued a red notice for Mr Al-Araibi which the AFP conveyed to Australian Border Force on 9 November. This is a routine process as many names come on, and off, Interpol watch lists regularly.
  - At this time neither the AFP, nor the Australian INTERPOL NCB, was aware of Mr Al-Araibi's visa status. This was not known until after his detention in Thailand.
  - Neither the AFP nor the Australian INTERPOL NCB can access visa information. We rely on notifications from the Home Affairs Department.
  - The Home Affairs Department provided Mr Al-Araibi's visa status to the AFP on 28 November, the day after his detention in Thailand.
  - On 29 November, the AFP sought and was granted permission by the Department of Home Affairs to refer Mr Al-Araibi's visa status to INTERPOL Office of Legal Affairs.
  - INTERPOL removed the notice within 24 hours of the AFP's provision of this information. The Red Notice was rescinded on 1 December Australia and Thailand time (30 November France time).
- I am confident that at all times the Australian INTERPOL NCB adhered to the policies and procedures of INTERPOL.
  - The Home Affairs Portfolio has undertaken a number of reviews to establish a chronology of actions, with a view to improving information exchange and reducing the risks of similar cases in the future.

- I know that the Home Affairs Department and the ABF are scheduled to appear later today, and I expect that they will also be prepared to respond to questions regarding their respective roles in the process.
- The second issue that I'd like to address relates to the AFP's investigation into the unauthorised disclosure of information to the media about the execution of search warrants in support of the Registered Organisation Commission's investigation into the AWU. I remind the Committee that the primary investigation that led to this activity was not, in fact, an AFP investigation.
- As the Committee would know, Federal Court proceedings related to this matter are ongoing, and I understand there are still witnesses to be called. There are also suppression orders in place in relation to some of the evidence provided in those proceedings.
- With that in mind, there may be some limitations on what my Deputies and I can say today.
  - o I want to assure the Committee that any reticence to answer questions is not out of a desire to hide or avoid public scrutiny.
  - o We are here to answer your questions and will make every effort to do so.
  - o But we do need to respect the ongoing Federal Court matters.
- I have previously stated, and would like to reaffirm, that this is an issue of grave concern to me when AFP operational activity is inappropriately disclosed. As well as the impact on our operations, these disclosures also jeopardise the safety and security of AFP officers.
- The AFP undertook a thorough investigation into the unauthorised disclosure of our operational activity, and compiled the strongest brief of evidence we could, which was then referred to the CDPP.
- In this case, the CDPP determined that, despite our best efforts, the brief did not have sufficient prospects of success for them to prosecute.

- Under those circumstances, the AFP could not in good conscience lay charges.
- The AFP wasn't present at Federal Court last week, but we've seen the media reports.
  - I understand from that reporting that the Court has used section 128 of the Evidence Act to require witnesses to give evidence, and offered them protection against self-incrimination.
  - This is not an option open to police in a criminal investigation.
  - Ultimately, we cannot compel people to provide us with statements. Indeed it may surprise you to know that we cannot compel people to assist with our investigation or inquiries.
  - And we need to meet the criminal standard of proof - we need to be able to prove offences beyond reasonable doubt.
  - It's a high bar – and the CDPP took the view that the brief in this matter didn't reach that bar.
- But I should say that, in providing their advice, the CDPP did not make any criticisms of the thoroughness of our investigation.
  - Additionally, at a Case Management Hearing in August 2018, a Federal Court Judge - Justice North - noted that it was evident to him that the AFP had conducted a thorough and professional investigation.
- So I am confident that the AFP investigation in this matter was robust, thorough and conducted entirely appropriately.
- I hope that this information is helpful to the Committee, and to the public, in understanding the AFP's approach in these two matters.
- I trust this dispels any inferences that the AFP has acted in a political manner. This could not be further from the truth, and I

reject these suggestions in the strongest terms. The AFP rigorously maintains our independence, impartiality and integrity. It goes to the very core of what we do.

- Chair, as always, my Deputies and I will do our best to answer any questions that the Committee has on these, or other issues.
- Thank you.