

JOINT COMMITTEE ON LAW ENFORCEMENT
EXAMINATION OF THE AUSTRALIAN FEDERAL POLICE ANNUAL REPORT 2020-21 AND 2021-22

Australian Federal Police

QoN 2 (Hansard pp. 6-7): Safe Place and PRS

Senator SHOEBRIDGE asked the following question on Friday 25 November 2022:

1. Senator SHOEBRIDGE: Who on earth in the AFP decided to put that role [Safe Place] back into PRS in 2019? Who decided it?

Ms Tressler: So I don't know who decided it but as I understand –

Senator SHOEBRIDGE: Well can I get an answer on notice?

Ms Tressler: Yep of course happy to take it on notice.

...

2. Senator SHOEBRIDGE: When will Safe Place be taken out of PRS and put in a safe place?

Ms Tressler: As I understand it, that is imminent so I can probably get that date/the timing for you before we are finished here today.

Answer:

Consistent with the 2016 Cultural Change Report, when Safe Place was established it included an investigations team with a remit to address allegations of sexual harassment and abuse, and a case management team to support and advise complainants through the process. The support, case management and advice-based components of Safe Place are separate from AFP Professional Standards and have remained separate since Safe Place's establishment.

In 2019, following an internal review (the Review), some investigative elements of Safe Place transitioned to a Harmful Workplace Behaviours team within AFP Professional Standards. This decision was made as a result of the significant decline in complaints and due to the majority of the complaints not relating to sexual assault or harassment. It also followed significant reforms to PRS including the establishment of the aforementioned harmful workplace behaviours team. This decision was formalised by the then Chief Operating Officer in consultation with the AFP executive.

The remit and future of Safe Place was recently considered as part of a review of the management of bullying and harassment complaints. The AFP has partnered with the Australian Human Rights Commission and the Commonwealth Ombudsman on all aspects of this review and the development of a new Integrated Complaints Management Model (ICMM). Under the ICMM, the existing Safe Place function will be redefined as a new team called ‘Confidant Network and Safe Reporting’, which sits under the AFP’s People and Culture Command, separate to AFP Professional Standards.

In this new model, AFP Professional Standards will continue to investigate Category 3 (Serious Misconduct), which is determined to be sexual harassment where the victim wants the matter dealt with formally and / or the behaviour is of such a serious nature (e.g. constitutes criminal conduct) as to require formal intervention. Workplace harassment and/or bullying which is repeated and unreasonable or is of such a serious nature as to require formal intervention. AFP Professional Standards is the most appropriate area within AFP to investigate Category 3 complaints due their greater investigative powers consistent with the serious nature of these complaints.

All complainants will be provided a range of support from the AFP (including but not limited to the Confidant Network and Safe Reporting Team; the AFP SHIELD services including Organisational Health, and the Welfare Officer Network).

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QoN 3 (Hansard p. 8): Trends of PRS breaches

Mr Dan REPACHNOLI MP asked the following question on Friday 25 November 2022:

1. Mr REPACHOLI: What trends are you seeing in terms of integrity issues with the AFP members?

Ms Gale: Broadly trends are going down in terms of the number of serious reports of integrity issues in relation to our members. I can give you some additional detail. We are seeing a decrease in the number of conduct breaches which has fallen from across all categories since 2018.

Mr REPACHOLI: Can you let us know the numbers of what they were to what they are now? Of breaches?

Ms Gale: I can certainly make that available.

...

2. Mr REPACHOLI: And did Operation Ironside have an impact on the statistics as well?

Mr McCartney: I don't believe so, but in terms of taking the stats on notice, we will come back on that issue also.

Answer:

1. Alleged conduct breaches recorded by category:

All AFP	2018-19	2019-20	2020-21	2021-22	2022-2023 (to 30 Sep)	Percentage change FY20- 21 to FY21-22
Category 1	117	84	48	50	6	4%
Category 2	259	209	129	100	24	-22%
Category 3	197	202	178	93	26	-48%
Category 4	80	91	81	36	8	-56%
Total	653	586	436	279	64	

Conduct breaches are individual issues identified within a complaint. Multiple breaches may apply when two or more issues are identified from information supplied by a complainant or when two or more members are subject to a complaint.

2. During Operation IRONSIDE, AFP Professional Standards received information relating to AFP members which was investigated and/or remains under investigation. The number of investigations is low and therefore has only had a minor impact on the number of alleged conduct breaches.

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QoN 4 (Hansard pp. 8-9): Increase in crime in jurisdictions that decriminalised drugs

The Chair asked the following question on Friday 25 November 2022:

Senator POLLEY: Deputy Commissioner, are you aware of any other jurisdictions overseas that have gone down the path of decriminalisation and the impact that has had on the police force, and I suggest there are a couple of states in the US? Have you had any knowledge of that?

... [response by CPO]

Senator POLLEY: I would just add to that is what I was looking for is yes you are keeping those people out of the justice system but has there not been an increase in crime generally that has had an impact on law enforcement, but that was my question so if you have something to contribute there but otherwise I am going to go back because Mr Lim has some questions and Ms Miller-Frost is going to ask those... but if you have anything to add in terms of your knowledge.

Mr Gaughan: Not particularly, but we will take it on notice Senator and come back to the Committee with some more detail.

Answer:

The AFP's insights regarding foreign jurisdictions that have decriminalised drugs primarily stem from police-to-police engagement, liaison with foreign law enforcement agencies and public reporting. The AFP does not have direct experience in operations relating to decriminalisation of drugs overseas. The AFP's engagement with relevant jurisdictions indicates that decriminalisation has not eliminated the transnational, serious organised crime activity associated with the manufacture, distribution and sales of drugs.

The ACT Chief Police Officer will travel overseas in early 2023 with ACT Government officials to learn more about the experiences of foreign law enforcement in jurisdictions that have decriminalised the personal use of drugs, and the AFP would be happy to provide further insights to the Committee following that travel.

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QoN 5 (Hansard p. 9): Illicit Tobacco

The Chair asked the following question on Friday 25 November 2022:

Senator POLLEY: I have one more before I go to you Senator Shoebridge and that is in relation to tobacco, illegal tobacco, that is coming into the country and the way that that is being used as a commodity to trade with organised crime. There was a report handed down by this Committee, I think it was 2019, I just wondered whether or not you have anything to contribute, to put on the record now, because we will be reviewing that [report] – have you seen any statistics on the increase?

Mr McCartney: I haven't got the statistics here and were happy to take that on notice, but I think your summary is a very good summary, for organised crime it is high returns, low risk and they do utilise it, and utilise it to deal in other forms of organised crime. Obviously a group focus from our partners in ABF, in terms of the work they do in that space but we definitely support them, particularly when its linked into organised crime but in terms of the trends, we'll take that on notice.

Answer:

The Australian Border Force (ABF) is the lead Commonwealth agency on illicit tobacco matters, and seizures of illicit tobacco are typically referred on to ABF. The AFP supports the ABF, other Commonwealth, State and Territory partners to combat transnational, serious organised crime syndicates' exploitation of the illicit tobacco trade when required.

The AFP understands that ABF is responding to questions on notice through the Budget Estimates process in relation to statistics of illicit tobacco seziures.

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QoN 6 (Hansard p. 10): China MoUs

Senator Shoebridge asked the following question on Friday 25 November 2022:

1. SENATOR SHOEBRIDGE: Deputy Commissioner can I ask you about what current agreements the AFP has with the Chinese Ministry of Public Security. In 2017, I know the AFP finalised two agreements, are those still on foot?

Mr McCartney: They still currently exist.

SENATOR SHOEBRIDGE: What are they?

Mr McCartney: There are a number of agreements. There is an agreement with the Ministry of Public Security – it's a general overarching agreement in terms of our engagement on organised crime... There is a Government-to-Government agreement between Australia and China on cooperation in combatting crime, that's still in existence.

SENATOR SHOEBRIDGE: And when was that signed?

Mr McCartney: 2017. And it's up for review in 2022.

SENATOR SHOEBRIDGE: You better be quick.

Mr McCartney: Of course. There is a Statement of Intent with the AFP and Chinese Ministry of Public Security which are our major interlockers in China on combatting transnational crime and enhancing police cooperation. We have a joint agency agreement with the Ministry of public security on economic crime. We have an MOU with the Chinese Narcotics Control Commission.. which is in effect a sub-set of the Ministry of Public Security but they are tasked with .. the drug trade in China. We have a memorandum of understanding with the National Commission of Supervision on anti-corruption law enforcement operations. And that's the totality of the agreements Senator.

SENATOR SHOEBRIDGE: So I counted 5, is that right?

Mr McCartney: That's correct.

SENATOR SHOEBRIDGE: Are you in a position to provide a copy of those agreements?

Mr McCartney: I'll take it on notice Senator.

2. SENATOR SHOEBRIDGE: And if you could on notice provide the dates – or do you have the dates of them there?

Mr McCartney: It's probably best to take it on notice to provide a more complete response.

Answer:

The AFP has the following agreements with Chinese law enforcement:

1. Memorandum of Understanding (MoU) with the China National Narcotics Control Commission (NNCC) – Joint Narcotics Taskforce BLAZE, first signed on 2 November 2015 and last signed 10 December 2021 for a further year.
2. Statement of Intent with the NNCC on cooperation in the controlled delivery of narcotics, first signed on 28 June 2013 and last signed 30 October 2018 for 5 years.
3. Statement of Intent with the Ministry of Public Security of the People's Republic of China (MPS) on combating transnational crime and enhancing police cooperation, first signed on 4 December 2005 and last signed 25 September 2017 for 5 years.
4. The Joint Agency Arrangement with MPS on Economic Crime Cooperation, first signed on 25 September 2017 and last signed on 10 December 2021 for a further year.
5. MoU with the National Commission of Supervision of China (now known as National Supervisory Commission) on Anti-Corruption Law Enforcement Cooperation, first signed on 13 December 2018 for 5 years.

In addition to the above agreements, the AFP's engagement with Chinese law enforcement is guided by an MoU between the Government of Australia and the Government of the People's Republic of China on Cooperation in Combating Crime, first signed in December 2006 and last signed on 6 June 2017 for 5 years.

The AFP is also party to a protocol, signed on 19 November 2009 with MPS, which governs disclosure of Australian Transaction Reports and Analysis Centre (AUSTRAC) information to MPS.

Providing a copy of these agreements may damage international relationships.

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QoN 7 (Hansard p. 10): Amount of funds returned/forfeited to China

Senator Shoebridge asked the following question on Friday 25 November 2022:

SENATOR SHOEBRIDGE: I think some \$215,000 was delivered to Beijing in 2017 when those agreements were signed as forfeiture funds. What if any funds have been returned since then? Do we know?

Mr McCartney: I'll take that on notice but again I think that in relation to that focus its obviously in relation to illicit funds flowing into the country which is a criminal offence in this country which provides us the ability to take confiscation and forfeiture action.

Answer:

The AFP understands no funds have been returned to China in relation to proceeds of crime matters since 2017.

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**QoN 8 (Hansard p. 10): Number of Chinese liaison officers connected to the Chinese
Embassy in Australia**

Senator Shoebridge asked the following question on Friday 25 November 2022:

SENATOR SHOEBRIDGE: Given all those agreements that you have with the security apparatus in China – you were asked at the last estimates session whether or not you believe China has an active police presence in Australia and you said you didn't believe they did, did you actually ask them?

Mr McCartney: We've engaged with them. They have a...

SENATOR SHOEBRIDGE: Did you ask them?

Mr McCartney: Well we know that that's not the case. The context of the question was referring to Chinese having a police station in China, which we know they don't have.

SENATOR SHOEBRIDGE: Well what about an active police presence in Australia?

Mr McCartney: They have a liaison officer as part of the Embassy.

SENATOR SHOEBRIDGE: And is that your understanding – that it's the beginning and end of their...

Mr McCartney: That's correct.

SENATOR SHOEBRIDGE: Just one liaison officer?

Mr McCartney: I think they've got two Senator but I'll confirm and come back to you.

Answer:

Registration of foreign officers is a matter for the Department of Foreign Affairs and Trade.

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QoN 10 (Hansard p. 12): Iran MoU

Senator Shoebridge asked the following question on Friday 25 November 2022:

SENATOR SHOEBRIDGE: When I asked you about the agreements that are in place with China – with the Chinese Government, are there similar agreements or any agreements in place with the Russian Government?

Mr McCartney: I don't believe so, but I will take that on notice.

SENATOR SHOEBRIDGE: If you could, and provide details of those.

Mr McCartney: Sure.

...

Mr McCartney: Senator just one further issue and thank you, just to save the team some paperwork, Senator [Shoebridge] in terms of the question on notice, we have no agreement or MOU with Russia.

SENATOR SHOEBRIDGE: Ok and I was going to ask the same in relation to Iran and you might take that on notice... and same concerns about unofficial operatives of the Iranian state in this country and if I could indulge the Chair for a minute, that has been deeply troubling I know on members of the Iranian community here, do you have any light you could shed on that?

MR McCartney: I think I will take that one on notice Senator, particularly in terms of the MOU.

Answer:

The AFP does not have any memorandum of understandings with Iranian authorities.

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QoN 11 (additional written QoN): Community Confidence

The Chair asked the following question on Thursday 1 December 2022:

Senator POLLEY: All of the AFP's annual reports since 2017-18 state that it has not met the performance criterion relating to community confidence.

1. Is the AFP concerned about this?
2. Has the performance criterion been reviewed as foreshadowed in the 2020-21 annual report (p. 37)?
3. Is the AFP planning any changes to the criterion or taking concerted action to increase community confidence?

The AFP's 2020-21 annual report states (p. 37):

“As the AFP regularly exceeds its performance criteria targets, during 2021–22 the AFP will review its performance measures and targets to see whether any improvements can be made. A focus will be on the high community confidence, disruption and return on investments measures.”

4. Could you please provide more detail on his review?
5. What are the outcomes of the review, and how were these outcomes factored into the 2021-22 annual report?

Answer:

1. Community confidence underpins police legitimacy and as Australia's national police service, the Australian Federal Police (AFP) remains committed to strengthening our relationship with the community. The AFP has set itself the highest community confidence measure of all policing jurisdictions in Australia, with a target of 75 percent for 'high community confidence'. In 2021-22, the AFP achieved 68 percent, which is an increase from 62 percent the previous year. Only a small proportion of respondents (fewer than 3%) reported having low confidence in the AFP. The AFP therefore sees this result as an opportunity to improve, rather than a concern.
2. The AFP is currently considering revisions to the community confidence criterion to improve comparability with other Australian policing jurisdictions, and adapting better

practice from other Commonwealth agencies. For example, the Australian Bureau of Statistics differentiates between confidence from the general public and the ‘informed public’ in their suite of performance measures.

3. The AFP has identified that an understanding of the unique role and functions of the AFP enables high community confidence. As a result, the AFP has strengthened community engagement through measures such as the *Crime Interrupted* podcast and more proactive social media engagement. Improvements to the community confidence measures are currently being considered for adoption in future Portfolio Budget Statements.
4. The AFP continually reviews our performance measures to ensure they drive high quality policing by our organisation, communicate AFP’s full performance story, align with the Ministerial direction, and satisfy the requirements of the *Public Governance, Performance and Accountability Act 2013*. This has involved ongoing engagement with Commonwealth and State partner agencies on performance management, review of international better practice and consideration of learnings from the ANAO pilot audit of performance statements. The AFP also engaged an external consultancy to support the ongoing review of performance measures. The review has resulted in enhancements being applied to case studies featuring in the 2021-22 Annual Performance Statement. The review is ongoing and further improvements to the AFP’s performance measures are being considered for adoption in 2023-24 and beyond.

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QoN 12 (additional written QoN): Operation Ironside

Mr Sam Lim MP: asked the following question on Thursday 1 December 2022:

LIM: I'm interested to learn more about the workplace culture within the AFP.

1. Can the AFP please share their learnings of Operation Ironside with the Committee, particularly in relation to the workplace culture of the United States Federal Bureau of Investigation Operation Trojan Shield?
2. How do the two differ?
3. What, if and how can the AFP improve?

Answer:

1. Operation Ironside involved almost every area of the AFP nationally and internationally and AFP employees were proud of their significant contribution to keeping Australians safe. The AFP has an enduring, close and productive working relationship with the FBI, demonstrated during Operation Ironside/Operation Trojan Shield. While it is not for the AFP to comment on the workplace culture of the FBI, the AFP looks to our closest policing partners including the FBI to share experiences, best practice and 'lessons learnt'. We do this through liaison officers in our respective countries, and forums including the Five Eyes Law Enforcement Group.
2. See above.
3. While the AFP considers Operation Ironside a major success, we always strive to find more efficient and effective ways, within the bounds of legislative and statutory requirements to combat transnational serious and organised crime. Internally, this includes streamlining our communications channels and improving our training programs based on learnings.



PARLIAMENT OF AUSTRALIA

Parliamentary Joint Committee on Law Enforcement

Examination of the Australian Federal Police Annual Report 2020-21 and 2021-22

Committee Hansard, 25 November 2022, p. 11

CHAIR: I was wondering if you could take on notice in relation to the water analysis that's been done. I know some states have increased in terms of the use of drugs. Could you take on notice a trend for the last five years in terms of the water testing that's been done, the states that have increased or registered in particular drugs, like heroin, or whatever categories of drugs that you test? Can you take that on notice so we can see whether there's a trend happening and whether or not there has been a significant change. I know there has been in Tasmania, so I have some concerns there. If you wouldn't mind taking that on notice.

The above question was answered by the Australian Criminal Intelligence Commission as part of its evidence for the committee's examination of the Australian Criminal Intelligence Commission Annual Report 2020-21 and 2021-22.

See Australian Criminal Intelligence Commission, answers to questions taken on notice, public hearing, Canberra, 25 November 2022 (received 20 January 2023), [pp. 7–8].