



**AUSTRALIAN FEDERAL POLICE SUBMISSION**

**TO THE JOINT COMMITTEE  
OF PUBLIC ACCOUNTS AND AUDIT**

**REVIEW OF COASTWATCH**

June 2000

## ***Introduction***

The Australian Federal Police (AFP) appreciates the opportunity to provide a submission to the Joint Committee of Public Accounts and Audit Review of Coastwatch.

## ***Background***

The AFP role is to enforce the Commonwealth criminal law and protect Commonwealth and national interests from crime in Australia and overseas. The AFP is Australia's international law enforcement and policing representative and primary source of advice to the Government on policing issues.

The AFP's functions are set out in section 8 of the *Australian Federal Police Act 1979*. These functions include the provision of police services in relation to:

- laws of the Commonwealth;
- property of the Commonwealth (including Commonwealth places) and property of authorities of the Commonwealth;
- the safeguarding of Commonwealth interests; and
- anything incidental or conducive to the performance of the foregoing functions.

Within this framework, the AFP is expected to pursue clearly defined outcomes agreed by the Government. The outcomes currently being pursued by the AFP include:

- that criminal activity is deterred in areas impacting on the Commonwealth Government's interests;
- that those individuals and interests identified by the Commonwealth Government or the AFP as being at risk are kept safe and secure as a result of AFP protective services;
- that policing activity creates a safer and more secure environment in the Act, Jervis Bay and Australia's external territories;
- that the Commonwealth Government contributes effectively to international law enforcement interests; and that community confidence in the honesty, effectiveness and accountability of the AFP is high.

Government shapes AFP priorities by the issue of Ministerial Directions made under section 13(2)<sup>1</sup> of the *Australian Federal Police Act*. The current Ministerial Direction, issued in February 1999, requires the AFP to give special emphasis to:

- countering and otherwise investigating illicit drug trafficking, organised crime, serious fraud against the Commonwealth, money laundering and the interception of assets involved in or derived from these activities;
- providing community policing services in the Act, Jervis Bay and external territories;
- providing protective security services to the Governor-General, federal parliamentarians, internationally protected persons, other persons who are of specific interest to the Commonwealth, witnesses and special events; and
- investigating special references and performing special taskings from the Government.

The AFP has also been requested to ensure, in particular, that it provides an effective contribution to the implementation of the Government's *Tough on Drugs* strategy, the Government's response to people smuggling and to the conduct of the 2000 Olympic Games.

### ***Context of the AFP Relationship with Coastwatch***

In investigating offences that have international links, Australian law enforcement confronts a special set of issues and problems. Although Australia's island national geography is in some respects an advantage, it also presents substantial problems. Australia must police one of the world's longest and most sparsely populated coastlines and one of the most extensive Economic Exclusive Zones (EEZs).

In pursuit of its investigative responsibilities, the AFP has major operational centres located in Brisbane, Sydney, Canberra (ACT Region), Melbourne, and Perth, in addition to its corporate headquarters in Canberra. Smaller operational bases are located in Adelaide, Cairns, Coffs Harbour, Darwin, Geelong, Gold Coast, Hobart, Launceston, Newcastle and Townsville. Federal agents are also stationed in Broome, Port Hedland and Thursday Island.

Two areas on which the AFP focuses are particularly relevant to Coastwatch – the interdiction of illicit drugs and the illegal entry of people into Australia. The AFP's capacity to successfully investigate these activities sourced off-shore is often dependent on overseas law enforcement agencies and the concomitant difficulties of developing intelligence in an overseas environment and the success of surveillance activities within and beyond Australia's EEZ.

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<sup>1</sup> Note that this section will be re-enacted as section 37(2) when the *Australian Federal Police Amendment Act 2000* gains royal assent.

To assist AFP and other agency investigations, the AFP has a liaison officer network strategically located around the world. Currently, the AFP has 19 posts in 18 countries. Eleven of these are key drug transit/people smuggling countries in the Asia-Pacific region. One post is in South America (a further post will open in Bogota by the end of the year), a liaison officer covers the South Pacific region from Canberra and the remainder are in the USA and Europe (including Interpol Headquarters in Lyon). By the end of 2000, it is expected that the AFP will have some 34 officers strategically posted overseas. These posts develop intelligence through liaison with local law enforcement agencies and support the efforts of all Australian law enforcement agencies by providing the capacity to take criminal investigations offshore.

### ***Comment on the Terms of Reference of the Review of Coastwatch***

#### ***Role and Expectations of Coastwatch***

In its general operational and investigatory roles, particularly in relation to international drug trafficking and people smuggling, the AFP is very much reliant on the availability of an effective off-shore surveillance tracking capacity of the type provided by Coastwatch, particularly for sea going vessels. The AFP's requirement for this type of facility will continue while criminals use international sea traffic to facilitate a range of illegal activity directed against Australia.

The nature of AFP investigations, particularly in relation to drug trafficking, is such that they will normally require covert evidence gathering, often for protracted periods of time and a high level of technical, security and communications capability. In this respect, it is important that Coastwatch is able to utilise equipment with a high degree of electronic surveillance capability.

One area in which the AFP is working to improve its relationship with Coastwatch is in the flow of intelligence information from Coastwatch to the AFP. The AFP provides intelligence information to Coastwatch, both with regard to drug trafficking investigations and people smuggling activity, and receives relevant information from Coastwatch, though not in the form of written advice or formal assessments. This deficiency is being addressed by Coastwatch through the formation of an Analyst Unit and the recruitment of skilled intelligence analysts.

#### ***Relationship of Coastwatch and its Client Agencies***

The AFP considers that it has a very good relationship with Coastwatch.

AFP's general interaction with Coastwatch is governed by an AFP National Guideline on *Requests for Coastwatch or Australian Defence Force (ADF) Assets in Coastal or Off-Shore Surveillance Operations*. This Guideline is intended to ensure that requests from various AFP offices for Coastwatch or ADF assets for coastal or off-shore surveillance operations are coordinated through the AFP's National Operations Monitoring Centre.

While this Guideline covers requests for use of Coastwatch or ADF assets, there is often daily contact between elements of the AFP and Coastwatch at both the national and regional level. This contact is principally in relation to either drug trafficking or people smuggling investigations.

### *Drug Trafficking*

AFP requests for Coastwatch assistance in drug trafficking investigations are generally sought as a result of either requests from operational areas (eg Thursday Island – see below) or as a result of intelligence gained through the overseas liaison officer network. As a result of overseas intelligence, the AFP may seek Coastwatch assistance in monitoring the progress of vessels, both outside and within Australia's EEZ. A number of significant operations have been successfully concluded utilising, inter alia, Coastwatch assistance, including Operations Linnet, Gentle, Shard, Cyclops and Niacin.

On occasion, Avian strike teams have utilised the services of Coastwatch and they have found this asset essential in efficiently tracking vessels and in assisting to bring the relevant operations to a successful resolution.

### *People Smuggling*

Following the increased interdiction of suspect illegal entry vessels (SIEV) in Australian waters, the AFP has established a People Smuggling Team (PST) which has responsibility for the collection of intelligence and the conduct of investigations and disruption operations in relation to the organised crime aspects of people smuggling to Australia. In order to perform these functions, the PST requires timely advice in relation to unlawful boat arrivals so that members can be alerted and in position to meet vessels in order to process crew and interview passengers (in conjunction with the Department of Immigration and Multicultural Affairs). The AFP recognises the need for Coastwatch to be supplied with information or intelligence upon which they can plan their surveillance operations as to the possible arrival in Australia of unauthorised vessels.

The PST has developed a close working relationship with Coastwatch at both the national and regional level. At both levels, the AFP provides information and intelligence to, and receives intelligence from, Coastwatch.

At the regional level, cooperation between Coastwatch staff and the PST has been excellent. Interaction has mainly involved the provision, by each side, of informal advice on unauthorised boat arrivals.

At the national level, the PST has been an increasing provider of information and intelligence to Coastwatch. This information is obtained mainly from the AFP's overseas liaison network, but also from AFP sources within Australia. This contact is on a daily basis. While there is good liaison at a personal level, the PST does not receive, at this stage, formal written advice or intelligence assessments from Coastwatch. As indicated above, this is one area where there the AFP is working with Coastwatch to develop procedures for the collation and dissemination of assessments from the Analyst Unit when it comes fully on line.

### ***Effectiveness of Coastwatch's Allocation of Resources***

The AFP National Guideline on *Requests for Coastwatch or Australian Defence Force (ADF) Assets in Coastal or Off-Shore Surveillance Operations* formalised the AFP's participation on the Coastwatch Operations and Program Advisory Committee (OPAC). This Committee includes representatives of Coastwatch, the Australian Customs Service (ACS), the AFP, the Australian Quarantine Investigation Service, the Department of Immigration and Multicultural Affairs (DIMA), the ADF and a number of other departments and agencies. OPAC primarily considers allocations and priorities of Coastwatch assets to meet agency needs.

The AFP recognises that it must compete for access to Coastwatch resources with other agencies whose charter and responsibilities are also compelling. The unpredictability of the AFP's work means that it can often be difficult for the AFP to quickly secure Coastwatch resources without impacting on the on-going requirements of other agencies. It could be argued that the allocation process would be more difficult if another entity were created without a significant increase in resource availability. This would mean the inclusion of one more party to all discussions and operational decisions with the same amount of resources to allocate.

In relation to Coastwatch activities in the Torres Strait area, the AFP has a good relationship with Coastwatch and receives positive responses to requests for assistance. This means, at times, the AFP has to compete for Coastwatch's resources with other agencies whose schedule for Coastwatch use has been mapped out months in advance. The AFP would therefore support an increase in the availability of flying hours in the area and, in particular, by night-time Dash 8 aircraft. This would provide a greater range of sophisticated electronic surveillance in the area. The AFP understands that the Government's decision to order two new Dash 8 aircraft should help to alleviate this problem.

### ***New Technology***

The AFP notes that the ongoing development of maritime detection and surveillance capabilities within the international defence environment would have a positive impact on future capabilities that may be deployed by Coastwatch.

The AFP is presently holding discussions with ACS concerning the achievement of co-operation within the portfolio with respect to ensuring compatible communications equipment in Coastwatch aircraft. Closer cooperation within this environment will ensure a higher degree of command and control of multi-agency operations, particularly between AFP, ACS and Coastwatch assets.

### ***Adequacy of Existing or Proposed Legislation which Underpins Coastwatch's Functions***

The AFP notes that the establishment of Coastwatch is not underpinned by specific legislation. However, the Prime Minister's Task Force on Coastal Surveillance (Task Force) made a number of recommendations to further strengthen maritime investigatory and enforcement powers against both Australian and foreign flag

vessels. These recommendations were the basis for the enactment of the *Border Protection Legislation Amendment Act 1999* which was assented to on 16 December 1999.

All of the recommendations of the Task Force were adopted and became law by virtue of this legislation. Legislation that was amended by virtue of this Act included the *Migration Act 1958*, the *Customs Act 1901* and the *Fisheries Management Act 1991*. It would appear, at this early stage, that the amendments have effectively resolved the difficulties identified by the Task Force.

The AFP does not, at this time, see a need for further amendments to strengthen maritime investigatory and enforcement powers. However, we note the recent increase in the numbers of persons attempting to gain illegal entry to Australia and recognise that, as the means of entry change and the organisation behind the arrangements become more sophisticated, it may be necessary to review current legislative measures in the future.

### ***Creation of an Australian Coastguard***

The AFP notes that one of the terms of reference for the Joint Committee is the question of establishing an Australian Coastguard. The AFP participated in the Prime Minister's Task Force on Coastal Surveillance which considered a number of submissions recommending the establishment of an Australian Coastguard. The Task Force did not support the establishment of an Australian Coastguard. The AFP considers that if an Australian Coastguard were to be established, it would require a specific legislative charter which included a clear statement of the Coastguard's functions and powers. However, the AFP continues to question the need for the establishment of another law enforcement agency.

### ***Other Issues Raised by Audit Report 38***

#### ***Recommendation 1***

The AFP has a number of Memoranda of Understanding and Agreements with the ACS which govern the working relationship between the two organisations<sup>2</sup>.

The AFP has embarked upon a program of service agreement negotiations with key client agencies which will progressively replace existing cooperative instruments. To date, two agreements have been finalised – Insolvency and Trustee Service, Australia and the Department of Foreign Affairs and Trade. Negotiations to replace existing Memoranda of Understanding and agreements with ACS are likely to commence once service agreements have been concluded with Centrelink, DIMA and the Australian Taxation Office. Given the scope and complexity of these agreements, it is not

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<sup>2</sup> There are a range of MOU and agreements with the ACS including a ministerial agreement concerning the relationship between the ACS on the one hand, and the National Crime Authority and the AFP on the other, with respect to Narcotic Drug Law Enforcement; an MOU on the working relationships between the AFP and the ACS and Guidelines between the AFP and the ACS for the detection and handover of unreported currency under Section 15 of the *Financial Transaction Reports Act 1988*.



expected that negotiations with the ACS will commence before the end of this calendar year.

*Recommendation 2*

The AFP supports the recommendation and is represented on the Operational Planning and Advisory Committee. The issue of intelligence feedback from Coastwatch is discussed elsewhere in the submission.

*Recommendation 6*

While the AFP has little evidence to indicate that organised criminal groups are utilising 'black flights' to enter Australia, it is aware of the problems associated with their detection. The AFP would therefore support the ANAO recommendation. See further comments in relation to Recommendation 7.

*Recommendation 7*

While the AFP supports this recommendation, the AFP would also support an increase in night-time Dash 8 surveillance in the Torres Strait area where the more sophisticated electronic capabilities of the Dash 8 would be preferable to an increase in helicopter flying hours. The AFP believes that increased use of the Dash 8 in this region would further improve AFP operational activity in the area.