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Committee Secretary  
Senate Standing Committee on Education and Employment

## **The Role of Commonwealth, State and Territory Governments in Addressing the High Rates of Mental Health Conditions Experienced by First Responders, Emergency Service Workers and Volunteers**

The Australian Federal Police Association (AFPA) represents the professional and industrial interests of more than 4000 employees of the Australian Federal Police (AFP). The purpose of this submission is to highlight for the committee the ways in which organisational practice, governance and management structures inside the AFP amplify the effect of exposure to traumatic incidents by AFP employees.

At the centre of the conversation surrounding the mental health of first responders needs to be societal recognition of the nature and frequency of their exposure to traumatic incidents. In the policing context, police work is sometimes dangerous, often unpleasant but almost always demanding. Police officers accept this to be an inherent part of their work, though it can be harmful to individuals.

Considered in the context of defence force personnel, who may deploy in and out of theatres of war, police are deployed operationally all of the time. Defence personnel are recognised as having unique health and fitness requirements and these are supported by specifically tailored and resourced structures. This same assistance does not exist for police, rather the operational demands of the role are ignored, and care is provided in a manner commensurate with public servants. That harm is caused to police through this approach cannot be surprising.

The AFPA thanks the Committee for its attention to this important topic. We would welcome the opportunity to address the Committee and elaborate on any of the matters contained within this report.

### **Reporting of Mental Health Conditions**

For an AFP employee to disclose a mental health condition can be career limiting. Indeed, so serious are the consequences for individuals there is a culture of active avoidance with respect to diagnosis and disclosure. Disclosure is likely to have consequences.

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*“I have only come forward because I have no further plans for promotion and expect to retire in the next few years. If I had remained focused on promotion or other duties, such as overseas postings, I would never had declared this given the toxic culture that exists within the AFP Executive.” AFP Superintendent*

All AFP employees are required to maintain a minimum ‘secret’ level security clearance. This can be withdrawn if an employee has a mental health condition. Police officers may have their Use of Force qualification revoked, thereby rendering them non-operational. This will almost certainly lead to a significant reduction in salary because of the loss of the 22 percent operational composite payments. The prevailing attitude amongst employees is that opportunities will be lost. Non-disclosure is often the preferred option.

In the AFP, operational employees receive a 22 percent composite allowance for expanded working hours and normal patterns of attendance required under the operational AFP working patterns. The allowance was first paid in 1999 and is in lieu of shift penalties and for flexibility. It is not paid for salary adjustments, experience premiums or additional hours of attendance and is not paid for doing ‘police work’.

Historically, policing as an industry has demonised those who suffer from mental health conditions. In part, this is because policing has been a male dominated occupation and engagement with the emotional consequences of police work has not been encouraged. The term ‘broken biscuit’ was used to disparagingly describe those who were not fully functional as a result of their psychological injuries.

*“Comments have been made to me about being a broken biscuit, called a numpty because I have PTSD.” AFP Federal Agent, 9 years*

It is also due to the nature of the duties police are called upon to undertake. However, an organisational attitude which deliberately ignores the inherent nature of police work and instead imposes additional layers of bureaucratic demand upon employees can and does cause greater harm than the operational work undertaken.

For example, a police officer may spend several hours in attendance at the scene of a death. That time will be at best unpleasant, if not horrendous. Frequently though, the only concern of the organisation, as articulated by those with managerial control over that police officer, will be that the relevant paperwork is done as quickly as possible, so overtime payments are minimised. The experience of the officer during the operational activity is of secondary consideration. This organisational attitude causes greater harm than operational exposure.

One recent example illustrates the consequence of disclosure. In March 2018, the following Category 2 conduct complaint was established against an AFPA member:

*In February 2017, [AFPA member] breached section 8.2 of the Code of Conduct (an AFP appointee must act with due care and diligence in the course of AFP duties) by failing to disclose his change in mental health in a timely manner.*

This member has been diagnosed with PTSD. Existing procedures within the AFP discipline and integrity regimes mean that any delay in the disclosure of a mental health diagnosis to the AFP may be considered a breach of the AFP Code of Conduct. Following advocacy on his behalf by the AFPA, the complaint was withdrawn, but it should have been levelled against him in the first place.

A further attitude pervades life in the AFP, which suggests that the singular focus of everyone and everything should be the delivery of operational outcomes. Anything, including employees, may be sacrificed in the interests of delivering on this goal. In the absence of a sophisticated model of psychological care which prioritises employee welfare, it makes the organisation cannibalistic, actively preying upon and consuming its people. That they get harmed through this process is inevitable. Regardless of what change is achieved by the AFP and what improvement can be delivered in managing the mental health of employees, people will not trust that the organisation has their best interests at heart until it stops actively seeking to cause them harm.

*Recommendation:*

1. Employees engaged in operational duties are currently compensated through the payment of a 22 percent composite allowance. For police officers, this allowance is paid to them as part of their salary from the moment they complete recruit training and forms a core part of their remuneration. If an employee is rendered non-operational, they will likely lose this allowance and sustain a 22 percent reduction in income. This provides a significant disincentive to employees seeking treatment for mental health issues. Employees should instead be supported by the organisation through treatment with their salary maintained.

### **Occupational Mental Health Support and Treatment Services**

The recent focus by the AFP on the mental health of employees followed the suicide of Federal Agent (FA) Sue Jones in the AFP Melbourne Office in February 2017. It was not the subject of any concentrated organisational effort before that.

Following FA Jones' suicide, the Mental Health Strategy Board was established, comprising SES Band 1 and 2 officers and chaired by the Chief Operating Officer (COO). The AFPA was represented on the Board by our President. The purpose of the Board was to provide high level direction and leadership to enable the AFP to focus appropriate attention upon employee mental health.

*"There is widespread mistrust in AFP medical welfare services." AFP Detective Sergeant*

In January 2018, Phoenix Australia published its review into the AFP's management of employee mental health. This report was commissioned by the AFP and concluded that *"significant further work is needed to create a workplace environment within the AFP that is*

*conducive to good mental health*". Almost 40 recommendations were made by Phoenix Australia to guide the AFP toward the achievement of this goal.

In March 2018, the Australian National Audit Office (ANAO) tabled in Parliament its report called 'Managing Mental Health in the Australian Federal Police'. This report was similarly critical of the AFP management of employee mental health and made several additional recommendations as to the work which was required.

The AFP accepted the recommendations of both reports and acknowledged the need for improvement. However, one of the first actions by the AFP after the publication of these reports was to disband the Mental Health Strategy Board. This means that there is now no collective of senior managers *specifically* focussed upon delivering the report recommendations. Disturbingly, the Board was referenced in both reports as being an initiative geared toward improving the management of mental health.

*"The forms they ask you to complete are a tick and flick 'all is good' form. These are clearly a 'backside' covering exercise". AFP Federal Agent, 8 years*

Approaching six months after publication of the Phoenix Australia report, not nearly enough has been done to deliver the changes recommended by the two reports. The AFPA understands that no additional resources have been sought from government by the AFP Commissioner to expedite implementation of the recommendations and to ensure their sustainability. The AFPA is very concerned not enough meaningful attention or dedicated resources are being applied to improving employee mental health by the senior AFP managers and the program of implementing the report recommendations is at risk of stalling.

The Phoenix Australia report specifically recommended the engagement of psychologists at the rate of one per 250 staff, or about 25 given current AFP staffing levels. At present, the AFP employs fewer than ten. We understand bureaucratic and resource impediments have inhibited the delivery of this increase. We are not sure that the AFP is intent upon meeting this recommendation.

In mid-2017, the AFP introduced a Welfare Officer Network, comprising trained employees deployed around the country to assist AFP employees through difficult times and to be on hand as soon as possible after risk events occur. The AFPA advocated for the establishment of this program for more than 12 months, so its establishment was welcome. Structurally, however, the Welfare Officer Network needs to be supported the additional layers of professional assistance. Social Workers are required, so cases requiring more intense or protracted management can be handed off by the Welfare Officers. Internal psychologists are an additional layer. Neither of these supporting layers has been delivered and feedback from welfare officers to the AFPA has been they are starting to burn out. Again, resourcing limitations have impeded the proper development of this welfare program.

The external Employee Assistance Program (EAP) comes in for sustained criticism by AFPA members who have sought help through this service. From the AFP perspective however, it is at the centre of the present mental health care arrangements established for employees.

Feedback from AFPA members indicates frustration at having to engage with different counsellors each time the EAP is contacted, requiring the retelling of the need for assistance on each occasion. The counsellors have no experience of policing and cannot relate to the experiences of police officers. There is a reluctance to provide operational details to people external to the AFP even though this information might assist the counsellors. In short, the engagement of an external provider to deliver mental health care to AFP employees is wholly inadequate. Instead, the capacity to provide this care must exist internally.

The AFP is well aware that its employees are reticent about the EAP role, yet it continues to see the EAP as a core response to the Phoenix Australia and ANAO recommendations.

The AFP has no system to identify the frequency of exposure to traumatic incidents by individual employees. Certain investigative areas, such as those involving sex crimes, child exploitation, or counter terrorism, have long ago been identified as involving a heightened risk of exposure and 'in theory' employees receive pre-deployment screenings, regular check-ups and post deployment debriefings.

*"The way mental health is currently being addressed is inadequate. After three and a half years in PNG with the AFP I was told that if I wanted a psych debrief, then I needed to request one." AFP Detective Senior Constable*

However, even these are inconsistently applied. For the remainder of employees, repeated exposure to traumatic incidents can still occur and the organisational expectation is for employees to monitor their own exposure and responses and find help for themselves. However, if an employee does seek a change in operational area as a mechanism to limit further potential for exposure, it is often denied to them owing to insufficient personnel.

*"I'm disappointed with the way in which police and other emergency service workers are treated in comparison with our colleagues from the ADF...if military veterans were treated in such a manner there would be public outrage". AFP Team Leader*

It is extraordinary that an organisation of the maturity and sophistication of the AFP cannot report on the number and frequency of traumatic incidents being attended to by employees. We understand a pilot program may be under development, however, the ability to measure and report on this exposure is not currently in place.

#### *Recommendation:*

2. Additional resources must be made available to the AFP to specifically fund the provision of mental health services for AFP employees. The AFP Commissioner confirmed at Senate Estimates hearings that no additional funding has been sought from government to assist with delivering the recommendations of the two mental health reports. This has resulted in too little change taking too long to deliver.
3. The AFP must develop and implement a traumatic incident tracking tool for employees, so frequency of attendance and seriousness of incidents can be measured. The tool will

allow appropriate and timely intervention and mitigation mechanisms to be enacted to control employee exposure when required. Deidentified information gathered through the tool should be shared with relevant stakeholders so a proper appreciation of employee exposure to traumatic incidents can be gained.

## **Workers compensation**

The relationship between the AFP and Comcare is an impediment to AFP employees accessing treatment. It is each employee's responsibility as an individual to engage with Comcare to lodge a claim for their illness or injury and to demonstrate how it was related to their work as an AFP employee. There are no systems or processes in place within the AFP to support or assist employees while making a claim and the organisation adopts a 'hands off' attitude.

In the case of physical injury, the claims process is often routine if the circumstances surrounding the injury can be tied directly to a single event. However, with mental injury, the causal factors can be cumulative or of extended duration. More troubling, employees who are acutely mentally unwell may be emotionally or mentally incapable of telling how their psychological injury occurred. Indeed, to do so may cause them additional harm. In this case both the AFP and Comcare are either unwilling or unable to assist the injured employee access treatment or care.

*"I have no confidence in AFP wellbeing services. They are here to protect the AFP by doing the absolute minimum to satisfy workers compensations claims."*

*AFP Federal Agent*

On four occasions over the last twelve months, the AFPA has assisted members through the payment of their expenses for in-patient mental health treatment. In each case, the member was so acutely unwell they required immediate hospitalisation as they were at risk of self-harm. They did not have the personal financial resources available to fund the treatment for themselves and the AFP was not willing to assist. The AFPA paid for the cost of treatment as the need was real and we were not prepared to accept the risk these members may injure or kill themselves whilst they waited for a public bed to become available.

In one of these cases, the matter was brought to the attention of the AFPA by a senior manager within the AFP HR section, who made a specific request of the AFPA to fund the treatment. This illustrates the circumstances of these individuals are known at senior levels of the AFP, however the organisation is not capable of finding ways to provide the immediate assistance required by these people.

On two other occasions AFPA members with mental health conditions, having had extended periods off work because of their illness, had exhausted all their accumulated annual leave and personal leave entitlements. The AFP had granted them a period of Miscellaneous Leave with Pay, so they could continue receiving an income. Following an arbitrary decision of the AFP HR section, their paid leave was to cease so the AFP no longer had to fund their absence.

This decision coincided with their requiring immediate hospitalisation for their respective conditions and could have provided a trigger for self-harm.

Generally, the experience of AFPA members with mental health conditions receiving treatment from Comcare has been inconsistent and poor.

*“My life in the past 2.5 years has changed dramatically. Comcare have provided no assistance and I have used substantial amounts of personal leave when I’ve not been capable of functioning properly at work. The sessions with psychologists have also been at my expense.” AFP Federal Agent, 13 years*

One of the most significant impediments for employees with mental health conditions seeking assistance from Comcare is the need to demonstrate how the condition was caused as a result of the course of their employment. The Comcare model was designed to manage physical injury, where a specific incident can be identified as having caused the harm. When the cause of the injury may be repeated small exposures over extended durations, it can be extremely difficult for those suffering the mental illness to gain acceptance for their claims.

Legislative change which provides a rebuttable presumption in favour of an AFP employee’s mental health condition being related to their employment would overcome this difficulty. Such a scheme would acknowledge the type of work undertaken by AFP employees and recognise the inevitable toll such exposure has upon individuals. It would remove the burden for employees to prove their work caused them harm and instead put the onus upon Comcare to identify why an employee’s illness could not have been caused by their employment with the AFP.

Introducing a “provisional acceptance” of claims by Comcare for a defined period would also be helpful, removing the impediment of protracted timeframes for deciding whether to accept a claim. The AFPA understands this concept is being explored by Victoria Police, allowing for the payment of 13 weeks of treatment as required, whilst a more thorough assessment is carried out as to whether the injury was work related.

Ultimately though, a system needs to be developed whereby an employee experiencing acute mental health issues can be provided the care they need immediately, even before embarking upon the Comcare approval process. This will require empowering the AFP to carry the financial burden of paying for care when and as required, with an understanding the expense may be recoverable from Comcare once a claim has been accepted. Such a system must also acknowledge that in some instances the cost of delivering the required care may not be recoverable. That financial burden ought not be passed onto the injured employee.

#### *Recommendations:*

4. AFP employees who disclose mental health conditions to the AFP must be supported by the organisation to access the treatment they require, when they require it. If necessary, the AFP should fund this treatment, and continue to pay the employee.

5. The AFP should have in place systems to assist employees with mental health conditions engage in the Comcare claims process and end the current 'hands off attitude' whereby employees are abandoned by the AFP as soon as they disclose they are unwell.
6. Legislation change should be pursued for workers compensation, such that a police officer who is diagnosed with PTSD is presumed to have developed their condition through the course of their employment, unless the relevant insurer can prove otherwise.
7. A system allowing the provisional acceptance of claims should be introduced with a 13-week timeframe, allowing the provision of assistance immediately. Such a system would act to limit the delays in the provision of treatment caused by current approval processes.

### **Workplace Culture and Management Practices**

Organisational process and procedure within the AFP causes harm to employees. The integrity and disciplinary processes overseen by the Professional Standards (PRS) unit of the AFP involve the internal investigation of employees for the full spectrum of matters, spanning from misdemeanour 'customer service' complaints to allegations of corruption.

It is routinely the case that matters, regardless of their seriousness, will take years to be formally concluded. This protracted duration is a function of insufficient resourcing within PRS and is a significant stressor for AFP employees. Extended delays cause an expectation of a negative outcome. For employees to work under this expectation for such extended periods does impact their mental health. To illustrate, one AFPA member has been the subject of investigations by PRS for more than eight of the 18 years he has been employed by the AFP, owing to his involvement in two critical incidents.

The power to conduct these investigations stems from Part V of the *Australian Federal Police 1979 Act* (the AFP Act). It affords the AFP extraordinary control over employees, including conducting coercive investigations where failure to satisfactorily participate brings a potential criminal sanction. Taken to its most extreme, the AFP Commissioner has the power to suspend an employee from duty without pay, deny them approval to undertake secondary employment, and delay acceptance of their resignation from the organisation for up to three months.

The necessity for the organisation to wield this power is obvious from the perspective of identifying corrupt practices and serious misconduct, but the coercive powers are more commonly used for much less serious matters. One recent example highlights how the PRS system is used by the organisation as a tool to exact punitive punishment upon employees. An AFPA member had the following category 2 conduct complaint established against him:

*Between 2014 and 30 April 2018, [AFPA member] breached Section 8.11 of the AFP Code of Conduct (an AFP appointee must behave in a way that upholds the AFP Core Values, and the integrity and good reputation of the AFP) when he failed to declare his secondary employment as a volunteer junior rugby coach for the Randwick District Rugby Union Football Club and Sydney Night Patrol – Saint Vincent’s De Paul and Sydney Delta Therapy Dogs.*

Beyond being a fundamental waste of resources, the use of the provisions from Part V of the AFP Act to investigate the above type of matter is an inappropriate application of these coercive powers. Whilst the AFP must operate a disciplined force, there should also be limitations upon the extent to which the organisation can insert itself into the private lives of its employees.

Many of the mental health issues experienced by employees are caused or exacerbated by the inability of individuals with managerial responsibility to actually manage people.

*“Since my time off, again (December 2017) I have had limited contact with my team leader irrespective of a contact form that I signed to be contacted on a regular basis.” AFP Sergeant*

The AFP makes no training in personnel management or leadership available to employees below the executive levels. When assessing the suitability of employees for promotion to team leader positions, candidates are assessed on their operational abilities and knowledge. They are then elevated to a position where a significant component of their role is leading and managing people, for which they have not been prepared by the organisation. Indeed, employees can conceivably advance through large parts of their career with no information provided to them about the organisational expectations of leading and managing people.

The AFPA favours the development of a training continuum for leadership and management training, beginning at senior team member levels. To begin, employees should be trained in the practical aspects of personnel management, including how to properly utilise AFP systems. The expectations of leadership and management roles should be a key part of an employee’s career development. The development of leadership skills should be the focus of an educational program that is mandatory before employees can apply for promotion. Assessments as to the leadership qualities of an individual should be an important component of the promotional process and poor leadership attributes should be an inhibitor to promotion.

The AFP senior executive presently rejects such an approach as being too linear, favouring instead a loose process where no pre-existing knowledge needs to be attained and the opportunity to train and educate prospective leaders is foregone. By contrast, vacant positions that are to be filled by transfer at level are routinely advertised as requiring a certain level of experience or training as a prerequisite. The AFP’s approach to these matters is inconsistent. This need for improvement in leadership and management training of AFP employees is a recommendation in the Phoenix Australia report.

### *Recommendations:*

8. The coercive powers contained within Part 5 of the AFP Act should only be available for the investigation of Category 3 or 4 matters, not Category 1 or 2 matters.
9. Management and leadership training should be prioritised by the AFP and delivered to employees in advance of promotion. Advancement should be contingent upon the successful completion of this training.
10. Career pathways for police officers within the AFP should be better developed with the organisation taking a more active role, including through mentorship and planning for a policing career spent with the AFP.

### **Conclusion**

The current way the AFP manages the mental health of its employees will continue to cause harm. The systems for monitoring exposure to trauma and delivering assistance are immature, ineffective and insufficiently resourced. The statutory relationship between the AFP and Comcare proves an impediment to accessing care. The organisation does not possess appropriate internal capability to provide psychological assistance to employees, rather it contracts out this care to an external organisation roundly criticised by consumers.

At the heart of the solution to these problems lies money. Simply, the AFP cannot deliver the personnel and processes required to care and support its employees without additional resources being made available for this specific purpose. The funding must be significant, and it must be ongoing.

Policing in the modern age must adopt a greater and more sophisticated understanding of the causes and treatment of mental injury. Attitudes of the past must be abandoned and each disclosure of a mental health condition by an AFP employee should be considered recoverable by the AFP and Comcare. Unfortunately, this remains a long way from reality.

AFP progress in this area should also be a matter of enduring interest and attention by Senators. The AFPA would encourage reporting to the Senate by the AFP on a regular basis, on how the recommendations of the Phoenix Australia and ANAO reports are being implemented and sustained.

Trust between the AFP and its employees has been eroded by the lack of care exhibited over an extended period of time. It cannot be recovered until the organisation can demonstrate it is no longer actively seeking to cause harm to its people.