



AFPA

Australian Federal
Police Association

Operation Recognition

2022 Federal Election

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Foreword

The men and women of the Australian Federal Police work tirelessly to keep the people of Australia safe from harm.

- » They build intelligence to disrupt terrorist activity.
- » They prevent drug traffickers, both here and abroad, from flooding our streets with life-destroying substances.
- » They protect our children from exploitation.
- » They protect vital Commonwealth establishments around the nation.
- » They work with our international allies in bringing transnational crime groups to justice.
- » They infiltrate local gangs to stop them from preying on our communities.
- » They work around the clock to shield our high officeholders, including the Prime Minister, Governor-General, senior ministers, and foreign ambassadors.
- » They build policing capabilities and strengthen diplomatic ties with our neighbours in the Pacific.
- » They do all this and more 24/7. However, they cannot do it alone. They need your help.

In order to strengthen the AFP and best equip them in the endless battle against crime, we are asking all candidates to provide a clear position and commitment on each of the policies outlined in this document.

We will then inform the 7,000 AFP employees, their families and members of the community who support the work of police, each party's position on these important issues affecting the AFP community.



Alex Caruana, President - AFPA

For too long, the men and women of the AFP have been asked to do more with less resources. This takes its toll mentally, physically and operationally.

We are asking all candidates for help to ensure that the AFP remains Australia's premier law enforcement agency.

We are asking that you recognise the outstanding work performed by the AFP each and every day.

We are asking that you help protect those who protect you.

Alex Caruana

President – Australian Federal Police Association



AFPA is seeking...

Recognising the toll

- ① The Safety, Rehabilitation and Compensation Act 1988 (Cth) is amended to include a presumption that AFP employees diagnosed with PTSD or other psychological conditions developed these conditions as a result of their employment with the AFP.
- ② The Safety, Rehabilitation and Compensation Act 1988 (Cth) is amended, in conjunction with the introduction of presumptive legislation, to require the insurer to make interim provisional payments for AFP employees diagnosed with PTSD or another psychological condition if the insurer seeks to challenge that the injury is work-related.
- ③ The Safety, Rehabilitation and Compensation Act 1988 (Cth) is amended to remove the reduction of incapacity payments for AFP employees after 45 weeks.
- ④ Introduction of a 'Blue Card' for members of the AFP, similar to the veteran healthcare cards provided to members of the Australian Defence Force from the Department of Veterans' Affairs.
- ⑤ The establishment of a National Commissioner for First Responder Mental Health & Suicide, akin to the National Commissioner for Defence and Veteran Suicide. In the alternative, the remit of the National Commissioner for Defence and Veteran Suicide be expanded to include oversight of law enforcement and first responders, including the AFP.

Recognising the future

- ⑥ AFP to have a baseline of 8,500 employees by 2025, fully funded for the entire length of employment.
- ⑦ Removal of the efficiency dividend from the AFP.
- ⑧ A law enforcement white paper which provides a strategic review of current AFP capabilities, technology and facilities, as well as a commitment to fully fund any investment in new equipment, technology, and facilities to make the AFP a world leading law enforcement agency for the next 20 years.

Recognising police work

- ⑨ The AFP is exempted from the Public Sector Workplace Relations Policy.
- ⑩ Establishment of a Review Panel under regulation 61 of the Australian Federal Police Regulations 2018 for employment decisions excluded from review by section 69B of the Australian Federal Police Act 1979.
- ⑪ The composition of the Review Panel to include AFPA representation.
- ⑫ In the alternative to the above, extending the jurisdiction of the Merit Protection Commissioner to allow for review of AFP employment and promotion decisions.



Recognising community safety

- 13 Introduction of a National Firearms Registry to monitor the sale, supply, and movement of firearms across Australia.
- 14 Enactment of Federal legislation which would only allow individuals to purchase ammunition for a firearm/s they are legally licenced to possess.
- 15 Cessation of importation of ammunition for weapons which are illegal to privately own in Australia.
- 16 Retention of Protective Service Officers at all current Commonwealth facilities.

Recognising Integrity

- 17 Amendments to the existing framework to expand on the capabilities of law enforcement to respond to child exploitation.
- 18 The introduction of a Commonwealth Integrity/Anti-Corruption Commission which provides the same level of oversight and standard of conduct between parliamentarians, senior public servants, and AFP employees.
- 19 Ensure any Commonwealth Integrity/Anti-Corruption Commission is appropriately funded, resourced and staffed to ensure fair, just and quick investigations.
- 20 A review conducted by Senate Legal and Constitutional Legislation Committee into Part V of the Australian Federal Police Act 1979 and the Professional Standards unit.
- 21 Amend the Australian Federal Police Act 1979 to clarify the definition of "serious misconduct".



Recognising the toll

Police work is inherently dangerous, often unpleasant, and almost always demanding.

There is now a significant body of work showing that emergency services workers are at a heightened risk of developing psychological conditions. We have seen the community shift in recognising this, with a reduction in the stigma around seeking help, as well as an increase in the availability of treatment options.

Changes to Comcare

Presumptive legislation

Despite these many positive steps, the laws in place to protect those who suffer such conditions remain outdated. These laws require employees to fight tooth and nail to prove that they are suffering from a psychological condition and that their injury was caused by their employment with the AFP. This is despite the almost universally-accepted heightened risk of developing a psychological condition working in emergency services.

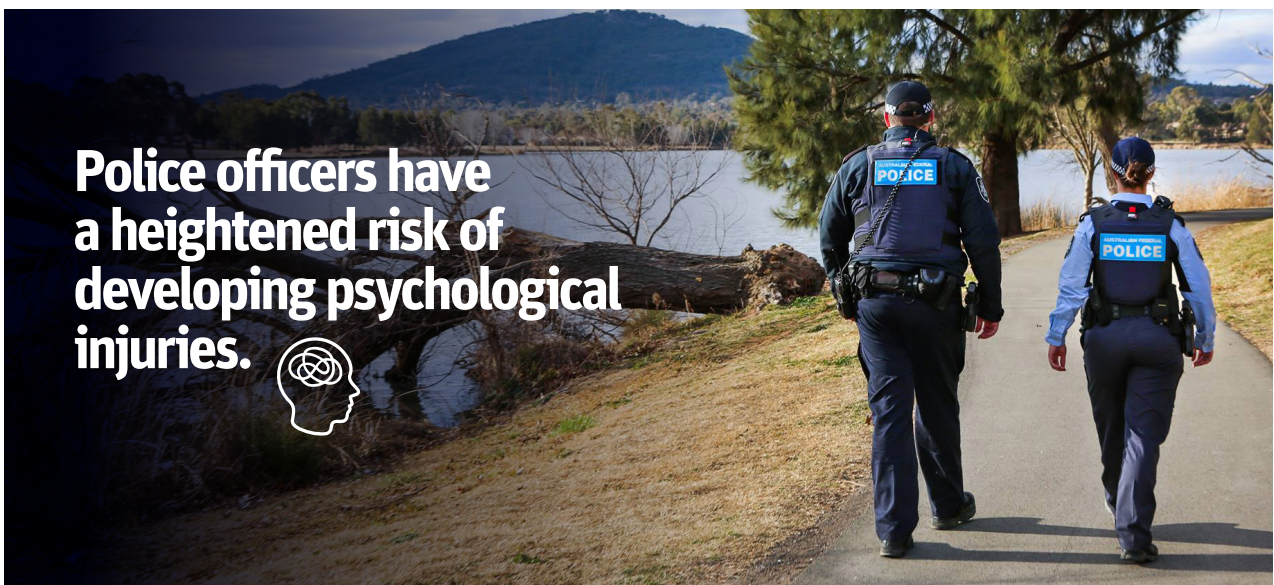


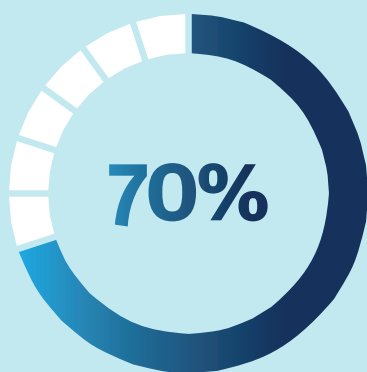
What other job requires you to be in a constant state of hyper vigilance and alertness yet at the same time be a counsellor, a social worker, a lawyer, or a prison warden? What other profession authorises you to take a person's liberty, or potentially use deadly force, but then mandates that you attempt to save the person's life that has just tried to kill you? What job causes you to wonder whether you will come home to your loved ones after you bid them farewell each and every day as you head off to work? ¹

¹ Grant Edwards submission - The people behind 000: mental health of our first responders

At the best of times, submitting a workers' compensation claim is stressful due to the bureaucratic and technical nature of the process. If that person is suffering from a condition such as PTSD, the process could cause significant harm to them.

Police officers have a heightened risk of developing psychological injuries.





70% of emergency services employees
who go through the workers compensation process



rated the experience as poor

This is in part due to the evidence needed to support a claim; the onus lies on that person to establish their injury and prove it was caused by work – this often involves the person providing a detailed statement about traumatic incidents. Claims also need to be made as soon as possible after the occurrence of the injury, which adds further stress to the process, as does the precarious financial situation that someone is faced with if their claim is rejected.

Recent studies¹ have shown that over 70% of emergency services employees who go through the workers' compensation process rated the experience as poor. Only 8% said they found the experience to be positive. The study also found the negative experience was more pronounced amongst police. Two-thirds of those surveyed felt the process was unsupportive and stressful, with over half also indicating the experience of making a claim had a negative impact on their recovery.

The AFPA is seeking amendments to the **Safety, Rehabilitation and Compensation Act** ("**the SRC Act**") to include a presumption that PTSD and psychological conditions are caused by a person's employment with the AFP. Such legislation exists for police and first responders in Tasmania, the Northern Territory,

Queensland and South Australia. It was also a recommendation of the Senate Education and Reference Committee's report "*The people behind 000: mental health of our first responders*" that there be a coordinated and national approach to presumptive legislation and in-principle support.

Provisional liability payments

The difficulties with the compensation system also extend to those suffering from physical injuries. Those on the frontline are regularly assaulted, involved in physical altercations, and are required to carry heavy equipment. The nature and conditions of work in the AFP do have a negative physical impact on our members. Those members too often have difficulty in receiving compensation for their injury.

On this basis, the AFPA proposes that, in conjunction with the outlined changes regarding presumptive legislation, the **SRC Act** should be amended to provide provisional liability payments to AFP employees for time off work and medical expenses if, for whatever reason, a claim for either psychological or physical injury is challenged by Comcare. A provisional payments scheme exists in other workers' compensation schemes around the country.

¹ Kyron, Michael et al, 'Experiences of Police and Emergency Services Employees with Workers' Compensation Claims for Mental Health Issues', *Journal of Occupational Rehabilitation* (2021) 31: p. 197-206.



This will ensure that the treatment and return to work of employees is at the forefront of decision making. We have seen far too often AFP employees having their claims rejected due to the potential liability for Comcare and being based on an inadequate investigation, rather than focusing on returning the person to pre-injury duties. Provisional liability payments would facilitate this necessary change to rehabilitation.

Removal of step-down provision

Furthermore, the AFPA seeks the removal of the step-down provision for incapacity payments. After an injured worker receives 45 weeks of incapacity payments, the **SRC Act** reduces the amount paid to injured employees to 75% of their normal weekly earnings. Recent studies have indicated that step-down provisions do little to encourage injured workers to return to work and are not an effective return-to-work policy initiative.¹ Rather, in our experience, it distracts from rehabilitating and treating injured workers with the aim of returning them to suitable employment. Rehabilitating and finding suitable employment can be time and resource consuming. The reduction of an injured worker only serves to financially benefit Comcare.

Sworn members of the AFP take an oath to protect the community and discharge their powers in a manner which places them in direct harm. This oath attaches to a member 24 hours a day, 7 days per week. The nature of the work of police members and operational employees makes it impossible to completely mitigate the reasonable likelihood of physical and psychological harm being suffered. It is unconscionable to expect AFP employees who suffer physical or psychological injury as a consequence of their work to suffer a

significant financial punishment as is currently contained within the **SRC Act**. Removing the step-down provides fairness to those employees who put themselves in the line of direct harm, noting the significant risk of harm both physically and psychologically.



AFP Blue Card

Many members have lengthy careers, and are often exposed to horrific and traumatic experiences such as suicides, homicides, road fatalities, terrorism propaganda material, and child exploitation material.

Post Traumatic Stress Disorder (PTSD) is often described as a “bucket of emotions and experiences that fills up over time” and at some point in time, that bucket overflows. For some members, that bucket may take days, months or years to fill up and overflow. There is no timeframe for when that bucket could overflow.

While police officers remain within their organisation, there are support mechanisms that can be utilised to ensure ‘the bucket’ doesn’t overflow, but what happens to people who leave or retire from the organisation?

¹ Jane, Tyler et al, ‘Step-downs reduce workers’ compensation payments to encourage return to work: are they effective?’, Occupational and Environmental Medicine 77(7) 2020, p. 470-477.



Retired and former members of the Australian Defence Force (ADF) have access to the Department of Veterans' Affairs welfare system. Even after one day of service, ADF members are eligible. There is no equivalent scheme for AFP members. We are seeing AFP members with former ADF service receiving treatment under the DVA scheme, while their colleagues who haven't served in the ADF are left to fend for themselves and having to self-fund their treatment.

In recent times, ADF and AFP members have served side-by-side, living and working under the same conditions, and experiencing the same trauma. Yet AFP members aren't eligible for the DVA scheme.

We are asking both sides of Government to address this by assisting AFP members, past, present and future, with the creation of a 'Blue Card', which would mirror the current DVA 'white card'.

AFP members serve the country with as much distinction as ADF members, yet aren't looked after by the Australian Government once their service is completed.

National Commissioner for Defence and Veteran Suicide Prevention

The AFPA welcomes the steps taken by the Government to create an independent statutory office to examine defence and veteran deaths by suicide. It is proposed that the National Commissioner for Defence and Veterans Suicide be provided with a broad range of functions and powers, with the aim to prevent future deaths by suicide. This would be an important initiative, particularly in conjunction with the establishment of a Royal Commission into Defence and Veteran Suicide.

WHAT WOULD IT COST?

Information obtained from the DVA indicates the 'average' cost of a white card is \$2160. The 'blue card' would only be available to police officers, Protective Services Officers, and AFP appointees that have undertaken 'operational duties' and have later left the AFP due to retirement, injury or a career change. We believe the number of eligible former AFP appointees to be around 12,000 people.

Whilst these announcements are welcomed, the AFPA remains deeply concerned that no such action has been taken following the Australian Senate Inquiry into first responder suicide, PTSD and premature mortality, "*The people behind 000: mental health of our first responders*", published in February 2019. Likewise, there have been other recent significant reviews into mental health within the AFP, including the Australian National Audit Office review and the AFP commissioned "*Phoenix review*", both published in 2018.

The recommendations from "*The people behind 000: mental health of our first responders*" called for a national approach to combat suicide, post-traumatic stress disorder (PTSD) and premature mortality of serving and veteran first responders. Including national coordination of (a) reviews, (b) research into better responses, and (c) implementation of strategies.



The AFPA calls on the Australian Government to establish an Office of the National Commissioner for First Responder Mental Health & Suicide, with similar powers, reporting, and legislative support as the Office of the National Commissioner for Defence and Veteran Suicide Prevention. This independent authority would then be able to oversee and coordinate all efforts to implement the recommendations of the Australian Senate Inquiry, whose report is now over three years old.

In the alternative, the remit of the Office of the National Commissioner for Defence and Veterans Suicide should be expanded to include oversight over law enforcement and first responders, including the AFP.

The cost in terms of human lives and suffering, of members, their families and loved ones, not to mention the financial and resource costs to communities and the nation alike, is far too great to be continually ignored.

COMMITMENTS

- ① *The Safety, Rehabilitation and Compensation Act 1988* (Cth) is amended to include a presumption that AFP employees diagnosed with PTSD or other psychological conditions developed these conditions as a result of their employment with the AFP.
- ② *The Safety, Rehabilitation and Compensation Act 1988* (Cth) is amended, in conjunction with the introduction of presumptive legislation, to require the insurer make interim provisional payments for AFP employees diagnosed with PTSD or another psychological condition if the insurer seeks to challenge that the injury is work-related.
- ③ *The Safety, Rehabilitation and Compensation Act 1988* (Cth) is amended to remove the reduction of incapacity payments for AFP employees after 45 weeks.
- ④ Introduction of a 'Blue Card' for members of the AFP, similar to the veteran healthcare cards provided to members of the Australian Defence Force from the Department of Veterans' Affairs.
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Recognising the future

Over the past 24 months, there has been a significant increase in the demand for AFP services. This demand for services is partly due to the COVID-19 pandemic, which saw the AFP involved in a multi-jurisdiction response, assistance with hotel quarantine, overseeing protection measures, and leading joint agency taskforces on COVID-19 stimulus-related fraud and profiteering of essential goods such as Rapid Antigen Tests. On top of this, *Operation Ironside* has seen hundreds of offenders charged with thousands of transnational criminal offences on an unprecedented scale, as well as the deployment of members following social unrest in the Solomon Islands.

The AFP's function is to protect Australians and Australia's interests, by combatting complex, transnational, serious and organised crime

impacting Australia's national security. In order to do this, the AFP needs to be appropriately funded and resourced. The crime environment is everchanging, becoming increasingly transnational and more complex to detect. Likewise, Australia finds itself in a period of regional instability which will require national security agencies such as the AFP to be well resourced and future-proofed with world-class equipment.

When we speak with our members around the country, they often raise concerns about resources, staff, equipment and facilities. Due to the lack of resources in particular our members report feeling burnt out, overworked, and fatigued. We often hear of investigations being paused due to a lack of resources and staff. This simply cannot continue.



8,500 by 2025

The AFPA wants to see operations like *Operation Ironside* become the norm. The talent is already within the workforce, AFP members frequently achieve the unachievable; what hinders them is resources and members on the ground.

Criminal enterprises and organised crime are becoming more sophisticated and cunning, as well as targeting everyday Australians with scams, drug importations, child exploitation, fraud and political interference. To ensure that Australians and Australia are protected, the AFP needs to expand and grow its workforce to match its capabilities.

Staffing levels are critically low across the AFP. Nearly all areas need more numbers, whether that be in ACT Policing, investigation areas, or other operational functions.

The COVID-19 pandemic has also taken a heavy toll on the AFP, and what is evident is that there is a limited surge capacity for the AFP to continue operating at 100% during a crisis involving Australians or Australia. Remember that the AFP isn't just Australia-based, and AFP members are deployed across the world to investigate crime that impacts on our nation.

As such, we are asking all parties to commit to increasing the AFP workforce to a minimum of 8,500 employees by 2025.

Efficiency Dividend

The AFP is subject to the Federal Government's efficiency dividend, which is an annual reduction in funding of the overall running costs of an agency. Since the introduction of the



What governments call efficiency dividends are simply budget cuts. Using the term efficiency is at best misleading and at worst harmful.

Dr Maria Racionero, Economist ANU

[Is the Commonwealth 'efficiency dividend' really that efficient? - ABC News](#)

efficiency dividend over 30 years ago, different governments have set the target at different levels. The current level is set at 2 percent.

The cumulative impact of the dividend is that more than half a billion dollars has been stripped out of the AFP's operational budget since the agency's inception.

In May 2018 former AFP Commissioner Andrew Colvin admitted during Senate Estimates that he would have to start looking at which functions the AFP would need to sacrifice in order to work within the reduced budget. That reduced budget was caused by the erosion occasioned by the AFP being subject to the efficiency dividend.

Part of the problem with the efficiency dividend is that it treats all agencies the same, failing to recognise their differences in terms of function or resourcing arrangements. The impact of the efficiency dividend is more significant for agencies largely reliant on appropriations than for those less reliant on appropriations.¹

The work undertaken by the AFP is not conducive to a budget subject to effective cuts year on year. The AFPA call for the AFP to be removed from the efficiency dividend to ensure

¹ Joint Committee of Public Accounts and Audit (JCPAA), *Report 413: The efficiency dividend and small agencies: size does matter*, JCPAA, Canberra, December 2008, p. xi, viewed 12 December 2012, http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jcpaa/effidiv/report.htm#chapters





that it can properly plan and respond to the unique crime and national security environment in Australia.

Review into AFP equipment & facilities

We are regularly contacted by our members about the poor state of equipment and facilities. This is not confined to a single location, rather all around the country in both National and ACT Policing. This includes complaints regarding:

- » Drug contamination issues in major offices
- » Lack of PPE
- » Lack of vehicles
- » Defective vehicles

- » Inadequate office facilities
- » WHS issues at offices
- » Inadequate IT equipment and infrastructure

All of these have a real impact on the work that can be performed by our members.

The AFPA calls upon an independent review to be conducted into AFP equipment, technology and facilities to ensure that the AFP has modern world-leading capabilities. The AFPA is also seeking a commitment to fund any investment towards new equipment, technology and facilities.

COMMITMENTS

- 1 AFP to have a baseline of 8,500 employees by 2025, fully funded for the entire length of employment.
- 2 Removal of the efficiency dividend from the AFP.
- 3 An independent review of all AFP equipment and technology to ensure the AFP has modern and world-leading capabilities, and a commitment to fund any investment towards new equipment and technology.
- 4 An independent review into all AFP facilities and accommodation to ensure they are fit-for-purpose, modern and safe, as well as a commitment to fund any investment towards new facilities or renovations to existing facilities.

Recognising police work

Public Sector Workplace Relations Policy

The *Public Sector Workplace Relations Policy* is the latest iteration of similar policies that have been in place since 2014. The core aim of the policy, from the Government's point of view, is to support "*Australian Government public sector entities in creating workplace arrangements that enable sustainable, high performing public sector workplaces*".¹ However, the *Policy* has failed to achieve this, and is simply in place to ensure the erosion of terms and conditions of employment.²

The *Policy* has fundamentally destroyed enterprise bargaining, driven down wage growth and ensured the continuation of insufficient and out-dated practices by:

- » Banning "enhancements" to existing conditions (i.e. anything new to an enterprise agreement);

- » Requiring proposed increases to salary to be funded by improvements to productivity (i.e. by trading off existing terms and conditions);
- » Mandating that salary increases be restricted (presently at less than 2%); and
- » Prohibiting modifications to top points of salary increments (i.e. creating additional pay points within Bands).

The *Policy* has eroded bargaining within the public sector, with more and more agencies seeking to extend their current agreements through determination powers. Despite this erosion, which is a direct consequence of the *Policy*, nothing is being done to ensure enterprise agreements are fit for purpose and contemporary with employment practices. This is despite the Government's own admission of the need to reinvigorate enterprise bargaining, and the need for enterprise agreements to regularly evolve to reflect the operational requirements of businesses.



I think that the biggest impediment to significant industrial change (in the AFP) is the Workplace Bargaining Policy... The Enterprise Agreement itself is well over 20 years old. It's probably not fit for purpose in relation to the way the organisation has evolved.

Deputy Commissioner Neil Gaughan APM

- » Chief Police Officer of the ACT
- » Lead Negotiator for Enterprise Agreement



¹ A copy of the Public Sector Workplace Relations Policy 2020 ("the Bargaining Policy") can be located: <https://www.apsc.gov.au/public-sector-workplace-relations-policy-2020>, para [1].

² Education and Employment References Committee, Parliament of Australia, Siege of attrition: the Government's APS Bargaining Policy (November 2016).



The **Policy** has caused the AFP to go from being one of the most well-remunerated police forces in the country to the second lowest. Salaries within the AFP have stagnated in contrast to state-level counterparts. Since the 2012 enterprise agreement, salaries have increased by about 2% on average per year. There was also a period between 2016 and 2018 where no salary increases were passed on due to lengthy delays in bargaining caused, in part, by the **Policy** requiring all claims to be signed off by the Public Service Commission. In contrast, federal parliamentarians' salaries have increased by nearly 5% on average per year over the equivalent period.

How can the AFP recruit, retain and reward its employees when remuneration is at an all-time low?

But equitable increases to salaries is just one issue with the current industrial framework that needs amending. Far too often we hear from members being burned by the enterprise agreement or their work being impacted because of the enterprise agreement. Much of the reason operations haven't fallen over is because the AFP relies on the good-will of employees to do the job, often without being paid for it.

The current AFP enterprise agreement is in need of modernising. The skeleton of the agreement is over 20 years old. However, the **Policy** doesn't allow this to occur, as it effectively prevents any meaningful negotiation and agreement on changes to the existing terms and conditions.



The bargaining system requires reform to re-enliven it, to encourage employers and employees to bargain and make new agreements, and provide incentives for productive and innovative ways of working.

Explanatory Memorandum, Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020 (Cth), p. liv.



The enterprise bargaining system aims to support businesses and employees to tailor their working arrangements to their unique circumstances... This bargaining system, governed by the Fair Work Act 2009 (Fair Work Act), is no longer working effectively and is in decline—fewer businesses are making new enterprise agreements or renegotiating them ... enterprise agreements are not intended to operate forever....

Explanatory Memorandum, Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020 (Cth), p. xlii & liii.

The **Policy** also disproportionately impacts the AFP compared to other agencies and departments. The employees of the AFP have severely limited rights provided by the **Fair Work Act 2009**. For almost all employees, including those in the public sector, if a majority of employees are not agreeable to a proposed enterprise agreement, they can seek to take protected industrial action to break any loggerhead. Protected industrial action must be approved by the Fair Work Commission.

However, such industrial action cannot be taken if the action being engaged in has threatened, is threatening or would threaten to endanger the life, personal safety or health of the population or a part of it. It is almost certain that meaningful industrial action could not be taken by members of the AFP.

This has been recognised by the Productivity Commission:



*The FW Act stipulates that the FWC may make an order to suspend proposed industrial action where it is likely to endanger a person's health, safety or welfare, or cause significant harm to a third party or to the economy (chapter 27). Because of this, the parts of the public sector that are focused on service delivery to the vulnerable or in maintaining public safety (such as police officers, firefighters, prison officers and child protection workers) **may find it difficult to take industrial action and, as a result, cannot so easily countervail the Government's bargaining power.**"¹.*

¹ Productivity Commission, *Workplace Relations Framework* (Report No. 76, 30 November 2015) p. 780.

The bargaining power afforded to the Government when it comes to the AFP is completely unfair and disproportionate to other agencies and departments. To square the ledger, to recognise the need to appropriately remunerate employees of the AFP, and to create a modern, fit-for-purpose enterprise agreement, the AFPA is calling for the AFP to be exempted from the *Public Sector Workplace Relations Policy*.

Appropriate review mechanisms

Employees of the AFP, and police organisations more generally, are subject to peculiar employment conditions which curtail a number of freedoms and rights that would otherwise be enjoyed by employees. For instance, section 40K of the *Australian Federal Police Act 1979* affords the Commissioner the power to issue a determination declaring an AFP employee has engaged in "serious misconduct". The effect of such a determination is that the employee is precluded from action available to them under the *Fair Work Act 2009*, such as lodging a claim of unfair dismissal. Furthermore, section 69B of the *Australian Federal Police Act 1979* also limits the operation of the *Fair Work Act 2009* as it relates to certain decisions.

It is this unique employment relationship that requires the introduction of some oversight body. The *Australian Federal Police Regulations 2018* (as well as the predecessor version of the *Regulations*) presently caters for this. Under regulation 61, the Commissioner must ensure that a process for reviewing AFP employment decisions exists at all times. The AFPA contends this presently does not actually occur, particularly when compared to the broader Public Service. In the Explanatory Statement to the *Regulations*, the purpose of regulation 61 is as follows:



Fair and equitable access to review is a critical part of maintaining regulatory accountability and is an important quality control mechanism for identifying and correcting possible errors within employment decisions. This section ensures that a process for review must continue to exist for all employment decisions.



The AFPA calls for the establishment of a Review Panel under regulation 61 of the *Australian Federal Police Regulations 2018* to review employment decisions on their merits, including decision relation to roles, transfers, promotion and recruitment. This should include representation on the Review Panel drawn from the AFPA.

In the alternative, the AFPA calls upon the extension of the jurisdiction of the Merit Protection Commissioner to cover all AFP employees. Employees of the Australian Public Service have access to review from the Merit

Protection Commissioner, as well as not being subject to legislation which precludes certain actions under the *Fair Work Act 2009*. The Merit Protection Commissioner is afforded powers to conduct merit review of workplace decisions (including action or decisions which impact of someone's employment) and promotion decisions. Presently, members of the AFP are excluded from review by the Merit Protection Commissioner, save for review of a decision to retire an employee on the basis of physical or mental incapacity.

COMMITMENTS

- ① The AFP is exempted from the *Public Sector Workplace Relations Policy*.
- ② Establishment of a Review Panel under regulation 61 of the *Australian Federal Police Regulations 2018* for employment decisions excluded from review by section 69B of the *Australian Federal Police Act 1979*.
- ③ The composition of the Review Panel to include AFPA representation.
- ④ In the alternative to the above, extending the jurisdiction of the Merit Protection Commissioner to allow for review of AFP employment and promotion decisions.

Recognising community safety

Firearms reform

The AFPA calls on the major political parties to commit to wide-ranging firearms reform in Australia. Recent figures show that Australians now own more than 3.5 million registered firearms, an average of four for each licensed gun owner.

Australia remains an exemplar of what committed government action can achieve in reducing firearm violence, but we believe more can and should be done to strengthen Australia's safety.

Figures show that over the last ten years, on average, there have been 39 firearm homicides per year. It is a national disgrace that 25 years after the Port Arthur tragedy, Australia still doesn't have a national firearms registry.

An alarming number of firearms have been stolen from legal gun owners across Australia and will likely never be recovered. These firearms are being used to commit crimes across Australia. Gun theft is one of the main sources for guns being subsumed into the illicit gun market.

From 2007 to 2017, 27,000 firearms were stolen. During this period, firearm theft increased from just over 1700 a year in 2007-2009 to nearly 3,300 in 2016-2017.

The AFPA believes that this figure is a mere fraction of the actual number. Legitimate owners would be reluctant to advise police that their unregistered firearm has gone missing — hence we believe that the offence is under-reported.

Presently in Australia, people are able to purchase ammunition for weapons they don't own, and ammunition can be imported for weapons prohibited under Australian law. The lack of a consistent reporting framework makes it easier for criminals to access dangerous weapons.

PSOs at Commonwealth facilities

The AFP currently provides services for the protection of designated Commonwealth establishments, including Defence facilities in Exmouth, Geraldton, Pine Gap and Sydney. These services are provided by Protective Service Officers – who are highly trained and skilled in providing protection services. Protective Service Officers are also afforded broad powers under the *Australian Federal Police Act 1979* to ensure the protection of Commonwealth facilities, including powers of: (a) arrest, (b) use of force in making an arrest, and (c) searching arrested persons in connection with certain offences.

NUMBER OF STOLEN FIREARMS BY JURASDICTION AND FINANCIAL YEARS

Gun Control Australia 9 April 2018
N/A Means figures not available

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
NSW	410	592	446	700	794	717	726	743	762	761
VIC	332	343	363	426	763	799	701	747	823	739
QLD	353	371	461	552	518	579	591	620	710	720
WA	323	328	289	318	381	477	429	899	364	694
SA	193	211	N/A	N/A	N/A	253	246	262	274	134
TAS	109	121	216	249	189	245	231	257	260	207
ACT	9	22	15	3	68	5	8	8	10	10
NT	12	25	17	17	17	17	12	18	23	17
TOTAL	1740	2013	1807	2265	2730	3094	2944	3554	3226	3282



In addition, the AFP has robust training, conduct and integrity regimes which require high standards for those wishing to become Protective Service Officers, as well as remain Protective Service Officers.

In late 2021, it was announced that the Department of Defence would be seeking to engage a private security provider and cease security arrangements being provided by the AFP at the 'Harold E Holt Naval Communication Station' in Exmouth. Following AFPA lobbying and media attention, the decision was quickly reversed. However, the announcement signalled a concerning intent about the future of Protective Service Officers across the country. The AFPA seeks a commitment that Protective Service Officers will remain stationed at all current Commonwealth facilities.

A move away from specialist Protective Service Officers at Commonwealth facilities would undermine the protection of vital national security assets during a period of regional instability and rising threats to Australia. A private security provider would have the powers akin to those afforded to Protective Service

Officers under the *Australian Federal Police Act 1979*, would not have the robust regimes in place to ensure high level of protection, and such a provider would not have access to the capabilities, resources and expertise currently available from the wider AFP. Furthermore, noting many Defence facilities are in remote regions, there would be an overreliance on local police services to respond to any potential issues.

Child exploitation capabilities

The AFP is at the forefront of fighting those who commit child exploitation. Not only does this include investigating those who commit such offences, the AFP also undertakes work in relation to prevention, education, research and collaboration with other agencies. This includes through the Australian Centre to Counter Child Exploitation.

The nature of this offending is confronting and disturbing. Likewise, it is a crime type which involves a high volume of recidivism. Unfortunately, it is also a crime type which has seen growth since the outbreak of the COVID-19 pandemic. Likewise, criminal behaviours are becoming more sophisticated,



Offences are increasingly becoming more sophisticated through the use of networks to distribute material, encryption and online access. Cases can involve hundreds of thousands of depraved and disturbing images of children and the scale and seriousness of this industry poses challenges for investigation and prosecution.

Child Exploitation | Commonwealth Director of Public Prosecutions (cdpp.gov.au)

including through the prevalence of encrypted apps and the dark web. In the words of Commissioner Kershaw, these sophisticated technologies are providing a “cloak of invisibility”.¹

The Joint Committee on Law Enforcement is currently conducting a review into law enforcement capabilities in relation to child exploitation. As part of that review, the AFPA calls for amendments to the existing legislative framework:

- (a) Ensuring that there is a presumption against bail for those who breach section 3LA of the Crimes Act 1914 (failure to comply with an order requiring the provision of information or assistance necessary to access data held on a computer or data storage device.)
- (b) A coordinated national approach to tackling the issues posed by end-to-end data encryption of child exploitation, including regulating to ensure the accessibility of encrypted communications to law enforcement.
- (c) An increase to the initial period provided to undertake controlled operations from 3 months to 6 months in relation to child exploitation offences.
- (d) A coordinated national approach to obtaining compliance from companies like Facebook and Google, such as an equivalent ability to fine such companies as currently exists in relation to hosting abhorrent violent material.
- (e) A coordinated national approach to technology to assist with reducing and limiting the exposure of law enforcement members to child abuse materials as part of investigations.
- (f) Further resources be provided to the AFP to assist with the detection, prevention and investigation of child exploitation offences.
- (g) Expanding access to the National Child Offender Register to include ACIC to assist with a coordinated national approach to child exploitation.

¹ Commissioner Reece Kershaw APM - National Child Protection Week | Australian Federal Police ([afp.gov.au](https://www.afp.gov.au))

COMMITMENTS

- 1 Introduction of a National Firearms Registry to monitor the sale, supply, and movement of firearms across Australia.
- 2 Enactment of Federal legislation which would only allow individuals to purchase ammunition for a firearm/s they are legally licenced to possess.
- 3 Increase in the maximum penalty for offences relating to importing or exporting, taking or sending, or disposing or acquiring more than 50 firearms for firearm parts in a six-month period.
- 4 Increase the maximum penalties for gun trafficking or gun part trafficking to a fine of 5000 penalty units and 20 years imprisonment – doubling the existing maximum penalties.
- 5 Cessation of importation of ammunition for weapons which are illegal to privately own in Australia.
- 6 Retention of Protective Service Officers at all current Commonwealth facilities.
- 7 Amendments to the existing framework to expand on the capabilities of law enforcement to respond to child exploitation.



Recognising integrity

Anti-Corruption Commission

AFP employees are currently subject to some of the most rigorous corruption and integrity oversight in the country, which includes through the AFP Professional Standards Unit, the Commissioner for Law Enforcement Integrity and the Commonwealth Ombudsman. There are also proposals that employees in ACT Policing should also be brought within the remit of the newly formed ACT Integrity Commission.

Compare this to parliamentarians who are not bound by a Code of Conduct or any real oversight body, despite being equipped with different but no less extraordinary powers as those held by members of law enforcement agencies, particularly around the awarding of significant funding of public monies.

Our members, quite rightly, recognise the need for rigorous oversight in relation to corruption. Likewise, our members see a need to ensure a consistent approach to tackling corruption across the Commonwealth. The introduction of a far-reaching anti-corruption body is required to ensure the prevention, investigation and detection of corruption. An independent anti-corruption body, with a similar level of robust oversight as AFP employees, is required for parliamentarians to ensure that corruption is detected, investigated and stamped out.

Over recent years a number of matters which would have been subject of oversight by an integrity or anti-corruption body involving the conduct of parliamentarians have been referred to the AFP for investigation. The investigations resulted in a lack of charges due to: (a) complexity of detecting corruption, (b) the inability to compel evidence from witnesses in criminal investigations,

and (c) the standard of proof required to charge criminally. Yet it has led to hardworking AFP employees **being** subject to unfair criticism and the independence of investigators **being** unjustifiably criticised. This is unfair and unfounded, and a Commonwealth anti-corruption body would go far to address this.

Police are amongst the most trusted vs polities which are last



OCCUPATION

1	Nurses
2	Pharmacists
3	Doctors
4	School Teachers
5	Engineers
6	Dentists
7	State Supreme Court Judges
8	Police
9	High Court Judges
10	University Lecturers
11	Accountants
12	Ministers of Religion
13	Public Servants
14	Bank Managers
15	Lawyers
16	Public Opinion Pollsters
17	Financial Planners
18	Directors of Public Companies
19	Newspaper Journalists
20	Business Executives
21	Talk-back radio announcers
22	TV Reporters
23	State MPs
24	Union Leaders
25	Federal MPs
26	Stock Brokers
27	Insurance Brokers
28	Real Estate Agents
29	Advertising People
30	Car Salesmen

'Very high' or 'High' ratings for Ethics and Honesty: Australians 14+

Source:
RANKED: Australia's 20 most trusted professions (businessinsider.com.au)

While there are several proposals, any anti-corruption body must:

- » Subject parliamentarians to the same level of oversight as members of law enforcement
- » Hold parliamentarians to the same standard of conduct (in relation to what constitutes corrupt conduct).

Some proposals propose a two-tiered approach to anti-corruption in the public sector compared to that in law enforcement, implying that AFP employees are more likely to engage in corrupt conduct. This is unequivocally false and does not marry up with the view held by the wider community, who believe a Commonwealth anti-corruption body is necessary due to the frequent scandals involving politicians. Such a system could see an employee of the AFP investigated, but a politician who has engaged in the same conduct not subjected to any investigation.

Review of AFP Professional Standards

The current Professional Standards framework has been in place and largely unchanged since its introduction in 2006. The introduction of this framework arose from two pieces of work – the first being a recommendation in 2001 from the Senate Legal and Constitutional Reference Committee as part of an inquiry into the management arrangements and adequacy of funding of the AFP that the procedures dealing with complaints be examined, and, consequently, the Hon. Justice William Fisher being appointed to undertake a review which was published in 2003 (which was entitled “*A review of professional standards in the Australian Federal Police*”). The recommendations arising from the “*Fisher Review*” formed the bulk of the changes implemented in 2006.

A significant period of time has lapsed since the introduction, with no meaningful review into Part V of the *Australian Federal Police Act 1979* or the operation of the Professional Standards unit. In addition, the intent of the introduction of Part V of the *Australian Federal Police Act 1979* was to:



*modernise complaints and professional standards regime within the Australian Federal Police. The new part implements a contemporary managerial approach to AFP complaints and professional conduct issues.*¹

¹ Explanatory Memorandum to the LAW ENFORCEMENT (AFP PROFESSIONAL STANDARDS AND RELATED MEASURES) BILL 2006, p. 1.

The intent of Part V was to remove punitive action, such as fines or demotion. However, we have seen the introduction of such punitive action outside the *Australian Federal Police Act 1979* and instead within the terms of the enterprise agreement, which affords the Commissioner an absolute power to reduce the salary of an employee. This power is unfettered and has been subject of unsuccessful challenges. Therefore, the Commissioner could in theory reduce an employee’s salary by \$80,000 per year, and there is potentially no recourse for the impacted employee due to the manner in which the power has been afforded to the Commissioner.

Part V should be reviewed in line with any changes to the role of the Law Enforcement Integrity Commissioner if a Commonwealth Integrity Commission were introduced, to ensure that neither system of oversight resulted in (a) a doubling up of investigation, nor (b) potential gap in coverage.

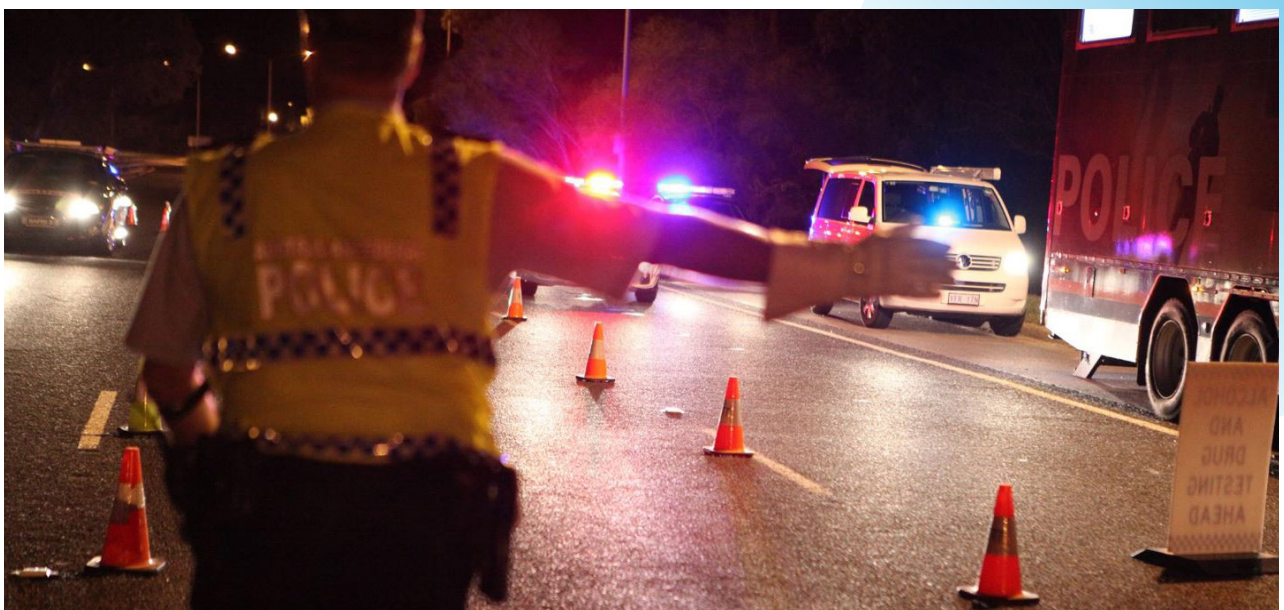


As part of that review, the AFPA is also seeking amendments to the *Australian Federal Police Act 1979* to clarify the definition of “serious misconduct” contained within section 40K. In the AFPA’s view, the definition of “serious misconduct” in section 40K has created

significant confusion in relation to investigations for Category 3 conduct, noting the definition in section 40K pre-dates the introduction of Part V and the different definition provided under the *Categories of Conduct Determination* for what constitutes “serious misconduct”.

COMMITMENTS

- 1 The introduction of a Commonwealth Integrity/Anti-Corruption Commission which provides the same level of oversight and standard of conduct between parliamentarians, senior public servants, and AFP employees.
- 2 Ensure any Commonwealth Integrity/Anti-Corruption Commission is appropriately funded, resourced and staffed to ensure fair, just and quick investigations.
- 3 A review conducted by Senate Legal and Constitutional Legislation Committee into Part V of the *Australian Federal Police Act 1979* and the Professional Standards unit.
- 4 Amending the *Australian Federal Police Act 1979* to clarify the definition of “serious misconduct”.





AFPA
Australian Federal
Police Association