REPORT ON INQUIRY INTO THE FORM OF AN EVALUATION OF CURRENT ACT POLICING ARRANGEMENTS

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

SEPTEMBER 2020

REPORT 9

THE COMMITTEE

COMMITTEE MEMBERSHIP

Mrs Giulia Jones MLA	Chair from 14 December 2016 to 22 March 2018 and from 2 November 2018
	Member from 13 December 2016 to 22 March 2018
	Re-appointed as member, 1 November 2018
	[On 21 March 2018 the Assembly discharged Mrs Giulia Jones MLA from the Committee and appointed Ms Nicole Lawder MLA in her place (for the period 22 March 2018 to 17 September 2018)][1]
Ms Elizabeth Lee MLA	Chair from 22 March 2018 to 1 November 2018
	Member from 13 December 2016 to 1 November 2018
Ms Bec Cody MLA	Deputy Chair from 14 December 2016
	Member from 13 December 2016
Ms Nicole Lawder MLA	Member from 22 March 2018 (for the period 22 March 2018 to 17 September 2018)
Mr Chris Steel MLA	Member from 13 December 2016 to 23 August 2018
Mr Michael Pettersson MLA	Member from 23 August 2018 to 23 August 2019
Mr Deepak-Raj Gupta MLA	Member from 23 August 2019

SECRETARIAT

Mr Andrew Snedden	Secretary
Dr Frieda Scott	Senior Research Officer
Mrs Michelle Atkins	Administrative Assistance
Ms Lydia Chung	Administrative Assistance

[1] ACT Legislative Assembly, *Minutes of Proceedings*, No. 51, 21 March 2018, pp. 738; *Hansard*, 21 March 2018, p. 839.

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RESOLUTION OF COMMITTEE APPOINTMENT

The Legislative Assembly for the ACT appointed the Standing Committee on Justice and Community Safety on 13 December 2016.

Specifically, the resolution of 13 December 2016 establishing the Standing Committees of the 9th Asembly, as it relates to the Justice and Community Safety Committee states:

That:

> (1) The following general-purpose standing committees be established, and each committee inquire into and report on matters referred to it by the Assembly or matters that are considered by the committee to be of concern to the community:
>
> ... (d) a Standing Committee on Justice and Community Safety to perform a legislative scrutiny role and examine matters related to community and individual rights, consumer rights, courts, police and emergency services, corrections including a prison, administrative law, civil liberties and human rights, censorship, company law, law and order, criminal law, consumer affairs and regulatory services;

(4) Each general-purpose committee shall consist of the following number of members, composed as follows:

> ... (d) the Standing Committee on Justice and Community Safety:
>
> (i) two members to be nominated by the Opposition;
>
> (ii) two members to be nominated by the Government; and
>
> (iii) the Chair shall be an Opposition member;

(5) Each committee shall have power to consider and make use of the evidence and records of the relevant standing committee during the previous Assembly.

(6) Each committee be provided with necessary staff, facilities and resources.

(7) The foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.[2]

[2] ACT Legislative Assembly, *Minutes of Proceedings*, No. 2, 13 December 2016, pp. 13–16.

On 20 September 2018, paragraph (4) of this resolution was omitted and the following paragraph substituted:

(4) Each general-purpose committee shall consist of the following number of members, composed as follows:

...(d) the Standing Committee on Justice and Community Safety:

(i) one member to be nominated by the Opposition;

(ii) two members to be nominated by the Government; and

(iii) the Chair shall be the Opposition member.[3]

[3] ACT Legislative Assembly, *Minutes of Proceedings*, No. 73, 20 September 2018, p.1028.

TERMS OF REFERENCE

EVALUATION OF CURRENT ACT POLICING ARRANGEMENTS

Having regard to the unique collaborative arrangement for policing in the ACT that currently operates in the ACT, and the importance of strong and recognised relations between ACT Policing and the Canberra community, the Committee resolves to conduct an inquiry and review of all current arrangements and practices, including the following:

The terms and history of the current arrangements dated June 2017 (the 2017 policing arrangement) between the Minister of Justice (Commonwealth) and the ACT Minister for Police and Emergency Services.

1. The reasons and rationale for the current model and operational business plans for ACT Policing.
2. The adequacy and reliability of the Purchase Agreement between ACT Government and the Commonwealth Government.
3. The scope and detail of current and future proposed services, obligations and support, from both the Commonwealth and the ACT which provide for the implementation and operations of ACT Policing.
4. The opportunities provided for the provision of policing services to the ACT under the benefits for both jurisdictions—including:
    a) The opportunities provided under the 2017 policing arrangement for the AFP workforce to access community policing training and experience;
    b) The access to current policing services provided under the 2017 policing arrangement, including the degree of independence in provision and implementation of police services in the ACT.
    c) The resources and infrastructure, including training, selection, organisation, community involvement and factors relevant to provision and growth of policing services which are governed by the 2017 policing arrangement available to an independent ACT police service; and
    d) The current accountability mechanisms established and utilised under the 2017 policing arrangement, including:
        i. applicable current reporting requirements on exercise of ministerial control and direction;
        ii. the Australian Government's current governance arrangements for the AFP;
        iii. scrutiny and report of ACT Policing by the ACT Ombudsman;
        iv. audit of ACT Policing by the ACT and Australian Auditors-General; and
        v. oversight of ACT Policing and AFP by the Australian Commission for Law Enforcement Integrity.
5. Any specific matters which may require extension of the terms of the 2017 policing agreement or other Commonwealth Legislative Instruments. and, potentially, effect better policing outcomes by a greater focus on service delivery.
6. Other matters which are relevant to this inquiry.

The Committee is to report on the reference by the last sitting day in August 2020.

ACRONYMS AND ABBREVIATIONS

AFP	Australian Federal Police
2016 Policing Audit	ACT Auditor-General's Report – Report No 3 of 2016 – ACT Policing Arrangement https://www.audit.act.gov.au/__data/assets/pdf_file/0006/1179942/Report-No.-3-of-2016-ACT-Policing-Arrangement.pdf
ACAT	ACT Civil and Administrative Tribunal
ACC/ACIC	Australian Crime Commission/Australian Criminal Intelligence Commission
ACLEI	Australian Commission for Law Enforcement Integrity
ACT Policing Annual Report	ACT Policing - Annual Report - 2018 19 https://police.act.gov.au/sites/default/files/Publications/ACTPAnnualReport2018-19.pdf
ACTCOSS	ACT Council of Social Services
ACTHRC	ACT Human Rights Commission
AFPA	Australian Federal Police Association
ASD	Autism Spectrum Disorder
Business Plan	Annually produced business plan issued by ACT Policing with a breakdown of the focus of policing activities and performance measures for those goals. https://police.act.gov.au/sites/default/files/PDF/ACT%20Policing%20Business%20Plan%202018-19-%2028%20Nov%202019.pdf
CALD	Culturally and Linguistically Diverse
CPO	Chief Police Officer for the ACT.
Integrity Commission	The ACT Integrity Commission established pursuant to the *Integrity Commission Act 2018*
JACS Annual Report	Justice and Community Safety Annual Report 2018-19 https://justice.act.gov.au/resources/uploads/JACS/annual-report-2018-2019/index.html

AFP	Australian Federal Police
Ministerial Direction	Current (2019) Ministerial Direction issued by the ACT Minister for Police and Emergency Services pursuant to Section 7 of the Policing Arrangement outlining the Government's priorities and expectations for the AFP and the Chief Police Officer for eh ACT. http://cdn.justice.act.gov.au/resources/uploads/JACS/Ministerial_Direction_2019-ACT_Policing.PDF
Ombudsman	ACT Ombudsman – pursuant to the Ombudsman ACT and
Policing Arrangement	An ongoing arrangement between the Minister for Justice of the Commonwealth and the ACT Minister for Police and emergency Services for the provision of policing services to the ACT – Commencing June 2017. https://www.police.act.gov.au/sites/default/files/Publications/Arrangement_Final_PDF_Web_Version.pdf
PTSD	Post-Traumatic Stress Disorder
Purchase Agreement	Agreement Between the ACT Minister for Police and Emergency Services, Australian Federal Police Commissioner, and the Chief Police Officer for the ACT for the provision of policing services to the Australian Capital Territory – 2017-2021 https://www.police.act.gov.au/sites/default/files/Publications/2016-17%20Purchase%20Agreement.pdf

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RECOMMENDATIONS

RECOMMENDATION 1

5.12 That prior to the next AFP Agreement being signed the government must urgently address the state of the buildings which house the AFP ACT Policing and set out a clear and considered plan of action for the rectification of the unworthy nature of the accommodation for the work which these personnel undertake.

RECOMMENDATION 2

5.13 That the Gungahlin Police Station should immediately be altered in order that improved and/or expanded space and facilities be provided to include appropriate facilities for 'soft' interviews, additional 'on duty 'cars, and a separate lunch and breakout area.

RECOMMENDATION 3

5.14 The negotiation process with the AFP must be proceeded by considered conversation with the ACT community asking for feedback and suggestions for what changes or improvements could be included in the next agreement.

RECOMMENDATION 4

5.15 That the Government prior to the next policing agreement release a plan for regions of the city currently a significant distance from current operational stations. These plans should include plans for Kippax and west Belconnen, Weston Creek and the Molonglo Valley which includes a future clear police presence and that the different regions addressed be engaged for more information about the crime they are experiencing.

RECOMMENDATION 5

5.16 That ACT Policing get to know local community leaders in the faith and cultural communities. Not just via attendance at the multicultural festival to host a display, but via deeper and more meaningful relationship building.

RECOMMENDATION 6

5.17 That these better and deeper relationships be developed in order to break down cultural barriers to engagement with and reporting to police which some CALD and Aboriginal community members experience.

RECOMMENDATION 7

6.34 That ACT Policing include and demonstrate improvement in cultural diversity in recruitment for ACT police, and that this aim should include both the ATSI and multicultural sections of our community.

RECOMMENDATION 8

6.35 That the HRC be able to give an option for the confidential resolution of HRC complaints against police, enhancing the current conciliation process.

RECOMMENDATION 9

6.36 That that the Minister take carriage and provide to the assembly improved data collection on contact information with cultural and disability groups and their interaction with the police. This should include the types of people police are dealing with to enhance Human Rights protection.

RECOMMENDATION 10

6.37 That the Minister for Police take carriage of and provide to the Assembly the number and frequency of requests for and the provision of interpreters and translators.

RECOMMENDATION 11

6.38 That the next AFP agreement includes a report to the ACT Assembly each year of what ACT policing has done to improve trust with culturally, faith and linguistically diverse groups including demonstration of how trust has been enhanced.

RECOMMENDATION 12

6.39 That the Minister for Policing report to the assembly annually the changes and adjustments to policing interaction with those living with a disability or who are neurologically a-typical and demonstrate how this has improved trust of police from these people in our community.

RECOMMENDATION 13

6.40 That the minister for police report to the Assembly annually on improvements that have been made to ACT policing and in their work with children and young people which addresses challenges they face participating in the criminal justice system.

RECOMMENDATION 14

6.41 That the Minister for policing report to the Assembly annually on measurable improvements to the lack of awareness of the justice system, including laws and legal procedure achieved via ACT Policing outreach.

RECOMMENDATION 15

6.42 That an audit be done to achieve recommendations in the streamlining of data and information to limit 'churn' and duplication between ACT and Federal AFP elements.

RECOMMENDATION 16

6.43 That the Minister for Police in the next agreement with the AFP include such changes to the information systems used by police so that data from police activities is in a searchable format in all cases, including sexual assault.

RECOMMENDATION 17

6.44 That ACLEI reports regularly to the ACT Minister for Police and that that report be tabled in the ACT Legislative Assembly.

RECOMMENDATION 18

6.45 That referrals made internally regarding police matters to the ACLEI and/or to the ACT Integrity Commission be subject of advice by each body to the other, to the extent permitted by statute.

RECOMMENDATION 19

6.46 That detailed data in relation to cultural and/or language barriers arising as part of ACLEI investigations of police should be particularly highlighted in such a report and that the Minister for police report annually to the Assembly about how these barriers have been addressed in the systems and culture of ACT Policing.

RECOMMENDATION 20

6.47 That the ACT government continue to work with the Federal Government to include ACT Police in the scope of the ACT Integrity Commission.

RECOMMENDATION 21

7.23 The Committee recommends all active police receive training which addresses comprehensively all elements of cultural and ethnic awareness training and disability inclusion.

RECOMMENDATION 22

7.24 That the government develop a wallet card allowing individuals to self-identify as a person with a disability should they wish to carry one.

RECOMMENDATION 23

7.25 That police cadet training includes all elements of cultural and ethnic awareness training and disability inclusion.

RECOMMENDATION 24

7.26 That police liaison officers and ACT policing should ensure a regular and routine consultation with the ASD and neuro atypical representative groups so that strong engagement is established as permanent means of policy as well as community engagement and learning.

RECOMMENDATION 25

7.27 That the current training regarding interactions with the ASD and neuro atypical members of the community be reviewed by the organisations representing them in our community to ensure it is contemporary and workable in the ACT context.

RECOMMENDATION 26

8.26 That PTSI arrangements in ACT Policing include presumptive legislation for traumatic Psychological Injury.

RECOMMENDATION 27

8.27 That in tandem with such legislative change, cultural change be undertaken to change any workplace cultural practices which treat a police member as being unreliable or a risk while they are engaged in proactive mental health management so that affected officers will be prepared to

notify injuries or mental health effects at the time of their initial injuries and before they become critical.

RECOMMENDATION 28

8.28 That a peer support employment assistance program available 24 hours a day, be fully culturally aware, clinically supervised, and within that supervision be confidential.

RECOMMENDATION 29

8.29 That mental health services and support put a greater focus on building trust between with the frontline personnel client through complete cultural awareness and confidentiality.

RECOMMENDATION 30

8.30 That those with lived experience have a pathway to be trained in providing peer-to-peer and mental health support either while still serving or as a second career to provide a stream of culturally aware professionals available to the first responders.

RECOMMENDATION 31

8.31 Engage with mental health professionals (such as Ester McKay and Carmel O'Sullivan) in the development, implementation and review of mental health and peer-to-peer support services.

RECOMMENDATION 32

8.32 That 24-hour support services be geared to deal with peak demand after work hours (i.e. 6-9pm) and on weekends.

RECOMMENDATION 33

8.33 That trained clinicians be used for these services who are culturally aware or former personnel are trained and supervised by clinicians rather than volunteer-based services without such training and support.

RECOMMENDATION 34

8.34 Recognised that those who have PTSI have lived experience and are often highly capable and valuable in crisis and traumatic situations and that when recovering from such events may require further support and time for processing their experiences after the event.

RECOMMENDATION 35

8.35 Recognise that those with PTSI often have wealth of experience, and efforts should be made to keep them employed wherever possible to maintain corporate knowledge and experience.

RECOMMENDATION 36

8.36 That pathways for post-service personnel who are post-trauma be established to contributing to the frontline through organisations which support current and former members in various capacities.

RECOMMENDATION 37

8.37 That staff be provided with the training and understanding to best manage their mental health while in a state of need or crisis – if and when culturally aware, trusted and clinically supervised services are not available.

RECOMMENDATION 38

8.38 That EBA negotiations include the option of part time work options be included as a standard response for those managing traumatic psychological injury.

1 INTRODUCTION AND BACKGROUND

INTRODUCTION

1.1 The Assembly committees have held various inquiries this term which have involved questioning of ACT police and the AFP about their structures and their general view of the ACT and the policing role which they are essentially contracted to undertake, not the least of which was the committee inquiry which lead to the establishment of the Integrity Commission for the ACT.

1.2 Throughout this process over the term it has become abundantly clear that there is a degree of different objectives between the ACT Assembly and the Government versus the Federal AFP and the Federal Government who have a contract for service delivery for the people of the ACT.

1.3 The JACS Committee as part of its foundation has a responsibility to the people of the ACT to undertake inquiries and investigations that will see improvements to the experience of living and working in the ACT in the area of Justice and Community Safety, and as such, this inquiry was born out of a desire to see an improvement to the experience of both the ACT residents who can, do or could call on ACT policing to assist them, as well as on those ACT residents who work for the AFP and who serve our community as part of ACT policing.

1.4 In order to properly address this area the committee agreed to undertake this enquiry which not only looks forward to the future of policing in the ACT, but which looks back at how the rather unusual arrangements for police services came to be and whether they are the optimal option for the current needs of the Territory.

1.5 This is why the terms of reference go to:

- The reasons and rationale for the current model,
- The adequacy and reliability of the current model via the purchase agreement between the ACT and commonwealth governments,
- The benefit of a model which gives the Commonwealth officers who have had local policing experience,
- The degree of independence that ACT policing has from the Federal AFP,
- The state of resources and infrastructure and training,
- Accountability mechanisms in the system,
- Governance arrangements for the AFP,

- The role of the ACT Ombudsman
- Previous audits of ACT policing by the ACT and Australian Auditors-General
- The oversight provided by ACLEI and in conclusion matters and concepts which might improve the policing arrangements for the ACT.

1.6 Having called for submissions a number of associated issues came to light and were canvassed both by community organisations representing either the broader community or particular groups within it, committee members and their known experiences of local community members of policing or their lack of interaction with the police owing to their cultural heritage, as well as representations from the Association which represents the police officers, which is the Australian Federal Police Association, in regard to the situation which is the experience and daily reality for the workers in this system. The government also submitted.

1.7 The issues which came to light can be categorised under the following headings:

1. The community's requests
2. Data collection and reporting
3. Interacting with those with a disability or who are neurologically a-typical
4. Interacting with and engaging the multicultural and multifaith aspects of the ACT community
5. The handling of complaints against police personnel.
6. Training and recruitment - perceived deficiencies
7. The built infrastructure and other employment conditions of ACT policing personnel
8. Managing the significant load of Mental health injury experienced by our police and modernising our approach

1.8 Each of these areas is described in the following pages. However, including the individual suggestions and issues raised by all representative parties to the committee but not being limited by them the committee makes the following observations:

1.9 The ACT has a contracted police force made up of members of our community, but the ACT Assembly is somewhat powerless to improve their conditions of employment while they are employed by a federal body and there is little or no separation of the work and conditions of these members from the Federal Force and their work conditions.

1.10 The ACT Community also has little recourse for change in the details of how the ACT police operate and how they are governed given the current federal laws and the current normalised method of an agreement for service and a purchase agreement for the cost of units of work agreed to.

1.11 The minister for policing has little day to day sight of the operations of ACT policing and this makes ministerial responsibility in this context complex, possibly near impossible to discharge fully.

1.12 Therefore the key recommendation of this inquiry is **that there be a degree of separation built into the system** and that **such a purposeful separation be trialled for a full purchase cycle** before any consideration is given to any future discussion of the need that there may be for an independent ACT police force at some stage in the future.

1.13 Given that the NT and Tasmania, both comparative jurisdictions for size or structure, have their own independent police forces, the argument that the ACT is too small or too immature a jurisdiction no longer hold weight, however the current system is not to be dismissed without further effort into making it even more beneficial for the people of the ACT.

1.14 Predominantly the recommended separation would need to achieve the following various outcomes.

1. Considerably more differentiation of the workplace terms and conditions of service for the personnel of ACT policing, this may be achievable via a separate Enterprise Bargaining Agreement. The process for the negotiation of the EBA could them be submitted to by the ACT government and the terms of employment could be formed within the ACT Government's bargaining terms not the Commonwealth's.

2.This could see improvements to rostering, police numbers being better reflective of a growing ACT population, the state of ACT buildings and accommodation could be more easily highlighted and dealt with and quite importantly the ACT government could have more say in the mental health care of police members, who our hearings clearly demonstrated do not have the best mental health care of all agencies which appear before The Administrative Appeals Tribunal.

3. The committee's recommendations reflect both the need for this separation to be achieved, as well as the many and varied requests put to the committee via the community submissions and presentations, as well as by the AFPA, the body representing the police personnel themselves.

4. Such a separation could consider, the choice of Chief Police Officer, which is currently an appointment over which the ACT has very little if any control, and the input which the ACTs Minister for Policing has in the choice or longevity of the person in this role.

5. The separation could also achieve a greater say of the flow of ACT policing personnel into the Federal part of the AFP, making sure that the ACTs minister for policing knows of and has a say in the movement of personnel to the federal body from ACT Policing. Currently there is no mechanism for the minister to have a say as members move towards the federal force, at times stripping numbers of members from the ACTs force at a time.

6. This degree of separation could also give the ACT government the capacity to significantly modernise and improve the mental health care of our police by allowing a far more modern and workplace effective response to workplace traumatic mental injury which increasingly is expected in the care of first responders by the ACT community.

EVALUATION OF ACT POLICING

1.15 As a fundamental issue, the Committee did seek views and submissions on the unique policing arrangement in the ACT, and whether there were substantial view or analysis which examined whether this arrangement should change.

1.16 In a formal evaluation the current arrangements for ACT Policing, the Committee looked at the performance of the role, functions and responsibility of ACT Policing, as a disciplined law enforcement agency and its stated aims and understanding of its role, its structures, and the implementation of its statutory and other agreed functions and powers set out in the agreements governing its aims and activities.

1.17 In addition, and as a result of the evaluation of matters in the preceding paragraph, The Committee moved beyond formal performance and effectiveness to governance, transparency and accountability including responsiveness to the needs, requirements and demands of a modern Canberra.

1.18 The Committee notes the historical evaluations of ACT Policing and aspects of its performance have been undertaken. Those include:

ACT AUDIT OFFICE – 2004

1.19 The ACT Audit Office tabled a performance audit report Administration of Policing Services in May 2004 which provided audit opinion and recommendations on improvements to the effectiveness of the policing Agreement, the Policing Purchase Agreement and other accountability issues.[4]

JOINT STUDY INTO ACT POLICING – 2005

1.20 In 2005, ACT Policing and the Justice and Community Safety Directorate jointly commissioned a review by KPMG and John Valentin and Associates of the (then) Policing Arrangement and Purchase Agreement. The June 2005 Joint Study into ACT Policing report of this review made recommendations covering governance arrangements; adequacy of resources; resources reporting and financial control; infrastructure and facilities management; Commonwealth work; ACT Policing organisational structure; enabling services; and data systems.[5]

[4] ACT Audit Office, *Administration of ACT Policing Services*, May 2004., Report 1/2004 https://www.audit.act.gov.au/__data/assets/pdf_file/0019/1205632/Report-No-1-2004-Administration-of-Policing-Services.pdf

[5] ACT Government and Australian Federal Police. Joint Study into ACT Policing. *Policing for the Future.* June 2005. https://www.justice.act.gov.au/sites/default/files/2019-08/ACT_Policing_study_2005.pdf

AUSTRALIAN NATIONAL AUDIT OFFICE – 2012

1.21 The Australian National Audit Office conducted a performance audit 'to assess the effectiveness of the AFP's management of the delivery of policing services to the ACT' in 2012. The Provision of Policing Services to the Australian Capital Territory audit report concluded that the AFP was 'effectively managing the delivery of policing services to the ACT, delivering the level and type of community policing services agreed with the ACT Government' and consistently meeting the majority of its performance targets'.[6]

ACT AUDIT – 2016

1.22 This is the latest comprehensive external audit and assessment of the effectiveness of ACT Policing Services and ACT Policing Arrangements.[7] The report (referred to as '2016 Audit' in this report) dealt with the audit as follows:

1.23 The objective of this audit is to provide an independent opinion to the Legislative Assembly on the effectiveness of the Justice and Community Safety Directorate's management of the Policing Arrangement and associated annual Purchase Agreements, for the provision of community police services to the ACT by the AFP.

1.24 The audit was focused on the Justice and Community Safety Directorate's responsibilities with respect to the ACT Policing Arrangement and Purchase Agreements including governance, roles and responsibilities, and oversight including monitoring, reporting and assurance.

JACS COMMITTEE APPROACH

1.25 The Committee's approach to this evaluation was to invite and conduct discussions with the major stakeholders in the ACT Policing structure – government, policing and representatives of police personnel to allow for analysis and discussion of contemporary issues affecting the ACT policing arrangements in 2019-20 and to matters put to the Committee in submissions as well as via the committee members experiences in and in listening to members of the ACT community as they undertake their functions as members of the Assembly and representatives of the community. This has allowed the Committee to consider if ACT Policing is currently meeting its statutory and formal obligations, and if it is meeting the community's expectations and needs .

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[6] Australian National Audit Office, Report No, 13 2012-13, *The Provisions of Policing Services to the Australian Capital Territory*, December 2012. https://www.anao.gov.au/work/performance-audit/provision-policing-services-australian-capital-territory

[7] ACT Audit Office, *ACT Policing Arrangement*, May 2016, Report 3/2016. https://www.audit.act.gov.au/__data/assets/pdf_file/0006/1179942/Report-No.-3-of-2016-ACT-Policing-Arrangement.pdf

1.26 The Committee also employed this evaluation to highlight several matters not currently detailed in the formal arrangements for policing, but which were drawn to the Committee's attention during the evaluation process and through members own experiences as they perform their work as local representatives out and about in the community. These particularly focussed on many areas including community policing practice and outcomes as experienced by police and community members who have ASD or are neuro atypical. The second area looks at is how ACT Policing is dealing with the effect on ACT police as first responders in managing, assisting and supporting personnel with Post Traumatic Stress injuries.

1.27 The Committee deals with these issues in detail in its report.

2 CONDUCT OF THE INQUIRY

TERMS OF THE COMMITTEE EVALUATION

2.1 The Committee resolved to undertake a self-referred inquiry in the form of an evaluation of current ACT policing arrangements on 28 November 2019. The terms of the evaluation are at the beginning of this report and were drafted to allow the Committee to evaluate ACT Policing as a police agency and all aspects of police responsibility in a contemporary community.

INVITATION FOR SUBMISSIONS

2.2 The Committee invited submissions by way of placement of an invitation on the Committee's website on 28 November 2019. This invitation was placed on social media pages and other means used by the Assembly to publicise and provide public detail of matters currently under inquiry by Assembly Committees.

2.3 In addition, the committee directly invited several organisations, individuals and other stakeholders whose views were considered of importance to this inquiry.

SUBMISSIONS RECEIVED AND SUMMARY OF SUBMISSIONS

2.4 The Committee received 12 submissions which are published on the inquiry website at: https://www.parliament.act.gov.au/parliamentary-business/in-committees/committees/standing-committees-current-assembly/standing-committee-on-justice-and-community-safety/Inquiry-in-the-form-of-an-evaluation-of-current-ACT-Policing-arrangements#tab1452597-2id

2.5 Principal submissions were made by ACT Government, Australian Federal police (AFP), Australian Federal Police Association (AFPA), ACT Human Rights Commission (ACT HRC), ACT Ombudsman and the Australian ACLEI These submissions provided the committee with analysis and summaries of the functions, role and the performance of ACT Policing, together with analysis of the accountability and other requirements of a disciplined law enforcement agency.

2.6 Other submissions were received from individuals and community organisations whose submissions took a different approach: they addressed issues of community engagement, the many ways in which police interact with the community who are vulnerable and whose needs for clear and empathetic understanding by authority are often bypassed or not necessarily

given optimum expected attention. These submissions provided the Committee with an important perspective on how ACT Policing is perceived and understood in the community and provided the committee with an opportunity to explore and test such issues with ACT Policing.

2.7 The Committee invited all former members of the Legislative Assembly who had served as minister responsible for policing, and police services. The Committee invited the former ministers to provide a contribution to the inquiry based on their experience.

2.8 The Committee received a submission from former Police Minister and former Chief Minister for the ACT, Gary Humphries AO, who also gave evidence to the Committee.

COMMITTEE HEARINGS

2.9 The Committee held 4 hearings which were all public, streamed virtual hearings on WebEx and which allowed members and witnesses to participate in discussions and questions and answers on matters raised by the inquiry and by submissions and other materials.

2.10 Hearings were held as follows[8] –

- Tuesday, 16 June 2020
- Tuesday, 23 June 2020
- Tuesday, 30 June 2020
- Tuesday, 4 August 2020

2.11 Hearing transcripts and video links are at:
http://www.hansard.act.gov.au/hansard/2017/comms/default.htm

COMMITTEE REPORT

2.12 The Committee completed its hearings on 4 August 2020 and prepared its report for presentation to the Assembly pursuant to the procedure available pursuant to Standing Order 254C.

2.13 The Committee considered its report and presented the report to the Speaker on 22 September 2020.

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3 CURRENT ORGANISATIONAL AND STRUCTURAL ARRANGEMENTS OF ACT POLICING

INTRODUCTION

3.1 The Current arrangements underpinning policing in the ACT have a structure of legislation, and associated agreements between the ACT and the Commonwealth governments and the AFP.

3.2 The principal elements in the arrangement, which are published[9], are:

3.3 Relevant legislation governing the ACT and its policing from self-government in 1989

3.4 **Policing Arrangement** document which establishes the obligations, commitment, governance and funding of ACT Policing

3.5 **Purchase agreement** setting out the agreed funding and description of services provided by the AFP.

3.6 An annual **Ministerial Direction** from the ACT Minister for PES which sets the ACT Government's expectation parameters, operational priorities for ACT Policing.

3.7 The Policing Agreement, Purchase Agreement, current Ministerial Direction and Business Plan are in **Appendix D** to this report.

LEGISLATION

3.8 The bases for legislative authority and governance, and related issues of ACT Policing are contained in several provisions.

3.9 Section 22(1) of the Australian Capital Territory (Self Government) Act 1988 (Cth) (Self-Government Act) provides that the ACT Legislative Assembly has a plenary power to make laws for the peace, order and good government of the Territory. Section 23(1)(c) excludes from that the ability to grant a power to make laws, with respect to the provision by the AFP of police services in relation to the Territory. Accordingly, unlike other jurisdictions, there is no Police Act or similar legislation in the ACT.

[9] See, ACT Government, JACS Directorate, Policing, https://justice.act.gov.au/safer-communities/crime-prevention/act-policing

3.10 Subject to the terms of the Policing Arrangement, the responsibility of operational matters rests with the Commissioner of the AFP, which is then delegated to the Chief Police Officer for the ACT.

3.11 Despite the ACT Government determining the resources afforded to ACT Policing in the Purchase Agreement, the Chief Police Officer has independent oversight of the allocation and deployment of resources in addition to operational decisions.

3.12 The *Australian Federal Police Act 1979* provides that, in addition to any other powers and duties, a member of the AFP has when performing functions in the ACT, has the powers and duties conferred or imposed on a constable or an officer of police or under any law (including common law) of the ACT.[10]

POLICING ARRANGEMENT

3.13 The full title of the Policing Arrangement is *An Ongoing Arrangement between the Minister for Justice for the Commonwealth and the ACT Minister for Police and Emergency Services for the Provision, of Policing Services to the ACT.* The current Policing Arrangement covers the period June 2017 to July 2021.

3.14 The Policing Arrangement is the detailed basis and working document established and used to provide a strategic framework for the provision of police services by the Commonwealth in the ACT by the AFP.

3.15 The Arrangement is negotiated and agreed on between the Commonwealth and ACT ministers responsible for policing, The Arrangement specifies that responsibility for operational matters will rest with the AFP Commissioner and that responsibility for policy will rest with the Minister supported by the Directorate.

3.16 The requirements identified through the Policing Arrangement (and the Purchase Agreement) cover quality and level of policing, appointment of the Chief Police Officer, the Directions of the Minister for Police, reports to be provided, involvement in policy development and implementation and performance measures. Annual reporting and Ministerial Directions are also covered in both documents. The Policing Arrangement and Purchase Agreement together provide the necessary framework for the delivery of, and payment for, police services by ACT Policing to the ACT Government.

[10] See *Submission 2,* AFP submission, paras 43-46, p. 9-10.

3.17 The 2017-21 Arrangement recognises major resource responsibilities to clarify AFP responsibilities to both ACT and the wider national level of responsibility. – These are [11]–

- The AFP is required, within the ACT, to provide policing services to the Commonwealth which are not subject to this Arrangement and for which the ACT Government is not required to pay
- The allocation of resources for policing services provided to the Commonwealth within the ACT will not be altered in any way which might materially affect the policing services purchased by the ACT Government, without prior consultation and agreement with the Minister for Police.
- Except in the case of an emergency, the Commonwealth Minister must not issue to the Commissioner a direction under the AFP Act which affects the provision of policing services to the ACT by the AFP, unless the Commonwealth Minister has first consulted the Police Minister about the nature and purpose of that direction and received agreement for that direction to be given
- If a direction by the Commonwealth Minister to the Commissioner has the effect of increasing the cost of policing services provided to the ACT, then the costs attributable to the direction will be borne by the Commonwealth by adjusting the price paid by the ACT Government.
- The Commonwealth is responsible for determining the terms and conditions of employment of AFP employees involved in the provision of policing services to the ACT under this Arrangement.[12]

3.18 The Arrangement also provides that there is to be a detailed financial arrangement (Purchase Agreement) which provides for the basis and specified description of how ACT Government will purchase policing services from the AFP in accordance with written agreements between the Police Minister, AFP Commissioner and the Chief Police Officer The Committee notes the details of these provisions below. .

3.19 In its submission the ACT Government noted the Arrangement and how it is prepared was subject to the 2016 audit comments and recommendations noted earlier. Specifically, audit recommendations regarding the shape and the future provisions of the Arrangement and how the Arrangement would benefit from some changes were described as:

- *The Justice and Community Safety Directorate should initiate action to develop, with ACT Policing, a system that provides the Justice and Community Safety Directorate*

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with an increased awareness of all Memorandums of Understanding that ACT Policing has entered with other organisations.

- *The Justice and Community Safety Directorate should, with ACT Policing, define the directorate's role and responsibilities, including in relation to strategic police policy development, in future Policing Arrangements and Purchase Agreements.*
- *The Justice and Community Safety Directorate should develop a risk management plan for its management of the Policing Arrangement and associated Policing Agreement.*
- *The Justice and Community Safety Directorate should undertake a formal evaluation of the Policing Arrangement and the Purchase Agreement, against their objectives, when negotiating new Arrangements and Agreements.*
- *The Justice and Community Safety Directorate should, in consultation with ACT Policing, assess the merits of increasing the length of the Policing Arrangement and the Purchase Agreements.*[13]

3.20 The Committee notes that it is surprising that these matters were not already undertaken in the purchase agreement process, prior to the audit, however that they were implemented and have shaped the Policing Arrangement and Purchase Agreement currently in place.

3.21 The AFP submission noted the arrangement and highlighted these matters which impact on the AFP:

3.22 Subject to the terms of the Policing Arrangement, the responsibility of operational matters rests with the Commissioner of the AFP, which is then delegated to the Chief Police Officer for the ACT.

3.23 Despite the ACT Government determining the resources afforded to ACT Policing in the Purchase Agreement, the Chief Police Officer has independent oversight of the allocation and deployment of resources in addition to operational decisions. [14]

ADMINISTRATIVE STRUCTURE AND BUDGET

PURCHASE AGREEMENT

3.24 As noted, the Purchase Agreement is one of the three Governing Documents attached to the Report as Appendix D.

[13] *Submission 1*, ACT Government, pp. 7-8.
[14] Submission 2, Australian Federal Police, p. 10.

3.25 The Purchase Agreement is entitled Agreement between the ACT Minister for Police and Emergency Services, Australian Federal Police Commissioner and the Chief Police Officer for the ACT for the provision of policing services to the Australian Capital Territory.

3.26 The current Agreement is for the period 2017-2021.

3.27 The overall aim of the Purchase Agreement is to provide mechanisms for AFP to provide:

- indirect or 'enabling' services integral to the delivery of policing services to the ACT, including, but not limited to, specialist operations, technology and innovation, workforce development, people, safety and security, Chief Financial Officer and Chief Counsel.
- The cost of enabling services will be determined through an enabling cost model agreement between the AFP and the ACT Government and reviewed every four years.
- The ACT Government will provide appropriate facilities and associated infrastructure for the AFP to deliver policing services under this Arrangement.
- Funding for the AFP to provide policing services to the ACT will be included in the payments on behalf of the Territory for the Directorate to oversee on behalf of the ACT Government, as part of the ACT Government budget processes.
- Requests for funding in addition to the appropriation in clause 2.5 for ACT Policing will be considered in accordance with the ACT Government budget processes.

3.28 The detail the purpose and objectives of the Purchase Agreement are

- In accordance with clause 2.1 of the Arrangement, the Agreement details the policing services to be purchased by the ACT Government from the AFP, including ACT Government Ministerial support, reporting, performance expectations and financial arrangements.
- The Agreement is read in conjunction with the Arrangement and Ministerial Directions issued under the Arrangement.
- The Act Government and AFP seek from the Agreement;
    - Appropriate policing levels and services for the ACT community
    - Sustained high quality service provisions
    - Provision of stable and effective policing services for the ACT community as well as the building and retention of corporate knowledge within ACT Policing

3.29 Major areas dealt with under the agreement include all aspects of

- Governance and principles
- ACT Policing Operating Environment
- Responsibilities to the Police minister and other ACT Ministers
- Supporting ACT Government Strategies
- Supporting events in the ACT
- Supporting the ACT Government in National Forums

- Agreement making
- Financial Arrangements
- Facilities and Structures
- Terms and conditions of employment
- Performance measures
- Reporting
- Annual Report provisions
- Dispute resolution
- Duration and development of Agreements

3.30 The ACT Government also sees an overarching role for the Purchase Agreement, which is to provide for policing performance measures which defines the three main focussed outcomes against which ACT Policing's performance is currently measured, namely:

3.31 Reduce Crime – prevent and reduce crime and violence; enhance response to, and investigate offences; and provide effective and efficient support to the judicial process

3.32 Public Safety – respond to calls for assistance; plan and manage major community events and public demonstrations; respond to emergencies and disasters; and improve and promote road safety through education, innovation and targeted enforcement

3.33 **Community and Partner Engagement** – increase community confidence in police; support early intervention and diversion; and enhance and strengthen resilience of communities. [15]

ACT POLICING FUNDING - CURRENT FINANCIAL YEAR UNDER THE PURCHASE AGREEMENT

3.34 Schedule 1 of the Purchase Agreement provides a global $164, 931 million for ACT policing for 2019-20.

BUSINESS PLAN

3.35 In addition to the Arrangement and the Purchase Agreement, ACT Policing issue an annual Business Plan. The Business Plan for 2019-20 is an important document as it sets out detailed descriptions of current year goals (e.g., Community and Partner Engagement) and a set of outcomes, outputs, strategies, performance measures and targets, for each strategic goal.[16]

[15] *Submission 1*, ACT Government, pp. 3-4

[16] ACT Policing, *ACT Policing Business Plan 2019-20*, https://police.act.gov.au/sites/default/files/PDF/ACT%20Policing%20Business%20Plan%202018-19-%2028%20Nov%202019.pdf

3.36 The Business Plan is in **Appendix D.**

3.37 The ACT Policing annual report contends a section dealing in detail with the performance measures set out in the Business Plan.[17]

MINISTERIAL DIRECTION

3.38 Ministerial Directions issues by the Minister for Police and emergency services are issued as follows:

> Under the Policing Arrangement the ACT 'Police Minister may give to the Chief Police Officer general directions in writing as to policy, priorities and goals in relation to the provision of Police Services by the AFP under this Arrangement and the Purchase Agreement'.[35]

3.39 Ministerial Directions are issued annually since August 2007 and have identified and focused on issues such as:

- the role of the AFP;
- special areas of focus for ACT Policing in its delivery of services; and
- new and revised reporting requirements.

3.40 In its analysis and report, the 2016 audit report observed that the, 'Ministerial Directions provide a mechanism for the ACT Minister for Police to provide general directions for policing services in the ACT.'

3.41 The Ministerial Direction - dated October 2019 – which sets goals for ACT Policing for 2020 is attached in Appendix D.

3.42 The current Ministerial direction sets out the Government's current-year priorities and aims for ACT Policing.

[17] ACT Policing, *Annual Report 2018-19*, pp. 25-75. https://police.act.gov.au/sites/default/files/Publications/ACTPAnnualReport2018-19.pdf

4 COMMENTS ON THE CURRENT POLICING GOVERNANCE STRUCTURE

4.1 As indicated at the start of this report, the arrangement for ACT Policing is unique in comparison with all other Australian jurisdictions.

4.2 Discussions have centred on the possibility from time to time since self-government in 1990 on whether there is scope and practical benefit for the ACT to end the current contract arrangement with the Commonwealth and AFP and establish and fund its own police force.

4.3 There is also a view that if Tasmanian and the Northern Territory can support independent police forces, why shouldn't the ACT.[18]

4.4 There has not yet been a substantive consideration of achieving a higher level of autonomy or ACT Governmental oversight of the conditions of employment or an increase in structural separation of ACT Policing from the AFP's Federal Arm.

4.5 The Committee, when issuing its invitations for submissions to this inquiry and evaluation, invited aa previous police ministers in the ACT jurisdiction to give the Committee their views on the ACT arrangements.

4.6 Gary Humphries AO advised the Committee that though had been given to this course during his time as Minister. In his submission, Mr Humphries noted that some 20 years ago:

> Taking into account the balance between these pluses and minuses, the ACT cabinet tasked me informally to explore alternatives to the purchase of policing services from the AFP, based on the premise that the Commonwealth could be persuaded to repeal s 8 of the AFP Act. However, my endeavours suggested that the purchase of police services from, say, NSW would not provide a level of service satisfactory to the ACT community, and the establishment of a separate and freestanding ACT police force entailed such substantial start-up costs particularly with respect to training as to be unsafe to pursue.[19]

4.7 In discussions with the Committee, Mr Humphries observed:

> ...I do not think that the question is ever static, or a question fixed in time. It will always depend on the circumstances that the territory is in at any particular moment, and, indeed, what the commonwealth wants to do at any moment in time as to whether or not a separation from the AFP would be an advantageous

[18] *Submission 6*, Weston Creek Community Council, p.3
[19] *Submission 11*, Gary Humphries AO, p. 4

> arrangement for this community. We get very clear benefits from being part of the AFP organisation. In particular, we get quite high-quality trained police with broad experience and an outlook which does not suffer from the parochialism you can see in smaller police forces occasionally.[20]

4.8 Mr Humphries also observed:

> The original agreement was negotiated, as you say, in 1990 by one of my colleagues. I think that it was, in those days, a three-year rolling agreement. The next agreement was negotiated by the Follett government. Then the following agreement came about when I was police minister. I cannot recall whether I had one or two of those renegotiation exercises to do. That is a historical view. It is more than 20 years on. I could not tell you today just how responsive the system is. I will say that the discussions were at a fairly high level. The federal commissioner got involved in those discussions.
>
> I gather that the agreement today is not with the federal government or the federal police minister but with the federal AFP commissioner, which presumably gives them greater oversight of what they deliver out of the agreement. Broadly speaking, there is a range of services; but the point that I would make is that what is on paper, what the agreement says they will deliver and how much we can look behind those words to see what we are actually getting and what the mechanics of that delivery are beneath the surface is sometimes, I found in my time, hard to see—hard to get visibility of. So, the short answer is that what the agreement says and what we manage to achieve may be two different things.[21]

COMMITTEE COMMENT

4.9 The Committee believes that before considering any kind of independent ACT police force it would be prudent within what can be achieved with the very experienced AFP personnel to try and achieve a level of separation whilst still working with the AFP in general terms.

4.10 Such a degree of separation should endeavour to achieve the following:

1. Considerably more differentiation of the workplace terms and conditions of service for the personnel of ACT policing, this may be achievable via a separate Enterprise Bargaining Agreement. The process for the negotiation of the EBA could them be

[20] *Transcript of Evidence*, 30 June 2020, p. 87

[21] *Transcript of Evidence*, 30 June 2020, p.87.

submitted to by the ACT government and the terms of employment could be formed within the ACT Government's bargaining terms not the Commonwealth's.

2. This could see improvements to rostering, police numbers being better reflective of a growing ACT population, the state of ACT buildings and accommodation could be more easily highlighted and dealt with and quite importantly the ACT government could have more say in the mental health care of police members, who our hearings clearly demonstrated do not have the best mental health care of all agencies which appear before The Administrative Appeals Tribunal.

3. Better line of sight of the ACT Minister for Policing of the day to day operations of ACT Policing.

4. Such a separation could consider, the choice of Chief Police Officer, which is currently an appointment over which the ACT has very little if any control, and the input which the ACTs Minister for Policing has in the choice or longevity of the person in this role.

5. The separation could also achieve a greater say of the flow of ACT policing personnel into the Federal part of the AFP, making sure that the ACTs minister for policing knows of and has a say in the movement of personnel to the federal body from ACT Policing. Currently there is no mechanism for the minister to have a say as members move towards the federal force, at times stripping numbers of members from the ACTs force at a time.

6. That the incoming ACT Government before concluding its agreement with the AFP due in 2021 investigate and negotiate for a greater separation of ACT Policing from the AFP's total control so as to achieve the following outcomes for the people of the ACT:

7. Differentiation in EBA terms and conditions of service to allow for a negotiation that better reflects ACT Policing's role and function in the ACT, including numbers of personnel per head of population to be more clearly tied to population growth and better workplace conditions in the built form of police stations to be weather proof, have appropriate lunch room and break out facilities for decompression, appropriate soft interview capacity, safe and modern cells for housing those arrested whilst awaiting court and safe yard and car parking facilities not in the line of view of the general public or tenants of nearby buildings.

8. Significantly improved line of sight for the Minister responsible for policing to be able clearly to know in detail the functionality of the ACT policing agreement and how it is being implemented on the ground.

9. Additional powers for the Minister for policing in the choice and approval of the Chief Police Officer

10. Greater say of the ACT Minister of personnel moving out of ACT Policing and into the Federal work of the AFP.

5 ISSUES SUPPORTING EFFECTIVE ACT POLICING – CURRENT AND FUTURE

INTRODUCTION

5.1 The Committee's terms of reference include a call for Committee observation and comment on

> The resources and infrastructure, including training, selection, organisation, community involvement and factors relevant to provision and growth of policing services which are governed by the 2017 policing arrangement available to an independent ACT police service.

GENERAL OBSERVATIONS

5.2 In discussions, the AFP advised the Committee that:

5.3 Key areas of focus for ACT Policing in the coming year include early intervention, prevention and disruption, particularly in the areas of mental health and family violence; reducing recidivism; organised crime gangs; countering terrorism and violent extremism; and reducing road trauma. Work is underway to achieve these important, ambitious objectives, including through working with the Aboriginal and Torres Strait Islander communities to identify ways to reduce the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system; strengthening our response to mental health presentation; working with the ACT government and partner agencies; and increasing our early intervention and diversion strategies.

5.4 Over the next four years, ACT Policing will recruit over 60 new operational and support staff, adopt community-focused policing strategies and increase digital engagement in order to give the community better access to policing services.

5.5 The Committee also noted that in submissions from the AFP that an Infrastructure and Master Accommodation Plan is being undertaken.

5.6 The AFP highlighted the following issues regarding policing accommodation, including:

- The ACT Government owns many of the facilities and infrastructure used by ACT Policing.
- ACT Policing is housed within 10 facilities, seven of which are owned by the ACT Government. The AFP leases the remaining threefacilities.
- The AFP has overall responsibility for the safety and standard of

accommodation provided to all AFP members including ACT Policing.

- As part of the ACT Policing Arrangement and Purchase Agreement, ACT Government has a requirement to provide fit for purpose facilities for ACT Policing.

5.7 There are several facilities currently occupied by ACT Policing that would not be

- consistent with the standard of accommodation expected for AFP members. The priority areas of concern are the Traffic Operations Centre, Winchester Police Centre and Gungahlin Station.
- ACT Policing and the ACT Government acknowledge the facilities are not at an appropriate standard and have a committee which meets to discuss this issue.
- ACT Policing and the Justice and Community Safety Directorate have developed a Strategic Accommodation Framework which has been considered and supported by the ACT Government.
- A 20-year accommodation plan is currently being worked on as a priority and will ultimately progress through future ACT Government budget processes.

5.8 The AFP comment concludes that

- ACT Policing considers that the needed uplift of its ACT Government owned facilities will be addressed through the current process, however, the AFP will continue to monitor the standard of the facilities and the progress of the 20-year accommodation plan.
- Upgrading ACT Policing facilities' budget initiative via the MAP process is looking at the provision of well-planned strategic accommodation decisions for the future needs of ACT Policing and the ACT community.
- The MAP project was initiated because the accommodation footprint lacked a comprehensive long-term strategy and had been reactive to urgent and unavoidable operational and safety requirements over the years.

5.9 The AFPA commented in relation to accommodation matters that:

There is a lot more in relation to the maintenance or new building aspects, and during that ACT Policing futures program they looked at accommodation. Building new facilities was very expensive, but I think it was almost equal to paying for some of the maintenance, so this is an area that needs to be looked at. The city station is way too old, the traffic operation centre is a complete mess and, as you know, Gungahlin station is far too small and was never

built for the size of Gungahlin as it is now. It was built as a part-time station. You can see that from the size of it.[22]

COMMITTEE COMMENTS

5.10 The Committee considers given the consistent feedback from policing members as well as submitters to the inquiry that the state of the City, Winchester, police traffic operations and Gungahlin Stations are in need of improvement, that a plan for their significant improvement should be released before the next AFP agreement is entered into.

5.11 The considerations and requests made by community groups for a greater say in how policing for the ACT is designed and carried out also warrants various below recommendations. These particularly include comments made by Community Councils form Belconnen and Weston Creek, and are a valuable contribution to the evaluation process.[23] The specific requests made of the committee are also included in the formulation of the below recommendations.

Recommendation 1

5.12 **That prior to the next AFP Agreement being signed the government must urgently address the state of the buildings which house the AFP ACT Policing and set out a clear and considered plan of action for the rectification of the unworthy nature of the accommodation for the work which these personnel undertake.**

Recommendation 2

5.13 **That the Gungahlin Police Station should immediately be altered in order that improved and/or expanded space and facilities be provided to include appropriate facilities for 'soft' interviews, additional 'on duty 'cars, and a separate lunch and breakout area.**

Recommendation 3

5.14 **The negotiation process with the AFP must be proceeded by considered conversation with the ACT community asking for feedback and suggestions for what changes or improvements could be included in the next agreement.**

[22] *Transcript of Evidence*, 16 June 2020, p.8

[23] *Submission 4,* Belconnen Community Council; *Submission 6* Weston Creek Community Council. *Transcript of Evidence*, 23 June 2020, pp. 34-39 (BCC); pp. 54-59 (WCCC).

Recommendation 4

5.15 **That the Government prior to the next policing agreement release a plan for regions of the city currently a significant distance from current operational stations. These plans should include plans for Kippax and west Belconnen, Weston Creek and the Molonglo Valley which includes a future clear police presence and that the different regions addressed be engaged for more information about the crime they are experiencing.**

Recommendation 5

5.16 **That ACT Policing get to know local community leaders in the faith and cultural communities. Not just via attendance at the multicultural festival to host a display, but via deeper and more meaningful relationship building.**

Recommendation 6

5.17 **That these better and deeper relationships be developed in order to break down cultural barriers to engagement with and reporting to police which some CALD and Aboriginal community members experience.**

6 ACT POLICING - ACCOUNTABILITY

INTRODUCTION

6.1 The Terms of Reference call for Committee to comment on the following as part of its evaluation

The current accountability mechanisms established and utilised under the 2017 policing arrangement, including

i. applicable current reporting requirements on exercise of ministerial control and direction;

ii. the Australian Government's current governance arrangements for the AFP;

iii. scrutiny and report of ACT Policing by the ACT Ombudsman;

iv. audit of ACT Policing by the ACT and Australian Auditors-General; and

v. oversight of ACT Policing and AFP by the Australian Commission for Law Enforcement Integrity.

6.2 Submissions to the Committee evaluation placed considerable emphasis on this aspect of police accountability. The Committee, as indicated in its Terms of Reference have sought the views of several oversight bodies charged with involvement in policing accountability

CURRENT REQUIREMENTS INVOLVING SCRUTINY AND ACCOUNTABILITY OF ACT POLICING

6.3 The AFP, in its written submission, noted the following obligations currently applying to ACT Policing; specifically, to the regulation, and enforcement of police conduct in their role as members of a disciplined police force:

- Public Governance, Performance and Accountability Act 2013 (PGPA Act)
- Australian Federal Police Act 1979 (C'th) (AFP Act) – sections 37, 38 and 69C
- Commissioner's Order on Governance (C01)
- Commissioner's Order on Professional Standards (CO2)
- Commissioners Order on Operational Safety (CO3)
- Commissioner's Order on Security (C09)

6.4 In relation to the behaviour and conduct of police in their contact with the community, the following apply

Commonwealth Ombudsman *- The Commonwealth Ombudsman may investigate complaints from people who believe they have been treated unfairly or unreasonably by an Australian Government department/agency or prescribed private sector organisation. The AFP, including ACT Policing, falls within the oversight of the Ombudsman.*

The Ombudsman shares oversight of the *Public Interest Disclosure Act 2013 (PID Act),* which provides a process for public officials to disclose suspected wrongdoing in the Commonwealth public sector.

ACT Auditor-General's Office *– ACT Auditor-General may carry out specific and/or ad hoc audits.*

Australian National Audit Office (ANAO) *– ANAO may carry out specific and/or ad hoc audits*

OVERSIGHT OF ACT POLICING AND AFP BY THE AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY (H3)

6.5 The AFP has internal and external integrity mechanisms, including the AFP Professional Standards Framework, independent oversight from the Australian Commission for Law Enforcement and Integrity (ACLEI) and the Commonwealth Ombudsman, enshrined in Commonwealth legislation (the AFP Act and the LEIC Act) that AFP members, including ACT Policing,) are subject to.

6.6 ACT Government Ministers can be informed about ACLEI's activities when investigating serous corruption and systemic corruption as defined by the *Law Enforcement Integrity Commissioner Act 2006 (C'th).*[24]

6.7 AFPA put the view to the Committee that:

> The AFPA believes that the current mechanisms and scrutiny of AFP/ACT Policing and its workforce is at an appropriate level. The AFPA does not support the inclusion of ACT Policing and AFP officers as per the *Integrity Commission (ACT Policing) Amendment Bill 2018.*

[24] *Submission 2*, AFP, pp 13-19

> Under the current scrutiny arrangements, ACT Policing members have three levels of scrutiny, being AFP Professional Standards (AFP PRS), Commonwealth Ombudsman, and the Australian Commission for Law Enforcement Integrity (ACLEI).[25]

6.8 The AFPA also pointed out that:

6.9 As per section 16.4 of the 2017-2021 Purchase Agreement, every six months, AFP PRS provides a report that contains information in relation to complaints management, regarding the following matters:

- Complaints submitted bycategory
- Complaint trends/systemic issues
- Complaints submitted by source
- Status of complaints
- Finalised conduct issues by category
- Conduct issue trends.[26]

6.10 Both the AFP and AFPA 27highlighted that scrutiny of police officers in their several roles in the ACT was not subject to the ACT Integrity Commission Act 2018, with the AFP noting that:

6.11 The *Australian Capital Territory (Self-Government) Act 1988* prevents the ACT Legislative Assembly from making laws for the provision of police services to the ACT by the AFP. Amendments to Commonwealth legislation would be necessary to allow the ACT Government to enact legislation for a new ACT integrity body to oversight ACT Policing.[28]

and that:

6.12 Additional oversight of ACT Policing members would duplicate existing arrangements and add complexity in administration owing to external oversight frameworks already in existence.[29]

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[25] *Submission 3*, AFPA, pp. 7-8.
[26] *Submission 3*, AFPA, p. 8
[27] Submission 3, AFPA, p. 8.
[28] *Submission 2*, AFP, pp. 16-17.
[29] *Ibid.*

VIEWS PUT TO THE COMMITTEE RELATING TO SCRUTINY AND ACCOUNTABILITY ARRANGEMENTS FOR ACT POLICING AND FOR INDIVIDUAL POLICE

ACT OMBUDSMAN

6.13 The ACT Ombudsman put to the Committee in submission that

> We assess each complaint we receive from members of the public, and ACT Policing members, about the actions of ACT Policing to determine the most appropriate action. We consider a number of factors in assessing complaints and determining the appropriate action to take. For all complaints, this includes consideration of whether:
>
> - the complainant has complained to the agency involved
> - we can resolve the complaint quickly, for example, by providing a better explanation another agency or oversight body can provide a better outcome for the complainant the event complained about happened more than 12 months ago
> - the agency has made a reasonable and lawful decision, based on the information provided by the complainant, without the need for us to request additional information.
>
> When we investigate a complaint, our intention is to discover what happened and whether action by the agency is required to resolve it. Since 2016, my Office has observed an overall decrease in complaints received about ACT Policing. Figure 1 shows my Office received 61 complaints about ACT Policing in 2018-19, down from 98 in 2017-18 and 133 in 2016-17. Between 1 July and 31 December 2019, we received 33 complaints about ACT Policing, trending at a similar rate to 2018-19.[30]

6.14 The Ombudsman has a role in scrutinising other activities of the AFP at all levels of responsibility, including the ACT. These include records inspection and complaint handing oversight and inspection. These responsibilities are prescribed, and do not need a complaint to be initiated.[31]

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[30] *Submission 5*, ACT Ombudsman, p. 4.

[31] *Submission 5*, ACT Ombudsman, pp. 4-5

6.15 The Ombudsman put this view to the Committee:

> As set out in my submission, as both the ACT Ombudsman and the Commonwealth Ombudsman, my Office can investigate, inspect and report on the actions of ACT Policing. In these dual roles, my Office can provide a greater level of oversight of ACT Policing activities than if these roles were independent. Noting the close, sometimes interdependent relationship between Commonwealth AFP activities and the work of ACT Policing, my joint role enables my Office to provide effective oversight in an efficient manner.[32]

6.16 In discussions with the Ombudsman, the Committee was advised that:

> Since then {*March 2020*], for the full financial year that has just finished, they have ended on a number at about the 60 mark, which was similar to last year. That downward trend has now levelled out; but we think that a downward trend in generating complaints is, by and large, a good sign. In fact, there has been a bit of an upward trend in complaints to our office from some other areas of the ACT government, so the fact that the policing number has come down is a good thing.
>
> As to whether they handle complaints well, we think that they take complaints seriously. We think that they use complaints as a feedback route to their management in a sensible way. As with many things in this world, we can also see areas where there is room for improvement. The sorts of things that we have spotted in the work that we have done with them have been things like clarity of communication with people who complain, how they ensure effective conflict of interest management in the way that they deal with complaints, and timely release of information.[33]

6.17 In relation to the role the Ombudsman plays in the ACT 'suite' of integrity and accountability requirements, the Committee was advised:

> In the ACT we have responsibility for complaints about some entities and some topics, and the Human Rights Commission, for example, has responsibility for some other topics. For example, typically, complaints about children and young people, and the way in which the ACT entities deal with them, fall within the remit of the ACT Human Rights Commission. If we get complaints about that, we will typically refer that to them.
>
> We have oversight, on the other hand, of the reportable conduct scheme, which does touch on children and young people. With that carve-out, we work with the

[33] *Transcript of Evidence*, 30 June 2020, p. 74.

> Human Rights Commission to work out who is responsible for what. Basically, we refer matters to one another from time to time when things come to the wrong spot. [34]

6.18 The Committee notes that the level of activity by the Ombudsman in relation to ACT Policing has dropped progressively and notes also the scope of the Ombudsman's role in relation to ACT Policing.

ACT HUMAN RIGHTS COMMISSION (ACT HRC)

6.19 Successive Policing Arrangements from 2011 have recognised that 'as part of compliance with the statutory framework of the ACT public sector participants in the justice system, including ACT Policing, are expected to promote and protect human rights when exercising a function under an ACT law.'35

6.20 In its submission to the inquiry, the ACT HRC noted that:

> The Commission has welcomed increasing opportunities in recent years to work proactively with the legislation and policy division of ACT Policing by providing advice to inform their development of human rights compatible legislation and policy. Commission staff also presented a workshop to ACT Policing legislation and policy staff in October 2019 on the obligations of public authorities under the HR Act and embedding respect for rights in policy design.[36]

6.21 The HRC submission provided a detailed examination and analysis of several difficulties it encountered in its role with ACT Policing. These were enumerated as:

> the Commission considers that the following aspects of the current arrangements also warrant further attention. These broadly relate to:
>
> - The lack of accessible local mechanisms to deal with police complaints;
> - The continued reliance on Commonwealth legislation to regulate police criminal investigative powers;
> - The adequacy of resourcing to ensure quality service provision to victims, in particular in relation to Family Violence Orders, people with diverse needs, and in sexual assault matters; and
> - The adequacy of data collection and reporting[37]..

[34] *Transcript of Evidence*, 30 June 2020, p. 76.
[35] *Submission 9*, ACTHRC, p. 2
[36] *Op. Cit.*, p. 3
[37] *Submission 9*, ACT HRC, p. 4.

6.22 The Committee notes that – under point 3 above, the HRC noted that:

> We further note that people with diverse needs are disproportionately affected by crime yet often face additional barriers in accessing the criminal justice system. For example, people with disability, people from Aboriginal and Torres Strait Islander communities or CALD communities and LGBTIQ+ people are more vulnerable to family and sexual violence. However, specific barriers to accessing the justice system arise for people with diverse needs, including:
>
> - challenges obtaining interpreters and translators;
> - lack of culturally appropriate support services;
> - mistrust in or fear of authorities;
> - lack of supports and adjustments for people with disability;
> - specific challenges in providing evidence and participating in the criminal justice system for children and young people;
> - negative attitudes and stereotypes towards people with diverse needs; and
> - lack of awareness of the justice system, including laws and legal processes.[38]

6.23 In discussions with the Committee, the HRC advised that, in enlarging on its written submission regarding handling of complaints in the ACT, that the HRC had taken this action:

> I have written to the Minister a number of times since I commenced in the ACT jurisdiction a couple of years ago. Having come from the federal jurisdiction, which had coverage of police, and the Victorian jurisdiction, which had coverage of police, I am well aware of the benefit of the local human rights organisation having both a strong policy-based approach and a complaint mechanism so that we can provide that feedback to our local police force about the sorts of issues the community are bringing to our attention.
>
> At the moment we do not have the same level of visibility. That is an exposure particularly for police, in that they have their internal mechanisms, but they are not getting that external eye. We have seen, particularly in the recent discourse, the lack of understanding about how some of those communities experience the police service.[39]

6.24 The HRC had also raised in its submission comment about inadequate data availability in the ACT. In answer to Committee questions, the HRC advised that:

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[38] *Op.cit.*, pp. 8-9.

[39] *Transcript of Evidence*, 23 June 2020, p. 26.

> What we have seen, particularly with the recent discourse, is that it is very important that police are accountable through data as to how they are dealing with the community. What we do not have at the moment is clear data on who police are having contact with. We do not have any data about disability, cultural groups or the Aboriginal community regarding the numbers or nature of the contact or the basis for that contact.
>
> Overseas we have seen trials around receipting programs and things like that. I do not know that that is necessarily the answer at the moment. What is concerning is that, in some of these discussions around predictive policing, there must be data being held about particular groups in the community in order for those predictions to be made. It would be very helpful for the ACT police, as opposed to the AFP, to come to terms with the fact that they do need to provide some of that data to the Assembly, and there should be a proactive approach to it, not a reactive approach to it—again, to ensure that our community has confidence in how they are going about their business. [40]

6.25 There were several matters of concern raised with the Committee by the HRC. One – involving data – indicated a noticeable and concerning reduction in sexual assault prosecutions in the ACT. The HRC advised that:

> You may have seen some questions on notice that went to Minister Gentleman earlier in the year as to why we have seen this huge drop in the number of matters proceeding to prosecution. Unfortunately, his response to those questions suggested that, in order to determine why these matters were not going ahead, they would have to do a manual review, and that was not possible, resource-wise.
>
> I would say that, if we cannot go backwards, let us at least collect going forward. Until we are able to work out why matters are not proceeding, and to be able to segregate that by age, by the person's cultural background and by their disability, we need to make sure that the hard cases are not being pushed aside, and that we are doing everything we can to maximise the likelihood of holding offenders to account. Without having the reasons for why matters are not going ahead, we cannot understand the problem and improve our response. [41]

6.26 The Committee notes several detailed comments in its submission, and in evidence, raised by the HRC in relation to its role vis-à-vis ACT Policing. These observations are important and are

[40] *Transcript of evidence*, 23 June 2020, p. 30.
[41] *Transcript of evidence*, 23 June 2020, p. 32

critical to a proper level of scrutiny – and a reliable credible avenue for the making of complaints.

AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY (ACLEI)[42]

6.27 The ACLEI's statutory role is as follows:

- The office of the Integrity Commissioner, and ACLEI, are established by the LEIC Act to investigate and prevent corrupt conduct in law enforcement agencies.
- ACLEI's strategic purpose is to make it more difficult for corruption in law enforcement agencies to occur or remain undetected. The LEIC Act requires the Integrity Commissioner to prioritise the investigation of serious and systemic corruption. For this purpose, the Integrity Commissioner has coercive information-gathering powers and the full suite of covert policing capabilities, including telecommunications interception; electronic and physical surveillance; and controlled operations.
- The AFP, including ACT Policing, fall under ACLEI's jurisdiction.
- Pursuant to section 19 of the LEIC Act, the AFP Commissioner must notify the Integrity Commissioner of any information or allegation that raises a corruption issue in his or her agency. ACLEI may also receive information or an allegation that raises a corruption issue from the Commonwealth Attorney-General; a member of the public; or another government agency.
- ACLEI can refer the corruption issue to the law enforcement agency for internal investigation (with or without management or oversight by ACLEI) and to report findings to the Integrity Commissioner
    - refer the corruption issue to the AFP (if the corruption issue does not relate to the AFP)
    - investigate the corruption issue jointly with another government agency or an integrity agency for a state or territory, or
    - take no further action.

[42] *Submission 10*, ACLEI

6.28 The ACLEI submission also advised that:

> Corruption issue notifications relating to ACT Policing represent a small percentage of the total number of notifications or referrals received by ACLEI from the AFP. Approximately 11% of all AFP corruption issue notifications to ACLEI relate to officers performing ACT Policing functions.
>
> ....For those corruption issues that involve ACT Policing, the majority (approximately 43%) relate to allegations of inappropriate or unauthorised disclosure of information. The type of information disclosed, and the receiving entity vary and include family and friends, leaks to the media, and, most seriously, to criminal entities[43]

6.29 .... Most ACT Policing corruption issues (approximately 56%) notified to ACLEI resulted in the Integrity Commissioner initially deciding to refer the matter back to the AFP to investigate. Matters that are referred to the AFP are investigated by AFP Professional Standards (PRS).

6.30 It is important to note the mean by which the ACT Government is informed of matters arising from ACT Policing that are dealt with by the ACLEI:

> The *Law Enforcement Integrity Commissioner Regulations 2017* (the LEIC Regulations) specifically contemplate the interest of the ACT Government in assuring the integrity of its contracted provider of policing services, when that provider is the AFP.[44]

6.31 In discussions with the Committee ACLEI confirmed several matters raised in its submission, and specifically the number of ACT Policing matters the ACLEI currently considers:

> So far, we have received 10 ACT matters that relate to ACT Policing. In relation to five of those matters, we decided to take no further action. Those matters were really mattering that went to employment, which were better dealt with through the AFP's employment processes. Those issues went to things like the use of time sheets, the allegations as to drug use that involved no allegation of corruption. That was five of those matters.
>
> .....Four of the 10 matters we referred to the AFP to investigate under my act. On those matters I will receive a report back from the AFP once they have investigated under my act. Those matters relate to release of information type of matters or browsing type of matters that are appropriate to go back to the AFP to investigate.

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[43] *Submission 9*, ACLEI, pp. 6-8

[44] Submission 9, ACLEI, p. 6.

> There is one matter that has been referred recently and is still going through our assessment process. They are the 10 matters that we have received this year. We are currently investigating a matter that potentially involved the ACT police.[45]

6.32 In addition, the Committee was concerned to determine how matters dealt with by ACLEI and the ACT integrity Commission might be ideally published and reported – particularly to the Assembly.

> I would add one thing about that, which is that ACLEI has formed strong relationships with the ACT Integrity Commission as well, and we will continue to interact strongly with them. There is a strong network of anti-corruption and integrity agencies around Australia. We will continue to engage with the ACT commission. We are all very small agencies. Wherever we can help each other with policies, procedures and processes, we like to do that. We will continue to engage with them.
>
> I will pick up that point that has been made by the committee in terms of reporting and how we can have some sort of seamless reporting coming to the Assembly to cover off both the reporting from the ACT Integrity Commission and reporting from us in relation to ACT Policing.[46]

COMMITTEE COMMENT

6.33 The submissions from all of the bodies that are discussed above clearly point to the fact that there is still much to do to modernise and develop the ACT policing accountability mechanisms. From the need for individual community members knowing where to go and what to expect when they have a complaint, to the improvements to the system that such complaints should generate there is a need for a complete loop and for that loop of complaints, resolutions and improvements to be clear and transparent. The following recommendations go to the heart of this need to see continual responsive improvement in the system.

Recommendation 7

6.34 **That ACT Policing include and demonstrate improvement in cultural diversity in recruitment for ACT police, and that this aim should include both the ATSI and multicultural sections of our community.**

[45] *Transcript of Evidence*, 16 June 2020, p.17.
[46] *Transcript of Evidence*, 16 June 2020, p.19

Recommendation 8

6.35 **That the HRC be able to give an option for the confidential resolution of HRC complaints against police, enhancing the current conciliation process.**

Recommendation 9

6.36 **That that the Minister take carriage and provide to the assembly improved data collection on contact information with cultural and disability groups and their interaction with the police. This should include the types of people police are dealing with to enhance Human Rights protection.**

Recommendation 10

6.37 **That the Minister for Police take carriage of and provide to the Assembly the number and frequency of requests for and the provision of interpreters and translators.**

Recommendation 11

6.38 **That the next AFP agreement includes a report to the ACT Assembly each year of what ACT policing has done to improve trust with culturally, faith and linguistically diverse groups including demonstration of how trust has been enhanced.**

Recommendation 12

6.39 **That the Minister for Policing report to the assembly annually the changes and adjustments to policing interaction with those living with a disability or who are neurologically a-typical and demonstrate how this has improved trust of police from these people in our community.**

Recommendation 13

6.40 **That the minister for police report to the Assembly annually on improvements that have been made to ACT policing and in their work with children and young people which addresses challenges they face participating in the criminal justice system.**

Recommendation 14

6.41 **That the Minister for policing report to the Assembly annually on measurable improvements to the lack of awareness of the justice system, including laws and legal procedure achieved via ACT Policing outreach.**

Recommendation 15

6.42 **That an audit be done to achieve recommendations in the streamlining of data and information to limit 'churn' and duplication between ACT and Federal AFP elements.**

Recommendation 16

6.43 **That the Minister for Police in the next agreement with the AFP include such changes to the information systems used by police so that data from police activities is in a searchable format in all cases, including sexual assault.**

Recommendation 17

6.44 **That ACLEI reports regularly to the ACT Minister for Police and that that report be tabled in the ACT Legislative Assembly.**

Recommendation 18

6.45 **That referrals made internally regarding police matters to the ACLEI and/or to the ACT Integrity Commission be subject of advice by each body to the other, to the extent permitted by statute.**

Recommendation 19

6.46 **That detailed data in relation to cultural and/or language barriers arising as part of ACLEI investigations of police should be particularly highlighted in such a report and that the Minister for police report annually to the Assembly about how these barriers have been addressed in the systems and culture of ACT Policing.**

Recommendation 20

6.47 **That the ACT government continue to work with the Federal Government to include ACT Police in the scope of the ACT Integrity Commission.**

7 COMMUNITY POLICING – CONCERNS TO ADDRESS

INTRODUCTION

7.1 The submissions to the inquiry placed considerable emphasis on Community Policing in the ACT. The AFPA submission noted that ACT Policing has recognition for its delivery of sound community policing:

7.2 Traditionally, ACT Policing has also performed strongly when compared with other police services across Australia in relation to public perception. Once again, referencing the Productivity Commissions *Report on Government Services 202a3*; during the 2018-2019 reporting period, the ACT, and as a by-product of the current policing arrangement, ACT Policing exceeded the national average on the following criteria:

- Satisfaction with services provided by police (ACT: 80.8 / Aust Average: 79.9)
- Totally satisfied of those who had contact with police in the previous 12 months (ACT:84.3 / Aust Avg: 84.1)
- Totally dissatisfied with services provided by police (ACT: 3.5 / Aust Avg: 5.4)
- Totally agree with:
    - Police perform the job professionally (ACT: 87.3 / Aust Avg: 85.7)
    - Police treat people fairly and equally (ACT: 74.2 / Aust Avg:72.1)
    - Police are honest (ACT: 75.8 / Aust Avg: 74.3)

7.3 Given these indicators, the AFPA believes that ACT Policing is well-respected in the community and most people are satisfied with the service provided by ACT Policing.

ISSUES CONSIDERED BY THE COMMITTEE

7.4 Despite the above figures, these include issues raised by Advocacy for Inclusion, ASD matters, individuals whose behaviour patterns may have resulted in poor levels of understanding and response by police at the community level.

7.5 This is an area of Police activity and involvement which has been noted in the 2020 Ministerial Direction.

7.6 In this context, the ACT Government expects ACT Policing will give special focus to the following priorities:

a. **Transitioning to a new policing service model** that sees ACT Policing evolving in line with population growth and community expectations by providing a

proactive, community focused policing service, cantered on the disruption and prevention of crime.

b. ...

c. **Contribute to Canberra as a restorative city** and continue to improve responses to vulnerable groups including Aboriginal and Torres Strait Islander people, young people, people experiencing mental health issues, people with a disability, culturally and linguistically diverse people and victims of crime.

7.7 Paragraph a. above proposes a coordinated approach; paragraph c identifies that there are people in the community who need a different approach which is based on sound understanding and training.

7.8 Submissions on this area also noted that for good Community policing there needs to be significant, evaluated training for police which has been informed by the organisations which represent those in the community who experience these issues.

IMPORTANCE OF COMMUNITY RELATIONS

7.9 Achieving understanding and best practice to engage with community members and individuals with differing needs is now an issue of concern to the community. The police must become excellent at noticing the diversity in the community and adapting their methods to suit the people they are interacting with. Many diverse people experience great difficulty in contact and dealings with authority figures such as police personnel. This affects all levels of the Canberra community – a growing and diverse society.

7.10 The Committee notes that the HRC drew attention to this factor in its evidence:

> We further note that people with diverse needs are disproportionately affected by crime yet often face additional barriers in accessing the criminal justice system. For example, people with disability, people from Aboriginal and Torres Strait Islander communities or CALD communities and LGBTIQ+ people are more vulnerable to family and sexual violence. However, specific barriers to accessing the justice system arise for people with diverse needs, including:
>
> - challenges obtaining interpreters and translators;
> - lack of culturally appropriate support services;
> - mistrust in or fear of authorities;
> - lack of supports and adjustments for people with disability;
> - specific challenges in providing evidence and participating in the criminal justice system for children and young people;
> - negative attitudes and stereotypes towards people with diverse needs; and

- lack of awareness of the justice system, including laws and legal processes.[47]

COMMUNITY POLICING - DEALING APPROPRIATELY WITH INDIVIDUALS

7.11 Submissions were made which discussed individual difficulties that members of the community may have in dealing with police.

7.12 In further examples, Advocacy for Inclusion noted that young people with limited ability to deal with authority are particularly vulnerable:

> *THE BARRIERS IN COMMUNICATION*
>
> AFI has a collaborative working relationship with ACT Police and works to raise awareness of disability, create resources under the ACT Disability Justice Strategy to foster understanding between individuals and police, and is committed to delivering ongoing training. AFI has been advocating for people with cognitive disability during their interactions with ACT Police and can say positively, that there are improvements in the way police interact and communication. There are occasions where they do not. Case studies in our submission will demonstrate both.
>
> We continue to find that police, lawyers, and court staff do not have specific skills for working with people with disabilities, despite the best of intentions. Their focus is on applying their specialist area of expertise, and this is as it should be. Just like many other members of the community, assumptions are made that people with disabilities are unable to be engaged, to make a credible statement, or give evidence, even with supports. [48]

7.13 Advocacy for Inclusion provided a several distressing case studies detailing police community interactions, which give a picture of the challenges which young individuals not well equipped to deal with authority encounter.[49]

7.14 A second group Advocacy for inclusion focussed on were persons with mental health issues:

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[47] Submission 9, ACT HRC, pp. 8-9.
[48] *Submission 7*, Advocacy for inclusion, p. 1
[49] *Op. Cit.*, pp. 2-3.

POLICE AND COMMUNITY MEMBERS WITH MENTAL HEALTH CONSIDERATIONS

Police are often the first responders to people experiencing mental health crises or acute symptoms. While police do not provide direct mental health services, they are an essential part of the broader service system response for people living with mental illness. Police are not just the first response, sometimes they are the only response.

AFI strongly support the direction in which ACT Police and AFP officers and staff are taking an innovative stance on tackling mental health. We commend mental health professionals on being part of the justice process within stations to support officers when dealing with people with mental illness in the community.

Some of the issues which arise for clients from police responses to mental health crises include the criminalisation of mental illness, overrepresentation of people with disability and mental illness in the criminal justice system, escalations of situations, assault against police, and injury and fatality for people with mental illness.7 A police response to a non-criminal event also raises issues of dignity of the person involved.[508]

7.15 Mr Bob Buckley of Speaking Out for Autism Spectrum Disorder (SPfASD) told the Committee that:

> We get a number of reports about interactions with police in our community. Some of them are really very positive but, unfortunately, some of them are not very positive and they are particularly alarming. Basically, people call the police as a last resort when things get out of hand and that happens in a number of contexts—sometimes in schools where the schools do not have the staff to handle the students that they have taken on and in other cases they are, perhaps, related to a lot of community stress and anxiety for people with autism.
>
> Unfortunately, police are not trained appropriately. Some of them have limited experience, some of them have great common sense, some of them have good instincts; but others really are not good at dealing with people with autism. Our concern around this is that, often, the police are called when, perhaps, they are not the most appropriate people. [51]

7.16 The Committee particularly appreciates that interaction with people with ASD and who are neuro a-typical need particular care. In evidence to the Committee the AFP did note that

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[50] *Submission 7*, Advocacy for Inclusion, pp. 5-6..

[51] *Transcript of Evidence*, 30 June 2020, p. 79

training in ASD matters has commenced. The committee sought a copy of the curriculum and content of this training and it was provided.

7.17 ACT COSS told the Committee:

> As highlighted by the evidence from Advocacy for Inclusion and Speaking Out for Autism Spectrum Disorder (SOfASD) ACT Policing must further improve its training to ensure that its officers are competent, respectful and responsive in dealing with the needs and rights of people with disability. For example, the ACT Government has recently presented the Crimes (Offences Against Vulnerable People) Legislation Amendment Bill 2020. This bill will introduce new criminal offences relating to the abuse of vulnerable people. Legislation like this will only be successful if ACT Policing have the trust of the people it seeks to protect and are skilled in supporting individuals coming forward to report abuse. This may include, for example, a police officer knowing that there is an alternative method of reporting abuse, through the ACT Human Rights Commission, in cases where an individual seeks redress and protection but does not wish to see a family member prosecuted. These are complex issues that ACT Policing must continue to engage with. In doing so, ACT Policing can identify gaps in its capacity and improve its ability to serve vulnerable communities.
>
> To build trust in ACT Policing and to ensure all Canberrans are receiving equality in the actions taken and services provided by ACT Policing, it is essential that data on interactions with vulnerable community groups is collected and made publicly available. At present, there is a paucity of data on these interactions[52].

COMMITTEE COMMENT

7.18 The Committee is keen to see the police training be further enhanced in the area of inclusion and ever improving interactions with people with a disability or from a diverse background or life.

7.19 Any such training should include bodies such as AFI and SOfASD in their development so as to ensure that the feedback and improvement loop via such organisations who have the trust of those needing better inclusion is complete.

7.20 The Committee agrees, as AFI have said, that a well-connected and integrated quality, safeguarding and oversight mechanism is necessary and important as people with disabilities encounter ACT Government run or funded disability support and services, with

[52] *Submission 12*, ACT COSS, p. 3.

multiple ways to report violence against them and seeking appropriate levels of support - if they are knowledgeable that such a pathway exists.[53]

7.21 The Committee considers that there is a need for improvements in interactions with all diverse groups in the community and acknowledges that these areas are included in the Government's current work with ACT policing. However, the Committee would welcome a deeper engagement with the various representative groups across these diverse groups.

7.22 The Committee recommends that:

Recommendation 21

7.23 **The Committee recommends all active police receive training which addresses comprehensively all elements of cultural and ethnic awareness training and disability inclusion.**

Recommendation 22

7.24 **That the government develop a wallet card allowing individuals to self-identify as a person with a disability should they wish to carry one.**

Recommendation 23

7.25 **That police cadet training includes all elements of cultural and ethnic awareness training and disability inclusion.**[54]

Recommendation 24

7.26 **That police liaison officers and ACT policing should ensure a regular and routine consultation with the ASD and neuro atypical representative groups so that strong engagement is established as permanent means of policy as well as community engagement and learning.**

Recommendation 25

[53] Op. cit., p. 7.

[54] FN – from Advocacy for Inclusion – sub and evidence

7.27	**That the current training regarding interactions with the ASD and neuro atypical members of the community be reviewed by the organisations representing them in our community to ensure it is contemporary and workable in the ACT context.**

8 ISSUES RELATING TO MANAGEMENT OF MENTAL HEALTH AND PTSI EFFECTS ON POLICE AS FIRST RESPONDERS

INTRODUCTION

8.1 Evidence was presented to the Committee which addressed the effect of pressure on police as first responders focussed on current and ongoing programs and responses to how police - and ACT Policing – deal with Post Traumatic Stress Injury (PTSI) and related effects.

8.2 The Committee notes as an introductory observation, this statement from the 2018 Senate inquiry:

> First responders are highly skilled men and women who deliver the initial response in emergency situations, interacting with people and the forces of nature in extreme circumstances. Incidents requiring emergency response often involve serious injury or death, or a threat to life, safety and property. The term 'first responder' most commonly refers to professionals such as paramedics, police officers, fire fighters and other emergency personnel trained to aid in time-critical, often life-threatening situations. It may also refer to individuals who perform those functions in a volunteer capacity and emergency control centre workers.
>
> There are over 80 000 full-time emergency workers in Australia.[2] These professionals perform an indispensable function in the community, dealing with vulnerable people in urgent need who may be injured, in a state of heightened anxiety, shock or distress, in danger or deceased. They do this in circumstances where their own safety may be at significant risk. By definition, these jobs entail highly challenging working conditions and regular exposure to traumatic experiences, including both direct and vicarious trauma. They often work on irregular shift patterns, and face long hours, fatigue and the need to make often critical decisions under constant time pressure. They do this almost every day, for years on end.[55]

8.3 The Committee endorses this statement from the Senate Committee, and the Committee's broader findings and recommendations.

8.4 During this evaluation, the Committee had its attention drawn to factors affecting how mental health issues of this sort, and particularly Post Traumatic Stress injury (PTSI) were dealt with by

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[55] Australian Senate, Standing Committee on Education and Employment, *The People Behind 000, Mental Health of our First Responders*, Report, February 2019, paras. 2.2-2.4.

ACT Policing. The Committee includes this discussion as a means of highlighting how PTSI is now treated in the First Responder community, and some analysis form expert and experienced therapists on how the current approach taken might be addressed and any gaps ameliorated in order to have ACT policing working with best practice modern management of these injuries that many first responder personnel have to manage.

CURRENT AND ONGOING PRESSURES ON POLICE AS RESPONDERS

8.5 A strong observation on PTSI as a mental health pressure for ACT Policing came from the AFPA.

> We have dedicated welfare officers in the ACT. They have been in that space for a long time. There are three, a sergeant and two senior constables, that work as welfare officers, dedicated just to ACT Policing. They can also draw upon the wider welfare network in the broader AFP. There is an early access program that police officers, everyone in the AFP, can access—all ACT plus the broader employees. There is early access so that you can obtain psychological assistance, get a number of visits and things like that.
>
> We do a fair bit of support with our own members where there might be some gaps. Again, there is always more that we can do, or that everybody can do, in that area. Mental health is a big problem. With police officers, and certainly frontline workers, often it is a very personalised thing; not everybody wants the same cookie-cutter type of approach. I think everyone can do a bit better[56].

8.6 and

> **Ms Smith**:I have sent people to various programs outside the ACT. We have paid for people to be put into psych hospitals that the AFP does not pay for. We do a lot of work trying to get our members through their Comcare applications and reconsiderations. That makes up a lot of our work. There are a lot of programs that I try and put people on, to try and assist them day to day. It is not so much about trying to get them back to work, because that is more the organisation's role than my role. We try and fill some of those spaces with general courses and other support.
>
> **Mr Roberts**: One of the biggest issues that we find is that we are dealing with a lot of history here. Going back in time, if you were a police officer with a mental health incident, you would never disclose that, because you would have your firearm taken off you. You would

[56] *Transcript of Evidence*, 16 June 2020, p. 5

probably, truth be told, never go back to duty or you would be treated differently from other members. It is a hard space, the communication and engagement space, to get members to understand, "It's okay to put your hand up; it's okay to seek help."[57]

Recognition of PTSI and mental health issues for ACT police was noted by the AFP

HOW IS ACT POLICING MANAGING MEMBERS WHO ARE EXPERIENCING PTSI?

TIME OFF FOR PTSI

8.7 The AFPA noted a requirement and practice in the AFP in relation to PTSI treatment:

> .....there is also a financial issue in relation to mental health. Under Comcare, you get 100 per cent of your wage for the first 45 weeks. We all know that you cannot put a time frame on recovery from a mental health issue. After 45 weeks, a member's wage drops by 25 per cent. We know that that impacts on the wellbeing of a member, and we also know that they return to work probably before they should.
>
> **Ms Smith**: Far too early. Some of these members have complex PTSI, and 45 weeks on Comcare and out of the workspace is nowhere near enough for that recovery...[58]

8.8 In his evidence to the Committee, Gary Humphries AO noted – from his experience as an AAT member – that:

> Certainly, this level of attention to issues that are important to the ACT government—and the question of wellbeing, particularly mental wellbeing of police officers, is obviously a critical question—is a matter that we do not have the level of visibility over, and capacity to control, that we would if the force was a territory entity. There is a problem with maintaining a high degree of care for workers in that context. Wearing, for a moment, my hat as a member of the Administrative Appeals Tribunal, I know that police officers who are injured in the course of their duties in the ACT come to the tribunal to obtain compensation. It is no secret that police officers are disproportionately represented among both commonwealth and territory public servants who make claims for compensation in the tribunal. Those claims are as often for mental health-type injuries as they are for physical injuries.

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[57] *Ibid.*

[58] *Transcript of Evidence*, 16 June 2020, p. 6

So, clearly, there is a problem. To be frank with you, my perception is that there is quite a tough and uncompromising approach towards injured workers in the AFP. Certainly, many injured police officers consider that to complain of injury, physical or mental, marks them out as somebody who cannot be trusted, cannot be relied upon, and can put a serious question mark over their future career. As a result, people tend not to do it unless it is critical that they get attention to their needs. That is one of those things that we do not get the visibility over because the AFP is run as a federal entity.[59]

8.9 The AFP – Commissioner Kershaw - told the Committee that:

I am confident that the ACT government is receiving very good value for money under current arrangements... This includes access to services for officers under our mental health strategy. [60]

DISCUSSIONS BY COMMITTEE ON MATTER

8.10 The Committee heard evidence from two trusted and active current mental health specialists. One working in the ACT, Ms Carmel O'Sullivan, and one working in NSW, Esther McKay. The evidence brought to the committee gave very practical information which could form the basis of very substantial work on behalf of all frontline serving personnel in the ACT to significantly improve our response to and management of personnel experiencing Mental Health changes and distress.

8.11 These two professionals between them have decades of experience with assisting front line uniformed members deal with trauma.

8.12 Trauma is a part of front-line uniformed service like policing work. However, unlike those who serve in military forces who deploy overseas, police and other local first responders live and work in their "war zone". This means that changes to their mental state are more gradual and are harder for family and friends to notice.

8.13 Therefore, there has to be a high degree of acceptance that a large proportion of those exposed to trauma will experiences changes to their mental state and how they process information in high stress environments.

8.14 The very nature of police work means that it is not always possible for police personnel to know when they walk into danger and it is a natural response for the body and psyche when having been on high alert for periods of time regularly to rewire the brain into what Caramel

[59] *Transcript of Evidence*, 30 June 2020, pp. 88-9.
[60] *Transcript of Evidence*, 30 June 2020, p. 62.

O'Sullivan described as a Trauma Brain. What this means is that those personnel have psychological reactions which make them very useful in those high stress environments, but who may struggle over time to come out of those experiences, process what has occurred and return to a more natural and more comfortable state of psychological operation.

8.15 Unlike many in the society have been led to believe, these people are not broken, they are rewired. Ms O'Sullivan pointed out that they are particularly good in disaster. In many cases they become the best operators in that state but need increased time to recover as they experience more and more trauma.

8.16 It is essential that the employment systems and legal frameworks which sit around these personnel ensure 3 things. 1. That they are acknowledged as valued and not a burden, 2. That they are supported in their recovery, not made to constantly prove that their injury was caused by their workplace, and 3. That they are able to work as much as they are able with flexibility built into the system to either work part time or have recovery leave built into their working arrangements.

8.17 It is high time that we as a community became excellent at managing this issue rather than throwing these people who have taken on such a burden for us on the scrap heap and pushing them out of their jobs, from which they derive much of their meaning.

8.18 When we take the best years that our police have to offer, we must also give them a realistic and supported career path beyond the trauma which they have experienced on the Job.

8.19 One such change which can very sharply improve the situation for trauma experienced personnel is Presumptive Legislation. This has been adopted in Tasmania and is in the process of being adopted in the NT. Presumptive legislation takes "battling the system" away to some extent. It assumes that those doing dangerous and traumatic work like policing have incurred their stress related injuries at work. This takes away some of the risk of what is known as "sanctuary trauma" which is when the very place which is meant to protect you becomes the place where you are battling for treatment and career survival.

8.20 This is why responses like "taking guns off police" are additionally traumatic because the message is that the person is not trusted. This can have very negative effects on the recovery from or management of psychological injury.

8.21 A better form of response would be placing high level of trust in personnel who put their hands up and seek assistance and regular medical feedback about that person's capacity to work.

8.22 For some personnel it will mean part time work and for others it will mean targeting them into roles which are different from those of their specific trauma. For example, one officer who offered her feedback said that after dealing with sex offenders she was not able to work with them anymore but was very capable and had a good mental state when working with more

standard crimes. In the adjusted work environment, she went on to flourish. This is the kind of amendment needed by those who have traumatic psychological injury. They are more aware than ever of their limits after receiving treatment, unlike those who have not experienced trauma, who are yet to discover their limits. This can make them very dependable and capable members, within their chosen specialisation.

8.23 Ester McKay also explained to the committee that employee assistance programs for early mental health support must be culturally aware. A brand-new psychologist recently graduated may be very knowledgeable about psychology but may know nothing about the workforce culture of a uniformed first responder service like the police. These systems must be staffed by former or current uniformed personnel or those with very significant experience of the culture of such services. They must also have personnel in them who are clinically supervised as they give support to members. So for example a current police officer may make an excellent peer support person but they must be able to contact a fully trained and professional and experienced psychologist to debrief the conversations they are having with other police members who come to them for support and must also be able to within that clinical oversight keep matters discussed confidential. With these elements, a peer support or early response and support system can work very well and get mental health awareness and management going earlier before a crisis is reached for the personnel engaging the support.

8.24 It was also noted that if 24 hour a day support services are not offered within or by similar first responder groups, members can call organisations like Lifeline but that they may not have the expertise on hand for how to cope until more familiarised support is available. Any organisation which is not culturally aware of how uniformed first responder workplace function, must be given training in how to manage such personnel's needs until such an experienced and clinically supervised support person is available to them

COMMITTEE COMMENT

8.25 As a part of its comment on the issue of PTSI effects on First responders, the Senate Committee noted its own response, which the JACS Committee supports:

> While emergency services bear a solemn responsibility for public safety, which they discharge under enormous pressure and considerable budgetary constraints, they also have an irrefutable duty of care towards the men and women who are on the front line of the emergency response: people who we expect to help us, to stand between us and danger or even death in our moments of vulnerability, desperation and distress, when all we can do is dial triple zero.
>
> The committee firstly acknowledges the enormous public service and personal sacrifice our first responders provide to the Australian community. The committee also acknowledges the work done by some first response organisations in recent years and commends their leadership in accepting that mental health is a serious concern for their employees, and for some agencies, their volunteers. However, without results—results which must be palpable

for first responders on the ground—policies risk being just words on paper. Much more needs to be done.[61]

Recommendation 26

8.26 **That PTSI arrangements in ACT Policing include presumptive legislation for traumatic Psychological Injury.**

Recommendation 27

8.27 **That in tandem with such legislative change, cultural change be undertaken to change any workplace cultural practices which treat a police member as being unreliable or a risk while they are engaged in proactive mental health management so that affected officers will be prepared to notify injuries or mental health effects at the time of their initial injuries and before they become critical.**

Recommendation 28

8.28 **That a peer support employment assistance program available 24 hours a day, be fully culturally aware, clinically supervised, and within that supervision be confidential.**

Recommendation 29

8.29 **That mental health services and support put a greater focus on building trust between with the frontline personnel client through complete cultural awareness and confidentiality.**

Recommendation 30

8.30 **That those with lived experience have a pathway to be trained in providing peer-to-peer and mental health support either while still serving or as a second career to provide a stream of culturally aware professionals available to the first responders.**

Recommendation 31

[61] [61] Australian Senate, *Standing Committee on Education and Employment, The People Behind 000, Mental Health of our First Responders*, Report, February 2019, Foreword, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/Mentalhealth/Report/section?id=committees%2freportsen%2f024252%2f26967

8.31 **Engage with mental health professionals (such as Ester McKay and Carmel O'Sullivan) in the development, implementation and review of mental health and peer-to-peer support services.**

Recommendation 32

8.32 **That 24-hour support services be geared to deal with peak demand after work hours (i.e. 6-9pm) and on weekends.**

Recommendation 33

8.33 **That trained clinicians be used for these services who are culturally aware or former personnel are trained and supervised by clinicians rather than volunteer-based services without such training and support.**

Recommendation 34

8.34 **Recognised that those who have PTSI have lived experience and are often highly capable and valuable in crisis and traumatic situations and that when recovering from such events may require further support and time for processing their experiences after the event.**

Recommendation 35

8.35 **Recognise that those with PTSI often have wealth of experience, and efforts should be made to keep them employed wherever possible to maintain corporate knowledge and experience.**

Recommendation 36

8.36 **That pathways for post-service personnel who are post-trauma be established to contributing to the frontline through organisations which support current and former members in various capacities.**

Recommendation 37

8.37 **That staff be provided with the training and understanding to best manage their mental health while in a state of need or crisis – if and when culturally aware, trusted and clinically supervised services are not available.**

Recommendation 38

8.38 **That EBA negotiations include the option of part time work options be included as a standard response for those managing traumatic psychological injury.**

9 CONCLUSIONS

9.1 The Committee has conducted its evaluation of current ACT Policing arrangements in accordance with its Terms of Reference and having regard to the discussions and other material presented to it.

9.2 The Committee has made 38 recommendations in relation to its evaluation The Committee would like to thank the Minister for Police and Emergency Services, the senior officers of the AFP and the ACT Chief Police Officer.

9.3 The Committee also thanks all other participants in the is evaluation including other agencies and individuals who provided their thoughts and recommendations for the Committee's consideration.

Mrs Giulia Jones MLA

Chair

28 September 2020

APPENDIX A – SUBMISSIONS RECEIVED BY THE COMMITTEE

Submission Number	Submitter
1	ACT Government – Minister for Police and Emergency Services
2	Australian Federal Police
3	Australian Federal Police Association
4	Belconnen Community Council
5	ACT Ombudsman
6	Weston Creek Community Council
7	Advocacy for Inclusion
8	Speaking Out for Autism Spectrum Disorder
9	ACT Human Rights Commission
10	Australian Commission for Law Enforcement Integrity
11	Gary Humphries AO
12	ACT Council of Social Service (ACTCOSS)

APPENDIX B – WITNESSES

TUESDAY, 16 JUNE 2020

- Ms Jaala Hinchcliffe, Integrity Commissioner, Australian Commission for Law Enforcement Integrity
- Ms Bonnie Millen, Senior Policy Adviser, Advocacy for Inclusion
- Ms Angela Smith, President, Australian Federal Police Association
- Mr Troy Roberts, Media and Government Relations Manager, Australian Federal Police Association

TUESDAY, 23 JUNE 2020

- Mr Thomas Griffiths Anderson, Chair, Weston Creek Community Council
- Ms Dragana Cvetkovski, Chief Finance Officer, Justice and Community Safety Directorate
- Mr Mick Gentleman MLA, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban
- Mr Richard Glenn, Director-General, Justice and Community Safety Directorate
- Mr Glen Hyde, Chair, Belconnen Community Council
- Mr Andrew McIntosh, Senior Director, Justice Planning and Safety Policy, Justice and Community Safety Directorate
- Ms Karen Toohey, Commissioner, Discrimination, Disability, Health and Community Services Commissioner, ACT Human Rights Commission, Justice and Community Safety Directorate
- Dr Helen Watchirs OAM, President of the Commission and Human Rights Commissioner, ACT Human Rights Commission, Justice and Community Safety Directorate
- Ms Heidi Yates, Victims of Crime Commissioner, Victim Support ACT, ACT Human Rights Commission, Justice and Community Safety Directorate

TUESDAY, 30 JUNE 2020

- Mr Bob Buckley, Chair, Speaking Out for Autism Spectrum Disorder
- Deputy Commissioner Gaughan Neil APM, Chief Police Officer for the ACT, ACT Policing
- Mr Gary Humphries AO
- Commissioner Reece Kershaw, Commissioner, Australian Federal Police
- Ms Nicole Levay, Director, Corporate Services, ACT Policing
- Mr Michael Manthorpe PSM, ACT Ombudsman, Office of the Commonwealth Ombudsman
- Mr Paul Pfitzner, Acting Deputy Ombudsman, Office of the Commonwealth Ombudsman

TUESDAY, 4 AUGUST 2020

- Dr Emma Campbell, Chief Executive Officer, ACT Council of Social Service
- Ms Esther Mckay, President, Police Post Trauma Support Group
- Ms Carmel O'Sullivan, Senior Clinical Psychologist, Canberra Psychology Clinic
- Mr Craig Wallace, Policy Manager, ACT Council of Social Service

APPENDIX C – ANSWERS TO QUESTIONS ON NOTICE AND QUESTIONS TAKEN ON NOTICE FROM HEARINGS

Questions on Notice - 30 June 2020

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
	30/6/2020	Gupta	AFPA	ACT Policing	
	30/6/2020	Jones	AFPA	AFP personnel	

Questions Taken on Notice -16 June 2020

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
	16/6/2020	Jones	AFPA	ComCare	7/7/2020
	16/6/2020	Jones	AFPA	Policing Agreement	7/7/2020

Questions Taken on Notice – 23 June 2020

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
1	23/6/2020	Jones	Minister for Police and Emergency Services	Age of ACTP PROMIS system	8/7/2020
2	23/6/2020	Jones	Minister for Police and Emergency Services	Move from ACTP to AFP	8/7/2020

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
3	23/6/2020	Jones	Minister for Police and Emergency Services	ACT Policing Personnel details	13/7/2020
4	23/6/2020	Jones	Minister for Police and Emergency Services	ACT Policing Taser Rollout	13/7/2020
5	23/6/2020	Jones	Minister for Police and Emergency Services	ACT Policing Recruitment	14/7/2020
6	23/6/2020	Jones	Minister for Police and Emergency Services	Strategic Accommodation Committee Meetings	8/7/2020
7	23/6/2020	Jones	Minister for Police and Emergency Services	Breakdown of City Police Station funding and works	2/7/2020

Questions Taken on Notice - 30 June 2020

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
	30/6/2020	1. Jones 2. Gupta	ACT Ombudsman	1. Complaint Handling 2. Diversity of Policing	16/7/2020

APPENDIX D – CURRENT OPERATIONAL DOCUMENTS GOVERNING ACT POLICING[62]

- POLICING ARRANGEMENT—2017-2021
- PURCHASING AGREEMENT—2017-2021
- MINISTERIAL DIRECTION ISSUED BY THE MINISTER FOR POLICE AND EMERGENCY SERVICES—OCTOBER 2019
- BUSINESS PLAN—ACT POLICING—2019-20

[62] https://justice.act.gov.au/safer-communities/crime-prevention/act-policing

- POLICING ARRANGEMENT—2017-2021

- PURCHASING AGREEMENT—2017-2021
- MINISTERIAL DIRECTION ISSUED BY THE MINISTER FOR POLICE AND EMERGENCY SERVICES—OCTOBER 2019
- BUSINESS PLAN—ACT POLICING—2019-20

ACT Government

AFP AUSTRALIAN FEDERAL POLICE

An ongoing arrangement between

the Minister for Justice of the Commonwealth

and

the ACT Minister for Police and Emergency Services

for the

provision of policing services to the ACT

Commencing June 2017

Definitions

In this Arrangement unless the contrary intention appears:

"ACT" means the Australian Capital Territory.

"ACT Government" means the ACT Executive established under section 36 of the *Australian Capital Territory (Self Government) Act 1988* (Cth).

"ACT Policing" means the business unit with the AFP responsible for delivering policing services to the ACT.

"AFP" means the Australian Federal Police.

"AFP Act" means the *Australian Federal Police Act 1979* (Cth).

"Agreement" means an agreement or agreements entered under this Arrangement including agreements to govern service delivery, financial, enabling services, facilities, and infrastructure.

"Chief Police Officer" means the AFP employee appointed by the Commissioner under clause 5.1 of this Arrangement, to be the Chief Police Officer for the ACT.

"Commissioner" means the Commissioner of the Australian Federal Police referred to in section 6 of the AFP Act.

"Commonwealth" means the Australian Commonwealth Government.

"Commonwealth Minister" means the Commonwealth Minister of State appointed to administer the AFP Act.

"Commonwealth place of interest" means a facility or location that is directly involved in the conduct of Commonwealth business or is otherwise in the interests of the Commonwealth to protect.

"Director-General" is the member of the public service responsible for leadership of the administrative unit responsible for policing matters and answerable to the Minister for Police and to the head of service under the *Public Sector Management Act 1994*.

"The Directorate" is the administrative unit responsible for providing advice to the Police Minister on policing matters in accordance with the Administrative Arrangements made by the Chief Minister under the *Australian Capital Territory (Self-government) Act 1988* and the *Public Sector Management Act 1994.*

"Police Minister" means the Minister of the ACT Executive who is responsible for police matters.

"Policing services" means community policing services provided under this Arrangement, an agreement and the AFP Act which include, but are not limited to, the preservation of peace and good order, the prevention and detection of crime and the protection of persons from injury or death, and the protection of property from damage, whether arising from criminal acts or otherwise.

Statutory Framework

The legislative framework which governs the provision of police services in the Australian Capital Territory (ACT) gives rise to a distribution of responsibilities between the Australian Federal Police (AFP) and the Territory, represented by the Minister for Police and Emergency Services (Minister) and supported by the Justice and Community Safety Directorate (Directorate).

Section 22(1) of the *Australian Capital Territory (Self Government) Act 1988* (Cth) (Self-Government Act) provides that the Legislative Assembly has a plenary power to make laws for the peace, order and good government of the Territory. Section 23(1)(c) excludes from that grant, a power to make laws with respect to the provision of police services in relation to the Territory by the AFP.

Section 37(a) of the Self-Government Act provides that the ACT Executive has the responsibility of governing the Territory with respect to matters of law and order for the ACT. Section 43 provides that the Chief Minister may allocate responsibility for administering matters relating to those powers to a Minister. The *Public Sector Management Act 1994* (ACT) mirrors this framework, providing that the Chief Minister may establish administrative units (section 13) and must establish the administrative units within the ACT Public Service that are responsible for the matters allocated to each Minister (section 14).

Under the Administrative Arrangements the Chief Minister has allocated responsibility for policing to the Minister and has established the Directorate as the administrative unit with responsibility for advising and supporting the Minister in relation to those matters.

Under the *Australian Federal Police Act 1979* (Cth) (AFP Act), the Commonwealth Minister responsible for the AFP and the Territory Minister responsible for policing on behalf of the Territory, can enter into arrangements for the provision of police services for the ACT (s 8(1A)) and for the doing of anything incidental or conducive to the provision of those services (s 8(2B)). Having entered into an arrangement and subject to its terms, the functions of AFP members extend to the provision of police services in relation to the ACT (s 8(1)(a)) and anything incidental or conducive to the provision of those services (s 8(1)(c)). When a member is performing those functions in the ACT they have the powers and duties conferred or imposed on a constable or on an officer of police by or under any law of the Territory (including the common law) (s 9(1)(b)). Under the *Human Rights Act 2004,* a member is expected to act consistently with human rights when exercising a function under a Territory law (section 40) and any power or function conferred on a member by a Territory law is to be read consistently with human rights as far as possible consistent with the purpose of that law (section 30).

Under the AFP Act, members remain officers of the Commonwealth and the AFP Commissioner retains responsibility for the general administration, and control of the operations, of the AFP (s 37).

The legislative framework for the provision of police services by the Commonwealth in the ACT requires that responsibility for operational matters will rest with the AFP Commissioner and that responsibility for policy and other matters will rest with the Minister supported by the Directorate.

AN ARRANGEMENT BETWEEN THE MINISTER FOR JUSTICE OF THE COMMONWEALTH AND THE ACT MINISTER FOR POLICE FOR THE PROVISION OF POLICING SERVICES TO THE AUSTRALIAN CAPITAL TERRITORY

1. Purpose and overriding commitment

1.1. The purpose of this Arrangement is to establish the enabling framework for the provision of policing services to the ACT by the AFP.

1.2. The Commonwealth is committed to providing a high quality community policing service for the ACT Government, within the context of this Arrangement and subsequent agreements between the AFP and ACT Government.

The parties agree as follows:

2. Purchase of policing services to the ACT

2.1. The ACT Government will purchase policing services from the AFP in accordance with written agreements between the Police Minister, AFP Commissioner and the Chief Police Officer.

2.2. The AFP will also provide indirect or 'enabling' services integral to the delivery of policing services to the ACT, including, but not limited to, specialist operations, technology and innovation, workforce development, people, safety and security, Chief Financial Officer and Chief Counsel.

2.3. The cost of enabling services will be determined through an enabling cost model agreement between the AFP and the ACT Government and reviewed every four years.

2.4. The ACT Government will provide appropriate facilities and associated infrastructure for the AFP to deliver policing services under this Arrangement.

2.5. Funding for the AFP to provide policing services to the ACT will be included in the payments on behalf of the Territory for the Directorate to oversee on behalf of the ACT Government, as part of the ACT Government budget processes.

2.6. Requests for funding in addition to the appropriation in clause 2.5 for ACT Policing will be considered in accordance with the ACT Government budget processes.

3. Commonwealth obligations to the ACT

3.1. The AFP is also required, within the ACT, to provide policing services to the Commonwealth which are not subject to this Arrangement and for which the ACT Government is not required to pay. This exclusion extends to cover the costs of enforcing Commonwealth law and protecting Commonwealth interests by AFP personnel employed within ACT Policing. Costs excluded from the Arrangement include those associated with the protection of foreign dignitaries, foreign missions and Commonwealth places of interest. The basis for allocating costs against the Commonwealth and ACT Governments will be agreed between the ACT Government and the AFP.

3.2. The allocation of resources for policing services provided to the Commonwealth within the ACT will not be altered in any way which might materially affect the policing services purchased by the ACT Government, without prior consultation and agreement with the Minister for Police. Failure to obtain agreement will be sufficient grounds for the issue of a notice to terminate this Arrangement.

3.3. Except in the case of an emergency, the Commonwealth Minister must not issue to the Commissioner a direction under the AFP Act which affects the provision of policing services to the ACT by the AFP, unless the Commonwealth Minister has first consulted the Police Minister about the nature and purpose of that direction and received agreement for that direction to be given. If a direction is given in an emergency without prior consultation with the Police Minister, the Commonwealth Minister will consult the Police Minister about the Direction as soon as possible thereafter and seek agreement for that Direction.

3.4. If a direction by the Commonwealth Minister to the Commissioner has the effect of increasing the cost of policing services provided to the ACT, then the costs attributable to the direction will be borne by the Commonwealth by adjusting the price paid by the ACT Government.

3.5. The Commonwealth is responsible for determining the terms and conditions of employment of AFP employees involved in the provision of policing services to the ACT under this Arrangement.

4. Monies received by ACT Policing

4.1. Revenues received by the AFP in the course of enforcement of ACT legislation under this Arrangement will be remitted to the ACT Government.

4.2. Money received by ACT Policing in the course of performing policing services, for which there is no identifiable owner, will be transferred to the ACT Government in accordance with the AFP's obligations under the *Public Governance, Performance and Accountability Act 2013* (Cth) and other relevant legislation.

5. Chief Police Officer for the ACT

5.1. The Commissioner must appoint a Chief Police Officer for the ACT with the approval of the Police Minister.

5.2. The Chief Police Officer, subject to the authority of the Commissioner, is responsible to the Police Minister for the achievement of outcomes agreed between the AFP and ACT Government.

5.3. The Chief Police Officer, subject to the authority of the Commissioner, has operational independence over the business of ACT Policing and is responsible for the general management and control of AFP appointees and resources deployed for the purpose of achieving the outcomes agreed between the AFP and ACT Government.

5.4. If the Police Minister advises the Commissioner, in writing, that the Chief Police Officer no longer has the confidence of the ACT Government, and there are satisfactory grounds for the lack of confidence, the Commissioner must as soon as practicable replace the Chief Police Officer.

5.5. The Commissioner and the Police Minister may agree upon procedures to govern acting arrangements at any time the CPO is absent from duty or for any other reason unable to perform the functions of the CPO.

6. ACT Government Ministerial Support

6.1. Although this Arrangement is predominantly for the provision of operational policing services to the ACT, the Chief Police Officer will provide the ACT Government advice on policy matters related to ACT law or justice reform which would impact the delivery of ACT policing services.

6.2. The Chief Police Officer will provide updates and advice on operational matters directly to the Police Minister.

6.3. The Chief Police Officer will provide information to the Director-General on policing policy and funding matters to support the Police Minister in the performance of the ministerial functions for policing.

6.4. This advice from the Chief Police Officer will supplement broader policy advice being provided by the Directorate to ACT Government Ministers which will represent a broader range of interests and considerations.

6.5. The Chief Police Officer and Director-General will work collaboratively to support ACT Government Ministers in the performance of their Ministerial functions.

6.6. The Chief Police Officer will provide information to the Director-General on relevant operational policing matters that impact the broader ACT Government.

6.7. The Director-General will facilitate direct advice from the Chief Police Officer to Ministers, other than the Police Minister, and other Director-Generals.

6.8. The Chief Police Officer will support the development and implementation of ACT Government policy and legislation related to policing. When acting in this capacity the Chief Police Officer must act in the interests of the ACT Government and within the ACT Government policy and legislation framework.

7. Police Minister's power to give directions

7.1. The Police Minister may give the Chief Police Officer, in writing, general directions in relation to policy, priorities and goals for policing services to the ACT under this Arrangement and subsequent agreements.

7.2. The Chief Police Officer must comply with any written directions received from the Police Minister under clause 7.1, unless a contrary written direction has been received from the Commonwealth Minister under the AFP Act.

7.3. Any written directions from the Police Minister will be published in a form that enables them to be reproduced in the ACT Policing Annual Report.

8. National forums

8.1. If the Chief Police Officer holds membership of a national body or forum as the head of a law enforcement jurisdiction, the Chief Police Officer will represent the interests of ACT Policing in its capacity as a service provider for the ACT Government.

8.2. The Chief Police Officer will seek advice from the relevant ACT Government agency to obtain policy advice in relation to matters affecting the delivery of services to the ACT (including obligations under ACT legislation or representation at national and jurisdictional forums).

8.3. Nothing in clauses 8.1 or 8.2 affects the independence of the Chief Police Officer in relation to the day-to-day operation of ACT Policing.

9. Legal advice

9.1. Recognising that ACT Policing is a Commonwealth entity, ACT Policing will seek internal and Commonwealth sourced legal advice on matters falling within its scope as a Commonwealth entity, and matters regarding the internal governance of the AFP.

9.2. Legal advice in relation to the review of briefs of evidence and the prosecution of offences will be sourced from the ACT Director of Public Prosecutions.

9.3. Legal advice in relation to the interpretation of laws of the ACT (including the common law) will be sourced from the ACT Government Solicitor in accordance with procedures agreed between the ACT Government Solicitor and ACT Policing.

9.4. ACT Policing will request legal advice and representation in accordance with agreed procedures between the AFP, ACT Policing, the ACT Director of Public Prosecutions and the ACT Government Solicitor. Procedures may be agreed through letters of exchange between relevant parties or enabling areas

10. Audits

10.1. The Chief Police Officer will provide a financial statement for that financial year accompanied with a report by the Commonwealth Auditor-General or other auditor nominated by the Chief Police Officer and approved by the Police Minister at the time stated in the *Annual Report Directions* stating:

- the correctness of the report and;
- any other matters which the Auditor-General, or otherwise approved auditor, considers should be reported to the Police Minister.

10.2. The Police Minister is also entitled to have other financial and performance audits conducted by the Commonwealth Auditor-General, or other agreed auditor, the cost of which will be borne by the ACT Government.

11. Dispute resolution

11.1. The AFP and ACT Government will establish mechanisms for resolving disputes arising from this Arrangement and subsequent agreements. Any dispute or matter of concern to either party arising from this Arrangement that cannot be resolved through the mechanisms agreed between the AFP and ACT Government, must be referred to the Commonwealth Minister and the Police Minister for resolution.

12. Duration of this Arrangement

12.1. This Arrangement commences on the date agreed by the parties.

12.2. If either party wish to vary the terms of this Arrangement, that party must, in writing, notify the other party to that effect, and the parties must meet within 60 days to commence renegotiating the terms of the Arrangement.

12.3. If either party wish to terminate this Arrangement, that party must, in writing, give at least two years notice to that effect to the other party.

IN WITNESS WHEREOF this Arrangement has been respectively signed for and on behalf of the parties:

SIGNED by the Hon. Michael Keenan MP,
Minister for Justice on behalf of the Commonwealth of Australia

(date of signing) 15.6.17

SIGNED by Mick Gentlemen MLA,
Minister for Police and Emergency Services on behalf of the ACT Government

(date of signing) 15/6/17

- PURCHASING AGREEMENT—2017-2021

- POLICING ARRANGEMENT—2017-2021

ACT Government

AFP AUSTRALIAN FEDERAL POLICE

Agreement between

the ACT Minister for Police and Emergency Services,

Australian Federal Police Commissioner, and

the Chief Police Officer for the ACT

for the provision of policing services to

the Australian Capital Territory

2017-2021

ACT Government

AFP AUSTRALIAN FEDERAL POLICE

The relationship between the AFP and the ACT Government for the provision of policing services to the ACT is long standing and contributes to Canberra being one of the safest places to live in Australia.

The AFP, through ACT Policing, will provide a professional, innovative and effective policing service to the people of the ACT, contributing to a safe and just community for all.

To achieve this vision, the ACT Government and ACT Policing are committed to:

- Whole of government collaboration
- Community engagement
- Working in partnership
- Transparency and information sharing
- Innovation

ACT Policing reflects the values of the AFP when delivering policing services to the ACT:

- Integrity
- Commitment
- Excellence
- Accountability
- Fairness
- Trust
- Respect

1. Definitions

1.1 Unless stated otherwise, definitions in this Agreement are the same as in the Arrangement commenced in June 2017, between the Minister for Justice of the Commonwealth and the ACT Police Minister for the provision of policing services to the ACT.

2. Purpose and Objectives

2.1 In accordance with clause 2.1 of the Arrangement, this Agreement details the policing services to be purchased by the ACT Government from the AFP, including ACT Government Ministerial support, reporting, performance expectations and financial arrangements.

2.2 This Agreement will be read in conjunction with the Arrangement and Ministerial Directions issued under section 7 of the Arrangement.

2.3 The ACT Government and the AFP seek from this Agreement:

- appropriate policing levels and services for the ACT community;
- sustained high quality of service provision; and
- provision of stable and effective policing services for the ACT community as well as the building and retention of corporate knowledge within ACT Policing.

3. Scope

3.1 This Agreement includes all policing services to be purchased by the ACT Government from the AFP through the direct police budget appropriation and other funding outlined in Schedule 1. This Agreement does not cover activities funded by revenue outside the funding outlined in Schedule 1.

3.2 This Agreement includes:

- policing outcomes and all associated outputs to be provided;
- ACT Government Ministerial and policy support outcomes;
- performance measures, together with targets where appropriate;
- financial arrangements; and
- reporting requirements.

4. Governance and Principles

4.1 Overall responsibility for policing in the ACT rests with the Minister for Police. The Minister for Police has delegated the day-to-day management of the Arrangement and Agreement to the Director-General of the Justice and Community Safety Directorate (JACS), consistent with the *Public Sector Management Act 1994*.

4.2 This Agreement is a partnering arrangement in which AFP and JACS, on behalf of the ACT Government, work together jointly to provide a community policing capability to the ACT.

4.3 This Agreement will be supported by governance arrangements agreed between the Director-General JACS and the Chief Police Officer. These governance arrangements will:

- set the strategy for the achievement of the objectives of the Arrangement and Agreement;
- make decisions on the strategic direction and management of the Arrangement and Agreement;
- measure and manage performance; and
- ensure accountability.

4.4 The Director-General JACS and the Chief Police Officer will provide oversight and coordinate relevant committees or working groups to develop and implement appropriate processes and procedures to guide the parties' interactions related to:

- security and emergency management;
- accommodation and facilities;
- policy and legislative matters related to ACT law or justice reforms which directly impact the delivery of policing services in the ACT;
- reporting and performance measures;
- enabling and other financial arrangements;
- how equitable sharing arrangements apply when ACT Government, ACT Policing or the AFP acting on behalf of ACT Policing make contribution to action leading to money or assets being forfeited to a State or Territory or the Commonwealth; and
- other issues where required, to support the Director-General JACS and the Chief Police Officer and manage specific issues that require additional detailed work.

5. ACT Policing Operating Environment

5.1 ACT Policing operations may change in response to the evolving operating environment including:

- security and threat levels;
- geographical and population changes in the ACT;
- community expectations;
- fiscal environment; and
- changes in the ACT Government legal and policy frameworks.

5.2 ACT Policing and the ACT Government will ensure appropriate risk management frameworks are in place and existing ACT Government budget processes will be used to address current or emerging risks in the operating environment that require funding.

5.3 ACT Government will continue to consider the risks and drivers in clause 5.1 when making decisions that impact on ACT Policing.

6. Responsibilities to the Police Minister and other ACT Government Ministers

6.1 In accordance with clause 5.2 of the Arrangement, the Chief Police Officer, subject to the authority of the Commissioner, will be responsible to the Police Minister for the delivery of the outcomes as set out in this Agreement.

6.2 In accordance with the legislative framework for the provision of police services by the AFP in the ACT, the responsibility for operational matters rests with the Chief Police Officer, subject to the authority of the Commissioner, and responsibility for ACT Government policing policy and other policing matters rests with the Police Minister supported by the Directorate.

6.3 In accordance with section 6 of the Arrangement, ACT Policing will work in collaboration with JACS to support the Police Minister, and other ACT Government Ministers as relevant, to participate in the parliamentary process and develop and implement ACT Government policy and legislation related to policing.

6.4 If ACT Policing is requested to provide information to an agency of the ACT Government, subject to the authority of the Commissioner, the Chief Police Officer must provide the requested information to the extent that is permissible under Commonwealth and/or ACT law.

6.5 Nothing in clause 6.4 requires the Chief Police Officer to provide information that would compromise operational activity by the AFP, including ACT Policing.

6.6 The Chief Police Officer may impose conditions on the use of requested information if the Chief Police Officer considers it necessary for operational reasons.

6.7 Any information requested under clause 6.4 and provided by ACT Policing to the nominated agency must be provided in a timely manner and only be used for the purposes of the request.

6.8 Subject to operational requirements, the Chief Police Officer will proactively ensure timely advice is provided to the Police Minister on any ACT Policing issues that have a significant media or other impact on ACT Government. The Police Minister and the Director-General JACS will be responsible for informing the other relevant ACT Government parties.

7. Supporting ACT Government Strategies

7.1 ACT Policing will promote and support a whole of government approach in achieving the objectives of ACT Government strategies, particularly those addressing crime in the ACT community while remaining responsive to changing commitments and adaptive to the needs of the community.

7.2 ACT Policing will support all agreed ACT Government strategies and initiatives, including capturing and providing relevant and available information and data.

8. Supporting events in the ACT

8.1 The funding in this Agreement includes costs to deliver policing services in support of the ACT Government events listed in Schedule 2.

8.2 The Director-General JACS, in consultation with the Director-General Chief Minister, Treasury and Economic Development Directorate and the Chief Police Officer may, by joint agreement, negotiate the provision of policing services that will not be subject to cost recovery for other community events that support ACT Government priorities.

8.3 ACT Policing may seek cost recovery for the provision of policing services to other events that do not fall within the scope of normal policing services in accordance with relevant AFP user pays policies.

8.4 The funding for this Agreement includes costs for ACT Policing to provide a base level of monitoring the Public Safety Closed Circuit Television (CCTV) System, as agreed in writing by the Director-General JACS and the Chief Police Officer.

8.5 ACT Policing may seek cost recovery for monitoring the Public Safety CCTV System for events outside of agreement in 8.4, in accordance with relevant AFP user pays policies.

9. Supporting ACT Government in national forums

9.1 In accordance with section 8 of the Arrangement, ACT Policing will represent the interests of the ACT in national forums.

9.2 Where a conflict exists between the AFP and ACT Policing, ACT Policing should resolve any such conflict in the interests of the ACT.

10. Agreement making

10.1 ACT Policing may enter into agreements separate from this Agreement so long as they are not inconsistent with the Arrangement, this Agreement or the Ministerial Direction.

10.2 ACT Policing will provide JACS with an overview of all formal agreements it has in place with all areas of ACT Government each financial year.

10.3 ACT Policing may enter into agreements with the Speaker of the Legislative Assembly on issues related to policing functions within the parliamentary precincts of the Legislative Assembly.

11. Financial Arrangements

11.1 The AFP will follow the general principles of *Commonwealth Cost Recovery Guidelines* where appropriate in the provision of policing services to the ACT Government.[1]

11.2 The amount of funding provided to the AFP for ACT Policing services as outlined in Schedule 1 of this Agreement, is determined by the ACT Executive through the ACT budget process and included in the payments on behalf of the Territory (Territorial appropriation) for JACS to administer.

11.3 Schedule 1 details the amount of funding provided for ACT Policing through the budget process, including forward estimates, and a pro-rata monthly payment schedule.

11.4 Changes to the annual budget appropriation for ACT Policing will be determined through the ACT Government Budget process.

11.5 ACT Policing will collaborate with JACS Strategic Finance, and other policy areas of JACS where relevant, in participating in the annual budget process.

12. Facilities and Structures

12.1 In accordance with clause 2.4 of the Arrangement, the ACT Government will be responsible for the provision of appropriate facilities and associated infrastructure for the provision of policing services by the AFP. ACT Policing will manage maintenance, leasing and running costs associated with facilities. This will be governed by the joint JACS and ACT Policing Strategic Accommodation Committee and subject to any guidelines developed by that group.

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[1] RMG No. 304 - Australian Government Cost Recovery Guidelines, July 2014 – Third Edition

12.2 The funding provided for ACT Policing includes an amount agreed by the Strategic Accommodation Committee, as outlined in Schedule 1, to be applied by ACT Policing for leasing, maintenance and running costs associated with facilities.

12.3 If forecast facilities costs exceed the budgeted amount as outlined in Schedule 1, ACT Policing will notify the Police Minister and JACS of the requirement to apply for additional funding, to meet the additional forecast facilities costs

12.4 Capital Upgrades Program (CUP) funding will also be provided to JACS (territorial) for minor capital works on ACT Policing facilities.

13. Terms and conditions of employment

13.1 In accordance with clause 3.5 in the Arrangement, the Commissioner is responsible for establishing the terms and conditions of employment of AFP appointees involved in the provision of policing services to the ACT.

13.2 If the Commissioner proposes to vary the terms and conditions of employment of AFP personnel in a way which might affect the manner and cost of providing policing services to the ACT, the Chief Police Officer must consult with the Police Minister and advise of the likely implications of the proposed alterations.

13.3 The AFP will notify the Police Minister of the commencement of any industrial negotiation process that may have implications for AFP personnel providing policing services to the ACT.

13.4 The AFP will take into consideration input received from the ACT Government on any industrial negotiation process related to AFP personnel providing policing services to the ACT.

13.5 Throughout any industrial negotiation process, the Chief Police Officer will provide regular updates to the Police Minister.

14. Enabling Services Cost Methodology

14.1 In accordance with clause 2.2 of the Arrangement, the appropriation funding provided to the AFP, under this Agreement includes enabling costs for services integral to the delivery of policing services to the ACT according to the agreed enabling cost model.

14.2 The underlying principle for determining enabling costs is the allocation of effort and cost that would not have been incurred by the AFP but for ACT Policing.

14.3 To determine the enabling services cost base, only services which are 'integral' are within scope. Integral services are those where there is a dependency or reliance on an activity to deliver community policing to the ACT. The agreed costing model:

- identifies AFP business areas that provide an enabling service to ACT Policing;
- excludes cost for business areas that have no relationship with ACT Policing; and
- has been developed to reflect underlying operational structures.

14.4 In accordance with clause 2.3 of the Arrangement, the enabling cost model will be reviewed by a joint JACS and AFP working group every four years in conjunction with the negotiation of the Agreement.

14.5 Any variation to enabling services as a result of review; or change in demand that may arise as a result of a policy change by the ACT Government; or referred to the Police Minister by the Chief Police Officer must be endorsed by the ACT Government and considered as part of the ACT budget process.

15. Performance Measures

15.1 Over the course of this Agreement, the performance measures in Schedule 3 will be considered to ensure they reflect ACT Policing's capability and contribution to ACT Government performance indicators and community expectations.

15.2 If changes in the performance measure framework have a financial impact (cost or savings), this impact will be considered through the ACT budget process.

15.3 Schedule 3 will be reviewed annually in conjunction with any funding adjustments that may occur through the ACT budget process.

15.4 Short-term variations to targets and priorities set by this Agreement may be determined by the Police Minister, in accordance with section 7 of the Arrangement, including at the request of the Chief Police Officer, following consultation and with reasonable notice.

15.5 Such variations will be appended to this Agreement and should be within budget limits unless otherwise agreed.

15.6 If a performance measure is not consistently met over the period of the Agreement, the Police Minister may direct that, as soon as possible, a review panel consider performance against the performance measure and make recommendations for remedial action.

15.7 A review panel under clause 15.6 must consist of at least one member appointed by the Chief Police Officer, one member appointed by the Director-General, JACS and an independent person agreed by the Chief Police Officer and the Director-General, JACS.

16. Reporting

16.1 The Chief Police Officer shall provide a report to the Police Minister, in collaboration with JACS, within two calendar months at the end of June and December, unless otherwise agreed by the parties, on this Agreement and on the Ministerial Direction.

16.2 The report will contain:

- narrative, including relevant available data where appropriate, on the activities conducted by ACT Policing during the reporting period to achieve the performance measures and in support of the Ministerial Direction;
- information on the deployment, operational status and movement of AFP employees engaged in providing policing services under the Agreement.

16.3 Each June report will also contain:

- the intended allocation of the direct funding from JACS for crime prevention initiatives for the following financial year; and
- a breakdown of the legal services requested by ACT Policing during the immediate preceding financial year.

16.4 Pursuant to the AFP Professional Standards Framework outlined at Schedule 4 in this Agreement, each six monthly report will contain information in relation to complaints management, including with regard to the following matters:

- complaints submitted by category;
- complaint trends/systemic issues;
- complaints submitted by source;
- status of complaints;
- finalised conduct issues by category; and
- conduct issue trends.

16.5 The Professional Standards report outlined in Schedule 4 will be publicly released by the Police Minister and include complaints against AFP appointees providing policing services under this Agreement, including the investigation of such complaints and any related action whether undertaken by the AFP, Australian Commission for Law Enforcement Integrity (ACLEI), the Commonwealth Ombudsman or otherwise.

17. Annual Report

17.1 The Chief Police Officer shall provide a report to the Police Minister, on the provision of police services pursuant to this Agreement. The Chief Police Officer will adhere to the timelines and processes identified in the ACT Government *Annual Reports (Government Agencies) Notice* for the relevant year. The annual report will describe the outcomes achieved during the period reported on and shall include details of the resources utilised, the levels of crime reported and such other matters as may be specified by the Police Minister.

17.2 In accordance with section 10 of the Arrangement, the Chief Police Officer will provide an audited financial statement to the Police Minister following the completion of each financial year.

18. Dispute Resolution

18.1 Issues and disputes related to the Arrangement and Agreement will be escalated in accordance with issues management processes agreed by the Director-General JACS and the Chief Police Officer.

18.2 Any disputes that cannot be resolved through the agreed issues management process will be referred to the Director-General JACS and the Chief Police Officer for resolution.

18.3 Any dispute or matter of concern to either party arising from the Arrangement and this Agreement that cannot be resolved by Director-General JACS and the Chief Police Officer shall be referred to the Police Minister and the Commissioner for resolution.

19. Duration and development of Agreements

19.1 This Agreement shall apply for the period 1 July 2017 to 30 June 2021, with the exception of the Schedules outlined in 19.3 and 19.4.

19.2 No variation of this Agreement is binding unless it is agreed in writing between the parties.

19.3 Schedule 1 will be amended each financial year to reflect any changes from the ACT Budget process.

19.4 In response to changes in the funding for ACT Policing and/or Government priorities, performance measures (Schedule 3) and supported ACT Government events (Schedule 2) for this Agreement must be reviewed annually and may be amended prior to the commencement of the following financial year, which begin on 1 July 2018, 1 July 2019, 1 July 2020.

19.5 The parties must agree on amendments to Schedules 1, 2 and 3 after the ACT Budget is announced and no later than 30 June every year. If the parties have not agreed on new Schedules by 30 June, the terms of the existing schedule will be extended for up to an additional month.

19.4 Negotiations for a new Agreement to commence on 1 July 2021 must be initiated no later than July 2020. Schedule 5 contains an indicative timetable for the development of an Agreement for the 2021-2025 period. The timetable for the negotiations will be flexible to work in conjunction with the ACT Government budget process.

19.5 If the parties have not signed a new Agreement by 30 June 2021, the parties may agree by exchange of letters to extend the terms of this Agreement for up to six months.

Mick Gentleman MLA Minister for Police and Emergency Services	Michael Phelan APM A/g Commissioner Australian Federal Police	Justine Saunders APM Chief Police Officer for the ACT
10th July 2017	10 July 2017	10 July 2017

Schedule 1 – Annual funding

In accordance with section 11 of the Agreement, funding provided to the AFP for policing services as outlined in this Agreement, is determined by the ACT Executive through the ACT budget process and included in the payments on behalf of the Territory for JACS to administer.

In addition to the Territorial appropriation, the Payment Schedule provides details of other funding sources relevant to ACT Policing operations.

Total ACT Policing Budget appropriation (includes capability maintenance funding)

	2017-18 Budget $'000	2018-19 Estimated $'000	2019-20 Estimate $'000	2020-21 Estimate $'000
Total ACT Policing Budget appropriation	161,331	163,938	164,931	164,359

The 2017-18 funding breakdown:

	2017-18
2017-18 ACT Policing Budget appropriation (as per BP)	**161,331,000**
Crime Prevention Initiatives[1]	232,000
Recurrent Initiative - Enhanced security for ACT Policing[1]	189,000
2017-18 Policing Purchase Agreement Amount	**161,752,000**
Capital Upgrade Program Budget[2]	264,000
Capital Initiative - Enhanced security for ACT Policing[3]	1,006,000

1. These items are processed through invoicing and does not form part of the budget for the contract price
2. Capital Upgrade Program funding is held by JACS on ACTP's behalf and does not form part of the budget for the contract price
3. Capital initiative funding is held by JACS on ACTP's behalf and does not form part of the budget for the contract price

This Agreement reflects new initiatives, offsets and transfers from 2017-18 Budget process:

2017-18 Budget Initiatives	**2017-18**
Additional Resourcing for Taskforce Nemesis	1,593,000
Enhanced Security for ACT Policing - recurrent	189,000
Enhanced Security for ACT Policing – capital	1,006,000
Equipping more ACT Police with TASERs	845,000
Planning for the future of policing in the ACT	889,000
Reducing alcohol fuelled violence	1,207,000
Eastman retrial	800,000
Supporting careers in ACT Policing	NFP
Upgrading ACT Policing's water and rescue response capability	NFP
Transfer of function to Access Canberra	(203,000)
Initiative offsets	(753,000)
Total 2017-18 Budget Initiatives	**8,806,000**

The total price of this Agreement includes funding applied by ACT Policing for leasing, maintenance and running costs associated with facilities. The budgeted amount to be applied to facilities leasing, maintenance and running costs by ACT Policing in 2017-18 is $4.251m. The budget for this expenditure is based on expenditure incurred in 2016-17.

Facilities Leasing, Maintenance and Running Costs

Budgeted 2017-18 Facilities Costs	$
Leasing	1,103,000
Maintenance	1,754,000
Running Costs	1,394,000
Total Recurrent	**$4,251,000**

ACT Justice & Community Safety Directorate

2017-18 Appropriation Payment Schedule for ACT Policing

Pay No	Date	Amount ($)
1	27 Jul 17	13,444,250
2	29 Aug 17	13,444,250
3	28 Sep 17	13,444,250
4	26 Oct 17	13,444,250
5	30 Nov 17	13,444,250
6	21 Dec 17	13,444,250
7	30 Jan 18	13,444,250
8	27 Feb 18	13,444,250
9	29 Mar 18	13,444,250
10	26 Apr 18	13,444,250
11	31 May 18	13,444,250
12	28 Jun 18	13,444,250
Total Appropriation		161,331,000

The AFP agrees to the above schedule of payments for ACT Policing to be processed by the JACS with the last payment run each month of 2017-18 (Tuesday or Thursday).

Schedule 2 – Supported ACT Government Events

In accordance with clauses 8 and 11 of this Agreement the price of this Agreement includes costs to deliver policing services in support of the following ACT Government events:

31 December	New Year's Eve
Early January	Summernats City Cruise
25-26 January	Queens Baton Relay
26 January	Australia Day Celebrates
Mid-February	National Multicultural Festival
Early-March	Enlighten
Mid-March	Skyfire
Mid-September – Mid-October	Floriade including Floriade NightFest

Schedule 3 – Performance Reporting

The framework for measuring the performance of policing services in the ACT is a contemporary model which incorporates an outcome-focused framework.

Overarching budgetary outcome:

In partnership with the community, create a safer and more secure Australian Capital Territory (ACT) through the provision of quality police services.

This will be achieved through three main areas of activity: Reduce Crime; Public Safety; and Community and Partner Engagement.

The performance measure framework aims to enhance accountability for the delivery of services and provides clear linkages between ACT Policing's outcomes, outputs, strategies and individual measures.

The performance measures are an important element of determining the appropriate allocation of all resources in ACT Policing. Actual performance is rigorously measured and reported upon and, over time, informs decisions about adjustments to performance targets.

The indicators of effectiveness within this framework recognise that the performance outcomes for these indicators are not fully within ACT Policing control. There are a number of public and private institutions and individuals who contribute to the overall results and standings of these indicators.

OUTCOME: REDUCE CRIME

Output: Crime Prevention and Reduction

Strategies

Prevent or reduce crime and violence
Continued support and delivery against the Property Crime Prevention Strategy
Promote innovative and enduring community crime prevention strategies and programs
Preventing and reducing opportunities for crime to occur and/or reoccur

Performance Measure	Target
Number of offences against the person reported or becoming known per 100,000 population [a]	800 or less [b]
Number of offences against the property reported or becoming known per 100,000 population [a]	8300 or less [b]

Output: Criminal Investigations and Prosecutions

Strategies

Enhance response to and investigation of offences
Forge strong partnerships with key stakeholders to facilitate whole-of-government and cross-jurisdictional information sharing and collaboration
Apply effective technology and forensic science capabilities
Effectively use intelligence from a wide range of sources

Performance Measure	Target
Percentage of offences against the person cleared	72% or more [b]
Percentage of offences against property cleared	15% or more [b]

Strategies

Effective and efficient support to the judicial process
Promote a robust partnership between ACT Director of Public Prosecutions, ACT Law Courts, JACS and the community to enhance criminal justice outcomes
Deliver a high standard of briefs of evidence in a timely manner
Facilitate a more efficient criminal justice system with emphasis on timely preventative justice measure and judicial process

Performance Measure	Target
Percentage of briefs delivered to the Director of Public Prosecutions within the designated timeframes [f]	75% or more
Percentage of cases finalised by offence proved in court [g,h,i]	82% or more
Percentage of cases otherwise resolved [g,i,j]	5% or less

Indicators of Effectiveness	Target
Percentage of persons who are concerned about becoming a victim of physical assault in a public place- excluding sexual assault in the next 12 months [a,b,d]	National Average or less
Percentage of persons who are concerned about becoming a victim of sexual assault in the next 12 months [a,c,d]	National Average or less
Percentage of persons who are concerned about becoming a victim of housebreaking in the next 12 months [a,c,d]	National Average or less
Percentage of persons who are concerned about becoming a victim of motor vehicle theft in the next 12 months [a,c,d]	National Average or less
Percentage of persons who feel safe when walking in their neighbourhood by themselves during the night [a,c,d]	National Average or more
Percentage of persons who feel safe at home alone during the night [a,c,d]	National Average or more
Percentage of persons who perceive the following quality of life issues to be a problem in their neighbourhood: [a,c,d]	
Speeding cars, dangerous or noisy driving	National Average or less
Graffiti/vandalism	National Average or less
Louts/gangs	National Average or less
Drunken/disorderly behaviour	National Average or less

OUTCOME: PUBLIC SAFETY

Output: **Police Response**

Strategies	
	Responsiveness to calls and incidents taking into consideration public and police safety Response meets the expectations of community needs Ensure resources meet demands Enhance police responsiveness through mobility solutions

Performance Measure	Target
Response time for Priority One within 10 minutes	80% or more
Response time for Priority Two within 20 Minutes	80% or more
Response time for Priority Three where police attention or response is required: as determined in consultation with the complainant but, in any event, no later than 48 hours from the initial contact by the complainant	90% or more
Percentage of 000 calls answered on first or second presentation: a) On first presentation b) On second presentation	92% or more 98% or more

Output: **Public Order and Emergency Management**

Strategies	
	Effective planning and management of major community events and public demonstrations Work with the community and other agencies to contribute to improved events management Review and improve existing arrangements around scheduled annual major public events Conduct post operational assessments with relevant stakeholders to ensure best practice

Performance Measure	Target
Percentage of the community satisfied with police in dealing with public order problems [a,c,d]	National Average or more

Strategies	
	Respond to emergencies and disasters Work with partners to develop and maintain preparedness Review and improve multi-agency emergency management and plans and responses Conduct post operational assessment processes with relevant stakeholders to ensure best practice

Performance Measure	Target
Review and testing of arrangements for responding to and recovering from emergencies and disasters	Annual

Output: **Road Safety & Traffic Management**

Strategies	
	Collaborate with partner agencies to improve and promote road safety through education, innovation and targeted enforcement Continue to deliver against the ACT Road Safety Strategy and Action Plan Maintain targeted campaigns to align with the ACT Road Safety Calendar Aspire to reduce the annual number of road crash fatalities and serious injuries by at least 30 per cent by 2020

Performance Measure	Target
Number of road crashes resulting in death per 100,000 population [a]	4.2 or less [c]
Number of road crashes resulting in injury per 100,000 population [a]	180 or less [c]

fectiveness	Target
Percentage of persons who self-report to driving 10km per hour or more over the speed limit [a,c,d]	National Average or less
Percentage of persons who self-report to driving while not wearing a seatbelt [a,c,d]	National Average or less
Percentage of persons who self-report to driving while suspecting they are over the prescribed alcohol limit [a,c,d,e]	National Average or less
Percentage of persons who self-report to driving when using a mobile phone [a,c,d]	National Average or less

OUTCOME: COMMUNITY AND PARTNER ENGAGEMENT

Output: Community Support and Whole-of-Government Collaboration

Strategies

Increase community confidence in police

Develop and deliver innovative communication strategies to share information and foster community participation
Maintain the use of social media to provide real time information to support and serve the needs of the community
Collaborate with partner agencies, business and community groups to support community events

Performance Measures	Target
Percentage of the community satisfied in general with services provided by police [c,d]	National Average or more
Percentage of the community who have confidence in police [c,d]	National Average or more

Strategies

Increase support for early intervention and diversion

Collaborate with partner agencies and community groups to prevent and reduce recidivism, prevent repeat victimisation and protect 'at risk'/vulnerable groups
Continued support and delivery against the ACT Aboriginal Justice Partnership 2015-18 to prevent and reduce the number of Aboriginal and Torres Strait Islander people coming into contact with the criminal justice system
Support strategies and initiatives that deter, detect and prevent violence against women and children

Performance Measures	Target
Percentage of eligible young people referred to restorative justice	100%[o]
Number of persons referred to community support agencies	5500 or more
Number of referrals to drug diversion programs (drug demand and reduction effort)	80 or more

Strategies

Enhance and strengthen resilience of communities

Work with community and partners to reduce tolerance for crime
Support community derived safety and security initiatives
Build relationships with vulnerable community groups

Performance Measures	Target
ACT Policing Victim Liaison Officers providing contact with victims of indictable crime reported to police [m]	80% or more

Indicators of effectiveness	Target
Percentage of persons satisfied with most recent contact with police services [c,d]	National Average or more
Percentage of persons who agree that police perform their job professionally [c,d]	National Average or more
Percentage of persons who agree that police treat people fairly and equally [c,d]	National Average or more

Schedule 3 - Notes

These measures encompass the jurisdiction of a great many public and private institutions and individuals who contribute to the overall results and standings. Success in these targets is not the sole domain or responsibility of ACT Policing.

These targets are based on a five year average, operational environment, crime trends and ACT Government priorities.

These indicators are sourced from the *National Survey of Community Satisfaction with Policing (NSCSP)*, a self reporting survey conducted by the Social Research Centre.

Using the results of the relevant NSCSP questions, the percentage of the community 'satisfied' in measure 16 equals those who scored 'satisfied' or 'very satisfied'; the percentage of the community who have 'confidence' in measure 17 equals those who scored 'agree' or 'strongly agree'; the percentage of persons 'concerned' in Indicators A-D equals those who scored 'somewhat concerned' or 'very concerned'; the percentage of persons 'who feel safe' in Indicators E-F equals those who scored 'safe' or 'very safe'. Indicator G equals those who scored 'somewhat of a problem' or 'major problem' for each separate problem; the percentage of persons 'self-report to driving' in Indicators H-K equals those who scored 'sometimes', 'most of the time' or 'always'; the percentage of persons 'satisfied' in Indicator L equals those who scored 'satisfied' or 'very satisfied'; the percentage of persons who agree' in Indicators M-N equals those who scored 'agree' or 'strongly agree'.

In the ACT, the prescribed limit is 0.000 of alcohol per 100mL of blood for those classed as a 'special driver' in the *Road Transport (Alcohol and Drugs) Act 1977*. 'Special drivers' include those with a learner, provisional, probation, restricted, suspended and disqualified licence. The prescribed limit for all other drivers is 0.050 of alcohol per 100mL of blood.

Briefs delivered to the Director of Public Prosecutions within the designated timeframe include those where a formal extension was applied for and granted.

These measures are based on the concept of a 'case' where a person may be brought before the court on multiple charges. The charges are, for the purposes of this measure grouped under the apprehension identification number which is automatically generated by the PROMIS Case Management System.

This measure records successful prosecutions as being those where any of the charges under one apprehension identification number has been proven before the court.

This measure records cases which resulted in a court appearance where a magistrate or judge has made a determination which is not related to a finding of guilty or not guilty. This currently refers to mental health orders used by a court.

The term "otherwise resolved' includes cases referred to the Mental Health Tribunal, remands by the court before a matter is determined.

It should be noted that a proportion of the young people referred are as a diversion whilst others are referred in conjunction with criminal prosecution.

This target does not include matters where police discretion has determined that no further action or a caution is the most appropriate action.

This indicator measures all cases where ACT Policing Victim Liaison Officers have made initial contact with victims for specific indictable offences reported to police within the reporting period.

Eligible according to s19 of the *Crimes (Restorative Justice) Act 2004:*

19 Eligible offenders

(1) An offender who commits an offence is eligible for restorative justice if—

(a) this Act applies to the offence and the offender under part 4; and

(b) the offender—

(i) accepts responsibility for the commission of the offence; and

(ii) was at least 10 years old when the offence was committed, or was allegedly committed; and

(iii) is capable of agreeing to take part in restorative justice; and

(iv) agrees to take part in restorative justice.

ACT Policing is required to report on the following against this target:

Total number of young offenders

Total number of ineligible young offenders

Total number of Aboriginal and Torres Strait Islander young offenders

Total number of ineligible Aboriginal and Torres Strait Islander young offenders

Reasons why the offenders were deemed ineligible

Schedule 3 – Definitions

Term	Definition
Comparability of Survey of Community Satisfaction with policing results	The *National Survey of Community Satisfaction with Policing* (NSCSP) was conducted by Roy Morgan Research from 1 July 2006 to 30 June 2010. Since 1 July 2010 the NSCSP is conducted by the Social Research Centre. While the content of the survey remains relatively similar over time, there is some potential for variations in results based solely on the difference in the survey methodologies and survey providers.
Complaint issues	Issues associated with a complaint made in accordance with Part V of the *Australian Federal Police Act 1979*.
Contact with Victim	ACT Policing Victim Liaison Officers (VLOs) contact victims either via phone, letter or face to face. The VLOs may contact victims of the following indictable offences: • Family Violence; • Homicide; • Stalking; • Assault; • Sexual Assault (including Acts of Indecency and Indecent Exposure); • Kidnapping; • Robbery; and • Residential Burglary For offences investigated by ACT Policing's Criminal Investigations portfolio, contact with victims is made where necessary after consultation with the relevant case officer.
Custody	The restriction or removal of a person's right to freedom of movement. May also be constructive as a result of a person believing that they may not exercise their free will as a result of dealings with a police officer and is deemed to exist in circumstances where a person: • is in the company, care, custody or control of a member or special • member, and is restricted from leaving that company for the time being; • is placed in a holding room; • is lodged in police cells or an area or facility controlled by police; • is placed under arrest.
DPP	Director of Public Prosecutions.

Term	Definition
Hearing brief of evidence	A collation of all relevant evidentiary material relating to a prosecution to be forwarded to the DPP. It is accepted that for the judicial Process Measures (Numbers 24, 25, 26, 27) the efficiency of other agencies such as the DPP as well as the capacity of victims and witnesses to present their evidence may also affect judicial process outcomes.
Injury	An injury sustained by any person as a result of a collision, which necessitates treatment by a medical practitioner.
Offence	A breach of the criminal law.
Offence cleared	Offence cleared - Offences that are cleared by any method including, but not restricted to, Arrest, Caution, Summons, Charge withdrawn, Unfounded, Court Attendance Notice, Charge before the court, Diversionary conference, Simple Cannabis Offence Notice, Complaint withdrawn by victim, Offender identified - child under 10 years old, Assault - inadequate evidence to support allegation or Civil reconciliation between offender and victim.
Offences against property	Offences against property include robbery, blackmail, extortion, burglary, fraud, motor vehicle thefts, other theft offences, property damage and environmental offences.
Offences against the Person	Offences against the person include homicide assaults, sexually based offences, kidnap and related offences, other person offences.
Percentage of 000 calls answered on first and second presentation	It is the policy of Telstra to re-present 000 calls to another line after 9 rings in order to maximise the response rate. This is a national standard endorsed by Emergency Services Organisations across Australia. The measurement of response to 000 calls is based on average operating capacity and the target for this measure does not include abnormal instances created by one major event where operating capacity is overloaded due to multiple reporting of the same incident.
Police response	All police attendance to calls for assistance from members of the community that fit within the prioritised response model.
Prioritised response model	The model used by the Computer Aided Dispatch system to prioritise incidents for dispatch of patrols.

Term	Definition
Priority One Incident	Life threatening or time critical situations.
Priority Two Incident	Situations where the information provided indicates that time is important, but not critical.
Priority Three Incident	There are two possible responses to situations where there is no immediate danger to safety or property. This will be either police attention or police response. Each incident will be managed on a case by case basis in full consultation with the complainant. During that consultation, a determination will be made as to whether the complainant agrees that the matter can be handled over the telephone (police attention) or if attendance is required by Police. If the latter, then attendance must be not later than 48 hours from the initial contact by the complainant.

Schedule 4 – Complaints Reporting

AFP Professional Standards is the primary mechanism for maintaining integrity and applies to all AFP appointees in Australia, its Territories and overseas.

Fundamental to compliance with the professional standards of the AFP is a requirement to adhere to the core values of the organisation.

Reporting of ACT Policing complaint matters will occur in accordance with clause 16.5 of this Agreement and will cover such matters as:

- Complaints submitted by category;
- Complaint trends, systemic issues;
- Complaints submitted by source;
- Status of complaints;
- Finalised conduct issues by category; and
- Conduct issue trends.

Schedule 5 – Timetable for Developing 2021-25 Agreement

Action		Indicative Date
1.	The Chief Police Officer and Director-General JACS establish an Agreement sub-committee to lead the development of the 2021-25 Agreement.	July 2020
2.	Commencement of negotiation.	September 2020
3.	Endorsement of proposed Agreement by Chief Police Officer and Director-General JACS.	End of May 2021
4.	Obtain agreement from Commissioner and ACT-Government Police Minister to the proposed Agreement.	June 2021
5.	Signing of Agreement.	End of June 2021

Schedule 6 – Resource Reporting

In accordance with clause 16 of this Agreement, the Chief Police Officer will report to the Minister for Police on the deployment, operational status and movement of ACT Policing employees. Reporting will include:

- Definitions;
- Designation of staff as per operational and non-operational staff;
- Aggregated number of staff transfers into ACT Policing;
- Aggregated staff transfers out of ACT Policing; and
- Superintendent rank (or equivalent).

The Chief Police Officer will give timely advice to the Police Minister on any senior AFP personnel movements or changes. Changes to the Deputy Chief Police Officer and Director Corporate Services will be reported at the time of occurrence.

Schedule 7 – Financial Reporting

In accordance with clause 16 of this Agreement, the Chief Police Officer will report to the Minister for Police on ACT Policing's financial performance in the below format.

The report will be accompanied by commentary where consolidated node variations exceed 5 per cent of pro-rata phased budgets.

Australian Federal Police
ACT Community Policing
Financial Performance
For 2017-18

	Current Budget 2017-18	Expenditure YTD	YTD Budget	Prorata Expenditure Rate Based On Phased Budgets	Full Year Estimate	Over/ (Under)
Employee Expenses						
Direct Employee Expenses						
Provision for Recreation Leave						
Provision for Long Service Leave						
Superannuation						
Overtime & Penalties ACTP						
Other						
Total Salary Related Expenses						
Administrative Expenses						
Communications Expenses						
Computer Expenses						
Consultants/Contractors						
General Expenses						
Insurance						
Motor Vehicle Expenses						
Office Expenses						
Other Operational Costs						
Property Items Discretionary						
Security						
Staff Expenses						
Training						
Travel Expenses						
Other						
Total Administrative Expenses						
Non-Discretionary						
Property Operating Expenses						
Compensation & Legal						
Depreciation						
Total Non-Discretionary Expenses						
Enabling Expenses						
General Counsel						
Finance & Commercial						
Technology & Innovation						
Support Capability						
People, Safety & Security						
Specialist Operations						
Workforce & Development						
Total Enabling Expenses						
Total						

- MINISTERIAL DIRECTION ISSUED BY THE MINISTER FOR POLICE AND EMERGENCY SERVICES—OCTOBER 2019

ACT Government

Mick Gentleman MLA

Minister for Advanced Technology and Space Industries
Minister for the Environment and Heritage
Minister for Planning and Land Management
Minister for Police and Emergency Services
Manager of Government Business
Member for Brindabella

Ministerial Direction

This Direction is issued under section 7 of the Policing Arrangement between the Commonwealth and Australian Capital Territory (ACT) Governments and outlines the Government's priorities and expectations for the Australian Federal Police (AFP) and more specifically the Chief Police Officer for the ACT (CPO). This Direction is to be read in conjunction with the 2017-2021 Purchase Agreement between the ACT Minister for Police and Emergency Services, the AFP Commissioner and the CPO. It supersedes and revokes the Direction issued on 10 July 2017.

My primary expectation is that ACT Policing will continue to provide a professional, effective and efficient, policing service to the ACT community. This should be achieved through evidence-based and innovative strategies to meet the outcomes of the 2017-2021 Purchase Agreement to reduce crime, increase public safety and engage with community and partners locally and nationally.

Through collaborative work with the Government and other stakeholders, I expect ACT Policing to play a key role in implementing ACT Government initiatives that improve community safety; reduce harm and trauma; and help prevent, divert and improve outcomes for those in contact with the justice system. This includes being transparent and responsive, as well as working with partner agencies on holistic approaches to complex social issues and providing policing and law enforcement advice to inform Government decision making.

In this context, the ACT Government expects ACT Policing will give special focus to the following priorities:

a. **Transitioning to a new policing service model** that sees ACT Policing evolving in line with population growth and community expectations by providing a proactive, community focused policing service, centered on the disruption and prevention of crime.

b. In support of Government's overall efforts to reduce recidivism by 25 percent by 2025, **increase early intervention and diversion strategies** and continue to work with the Aboriginal and Torres Strait Islander community to identify ways to reduce the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system.

c. **Contribute to Canberra as a restorative city** and continue to improve responses to vulnerable groups including Aboriginal and Torres Strait Islander people, young people, people experiencing mental health issues, people with a disability, culturally and linguistically diverse people and victims of crime.

d. **Strengthening the ACT's response to domestic and family violence** in appropriate and culturally sensitive ways and supporting the efforts of the Coordinator-General for Family Safety.

e. Working proactively and innovatively with Government to **reduce and prevent alcohol-fueled violence**, including enforcing liquor laws, maintaining a presence in night entertainment precincts and responding to alcohol related violent incidents.

f. **Improving road safety**, with emphasis on reducing road trauma experienced by vulnerable road users and combating anti-social and dangerous behaviours including speeding, driving while impaired or distracted.

g. **Disrupting serious and organised crime**, including criminal gangs, drug trafficking and supply; and economic disruption to target the proceeds of crime, in addition to working with the Government to identify and implement legislative measures to target serious and organised crime.

h. **Drug harm minimisation** by continuing to focus on diverting lower level drug offenders from the criminal justice process in accordance with the National Drug Strategy and the Government's policy settings such as the ACT Drug Strategy Action Plan.

i. **Countering the threat of terrorism and violent extremism** by continuing to strengthen the safety of the ACT's public places in line with national strategies and best practice; and developing a fixated threat capability to meet the Government's obligations under the October 2017 Council of Australian Governments agreement.

I encourage ACT Policing to maintain a diverse and inclusive workforce that is committed to the wellbeing and health of its people so that it can continue to deliver a professional, innovative and effective policing service in a dynamic environment for the ACT community. This will include enhanced digital engagement to ensure ACT Policing continues to evolve in line with community expectations. In support of this, I will continue to work with ACT Policing, the Justice and Community Safety Directorate and the community to support a smooth transition to a new policing service model that will see more police working in a more connected and effective way to disrupt and prevent crime.

Mick Gentleman, MLA
Minister for Police and Emergency Services
28/10/19

- BUSINESS PLAN—ACT POLICING—2019-20

ACT Policing Business Plan

ACT Government
Justice and Community Safety

AFP
AUSTRALIAN FEDERAL POLICE

2019-20

Working in partnership with the community to create a safer and more secure Australian Capital Territory

In accordance with the *Australian Federal Police Act 1979*, the AFP provides community policing services to the Australian Capital Territory (ACT). ACT Policing is the community policing arm of the AFP and under the auspices of a Policing Arrangement between the Commonwealth and ACT Governments, we are responsible for providing quality and effective policing services to the people of the ACT.

Chief Police Officer's message

Our mission is to keep the peace and preserve public safety within the ACT. We strive to deliver a sustainable, professional, innovative, flexible and effective policing response to the increasingly complex borderless criminal environment.

ACT Policing continuously strive to meet community expectations and with our transition to a community-focused and crime prevention model of police service, we believe expectations will be met with key focuses on education, disruption, prevention, diversion and community engagement.

We are committed to preventing and reducing crime, and improving public safety through continued collaboration with the ACT Government, the community and partner agencies. We aim to have the right capabilities, in the right place, at the right time for ACT Policing to be successful in keeping the community safe.

Ray Johnson APM
Chief Police Officer for the ACT

Our Special Areas of Focus

The ACT Government expects ACT Policing will focus its activities on the following key strategic priorities during financial year 2019-20:

- Strengthening ACT's response to domestic and family violence in appropriate and culturally sensitive ways; and supporting the efforts of the Coordinator-General for Family Safety.
- Working proactively and innovatively with Government to reduce and prevent alcohol-fuelled violence including enforcing liquor laws, maintaining a presence in night entertainment precincts and responding to alcohol related violent incidents.
- Continuing the commitment to early intervention and diversion strategies including restorative justice with a focus on vulnerable groups, in particular young people and Aboriginal and Torres Strait Islander people.
- Improving road safety through particular emphasis on vulnerable road users and combating anti-social and dangerous behaviours including speeding, driving while impaired or distracted.
- Continue to focus on preventing, disrupting and responding to the evolving threat of violent extremism and terrorism with a particular focus on crowded places.
- Transitioning to a new Policing Service Model that sees ACT Policing evolving inline with population growth and community expectations by providing proactive, community focused policing service, centered on the disruption and prevention of crime.
- Drug harm minimisation by continuing to focus on diverting lower level drug offenders from the criminal justice process in accordance with the National Drug Strategy and the Government's policy settings such as the ACT Drug Strategy Action Plan.

OUTCOMES	OUTPUTS	STRATEGIES	PERFORMANCE MEASURES	TARGETS
REDUCE CRIME	Crime Prevention and Reduction	Prevent or reduce crime and violence • Continued support and delivery against the Property Crime Reduction Strategy. • Promote innovative and enduring community crime prevention strategies and programs. • Preventing and reducing opportunities for crime to occur and/or reoccur.	1 Number of offences against the person reported or becoming known per 100,000 population. 2 Number of offences against property reported or becoming known per 100,000 population.	800 or less 8300 or less
	Criminal Investigations and Prosecutions	Enhance response to and investigation of offences • Forge strong partnerships with key stakeholders to facilitate whole-of-government and cross-jurisdictional information sharing and collaboration. • Apply effective technology and forensic science capabilities. • Effectively use intelligence from a wide range of sources.	3 Percentage of offences against the person cleared. 4 Percentage of offences against property cleared.	72% or more 15% or more
		Effective and efficient support to the judicial process • Promote a robust partnership between ACT Director of Public Prosecutions, ACT Law Courts, JaCS and the community to enhance criminal justice outcomes. • Deliver a high standard of briefs of evidence in a timely manner. • Facilitate a more efficient criminal justice system with emphasis on timely preventative justice measures and judicial process.	5 Percentage of briefs delivered to the Director of Public Prosecutions within the designated timeframes. 6 Percentage of cases finalised by offence proved in court. 7 Percentage of cases otherwise resolved.	75% or more 82% or more 5% or more
OUTCOMES	OUTPUTS	STRATEGIES	PERFORMANCE MEASURES	TARGETS
PUBLIC SAFETY	Police Response	Responsiveness to calls and incidents taking into consideration public and police safety • Response meets the expectations of community needs. • Ensure resources meet demands. • Enhance police responsiveness through mobility solutions.	8 Response times for Priority One incidents within 10 minutes. 9 Response times for Priority Two incidents within 20 minutes. 10 Response times for Priority Three incidents: Where police attention or response is required: • as determined in consultation with the complainant; • but, in any event, no later than 48 hours from the initial contact by the complainant. 11 Percentage of 000 calls answered on first or second presentation: a) On first presentation; b) On second presentation.	80% or more 80% or more 90% or more 92% or more 98% or more
	Public Order and Emergency Management	Effective planning and management of major community events and public demonstrations • Work with the community and other agencies to contribute to improved events management. • Review and improve existing arrangements around scheduled annual major public events. • Conduct post operational assessments with relevant stakeholders to ensure best practice. Respond to emergencies and disasters • Work with partners to develop and maintain preparedness. • Review and improve multi-agency emergency management plans and responses. • Conduct post operational assessment processes with relevant stakeholders to ensure best practice.	12 Percentage of the community satisfied with police in dealing with public order problems. 13 Review and testing of arrangements for responding to recovering from emergencies and disasters.	≥ National Average Annually
	Road Safety and Traffic Management	Collaborate with partner agencies to improve and promote road safety through education, innovation and targeted enforcement • Continue to deliver against the ACT Road Safety Strategy and Action Plan. • Maintain targeted campaigns to align with the ACT Road Safety Calendar. • Aspire to reduce the annual number of road crash fatalities and serious injuries by at least 30 per cent by 2020.	14 Number of road crashes resulting in death per 100,000 population. 15 Number of road crashes resulting in injury per 100,000 population.	4.2 or less 180 or less
OUTCOMES	OUTPUTS	STRATEGIES	PERFORMANCE MEASURES	TARGETS
COMMUNITY AND PARTNER ENGAGEMENT	Community Support and Whole-of-Government Collaboration	Increase community confidence in police • Develop and deliver innovative communication strategies to share information and foster community participation. • Maintain the use of social media to provide real time information to support and serve the needs of the community. • Collaborate with partner agencies, business and community groups to support community events.	16 Percentage of the community satisfied in general with services provided by police. 17 Percentage of the community who have confidence in police.	≥ National Average ≥ National Average
		Increase support for early intervention and diversion • Collaborate with partner agencies and community groups to prevent and reduce recidivism, prevent repeat victimisation and protect 'at risk'/vulnerable groups. • Continued support and delivery against the ACT Aboriginal and Torres Strait Islander Justice Partnership 2015 - 18 to prevent and reduce the number of Aboriginal and Torres Strait Islander people coming into contact with the criminal justice system. • Support strategies and initiatives that deter, detect and prevent violence against women and children.	18 Percentage of eligible young people referred to restorative justice. 19 Number of persons referred to community support agencies. 20 Number of referrals to drug diversion programs (drug demand and reduction effort).	100% or more 5500 or more 80 or more
		Enhance and strengthen resilience of communities • Work with community and partners to reduce tolerance for crime. • Support community derived safety and security initiatives. • Build relationships with vulnerable community groups.	21 ACT Policing Victim Liaison Officers providing contact with victims of indictable crime reported to police.	80% or more

APPENDIX D – ANSWERS TO QUESTIONS ON NOTICE AND QUESTIONS TAKEN ON NOTICE FROM HEARINGS

Questions on Notice - 30 June 2020

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
	30/6/2020	Gupta	AFPA	ACT Policing	
	30/6/2020	Jones	AFPA	AFP personnel	

Questions Taken on Notice -16 June 2020

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
	16/6/2020	Jones	AFPA	ComCare	7/7/2020
	16/6/2020	Jones	AFPA	Policing Agreement	7/7/2020

Questions Taken on Notice – 23 June 2020

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
1	23/6/2020	Jones	Minister for Police and Emergency Services	Age of ACTP PROMIS system	8/7/2020
2	23/6/2020	Jones	Minister for Police and Emergency Services	Move from ACTP to AFP	8/7/2020

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
3	23/6/2020	Jones	Minister for Police and Emergency Services	ACT Policing Personnel details	13/7/2020
4	23/6/2020	Jones	Minister for Police and Emergency Services	ACT Policing Taser Rollout	13/7/2020
5	23/6/2020	Jones	Minister for Police and Emergency Services	ACT Policing Recruitment	14/7/2020
6	23/6/2020	Jones	Minister for Police and Emergency Services	Strategic Accommodation Committee Meetings	8/7/2020
7	23/6/2020	Jones	Minister for Police and Emergency Services	Breakdown of City Police Station funding and works	2/7/2020

Questions Taken on Notice - 30 June 2020

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
	30/6/2020	1. Jones 2. Gupta	ACT Ombudsman	1. Complaint Handling 2. Diversity of Policing	16/7/2020