



AFP
AUSTRALIAN FEDERAL POLICE

oakton

For AFP Internal Audit

AFP Internal Audit

People Smuggling Completed Report December 2011

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Contents

1. Executive Summary	5
2. Summary of Recommendations	8
3. Contextual Information	10
4. Detailed Audit Findings and Recommendations	13
Finding 1 – Government Expectations	13
Finding 2 – Resources Deployed to People Smuggling	16
Finding 3 – People Smuggling NPIs	21
Finding 4 – Approach to Investigating People Smuggling	28
Finding 5 – Stakeholder Engagement	31
Appendix A - Approved Audit Plan	33
Appendix B - Key Audit Dates	37
Appendix C - AFP Risk Management Scales	38

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Abbreviations

Acronym	Full Title
AFP	Australian Federal Police
AGD	Attorney General's Department
BPC	Border Protection Command
CDPP	Commonwealth Director of Public Prosecutions
CFO	Chief Financial Officer
Customs	Australian Customs and Border Protection Service
DIAC	Department of Immigration and Citizenship
FTE	Full Time Equivalent
HR	Human Resources
INP	Indonesian National Police
JCLEC	Jakarta Centre for Law Enforcement Cooperation
KPI	Key Performance Indicators
MIN	Manager, International
MOCO	Manager Operations, Crime Operations
NCPS	National Coordinator, People Smuggling
NMCO	National Manager Crime Operations
NMHR	National Manager Human Resources
NPI	New Policy Initiative
PMO	Programme Management Office
PM, ERLEC	Program Manager, Enhancing Regional Law Enforcement Capability
PSOG	People Smuggling Operations Group
PSST	People Smuggling Strike Team
SATGASDA	Indonesian People Smuggling Taskforces
SIEV	Suspected Illegal Entry Vessel
TCU	Transnational Crime Unit
TNCC	Transnational Crime Coordination Centre

1. Executive Summary

1.1 Introduction

Increasing numbers of illegal boat arrivals have been highly publicised over the last decade and generated significant discussion in the Parliament. The current and previous Governments have funded a number of budget measures that require the AFP to increase its detection, deterrence and disruption of people smuggling operations. There are six NPIs related to people smuggling, with total funding in excess of \$70 million over four years.

Attached to the increased funding are high expectations. AFP responses to people smuggling have attracted and will continue to attract external scrutiny and questioning from the media and Parliament, including coverage in Senate Estimates hearings.

Furthermore, the nature of people smuggling activities requires a significant amount of engagement between the AFP and partner law enforcement agencies, both domestically and internationally.

The AFP's standing and reputation in the law enforcement community is at risk if the AFP does not achieve outcomes or collaborate appropriately with these agencies.

The approved audit plan is copied at **Appendix A** and key audit dates at **Appendix B**.

1.2 Audit Objective

Noting the broad extent of AFP involvement in the people smuggling crime type, this audit is to provide assurance that government expectations are being met in relation to AFP people smuggling investigations.

Specifically, the audit:

- *identified the AFP's approach to investigating the people smuggling crime type*
- *identified the government's expectations in relation to the people smuggling crime type*
- *identified the resources the AFP has deployed to respond to the people smuggling crime type*
- *reviewed the management and effectiveness of people smuggling related NPIs*
- *determined whether the AFP is appropriately engaging with other agencies in planning and conducting people smuggling operations.*

1.3 Workforce Context

No specific workforce planning issues were identified as part of this audit.

1.4 Key Findings

The findings below are presented in accordance with their identified risk rating which was determined with reference to **Appendix C**.

High Risk

- **People Smuggling NPIs (Finding 3)**

Planning and project management has varied across six NPIs. More recent NPIs are better managed than older NPIs. It is unclear who is responsible for the delivery of NPIs 1-5. Inaccuracies have been identified in formal NPI reporting.

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Actual departmental expenditure of People Smuggling NPI funding is not being tracked separately and it is not possible to definitively determine what staff expenditure is being funded by NPI funding.

Significant Risk

- **Government Expectations (Finding 1)**

The AFP has not confirmed its approach to people smuggling responses with the Minister via a Statement of Intent as recommended in the Beale review. s47E(d)

s47E(d)

The AFP does not have a people smuggling action plan that clearly articulates its approach to people smuggling responses and relevant key performance indicators (KPI).

1.5 Certificate of Financial Compliance Implications

No aspects of the *Financial Management and Accountability Act 1997* (FMA Act) were tested during the course of this audit.

1.6 Conclusion

Overall Internal Audit (IA) considers the AFP has interpreted the Government's broad expectations in relation to people smuggling investigations correctly and is meeting those expectations. IA conclusions against specific audit criteria are:

Objective	Conclusion
Identify the AFP's approach to investigating the people smuggling crime type	<p>The AFP's strategic approach to investigating the people smuggling crime type includes:</p> <ul style="list-style-type: none">• Investigation and prosecution of adult crew members who arrive by SIEVs.• Investigation of facilitators and organisers, domestically and internationally, involved in people smuggling activities.• Liaison with Australian and foreign law enforcement agencies to support people smuggling investigations of significance to the AFP.• Implementation of processes to effectively progress foreign capacity building.• Actively promoting the aims and objectives of people smuggling law enforcement with other Government agencies and ensure effective inter-governmental relations are maintained.• Devising functional strategies to combat people smuggling, such as the development of business plans, regional strategies and functional activities (such as Post Action Plans).

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Objective	Conclusion
Identify the government's expectations in relation to the people smuggling crime type	<p>While the Government expectations for people smuggling responses are broad, the AFP has interpreted these expectations and translated them into an approach to people smuggling investigations that reflect these broad expectations.</p> <p>s47E(d)</p> <p>s47E(d) However, a process of articulating this interpretation back to Government or "closing the loop" as recommended in the Beale review has not taken place.</p> <p>In addition, a more formal business planning approach to people smuggling investigations in the form of a People Smuggling Action Plan would allow the AFP to more readily demonstrate its approach and how it meets the Government's expectations.</p>
Identify the resources the AFP has deployed to respond to the people smuggling crime type	<p>The AFP has a flexible deployment model that ensures that resources are allocated to investigations with the highest priority. The AFP has to date incurred costs in excess of those provided by the Commonwealth specifically for people smuggling response activities. This has resulted in resources being diverted from other AFP priorities. IA estimates that at least an additional \$10m has been allocated over and above the level of funding provided by the Government for people smuggling response activities.</p>
Review the management and effectiveness of people smuggling related NPIs	<p>The management of NPIs has improved with later NPIs being better managed. However, the management of NPI 1 – 5 could have been better.</p> <p>None of the NPIs reviewed have been completed as at conclusion of audit fieldwork. IA is of the view that the deliverables of NPIs 2 and 3 are substantially in place. NPIs 1, 4 and 5 are ongoing with some deliverables to enhance regional capability yet to be delivered. Many components of NPI 6 were complete or nearing completion at the conclusion of fieldwork.</p>
Determine whether the AFP is appropriately engaging with other agencies in planning and conducting people smuggling operations.	<p>The AFP has significant and appropriate engagement with other agencies in planning and conducting people smuggling operations. This includes daily meetings with key agencies.</p>

2. Summary of Recommendations

#	Recommendation	Responsible Party	Responsible Party Comment	Risk Rating	Due Date
1	Develop a People Smuggling Action Plan with clear KPIs and report against the plan at least six-monthly.	NMCO	Agreed	Significant	30 June 2012
2	Clearly define roles and responsibilities in relation to the management and oversight of NPIs 1 -5.	NMCO	Agreed	High	31 January 2012
3	Revisit the implementation plans for NPIs 1 to 5 and update as a minimum: <ul style="list-style-type: none"> • project governance • project deliverables • project schedules • risk assessments • quality assurance activities. 	NMCO	Agreed	High	31 March 2012
4	Ensure project reporting is against all NPI deliverables.	NMCO	Agreed	High	31 December 2011
5	NMCO to consult with CFO about configuring the AFP's financial system to separately track actual departmental expenditure on people smuggling NPIs.	NMCO	Agreed	High	30 June 2012

#	Recommendation	Responsible Party	Responsible Party Comment	Risk Rating	Due Date
6	Where NPI deliverables relate to additional AFP FTE, establish a formal system via either the HR system or Time Recording to track the additional FTE attributable to the NPI.	NMCO	Agreed	High	30 June 2012

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3. Contextual Information

Government expectations of the AFP in relation to people smuggling activities and the role the AFP is to play in the wider Government response to people smuggling are outlined through a number of sources, but foremost through the Ministerial Direction issued by the Minister for Home Affairs. In this direction dated 1 July 2010, the Minister outlines the Government's priorities and expectations to include:

- *Contributing effectively to Australia's border management and security, particularly protecting Australia from people smuggling, including prevention, deterrence and disruption.*

In addition to the Ministerial Statement, the Government's policy with respect to people smuggling activities has been articulated in a number of policy statements. The following table provides a brief summary of those policy statements since 2008:

Source	Policy
First National Security Statement. Address by the Prime Minister of Australia The Hon. Kevin Rudd MP 4 December 2008	The Government is committed to deploying all necessary resources to prosecute those criminals who seek to undermine Australia's border security. We will work with our partners in the region to shut down the illegal operations of people smugglers and see them put in jail where they belong. The Government has recently agreed to a series of new measures at a cost of \$44.1 million to further combat people smuggling in cooperation with regional partners.
Prime Minister The Hon. Julia Gillard MP, Moving Australia Forward , 6 July 2010 Speech to the Lowy Institute, Sydney, NSW	I am also making the Government's policy goal clear: <i>it is to wreck the people smuggling trade by removing the incentive for boats to leave their port of origin in the first place; to remove both the profitability of the trade and the danger of the voyage.</i>
2011/12 Portfolio Budget Statement (extract)	<p>Strategic Direction Statement</p> <p>The Australian Federal Police (AFP) is an independent statutory authority whose functions are set out in section 8 of the <i>Australian Federal Police Act 1979</i> (the AFP Act). The AFP is also guided by a Ministerial Direction, issued under subsection 37(2) of the AFP Act 1979.</p> <p>Under section 8 of the AFP Act, the AFP's functions include:</p> <ul style="list-style-type: none"> • the provision of police services in relation to laws of the Commonwealth, the property of the Commonwealth (including Commonwealth places), and the safeguarding of Commonwealth interests • the provision of police services in relation to the Australian Capital Territory, the Jervis Bay Territory and Australia's external territories (e.g. Christmas Island) • protective and custodial functions as directed by the Minister • the provision of police services and police support services to assist or cooperate with an Australian or foreign law enforcement agency, intelligence or security agency, or government regulatory agency, and • the provision of police services and police support services in relation to establishing, developing and monitoring peace, stability and security in foreign countries.

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Further confirmation of these expectations is provided through the AFP Portfolio Budget Statement and as a result of the Government funding six individual New Policy Initiatives (NPIs) since 2009-10. Funding has been sought and provided in the form of NPIs (detailed below) for a range of initiatives aimed at addressing the Government's expectations of the AFP with respect to people smuggling.

NPI 1 - Developing Australia's Approach to People Smuggling

s33(a)(iii)

NPI 2 - Enhancing Australia's Approach to People Smuggling –

s33(a)(iii)

s33(a)(iii)

NPI 3 - Enhancing AFP People Smuggling Strike Team (PSST) Capability

The PSST was established in 2000 as part of the Whole-of-Government strategy to combat the increase in people smuggling activity to Australia. The team consists of ten AFP members and five DIAC members co-located within AFP premises in Canberra. The PSST's charter is to investigate organised criminal elements by engaging with foreign law enforcement agencies to dismantle syndicates and prevent vessels from departing. Since inception, the PSST has achieved significant success, including the apprehension and conviction of seven people smuggling principals in Australia. It has also contributed to significant disruption activity, preventing the departure of potential illegal immigrant ventures from Indonesia to Australia.

This measure will increase investigator and intelligence resources in the PSST. Given the lack of relevant people smuggling legislation in key foreign jurisdictions, particularly Indonesia and Malaysia, investigations into the organisers of people smuggling ventures are complex and protracted. In order to apprehend and prosecute offenders, Briefs of Evidence are required to be compiled on a range of criminal offences, to suit the relevant jurisdiction. This involves money laundering, proceeds of crime, passport and other identity offences. As a result, significant specialist investigative expertise is required to conduct interpreted interviews with witnesses, track financial instruments and engage prosecutorial agencies to facilitate possible extradition to Australia where dual criminality exists.

NPI 4 - Enhanced Indonesia National Police (INP) Technical & Surveillance Capability

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s33(a)(iii)

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NPI 5 - Enhancing AFP & Regional Capability to Combat People Smuggling (PS)

These additional measures capitalise on the other people smuggling initiatives to counter the ongoing increase in people smuggling transiting through Asia by further enhancing the AFP's capacity in Australia and in the region, addressing additional resource or capability gaps in partner law enforcement agencies in transit countries and utilising where appropriate non-government agency resources.

In order to prevent arrivals and collect evidence for prosecutions in Australia, these initiatives include the deployment of Australian Federal Police investigators and intelligence officers to key countries as standing liaison officers, financing local law enforcement operations, capability development, training and operational support.

NPI 6 - Advancing Regional Law Enforcement Capability

This proposal aims to counter the ongoing increase in people smuggling ventures to Australia by further enhancing the AFP's capacity in Australia and in the region, addressing additional resource or capability gaps in partner law enforcement agencies in transit countries. This is facilitated in this proposal by seeking to establish and increase regional law enforcement agencies capacity through tactical support from the AFP to disrupt maritime people smuggling ventures and investigate syndicates.

s33(a)(iii)

s33(a)(iii)

The proposal will also provide: enhanced capacity for rapid deployment of technical support in support of people smuggling activities response activities offshore. This will considerably boost the capacity of overseas government agencies to respond to Australian Government requests for action.

There was an additional NPI that commenced on 1 July 2011. This NPI was not reviewed as part of the audit as at the time of audit fieldwork the AFP was still finalising the details of this NPI.

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4. Detailed Audit Findings and Recommendations

Finding 1 – Government Expectations

Context

The Australian Government's policy on people smuggling has been clearly stated in a number of forums. The Prime Minister, in her address to the Lowry Institute in July 2010, summed up the Government's position as follows:

"it is to wreck the people smuggling trade by removing the incentive for boats to leave their port of origin in the first place; to remove both the profitability of the trade and the danger of the voyage".

The Minister for Home Affairs Ministerial Direction to the AFP Commissioner confirmed the Government's policy. It states in that direction one of his key strategic priorities for the AFP is:

"contributing effectively to Australia's border management and security, particularly protecting Australia from people smuggling, including prevention, deterrence and disruption".

The AFP has developed an approach to people smuggling investigations that reflects the Government's broad expectations. A comprehensive approach to both the strategic and operational aspects of people smuggling is based on a combination of measures to prevent, deter and disrupt suspected illegal entry vessels (SIEVs).

A high level set of expectations have been defined, and the AFP has implemented a range of strategies and actions through the Crime Program Business Plan and numerous Post and Office Action Plans.

Findings/Observations

Defining Government Expectations

If the AFP is to be assured it is achieving government expectations, it is necessary to confirm those expectations. While the AFP has implemented a range of activities and actions that effectively meet the Government's people smuggling expectations, they have not confirmed this with the Minister for Justice. In his Federal Audit of Police Capabilities, Mr Roger Beale AO noted that:

"while the Commissioner reports, through the Annual Report and the Portfolio Budget Statement on the AFP's performance, there is no explicit 'closing of the loop' in relation to the Minister's expectations". He further went on to state that *"the Audit proposes that the Minister request from the Commissioner a Statement of Intent under s 37(6) of the Australian Federal Police Act 1979, in response to the Ministerial Direction. This Statement of Intent should set out how the AFP intends to give effect to the Minister's directions and the implications for the AFP's responsibilities. In time, both the Minister's direction and the Commissioner's statement of intent will be set in the context of the unfolding program of whole of government strategies to address our major national security and crime risks".*

In April 2011 a draft Statement of Intent was prepared which addressed the recommendation made by Mr. Beale. However at the conclusion of IA fieldwork, that Statement has not been finalised. This Statement of Intent will confirm the AFP's approach and expectations to people smuggling investigations with Government. The AFP does describe its approach to People Smuggling activities regularly in Cabinet Submissions.

Strategic and operational frameworks for investigating people smuggling

The AFP has developed an approach to people smuggling investigations that reflects the Government's broad expectations. A comprehensive approach to both the strategic and operational aspects of people smuggling is based on a combination of measures to prevent, deter and disrupt suspected illegal entry vessels (SIEVs).

A high level set of expectations have been defined, and the AFP has implemented a range of strategies and actions through the Crime Program Business Plan and numerous Post and Office Action Plans.

It is reasonable to expect that the AFP would have developed the following planning documents to support people smuggling response activities:

Planning Document	Details/Comments
AFP Strategic Plan	The current plan covers the period 2007-2011 and is in the process of being re-developed.
AFP Business Plan	A Crime Program Business Plan 2011-2014 has been developed which refers to people smuggling responses at a high level.
Crime Program Action Plan	No specific planning exists for combating the people smuggling crime type.
AFP Action Plans	Post and Office Action Plans have been developed that cover a range of strategies and actions including some relating to people smuggling.

The Crime Program Business Plan 2011-14 (the Plan) broadly outlines the AFP's strategies for investigating people smuggling. However, this is at a high level and does not define an approach to the people smuggling crime type. To ensure that the AFP's approach is adequately responding to the needs of the Minister and the objectives as set by Government, the AFP has attempted to link strategies in the Plan to the source policy document (e.g. PBS, Ministerial Direction). Responsibilities for achieving the overall strategic goals are assigned to relevant managers and performance measures with relevant targets are included in the Plan.

It is clear from the work completed to date that the AFP has taken the objectives, commitments and priorities as set by Government, and developed a range of strategies that outline the AFP's commitment to investigating people smuggling. By documenting these strategies in an Action Plan the AFP will be able to more effectively demonstrate how it is meeting Government expectations.

s33(a)(iii)

s33(a)(iii)

s34(3)

s34(3)

IA is of the view that an AFP People Smuggling Action Plan would clearly articulate the AFP's approach to investigating people smuggling and allow for reporting against specific key performance indicators (KPIs). Links should be established this plan and the AFP's International Engagement Strategy.

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Risk & Recommendation

Risk & Implication – prior to implementation of recommendation

The People Smuggling crime type is atypical in the AFP environment as it involves significant political scrutiny; more comprehensive whole of Government and international cooperation than other crime types and significant NPI funding. This increases the likelihood of external scrutiny. AFP People Smuggling Action Plan would more effectively demonstrate the AFP's holistic approach and performance (via specific KPIs) in relation to this crime type.

<i>Likelihood</i>	Likely	<i>Consequence</i>	Moderate	<i>Rating</i>	Significant
<i>Recommendation 1</i>				<i>Responsible Party</i>	<i>Due Date</i>
Develop a People Smuggling Action Plan with clear KPIs and report against the plan at least six-monthly.				NMCO	30 June 2012

Responsible Party Comment

Agreed

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Finding 2 – Resources Deployed to People Smuggling

Context

s34(3)

Note: This analysis has focused on employee expenditure as supplier expenditure associated with NPIs is not tracked separately (please refer to finding 3 for further discussion).

Time Recording Data

The AFP Time Recording system is used by each individual member (with some exceptions) to record their time and allocate that time against the following categories:

- Cost Centre
- Cost Centre function
- Internal Order Code
- Employee Name and Identity
- No. of hours worked
- Date hours worked
- IO Incident Type.

Data was extracted from the Time Recording system that met a number of parameters. This included all time recorded against the Internal Order and Incident type of people smuggling. This also allowed time recorded against some major operations, including Operations Canna, Pallarenda and Ridley to be excluded.

Noting the above exclusions, in 2010-11, the time recording system recorded 210,184 hours against people smuggling activities. These hours were recorded by 686 staff across 163