

The Australian Federal Police Commissioner's Order on Professional Standards (CO2)

I, Andrew Colvin, Commissioner of the Australian Federal Police, in the exercise of my powers under:

- sections 37, 38, 40RC(1), 40TA(1) and 69C of the [Australian Federal Police Act 1979](#) (Cth)
- section 79 of the [Australian Federal Police Regulations 2018](#) (Cth).

issue this Commissioner's Order 2 within the terms set out in the following text and in any attachments to it.

This Order may be cited as Commissioner's Order 2.

This Order takes effect from its publication on the AFP intranet.

Andrew Colvin
2019.

1. Security classification

1.1 This document is classified **UNCLASSIFIED** and is intended for internal AFP use. Wider dissemination should be approved by the document owner or authorised by Commonwealth law.

2. Acronyms

AFP	Australian Federal Police
CCT	Complaint Coordination Team
CFIs	Commissioner's Financial Instructions
CMT	Complaint Management Team
CRAMS	Complaint Recording and Management System
MPRS	Manager Professional Standards
NMWDC	National Manager Workforce Development and Culture
NMPSS	National Manager People, Safety and Security
PRS	Professional Standards
PRSIU	Professional Standards Investigations Unit

3. Definitions

3.1. In this Order the meanings of certain terms are as follows:

AFP appointee – means a Deputy Commissioner, an AFP employee, special member or special protective service officer, and includes a person:

- engaged overseas under s. 69A of the [Australian Federal Police Act 1979](#) (Cth) (the Act)
- seconded to the AFP under s. 69D of the Act
- engaged under s. 35 of the Act as a consultant or contractor to perform services for the AFP and determined under s. 35(2) of the Act to be an AFP appointee.

(See s. 4 of the Act.)

AFP conduct issue – has the same meaning as defined in s. 40RH of the Act.

AFP Confidant Network – has the same meaning as defined in the [AFP National Guideline on the Confidant Network](#).

AFP governance instrument – means a governance instrument issued by the Commissioner, Commissioner's delegate or AFP SES manager under [Commissioner's Order on Governance \(CO1\)](#) .

AFP practices issue – has the same meaning as in s. 40RI of the Act.

Assigned investigator – means a member or special member of the AFP who, in accordance with s. 40RF of the Act, is assigned as a member of the unit created by s. 40RD of the Act.

Complaint – means giving information pursuant to s. 40SA of the Act.

Complainant – has the same meaning as in s. 40SA of the Act.

Complaint investigator – is an AFP appointee at or above Band 4 on the AFP salary spine, who may investigate a Category 2 conduct issue and any associated AFP practices issues on behalf of a complaint manager.

Complaint management information – means information obtained when recording, investigating or managing a conduct issue.

Complaint management team – means a team that manages AFP practices issues and Category 1 and Category 2 conduct issues relevant to their area of responsibility and as authorised by s. 13 of this Order.

Complaint manager – an AFP appointee in a complaint management team and who is authorised by s. 40RQ of the Act to deal with AFP conduct and practices issues within their area of responsibility and make findings and apply outcomes with respect to those issues.

Complaint recipient – any AFP appointee who receives information that raises a conduct or practices issue and who may informally resolve a complaint involving a Category 1 conduct issue or AFP practices issue.

Confidant Network – means all confidants and the Confidant Network Coordination Team.

Corrupt conduct – has the same meaning as 'engages in corrupt conduct' as defined in s. 6 of the [Law Enforcement Integrity Commissioner Act 2006](#) (Cth) (LEIC Act).

Corruption issue – has the same meaning as in s. 7 of the [Law Enforcement Integrity Commissioner Act 2006](#) (Cth).

Cultural Change Review – Elizabeth Broderick was engaged to conduct a review ([Cultural Change Report: Gender Diversity and Inclusion in the Australian Federal Police](#)) to inform and support the achievement of the AFP's long-term Diversity and Inclusion strategy. The outcome of this review was to establish a specialised and independent portfolio, "Reform Culture and Standards".

Death or serious injury associated with police contact – deaths and serious injuries resulting from or associated with:

- the discharge of an official firearm by an AFP appointee
- any other form of force used by an AFP appointee
- custody-related police operations, which include where police are attempting to detain a person (e.g. pursuits or sieges)
- persons in the process of escaping or attempting to escape from custody
- persons being in custody, whether in cells or otherwise, including where either:
 - there is suspicion on the part of any AFP appointee
 - there is an allegation made by any person
 - the circumstances indicate that any death occurring subsequent to a period of AFP detention is because of that detention
- any other action or inaction by an AFP appointee in the course of their duties, including motor vehicle collisions.

Head of the Unit – the person who is appointed as the Head of the Unit under s. 40RE of the Act.

Integrity Commissioner – the Integrity Commissioner appointed under s. 175 of the LEIC Act.

Professional Standards – the business area referred to as 'PRS' that has the responsibility for managing the professional standards framework of the AFP and investigating Category 3 conduct issues and corruption issues, relating to conduct engaged in by AFP appointees.

Professional Standards Panel or Panel – means the advisory Panel which considers sanctions for Category 3 conduct and corrupt conduct issues which have been the subject of established findings of fact following a Part V investigation.

PRS Panel Delegate – the Chair of the Panel, who, upon advice from the Panel, determines the sanctions to be applied under section 40TV of the Act in relation to established Category 3 conduct and corrupt conduct issues.

Professional standards of the AFP – has the meaning given by Part A of this Order.

Workforce Development and Culture - the portfolio designed to provide support to both current and former AFP appointees:

- who have been affected by sexual assault, sexual harassment, harassment or bullying
- to give them the reassurance that their concerns will be treated with respect, sensitivity and confidentiality
- to provide them with a level of control over the progress of their matter
- inquiring about issues arising from the report and queries about their understanding of sexual assault, sexual harassment, bullying and harassment.

Safe Place Team – forms part of the Workforce Development and Culture function.

Sanction – means an action taken under section 40TV of the Act in relation to an established Category 3 conduct or corrupt conduct matter, including but not limited to:

- termination action
- remedial action
- training and development action

- any other action the Commissioner may take in relation to the AFP appointee including reduction in salary.

Security incident - is a security infringement, breach, violation, contact or approach seeking unauthorised access to official resources, or any other occurrence that results in negative consequences for the Australian Government.

Serious injury – types of injuries which, by their nature, are likely to:

- be life threatening
- require emergency admission to a hospital and significant medical treatment
- result in permanent impairment or long term rehabilitation
- constitute grievous bodily harm.

Significant corruption – has the same meaning as defined in s. 5 of the LEIC Act.

The Act – means the [Australian Federal Police Act 1979](#) (Cth).

The Ombudsman – means the Commonwealth Ombudsman Office and Commonwealth Ombudsman who may also be called the Law Enforcement Ombudsman under s. 4 of the [Ombudsman Act 1976](#) (Cth).

4. Introduction

4.1 The term 'professional standards' refers to the Commissioner's expectations regarding how AFP appointees will conduct themselves. 'Professional Standards' also references the functional business area known as PRS that has the responsibility for managing professional standards issues under Part V of the Act.

4.2 The professional standards of the AFP and its complaint management methodology and processes form part of the [AFP integrity framework](#). The [AFP integrity framework](#) involves a range of strategies to prevent, detect and respond to the risk of corruption, misconduct and practices issues.

5. Purpose

5.1. This Commissioner's Order is to give effect to relevant provisions of Part V of the AFP Act by:

- setting the professional standards of the AFP to maintain the good order and discipline of the organisation
- outlining the AFP complaint management methodology and processes in accordance with Part V of the Act, including the roles of AFP appointees, PRS and the Professional Standards Panel.

Part A – Professional standards of the AFP

Under sections 38 and 40RC of the Act, this Part A determines the professional standards of the AFP to be complied with by AFP appointees.

6. Professional standards scope

6.1. The professional standards of the AFP are the responsibility of every AFP appointee.

6.2. All AFP appointees must be aware of and comply with the AFP's professional standards and integrity framework, and maintain the highest level of professional standards both in their official and private capacities.

6.3. As well as upholding their own standards, AFP appointees in supervisory positions must ensure their team members are aware of and comply with the AFP's professional standards and integrity framework.

6.4. The professional standards of the AFP apply to all AFP appointees in Australia, its territories and international jurisdictions.

7. AFP Core Values

7.1. Upholding the following AFP Core Values is fundamental to AFP appointee commitment to the professional standards of the AFP:

Value	Description
Integrity	Displayed through soundness of moral principle, honesty and sincerity.
Commitment	Characterised by dedication, application, perseverance, a belief in our ability to achieve and add value.
Excellence	Never-ending search for improvement leads to excellence. We aim for excellence in everything we do.
Accountability	Ownership of work or results and being answerable for outcomes.
Fairness	Being impartial and equitable.
Trust	Having faith and confidence and being able to rely and depend on others.
Respect	Treat others how you want to be treated and value their contributions.

8. AFP Code of Conduct

8.1. Adhering to the AFP Code of Conduct in this section is fundamental to complying with the professional standards of the AFP.

8.2. An AFP appointee must act with due care and diligence in the course of AFP duties.

8.3. An AFP appointee must act with honesty and propriety in the course of AFP duties.

8.4. An AFP appointee must act with fairness, reasonableness, courtesy and respect, and without discrimination or harassment, in the course of AFP duties.

8.5. An AFP appointee must comply with all Australian laws. For this purpose, Australian law means any:

- Act, or any instrument made under an Act
- law of a state or territory, including any instrument made under such a law.

8.6. An AFP appointee must comply with any lawful direction given by a person who has the authority to give such direction.

8.7. An AFP appointee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) connected to their AFP duties or employment.

8.8. To gain, or seek to gain, a benefit or advantage for the AFP appointee or for any other person, or for any other improper purpose an AFP appointee must not improperly use:

- information obtained directly or indirectly as a result of AFP duties or employment
- duties, status, power or authority as an AFP appointee.

8.9. An AFP appointee must use and manage Commonwealth resources in a proper manner.

8.10. An AFP appointee must behave in a way that upholds the good order, discipline and security of the AFP.

8.11. An AFP appointee must behave in a way that upholds the AFP Core Values, and the integrity and good reputation of the AFP.

8.12. While deployed overseas, an AFP appointee must behave in a way that upholds the good reputation of Australia.

8A. Additional AFP appointee conduct requirements

8A.1 Intentionally prejudicing police services or protective service functions

An AFP appointee must not do either of the following with the intention of prejudicing police services or protective service functions:

- (a) Fail to give prompt attention to the AFP appointee's duties;
- (b) Be absent from duty without authority.

8A.2 Information—unauthorised disclosures

An AFP appointee must not, without lawful authority or excuse, disclose or take any action that brings, or is intended to bring, information relating to any of the following matters to the notice of another AFP appointee to whom the matter relates or to any other person:

- (a) A matter in relation to information given by a person under Part V of the Act (professional standards and AFP conduct and practices issues) that raises an AFP conduct issue;
- (b) A matter in relation to a decision made by the Commissioner under section 40SD of the Act that an AFP conduct issue in relation to an AFP appointee is to be dealt with under Part V of the Act;
- (c) a matter in relation to an investigation of an AFP conduct issue in relation to an AFP appointee under Subdivision D of Division 3 of Part V of the Act (dealing with category 3 conduct issues and corruption issues);
- (d) a matter in relation to an inquiry under Division 4 of Part V of the Act (Ministerially directed inquiries).

8A.3 Information—unauthorised use or access

(1) An AFP appointee must not do either of the following except in the performance of the AFP appointee's duties:

(a) Use or communicate to another person any information that comes to the AFP appointee's knowledge, or into the AFP appointee's possession, by reason of being an AFP appointee;

(b) Obtain access to information by reason of being an AFP appointee.

(2) For the purposes of paragraph (1)(b), an AFP appointee is taken to have obtained access to information even if:

(a) The information is not in the possession, or under the control, of the AFP; or

b) Whether or not paragraph (a) applies—the information consists of a computer program or part of a computer program, or is otherwise stored in, or entered or copied into, a computer.

9. Compliance with governance instruments

9.1 AFP governance instruments

AFP appointees are required to comply with AFP governance mandatory compliance requirements which are denoted by the word 'must' to highlight the obligation within an AFP governance instrument.

9.2 Compliance with Australian law, legislative instruments and legislative arrangements

Under the AFP Code of Conduct, AFP appointees must comply with the Australian law (including state and territory law) and any instruments made under a law. In addition to compliance with Australian law, AFP appointees must comply with Commissioner's Orders pursuant to section 39 of the Act.

Note: Legal instruments and obligations established under legislation prevail to the extent of inconsistency with AFP governance instruments.

9.3 Section 40 directions

Under section 40 of the Act, the Commissioner and supervisors may issue lawful directions and orders to an individual or class of AFP appointees (referred to as "s40 directions") which must be complied with.

Section 40 written directions should only be issued on a short-term basis with any ongoing requirements captured within an AFP governance instrument. Specific lawful directions and orders will prevail over any AFP governance instrument (with the exception of Commissioner's Orders) to the extent of any inconsistency.

9.4 Compliance with government policy, external agreements and joint agency governance

Government policy, external agreements (including Memorandums of Understanding) and joint governance instruments issued by, or in agreement with, external agencies may apply directly to AFP appointees. AFP appointees need to be familiar, and comply with these instruments, including any explanatory or interpretive information within the instrument that establishes mandatory compliance obligations.

9.5 Departure from mandatory compliance obligations

An AFP appointee may only depart from a mandatory compliance obligation in circumstances where:

- they have considered the risks of departure from the rule, including legal and work health and safety risks, and security and professional standards requirements (the AFP appointee must obtain advice from relevant AFP advisory areas unless the circumstances are urgent)
- they have consulted with a supervisor prior to the departure where possible
- the departure is reasonable and justified in the circumstances.

AFP appointees and their supervisors **must** record any non-compliance and consider formally reporting the matter where integrity or organisational risks might subsequently arise.

9.6 Compliance with guidance information

Best practice guidance within a section of an AFP governance instrument, legislatively based instrument, government policy, external agreement or joint agency governance is typically denoted by the terms '**should**', '**may**' or '**have regard to**'.

AFP appointees must still have regard to performance, risk management, legal compliance, security and professional standards obligations prior to departing from guidance information. Any decision and reasons for departing from the guidance information should be recorded.

A breach of guidance information may be taken into account in assessing the performance of an AFP appointee. A serious breach may constitute a failure to meet security obligations and/or a breach of the professional standards of the AFP.

10. Contravening professional standards of the AFP

10.1. Contravening professional standards of the AFP is an AFP conduct issue (which includes corrupt conduct) pursuant to s. 40RH of the Act.

10.2. Subject to s. 10.3 of this Order, an AFP appointee who learns another AFP appointee has contravened a professional standard of the AFP must report it consistent with Part A of the [AFP National Guideline on complaint management](#).

10.3. Section 10.2 of CO2 does not apply where information is disclosed in good faith:

- for the purposes of Workforce Development and Culture Safe Place Team
- to the Confidant Network. The Confidant Network may be consulted when reporting a:
 - breach of AFP professional standards through CRAMS in accordance with the [AFP National Guideline on complaint management](#)
 - security incident in accordance with the [AFP National Guideline on personnel security](#).

10.4. For the avoidance of doubt:

10.4.1 An AFP appointee who knows or learns that another AFP appointee may have contravened a professional standard of the AFP may disclose that information to the Safe Place Team or the Confidant Network. This only relates to matters concerning sexual assault, sexual harassment, harassment and/or bullying.

10.4.2 If an AFP appointee discloses information to the Safe Place Team that another AFP appointee may have contravened a professional standard of the AFP they may report that information to PRS, but are not required to do so.

10.4.3 If an AFP appointee knows or learns that another AFP appointee has provided information to the Safe Place Team that another AFP appointee may have contravened a professional standard of the AFP, they are not required to report that information to PRS.

10.5. An AFP appointee will not be subject to disciplinary or management action for failing to report a contravention of a professional standard of the AFP if they:

- provide such information in good faith for the purposes of the Safe Place Team; and
- have not reported the information to PRS.

10.6. Contravening the [Commissioner's Financial Instructions](#) (CFIs) must be reported to the Chief Financial Officer via the Financial Compliance Report process. Contravening CFIs may be treated as contravening professional standards of the AFP if it also contravenes the AFP Code of Conduct.

10.7. The Commissioner or his delegate may take action in relation to an AFP conduct issue in accordance with Division 3, Part V of the Act, the [Australian Federal Police Regulations 2018](#) (Cth), this Order and the [AFP National Guideline on complaint management](#).

Part B – Complaint management methodology and processes

Section 40TA of the Act states that the Commissioner may issue Commissioner's Orders under s. 38 of the Act in relation to how AFP conduct or practices issues, and information about those issues, must be dealt with by AFP appointees under Part V of the Act.

Division 7, Part V of the Act requires the Ombudsman to annually review the administration of Part V of the Act by reviewing the records of AFP conduct issues and AFP practices issues.

11. Conduct issues and practices issues

11.1. Part V of the Act enables procedures to raise and deal with:

- AFP conduct issues
- AFP practices issues
- other issues related to the AFP.

11.2. These procedures are detailed in the [AFP National Guideline on complaint management](#).

11.3. The AFP has the primary responsibility for resolving AFP practices issues and AFP conduct issues which do not involve significant corruption.

11.4. AFP conduct issues are dealt with according to their seriousness and as defined by their category according to Division 1, Subdivision E, Part V of the Act and s. 13 of this Order.

- Wherever possible, Category 1 and Category 2 conduct issues are dealt with by management action.
- Category 3 conduct issues must be investigated by the PRS Investigations Unit, or in limited circumstances by the Safe Place Team.
- Corruption issues may be investigated by the Australian Commission for Law Enforcement Integrity and/or in consultation with the PRS Investigations Unit.

11.5. The Head of the Unit must ensure the Commonwealth Ombudsman is advised, within a reasonable timeframe, of complaints received by PRS about Category 3 conduct issues.

12. Categorising AFP conduct issues

12.1. Division 1, Subdivision E, Part V of the Act deals with categorising AFP conduct issues. Sections 40RN, 40RO and 40RP of the Act state the categories of AFP conduct issues.

12.2. Pursuant to s. 40RM of the Act, the Commissioner and the Ombudsman have determined conduct of a particular kind will be categorised as a Category 1, 2 or 3 conduct issues. This is given effect by the [Australian Federal Police Categories of Conduct Determination 2013](#).

13. Investigating and/or resolving Category 1 and Category 2 AFP conduct issues

13.1. The Head of the Unit, manager and coordinators of PRS will ensure that Complaint Management Teams (CMTs) are established as required in major AFP offices and business areas.

13.2. A CMT will be comprised of 3 or more AFP appointees at the Band 8 level or above (on the AFP salary spine) from the area that the CMT covers.

13.3. An AFP appointee authorised to act as a complaint manager for a Category 1 or Category 2 AFP conduct issue will be a member of the CMT responsible for that matter.

13.4. CMTs are responsible for managing Category 1 AFP conduct issues.

13.5. CMTs are responsible for investigating, resolving and applying outcomes to Category 2 AFP conduct issues and AFP practices issues.

13.6. An AFP appointee at or above Band 4 on the AFP salary spine may investigate a Category 2 AFP conduct issue or an AFP practices issue on behalf of a complaint manager.

13.7. Establishing a CMT, CMT functions and roles, or complaint investigator duties must comply with the [AFP National Guideline on complaint management](#).

13.8. [Attachment 1](#) to this Order provides a table of authorisations, including those to investigate and manage Category 1 and Category 2 AFP conduct issues.

14. Investigating Category 3 conduct and corruption issues

14.1. Professional Standards Investigations Unit (PRSIU) is the unit constituted under s. 40RD of the Act.

14.2. The Head of the Unit is responsible for managing professional standards issues under Part V of the Act and according to this Order, the [Commissioner's Order on Governance \(CO1\)](#) and the [National Guideline on complaint management](#).

14.3. The PRSIU role is to investigate Category 3 AFP conduct issues according to the [AFP National Guideline on complaint management](#).

14.4. The PRSIU may also investigate corruption issues according to the relevant provisions of the [Law Enforcement Integrity Commissioner Act 2006](#) (Cth) and as agreed between the Commissioner and the Integrity Commissioner.

14.5. AFP appointees in PRS are exempt from reporting contact with suspended members where it is in the course of their official duties.

14.6. At the completion of a complaint investigation the assigned investigator will make a finding regarding whether the conduct is established. The investigator must provide a written report to the Head of the Unit according to s. 40TU of the Act. This reporting will accord with the [AFP National Guideline on complaint management](#).

14.7. [Attachment 1](#) to this Order provides a table of authorisations including those for investigating and managing Category 3 AFP conduct issues and corruption issues.

15. PRS Panel – Consideration and determination of sanctions for Category 3 conduct and corruption issues

15.1. This Order establishes a Professional Standards Panel (the Panel) to:

- consider the recommendations in a report made pursuant to s. 40TU of the Act; and
- advise the PRS Panel Delegate, in relation to the sanction to be applied under s.40TV of the Act relating to the issue(s).

15.2 The Panel will comprise:

- National Manager People Safety and Security (NMPSS), who will be the Chair of the Panel and PRS Panel Delegate
- National Manager Workforce Development and Culture (NMWDC); and
- at least one additional senior executive level AFP appointee at the National Manager level from an operational area, on a rotating basis.

15.3 The Panel may request the attendance of representatives from relevant areas of the AFP as required in an advisory capacity, including MPRS and a representative from the relevant line area where the AFP appointee to whom the investigation relates is assigned to.

15.4 The Panel, as an advisory body, will assist the PRS Panel Delegate in the process of determining the appropriate sanction to be applied in relation to established Category 3 conduct or corrupt conduct issues under Part V of the AFP Act.

15.5 The PRS Panel Delegate will determine the appropriate sanction to be applied, in relation to established Category 3 conduct or corrupt conduct issues considered by the Panel.

15.6. The process adopted by the Panel is detailed in the [AFP National Guideline on complaint management](#).

15.7 Transitional provisions are set out in Attachment 2.

16. AFP practices issues

16.1. An AFP practices issue relates to the policy, practice and procedure of the AFP. It does not relate to a breach of professional standards by an AFP appointee, instead it is a complaint about the procedures the AFP expects appointees to comply with when completing their duties. An AFP practices issue may be identified when dealing with an AFP conduct issue or may be raised separate to a conduct issue.

16.2. A conduct issue is any conduct of an AFP appointee that contravenes AFP professional standards or constitutes corrupt conduct. This also includes failing or refusing to engage in conduct.

16.3. Where an AFP practices issue is raised with an AFP conduct issue, the AFP practices issue must be dealt with in accordance with ss. 13, 14 and 15 of this Order.

16.4. A complaint raising only an AFP practices issue must be recorded in writing and dealt with pursuant to s.21 of the [AFP National Guideline on complaint management](#).

16.5. [Attachment 1](#) to this Order provides a table of authorisations including those for the investigation, management and resolution of AFP practices issues.

17. Complaint referral and recording

17.1. As provided in s. 40SA of the Act a person may give to an AFP appointee (the complaint recipient) information raising an AFP conduct or AFP practices issue.

17.2. Subject to ss. 17.3 and 17.4 of this Order, a complaint recipient or an AFP appointee who is a complainant must record the details of the complaint according to the [AFP National Guideline on complaint management](#).

17.3. A complaint relating to a Category 1 AFP conduct issue or any AFP practices issue may be dealt with by the complaint recipient prior to formal recording pursuant to s.12 of the [AFP National Guideline on complaint management](#).

17.4. Nothing in this Order precludes an AFP appointee from:

- using the AFP Confidant Network according to the [AFP National Guideline on the Confidant Network](#)
- notifying a corruption issue directly to the Integrity Commissioner according to provisions in s. 23 of the [Law Enforcement Integrity Commissioner Act 2006](#) (Cth)
- reporting and dealing with matters which do not form a complaint, according to the [AFP National Guideline on complaint management](#), by using other mechanisms outlined in s. 7 of that guideline.

18. Confidentiality

18.1. An AFP appointee must not, directly or indirectly, record, divulge or communicate any information coming to their attention as a result of a complaint (complaint management information) to any other person except for the purposes of complaint management or where there is a lawful authority or excuse.

18.2. Complaint management involves receiving, recording, investigating and managing information given pursuant to Part V of the Act. The [AFP National Guideline on complaint management](#) specifies the roles of complaint recipients, complaint investigators, complaint managers and Case Management Teams (CMT) including their responsibilities for dealing with complaint management information.

18.3. The Manager or coordinators of PRS may authorise disclosing complaint management information to ensure the good order, administration or discipline of the AFP. This includes disclosure for:

- assessing suitability for ceremonial and recognition considerations
- deploying AFP appointees
- recruiting, selecting and advancing AFP appointees
- security considerations
- matters concerning the interests of the AFP, the government or the community
- providing legal advice and legal services

- reasons otherwise authorised by law.

18.4. To effectively manage a complaint or apply outcomes pursuant to Part V of the Act, complaint management information about a Category 1 or Category 2 conduct issue may be provided by the complaint manager to appropriate AFP appointees in the relevant AFP business area without approval from the Head of the Unit or MPRS. Appropriate AFP appointees may include the involved AFP appointee's current supervisor, manager of the relevant business area and the relevant AFP contract manager where the involved appointee is a contractor.

19. Security issues

19.1. Where conduct or practices issues also raise AFP security issues, PRS must consult with Security to determine the most appropriate course of action after considering all available information and, where necessary, consulting with Legal. For Category 1 or 2 conduct issues or practices issues this responsibility may be delegated to the PRS CMT.

20. Offences

20.1. Part V Division 8 of the Act provides for offences relating to victimisation, complainants providing false information and AFP appointees providing false particulars. Authority to commence proceedings in relation to these offences rests with the Head of the Unit.

21. Investigation oversight - PRS

Death or serious injury associated with police contact, critical incidents and other reportable occurrences

21.1 The aim of an investigation into a death or serious injury associated with police contact is to 'reveal the truth' about what has happened and to determine whether:

- police action was reasonable and proportionate in the circumstances
- any inaction was not the result of a failure to discharge duties and responsibilities
- there are any lessons to be learnt that may prevent a future death or serious injury.

21.2 The AFP must be able to assure the public that:

- the investigation is carried out effectively, with integrity and professionalism and without fear, favour or bias
- the independence of the investigation is maintained and any conflicts of interest are identified and managed
- the investigation is given appropriate priority and is undertaken in a timely manner
- there is an appropriate level of 'next of kin' involvement as necessary
- the investigation is transparent.

21.3 Professional Standards must be notified of any death or serious injury associated with police contact as soon as possible. PRS are responsible for progressing any serious misconduct issue identified pursuant to Part V of the *Australian Federal Police Act 1979* (Cth).

21.4 PRS must also be notified of other occurrences as described in the [AFP Commissioner's Order on Operational Safety \(CO3\)](#). The notification requirement exists regardless of whether or not the occurrence, death or serious injury has also been declared a critical incident or reported to Comcare.

21.5 MPRS must, after receiving a report submitted under this section, determine the nature of PRS' involvement and then notify either the Chief Police Officer for the ACT or the National Manager responsible for the:

- operation
- operational decision
- AFP appointee involved in the incident.

21.6 Where AFP jurisdiction exists, an appropriately skilled investigations team external to PRSIU may be appointed to investigate a death or serious injury associated with police contact. The formulation of an investigation team outside of PRS will be determined by the CPO or a National Manager in consultation with MPRS. Further to any other investigational objective, such an investigation must determine whether:

- any action or inaction was the result of a failure to discharge the duties and responsibilities of any AFP appointee
- anything could have been done to prevent the death or injury.

21.7 Where such a team is established, PRSIU has the primary role of overseeing the investigation.

21.8 Where PRS undertakes the role of overseeing an investigation as referred to in 21.7, MPRS will allocate a member of the PRSIU to undertake the oversight role.

21.9 The PRSIU member must, in consultation with MPRS and the PRSIU team leader, provide assurance that the principles outlined in s. 21.2 above were achieved.

21.10 The PRSIU member must prepare a statement for any court proceedings or write a report to MPRS stating their own actions to assure the above principles.

21.11 If the death or serious injury occurs outside AFP jurisdiction and another police jurisdiction investigates, MPRS must, as soon as practicable, liaise with the relevant jurisdiction with responsibility for the investigation.

21.12 The sections above do not remove reporting obligations under Work Health and Safety legislation.

22. References

22.1. This Order should be read with:

- [Australian Federal Police Act 1979](#) (Cth)
- [Australian Federal Police Regulations 2018](#) (Cth)
- [Law Enforcement Integrity Commissioner Act 2006](#) (Cth)
- [Australian Federal Police Categories of Conduct Determination 2013](#) (Cth)
- [Delegations and Authorisations Collection](#)
- [Commissioner's Order on Governance \(CO1\)](#)
- [AFP National Guideline on complaint management](#)
- [AFP National Guideline on the Confidant Network](#)
- [AFP National guideline on critical incidents \(deaths and serious injuries associated with police contact\)](#)
- [AFP National Guideline on public interest disclosure.](#)

23. Attachments

Attachment 1 - Table of authorisations

Role	Delegate/Level	Area of responsibility
Quality assurance of Category 3 conduct and corruption issues	Band 9 member of the Unit constituted under s.40RD of the Act	Whole of AFP
Investigate Category 3 conduct and corruption issues	AFP members or special members assigned to the Unit under s.40RF of the Act	Whole of AFP
Establish, delete or amend a CMT	NMWDC MPRS	Whole of AFP
Membership of a CMT	Coordinator PRS	Within the business area covered by the CMT, or as authorised by the Coordinator PRS
Complaint manager under s. 40RQ of the Act	Band 8 or above who is a member of the relevant CMT	Within the business area covered by the relevant CMT, or as authorised by the Coordinator PRS
Complaint investigator for Category 2 conduct issues and practices	Band 4 or above	Within the business area covered by the relevant CMT, or as authorised by the Coordinator PRS or Team Leader PRS CCT.
Complaint reviewer for findings and outcomes relating to Category 1 or 2 conduct issues	Band 9 or above as determined by the Head of the Unit	As determined by NMWDC
Determining that a CMT must fully investigate a Category 2 conduct issue (without recourse to the discretion to take no further action, pursuant to s.40TF of the Act)	NMWDC Manager PRS Coordinator PRS	Whole of AFP
Determining that a matter is a non-complaint	Commissioner Deputy Commissioner NMWDC NMPSS MPRS	Whole of AFP

	Coordinator PRS	
Deleting a complaint from CRAMS	Commissioner Deputy Commissioner NMWDC NMPSS MPRS Coordinator PRS	Whole of AFP
Quality assurance of Category 1 and Category 2 conduct issues	Members of PRS CCT	Whole of AFP
Ensuring CMTs resolve quality assurance identified by the CCT	Coordinator PRS Team Leader PRS CCT	Whole of AFP
Determining the most appropriate course of action where conduct or practices issues raise AFP security issues.	NMWDC MPRS Manager Security	Whole of AFP

Attachment 2 – Transitional Provisions

Where an AFP appointee has a Category 3 conduct or corrupt conduct matter in which an investigation commenced prior to the date of issue of this amended Commissioner's Order 2 and the matter is not finalised, the matter will be subject to investigation, processes and decision making in accordance with this Commissioner's Order 2 and the National Guideline on Complaint Management.

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