



WESTERN AUSTRALIA POLICE  
**ASSISTANT COMMISSIONER  
PROFESSIONAL STANDARDS**

SEPTIMUS ROE SQUARE

LEVEL 10, 256 ADELAIDE TERRACE

PERTH WESTERN AUSTRALIA 6000

TELEPHONE (08) 9223 1021

FACIMILE (08) 9223 1092

Your Ref :

Our Ref :

Enquiries :

**Hon Nick Goiran, MLC  
Chairman  
Joint Standing Committee on the Corruption and Crime Commission  
Parliament House  
PERTH WA 6000**

Attention: Mr John King

Dear Sir

**Committee Inquiry into how the Corruption and Crime Commission handles  
allegations of police misconduct and notifications of reviewable police action**

Further to your letter dated 24 May 2012, I confirm the attendance of the Commissioner of Police, Karl O'Callaghan and my attendance before the Committee Inquiry on 19 September 2012.

Additionally and pertaining to the inquiry terms of reference, I provide a submission from the WA Police, prepared by the Professional Standards portfolio.

Yours sincerely

**DOMINIC STALTARI  
ASSISTANT COMMISSIONER  
PROFESSIONAL STANDARDS**

27 July 2012



# **Joint Standing Committee on the Corruption and Crime Commission**

## **WA Police Submission**

**Committee Inquiry into how the Corruption and Crime Commission handles  
allegations of police misconduct and notifications of reviewable police action**

**Professional Standards  
Western Australia Police**

**July 2012**

## TABLE OF CONTENTS

1.0 INTRODUCTION	1
2.0 HISTORY OF COMPLAINT MANAGEMENT AND INVESTIGATION IN WA POLICE	2
3.0 PROFESSIONAL STANDARDS	7
3.1 Role and Responsibility	7
3.2 Police Complaint Administration Centre (PCAC)	8
3.2.1 Complaints Management	10
3.2.2 Early Complaint Assessment Team (ECAT)	10
3.2.3 Quality Assurance - Assessable Investigations	11
3.2.4 Liaison with the Corruption and Crime Commission	11
3.2.5 Training and Consultancy Services	11
3.2.6 Reporting Responsibility	11
3.3 Internal Affairs Unit (IAU)	12
3.3.1 Behavioural Assessment Unit (BAU)	12
3.3.1.1 Early Intervention Program (EIP)	13
3.3.1.2 Alcohol and Drug Testing	16
3.3.1.3 BlueLine	16
3.3.1.4 Supported Internal Witness Program	16
3.3.2 Internal Affairs Covert Services	17
3.3.3 Personnel Security Vetting Unit	17
3.4 Ethical Standards Division (ESD)	18
3.5 Management Audit Unit (MAU)	18
4.0 INTERNAL INVESTIGATION, QUALITY ASSURANCE AND COMPLAINT MANAGEMENT	19
4.1 Police Complaint Administration Centre	19
4.1.1 Receipt of Complaints	19
4.1.2 Assessment of Complaints	19
4.1.3 Investigation of Complaints	20
4.1.4 Quality Assurance of Investigations	20
4.1.5 Investigation Doctrine	20
4.1.6 Investigations Generally	21
4.2 Internal Affairs Unit (IAU)	22
4.2.1 Investigation Sources	22
4.2.2 Critical Incident Investigations	23
4.2.3 Quality Assurance of Investigations	23
5.0 MANAGERIAL INTERVENTION MODEL (MIM)	24
6.0 DISCIPLINE AND COMMISSIONER OF POLICE LOSS OF CONFIDENCE	25
6.1 Discipline	25

6.2	Commissioner of Police Loss of Confidence .....	25
6.3	Outcome of Statutory (Criminal) Charges.....	26
6.4	Outcome of Section 23 Disciplinary Charges .....	27
6.4.1	Disciplinary Charges Preferred by Districts and Divisions .....	27
6.4.2	Disciplinary Charges Preferred by Internal Affairs.....	28
7.0	IMPACT OF THE CORRUPTION AND CRIME COMMISSION'S PRACTICES ON THE CAPACITY OF WA POLICE TO DEAL WITH POLICE MISCONDUCT	29
7.1	The Impact of Closed Commission Hearings on the Capacity of WA Police to Deal with Unprofessional Conduct.....	29
7.2	Communications between the Commission and IAU .....	30
7.3	Joint Investigations.....	31
7.4	Impact of Section 42 Notices (Commission may direct appropriate authority not to take action) .....	31
8.0	CONCLUSION	32

## SUMMARY OF APPENDICES

Appendix 1	Corruption and Crime Commission WA Police Categorisation of Complaints Valid at 01/07/2011	33
Appendix 2	Police Complaints Administration Centre (PCAC) Complaint Management and CCC Notification Flowchart	45
Appendix 3	Internal Affairs Unit Investigation Management Workflow	46
Appendix 4	HR – 31 Management Intervention Model WA Police Policy	47

## 1.0 INTRODUCTION

On 24<sup>th</sup> November 2010, the Joint Standing Committee on the Corruption and Crime Commission (the Commission) resolved to undertake an inquiry into how the Commission handles allegations of police misconduct and notifications of reviewable police action. The inquiry has the following terms of reference:

*The Committee will inquire into and report on:*

- *How the Corruption and Crime Commission deals with allegations and notifications of WA Police misconduct;*
- *The impact of the Corruption and Crime Commission's practices in this regard on the capacity of the WA Police to deal effectively and appropriately with WA Police misconduct; and*
- *How the Corruption and Crime Commission's practices in this regard compare to Police oversight bodies in other jurisdictions.*

On the 24<sup>th</sup> May 2012, the Hon. Nick Goiran MLC wrote to Commissioner of Police Karl O'Callaghan inviting a submission on behalf of the Western Australia Police (WA Police) to the Committee pertaining to the terms of reference of the inquiry.

This submission addresses the second dot point, "*the impact of the Corruption and Crime Commission's practices in this regard on the capacity of the WA Police to deal effectively and appropriately with WA Police misconduct*", by focussing on the various business areas that comprise the Professional Standards portfolio, their role and function, and concludes with a discussion on aspects of the Commission's practices that affect the ability of WA Police to effectively and appropriately deal with police misconduct.

Whilst the *Corruption and Crime Commission Act 2003* (the Act) defines Misconduct and Reviewable Police Action, in an endeavour to ensure complaint reporting occurs in every instance within the agency, WA Police has further defined what is to be reported and that is all behaviour amounting to '*Unprofessional Conduct*'. The Managerial Intervention Model defines unprofessional conduct as follows:

*"Unprofessional Conduct – refers to behaviour, actions and conduct as defined in Sections 3 and 4 of the Corruption and Crime Commission Act 2003, notably 'Reviewable Police Action' and 'Misconduct'; conduct which contravenes the 'General Rules Relating to Discipline in Part VI of the Police Force Regulations 1979'; conduct which contravenes the WA Police Code of Conduct; conduct which is prima facie, criminal conduct; and conduct which has the potential to cause damage to agency reputation and or erosion of public confidence in WA Police."*

There remains conjecture between WA Police and the Commission on whether the Commission has issued guidelines under s.30 of the Act for matters that are defined as Reviewable Police Action as read with s.21A of the Act. WA Police has no record of receiving such guidelines and the Commission has no record of sending them to WA Police. Following inquiry by WA Police in this regard, the Commission has recently provided to WA Police a Notification Guidelines document titled "*Dealing*

*with Reviewable Police Action and Misconduct in the Western Australia Police Service - as at August 2004*". Putting aside the latter, WA Police have agreed to work together to develop a new set of guidelines to compliment contemporary business and functional practices.

The WA Police reporting responsibilities to the Commission with respect to matters amounting to Reviewable Police Action have not been adversely affected by not being in receipt of the document described above.

## **2.0 HISTORY OF COMPLAINT MANAGEMENT AND INVESTIGATION IN WA POLICE**

In 1978, the Internal Investigation Section (IIS) was established within the (then) Criminal Investigation Branch to investigate complaints against police.

In July 1985, amendments to the *Parliamentary Commissioners Act 1971* brought the jurisdiction of oversight into police investigations under the responsibility of the Parliamentary Commissioner for Administrative Investigations - Ombudsman.

In 1986, a restructure occurred and the IIS was renamed the Internal Investigations Branch (IIB). During this period, management responsibility for discipline throughout the police force was vested in the Chief Superintendent (Discipline).

In 1988, the Internal Affairs Unit (IAU) was established in response to the Queensland Fitzgerald Royal Commission. The Unit was originally staffed by two officers with responsibility for investigating allegations of corruption against police officers. IIB retained responsibility for other matters, including discipline provisions.

Following the establishment of the Official Corruption Commission (OCC), in August 1989, under the authority of the *Anti-Corruption Commission Act 1988*, a reporting relationship was created between IAU and the OCC, who would oversight select IAU investigations of 'public interest'.

In 1992, the IIB was restructured, with centralised investigative personnel consisting of eight Superintendents, sixteen Chief Inspectors/Inspectors, and five Senior Sergeants as assistant investigators. The IIB was comprised of five investigative teams, each lead by a Superintendent.

In May 1994, a further review of IIB resulted in a number of strategies being implemented, including civilianisation of positions, introduction of improved investigative standards and management practices; better analysis of statistics to identify complaint trends, upgrade of equipment and computerisation, restructure of investigative teams and introduction of audio taping of all internal investigation interviews.

The Professional Standards portfolio was established in 1996 as part of the Delta Program's cultural and sweeping reform agenda. The principal philosophy was to support the devolution process of integrated command and control and allocating local accountability for officer conduct.

The (then) Office of the Inspectorate, IIB, IAU, Public Sector Investigations Unit and Standards Development Unit had little synergy and it was considered grouping these areas would better integrate their roles, responsibilities and complaint/investigation outcomes.

The Professional Standards portfolio provided specialist investigative expertise for complaints of a serious nature and provided internal investigation support to the districts. The portfolio developed investigative standards for internal investigations for consistency, transparency and thoroughness, together with the effective coordination of complaints against police, both external and internal. The portfolio was placed under the command of an Assistant Commissioner who held a direct reporting relationship to the Commissioner of Police.

An agency '*Statement of Common Values*', including honesty, respect, fairness, empathy, openness and accountability was developed and promoted to underpin decision making within WA Police.

In August 1996, the OCC was re-named the Anti-Corruption Commission (ACC) as a recommendation of the '*Select Committee on the WA Police*' known as the *Tomlinson Report*. The ACC commenced oversight of all complaints made against police. Subsequent to this change, the Ombudsman only reviewed and monitored complaints received by IIB and investigated.

In late 1996, the IIB changed its name to the Internal Investigations Unit (IIU). It still remained the primary disciplinary enforcement arm of the Professional Standards portfolio, but was re-positioned to emphasise the changes brought about by the Delta Program, reflecting the 'customer focus' and 'service delivery focus' and encouraging the public to come forward and make complaints against police.

The *Tomlinson Report* was critical of IAU and IIB in regard to the over-lap of responsibilities and duplicity of roles which it considered impeded the corruption prevention potential of the Units. It was also critical of inquiry file prioritisation, complaint and information management. At that time, strategies arising out of the Queensland Fitzgerald Royal Commission and the New South Wales Wood Royal Commission were examined and incorporated into WA Police internal/complaint investigative practices.

The structure of IIU during this period was altered to reflect a more functional and operational approach in keeping with the general principles of devolution arising out of the Delta Program and the Wood and Fitzgerald Royal Commissions. The recommendations also supported regionalisation and the need for District/Divisional Superintendents to take greater ownership of disciplinary matters, including internal investigations. The intent was to engender professionalism and reinforce ethics and integrity in daily business.

The Kennedy Royal Commission<sup>1</sup> was established in December 2001, following persistent public concern over several controversial investigation outcomes by WA Police and by reason of abiding public doubt over the integrity of the WA Police.

Following the Kennedy Royal Commission in 2004, there was a general re-focus on corruption prevention. In August 2004, to reflect the agency's commitment towards this philosophy, the name of the portfolio was changed to Corruption Prevention and Investigation.

The Commission was also created by Government to replace the ACC, with broader coercive powers to oversee all public sector agencies.

The Kennedy Royal Commission took cognisance of the 2003 review by the Hon. William Kenneth Fisher AO, QC into the professional standards of the Australian Federal Police (AFP). In his review, Mr Fisher made three key recommendations which also had relevance to the WA Police management of unprofessional conduct, these being:

1. *That minor complaint matters be resolved at the local area using non-reviewable managerial processes;*
2. *The abolition of the AFP Discipline Tribunal and repeal of the AFP Discipline Regulations and Complaints Act; and*
3. *That cases involving serious breach of criminal law, serious abuse of power, serious neglect of duty and matters giving rise to a consideration of employment suitability be dealt with centrally.*

The Kennedy Royal Commission recognised the relationship between WA Police and the community was of paramount importance in maintaining a joint partnership in crime prevention. It was also recognised that the nature of the relationship between the Commissioner of Police and members of the (then) Police Service was different from that of other public sector agencies.

Consequently, the Kennedy Royal Commission concluded, it was essential to have appropriate mechanisms in place to speedily resolve customer-service complaints and to investigate and deal with more serious matters of alleged misconduct, and made the following recommendations that:

1. *WA Police adopts the managerial based model of complaints handling and discipline as advocated by the Fisher Review;*
2. *Sections 23 (Discipline) and 33E (Police Appeal Board) of the Police Act 1892 be repealed and replaced with a contemporary management-based system, without prejudice to the fair treatment of police officers. Implementation of this recommendation would effectively remove the Commissioner's Examination Process totally. It would see a full reliance on complaint matters being effectively dealt with by managerial intervention in respect to minor complaint matters,*

<sup>1</sup> The Kennedy Royal Commission into whether there has been corrupt or criminal conduct by any Western Australian Police Officer January 2004



*which includes the ability to implement a range of 'non-reviewable' actions, criminal investigation in respect to more serious matters, and Loss of Confidence (LOC) removal process under s.8 of the Police Act 1892;*

- 3. There be true devolution of minor complaints management to District and Portfolio level, provided that allegations of criminality and corruption would be investigated by the Internal Affairs Unit or under its direction; and*
- 4. The procedures for referring investigation reports be streamlined to reduce the number of administrative delays that do not add value to the final outcome.*

A major review was subsequently undertaken by WA Police and in 2007, resulted in WA Police introducing the Managerial Disciplinary Model now known as Managerial Intervention Model (MIM). The model was designed to shift the agency's mindset from a reliance on a predominately punitive discipline framework towards a contemporary managerial approach, with emphasis on improving conduct and changing future behaviour through agreed improvement strategies.

The rationale for this approach was then based on the premise the Commissioner of Police recognised officers do make mistakes from time to time and when they do occur (and they are not of a serious nature), an attempt at behavioural modification should be facilitated in the first instance.

It was thought at this time, that conduct of a more serious nature could not be dealt with by way of behavioural modification and accordingly, the disciplinary provisions of both the *Police Act 1892* and the *Police Force Regulations 1979*, were retained, in effect creating a hybrid model of that proposed by Fisher.

In October 2009, the Corruption Prevention and Investigation portfolio was renamed the Professional Standards portfolio, as it was considered the agency had significantly matured following the Kennedy Royal Commission and the responsibility for corruption prevention and investigation was one that needed to be shared by all in the agency and not reflected by name, at least, to be the responsibility of one portfolio.

In recent years, contested disciplinary offence matters have become consumed by legal argument and legal particularisation on matters of law, significantly complicating the process and bringing into question the value of the process in achieving a timely outcome.

In late 2010, with a significant question mark over the value and benefit of pursuing disciplinary offences, the Commissioner of Police requested a holistic review of the hybrid managerial/disciplinary intervention model. The review was completed in late 2011 and the outcome incorporated a legislative reform agenda that would effectively remove all disciplinary provisions moving to the purist Fisher model. The legislative reform agenda also included the required legislative amendment to support the introduction of alcohol and drug testing and affording the Commissioner

of Police with additional options in dealing with officers the subject of an LOC on a decision to retain them.

The recommendations of the review were approved in early December 2011. As part of the review, the following actions have been completed:

The Managerial Intervention Model has been improved by:

1. A rewrite to improve understanding and application;
2. Removal of the Right of Review – to reinforce the need for a participative/communicative approach; and
3. The implementation of an Assistant Commissioner's Warning Notice.

Outstanding actions are those that are connected to the legislative reform agenda and are summarised as follows:

1. Repeal Section 23 *Police Act 1892* (to be replaced in policy by a “show cause” process – managerial intervention based – not a punitive sanction);
2. Repeal Part IIA – Police Appeal Board – *Police Act 1892* – consequential to repeal of Section 23 *Police Act 1892*;
3. Create a head of power provision to allow the Commissioner of Police to demote permanently or for a period of time – permanent only by the Commissioner of Police's hand – for a period of time by authorised officers (currently the Commissioner of Police can promote – no specific provision to demote) – to also premise show cause managerial provisions in policy (demotion – removal/deferment of increment);
4. Create head of power legislation to allow the Commissioner of Police to dismiss/remove an officer who tests positive for an illicit drug – on a confirmatory test;
5. Create head of power provision to allow the Commissioner of Police to suspend with or without pay – to include as a consequence – suspension of police powers – to be applied in significant circumstances/for significant reasons (eg remanded in custody by a Court; sentenced to a term of imprisonment; preliminary positive drug test; and regulatory licence cancellation/suspension) – which may significantly limit a member's capacity to perform his/her role/duty/functionality; and
6. Retain Part VI – General rules relating to discipline – *Police Force Regulations 1979* - with the exception of Regulation 625 – Disciplinary proceedings. Retained provisions to be amended to make contemporary in terms language and clarifying various rules relating to discipline.”

A legislative reform proposal was subsequently submitted to the (then) Minister for Police. The proposal remains in abeyance for consideration by the Minister and by Government.

## 3.0 PROFESSIONAL STANDARDS

### 3.1 Role and Responsibility

Professional Standards' primary role and responsibility is to establish, maintain and influence ethical and professional standards of behaviour and conduct. This is undertaken through benchmarking, complaint management and related policy, processes and practices, maintaining the *WA Police Code of Conduct*, managing disciplinary processes and practices, and investigating serious criminal and unprofessional conduct allegations against police officers.

The primary drivers are acceptance of responsibility and accountability at all levels within WA Police, willingness to internally report unprofessional conduct, timeliness and quality of investigations, cultural change to self regulation and positive peer pressure and achieving self sustaining ethical health.

The portfolio comprises the following business areas as depicted in Figure 1 below.

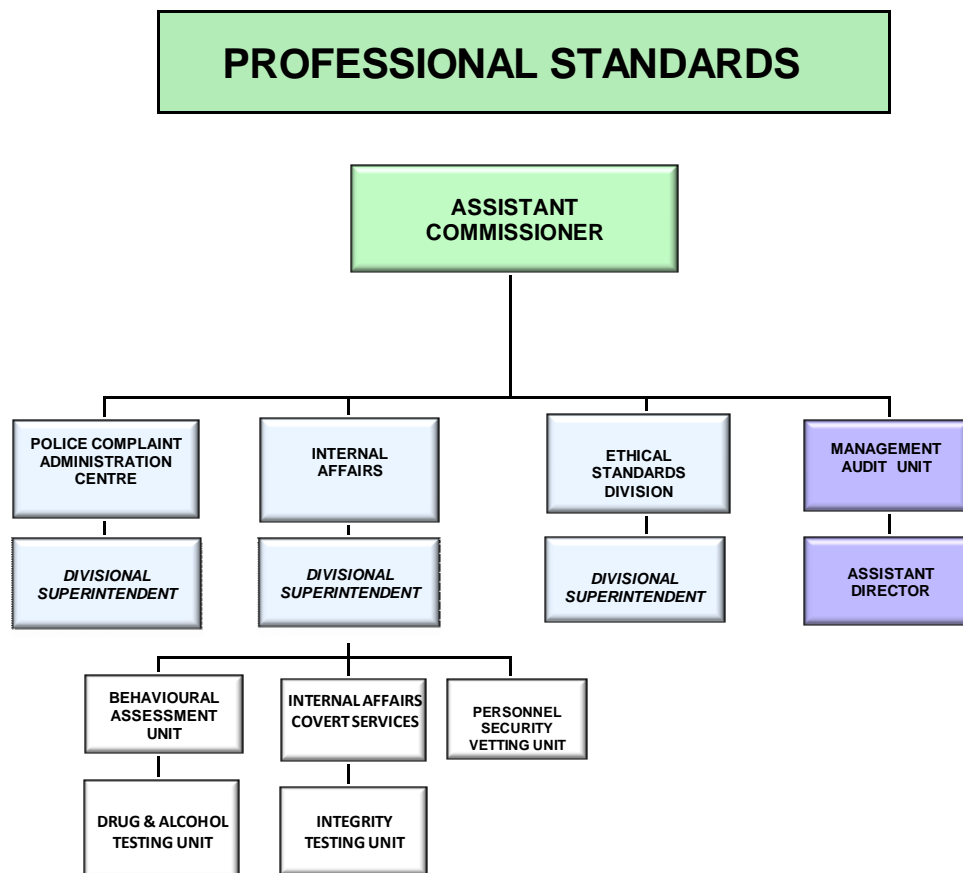


Figure 1: Professional Standards Organisation Chart

## **Case Management/Recording System - Internal Affairs Professional (IAPro)**

IAPro is a secure and restricted case management database system capable of recording a wide variety of information categories linked to police employees. The system, first implemented in WA Police in January 2007, collects data from various sources including complaints received, secondary employment applications, use of force reports, pursuit data, police crash data, early intervention actions, risk assessments, discipline and loss of confidence files. Other data types such as files, photographs and video information linked to a specific case can also be uploaded into IAPro. Additional data file categories can also be created and added to IAPro as required.

In addition to its database management functionality, IAPro has an early intervention capability, where automated alerts are activated if pre-set thresholds are breached aimed at identifying at-risk behaviours to allow early intervention and the application of remedial action before escalation occurs.

IAPro also incorporates an extensive analytical component capable of generating automated charts and reports for research and reporting purposes and for the identification of themes and trends in behaviour and culture.

Demonstrated benefits of IAPro include:

- Improved quality assurance in incident creation;
- Faster incident recording;
- Numerous information types are recorded in one central repository;
- Alerts are set on individuals and information categories to ensure key issues are not overlooked;
- Analysis of the incidents using charts and reports;
- Reduction in administrative tasks;
- Improved and accountable case management; and
- Ability to link and attach relevant investigative materials to the file for recall as necessary.

The Commission has online access to IAPro and it forms the basis of the agency's reporting responsibilities to the Commission.

### **3.2 Police Complaint Administration Centre (PCAC)**

The PCAC is responsible for the management and quality assurance (QA) of all complaints received by the agency. Complaints considered serious are referred to the IAU for examination, investigation and management.

PCAC are considered the gatekeepers for the agency with respect to complaints that fall within their area of responsibility to achieve and influence quality and timeliness

of investigations. Liaison with District and Divisions occurs on a daily basis in the ordinary course of business.

The PCAC has a total strength of 19 personnel headed by a Superintendent with a team of police officers and police staff.

PCAC assesses complaints and determines the manner in which they will be investigated, utilising a 'Categorisation of Complaints' document which has been agreed to by WA Police and the Commission (refer to Corruption and Crime Commission WA Police Categorisation of Complaints Valid at 01/07/2011 at Appendix 1).

This document provides a consistent basis for how allegations against officers are classified and recorded, and is a guide for the reporting of files at the conclusion of investigations.

The PCAC complaint assessment process is managed by the PCAC Complaints Management Team, consisting of an Inspector and a Senior Sergeant. This team assesses new complaint matters, categorises allegations and determines what action is to be taken (i.e. send to District/Division for inquiry or refer them to the PCAC Complaint Assessors for resolution).

Complaint allegations are classified into the following broad categories:

**1<sup>st</sup> Level – Serious Misconduct** – (matters primarily related to criminality including assault, stealing, corruption, drugs and information security (such as unauthorised access). These matters must be investigated using the fully assessable formal file format report).

**2<sup>nd</sup> Level – Reviewable Police Action** – (complaints relating to a breach of Equal Opportunity, lack of accountability, missing property/drugs/firearms, escape custody and use of force. These matters are referred to Districts/Divisions and are reported using the Short Format report template).

**3<sup>rd</sup> Level – Reviewable Police Action** - includes allegations of minor neglect of duty and/or professionalism (including things such as manner, procedure, and the attitude of officers). This category of complaint, whilst classified as a Reviewable Police Action, may be of a sufficiently minor nature that it may be reported upon using either the Short Format or Local Complaint Resolution (LCR) template. The required reporting format is determined in each instance by PCAC.

**4<sup>th</sup> Level - Non-Reportable** - by agreement with the Commission, these matters are considered non-reportable to the Commission and include breaches of the Emergency Driving policy, loss of accoutrements, etc.

Complaint investigation findings are classified according to the following categories:

- **Sustained:** The investigation disclosed sufficient evidence to clearly prove the allegation/s made in the complaint.

- **Not Sustained:** The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation/s made in the complaint.
- **Unfounded:** The investigation indicates that the act/s complained of did not occur, or failed to involve police personnel.
- **Exonerated:** The act complained of did occur but was justified, lawful and proper.

A brief overview of the roles and areas of responsibility of PCAC is provided below.

### **3.2.1 Complaints Management**

Processes are in place to provide the community with confidence to submit service delivery and officer conduct complaints against any police employee. All complaints received, whether internal or external, are initially recorded on a Complaint Advice Note (CAN)<sup>2</sup>, uploaded into IAPro and then managed and administered accordingly.

As part of the administration process, an assessment and triage of the complaint is undertaken with a view to quickly resolve those complaints of a minor nature utilising the desktop resolution process. Complaints are classified and allocated to Districts and Divisions for investigation.

Following the completion of the investigation and a QA process, investigation findings and outcomes are recorded against the subject officer's complaint history in IAPro. Applicable actions can range from managerial intervention, to disciplinary charges and in some instances, a Commissioner's LOC action.

Additionally, the Complaints Management area is also responsible for providing investigation files to the Commission for review upon request.

### **3.2.2 Early Complaint Assessment Team (ECAT)**

The ECAT is a dedicated call taking facility comprising of five experienced police officers who deal direct with callers to PCAC. All complaints received are recorded in IAPro noting the nature of the complaint/extent of inquiry and outcome. The ECAT resolve approximately 50 percent of all minor complaints to the satisfaction of the caller. Serious complaints requiring further examination are referred by the ECAT for further investigation.

The ECAT, in the ordinary course of business, will conduct desktop investigations, requiring contact and liaison with Districts/Divisions to assist in the appreciation, conciliation and resolution process.

<sup>2</sup> A Complaint Advice Note is a document that records the complaint and details the alleged unprofessional conduct. The form is located on the Professional Standards intranet page for access by WA Police Employees.

### **3.2.3 Quality Assurance - Assessable Investigations**

To ensure the uniform application of investigative standards and outcomes, a quality assurance review of completed investigations is undertaken for complaints where the alleged unprofessional conduct has been assessed as serious misconduct or reviewable police action.

This process also involves assessment on whether the investigation outcome is valid and when a complaint has been sustained, the appropriateness of the managerial intervention/suggested action. Should an issue not be resolved by the QA officer, the Superintendent PCAC will directly engage in discussions with the relevant District/Divisional Superintendent. Matters not resolved at that level are referred to the Assistant Commissioner Professional Standards for resolution.

A nomination for the issue of either an Assistant Commissioner's Warning Notice or Commissioner's LOC, requires the approval of the Assistant Commissioner Professional Standards to ensure consistency in application.

### **3.2.4 Liaison with the Corruption and Crime Commission**

Senior officers within PCAC maintain regular liaison with the Commission on a range of issues of mutual interest and to ensure a high level of quality assurance is maintained and reporting obligations under the *Corruption and Crime Commission Act 2003* are complied with.

### **3.2.5 Training and Consultancy Services**

PCAC officers maintain regular contact with Districts and Divisions on matters relevant to the timeliness and quality of complaint investigations, providing advice, development and guidance to investigators, District/Divisional Superintendents and to local Governance Officers. Officers in Districts and Divisions are also encouraged to make contact with PCAC for advice and support. The relationships established enabled PCAC to not only positively influence and motivate effort toward the quality and timeliness of investigations, but also affords the opportunity to reinforce reporting obligations with respect to identified and reported unprofessional conduct.

In addition, PCAC provides lectures and instruction to Districts and Divisions and in training courses at the Police Academy, including various supervisor management courses.

### **3.2.6 Reporting Responsibility**

PCAC and the Commission have collaborated to develop a reporting framework to ensure the reporting provisions and obligations, as legislated in the Act, are complied with [refer to Police Complaint Administration Centre (PCAC) – Complaint Management and CCC Notification Flowchart at Appendix 2].

### **3.3 Internal Affairs Unit (IAU)**

The IAU has both an overt and covert investigative capability and in summary, is responsible for:

1. The receipt, assessment and investigation of reports of Unprofessional Conduct, Critical Incidents and Reviewable Police Action where the conduct is of a corporate and/or public significance;
2. Identifying and investigating allegations of Corruption and Serious Unprofessional Conduct and the development and implementation of strategies to minimise opportunities for corruption. Investigations include, but are not limited to allegations of criminality, deaths in police custody, and the unauthorised release of information, improper use of computers, drug use and improper associations;
3. The investigation of all discharges of firearms (other than in training); and
4. Active oversight of investigations outsourced from IAU to Districts and Divisions for investigation, including investigations by the Major Crash Unit into emergency driving deaths.

These activities are complimented by the Behavioural Assessment Unit and the Personnel Security Vetting Unit. Other areas of the portfolio such as the PCAC and the Management Audit Unit provide administrative, intelligence and investigative assistance to the Unit.

#### **3.3.1 Behavioural Assessment Unit (BAU)**

The BAU is primarily responsible for proactively identifying behavioural issues and trends of police officers, police staff, or any business units, through its Early Intervention Program (EIP). Where an adverse pattern of integrity, honesty, behaviour, performance and/or ethical issue is identified, BAU will develop an early intervention and or risk management strategy to mitigate and manage the at risk behaviour.

In addition to its EIP responsibilities, BAU undertakes a number of other proactive activities and strategies to improve and enhance the ethical and professional culture of the agency by:

- Undertaking pre-employment and contractual integrity checks of all prospective recruits, employees and contractors accessing WA Police sites;
- Management of BlueLine - the confidential internal complaints reporting system;
- Management of the Supported Internal Witness Program;
- Management of Public Interest Disclosure requirements;
- Management of the Declarable Associations Policy;
- Provision of complaint histories for use in the internal investigation process;
- Preparation of employee Early Intervention Reports;



- Conducting random, mandatory or targeted alcohol or drug testing of police officers; and
- Management of IAPro.

### **3.3.1.1 Early Intervention Program (EIP)**

In July 2011, BAU formally introduced its EIP. Early intervention concerns the identification of individuals and business units at risk of likely, or demonstrated unprofessional conduct and/or corruption and taking positive steps to intervene in mitigating and managing the identified risks. The intent is to also reinforce managerial accountability and acceptance of responsibility and accountability at the local level.

It is important to note the EIP does not rely solely on complaint data alone to premise effort and actions in this regard. For an EIP to be relevant, it must act as an “early warning system” that can identify emerging trends in unprofessional conduct from a wide range of indicators. This enables a proactive investigative effort to be directed to the areas and issues of greatest risk.

EIP has contributed to an increase in internal reporting and improved confidence by agency personnel to internally report, on demonstration that such reports are actioned and subject officers held accountable.

Early intervention consists of:

1. Identifying behavioural traits/conduct indicative of or that may perpetuate into unprofessional conduct and/or unethical culture; and
2. Assisting individuals and business units in preventing or reducing unethical conduct through intervening early.

WA Police is committed to enhancing its ethical health and has developed a four stage approach to early intervention which comprises the following steps.

1. Identifying present, emerging and/or potential at risk behaviours that may amount/contribute to unprofessional conduct;
2. Assessing those behaviours with key stakeholders;
3. Intervening with individuals or business units to develop appropriate strategies to correct behaviours inline with the *WA Police Code of Conduct* and the Agency's core values; and
4. Reviewing the outcomes of strategies implemented.

The BAU has identified, implemented and monitors a number of behavioural and environmental performance indicators that include:

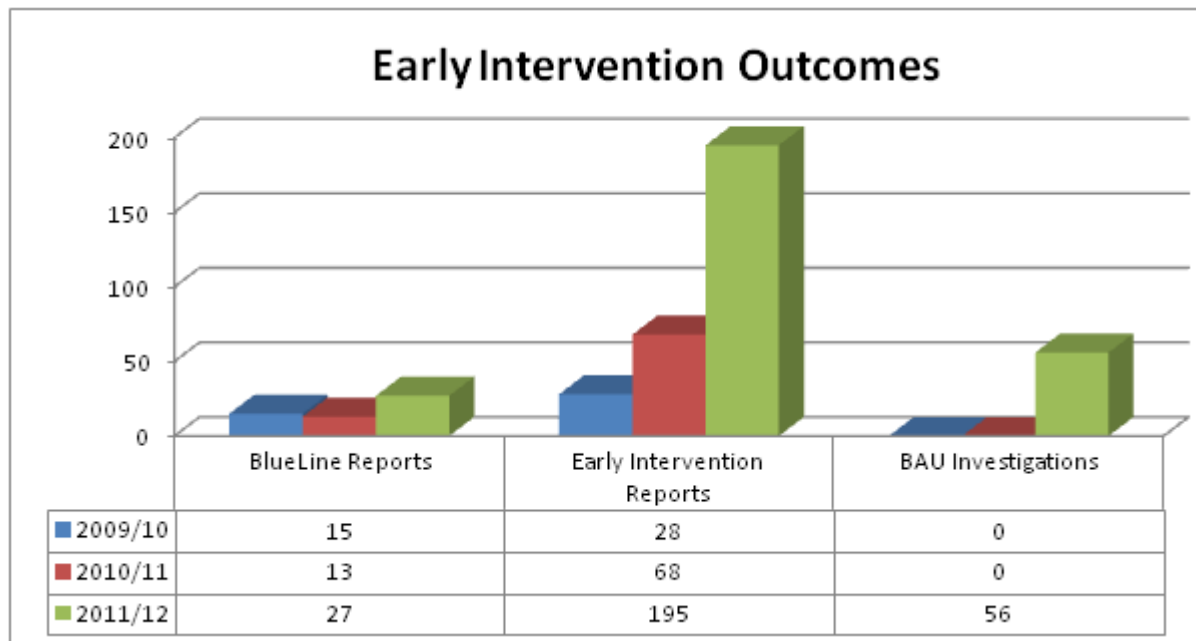
- Alcohol and Drug Use;
- BlueLine;
- Complaints against WA Police employees;

- Conduct Information Reports;
- Declarable Associations;
- Early Intervention Risk Indicator Reports;
- Emergency Driving incident data;
- WA Police Gift Register;
- Incidents of Death/Injury in Custody;
- Police crash data;
- Positive correspondence;
- Professional Conduct Checks;
- Results of internal audits;
- Results of Internal Affairs Investigations;
- Secondary employment information; and
- Use of Force (UOF) data.

Analysis of the behavioural/performance indicators is continually undertaken by BAU to determine and identify emerging trends or issues at an individual, business area or agency level that require intervention. When risks are identified, causal/contributory factors underpinning the conduct in question, are analysed to assist in the implementation of appropriate intervention. Issues identified may include:

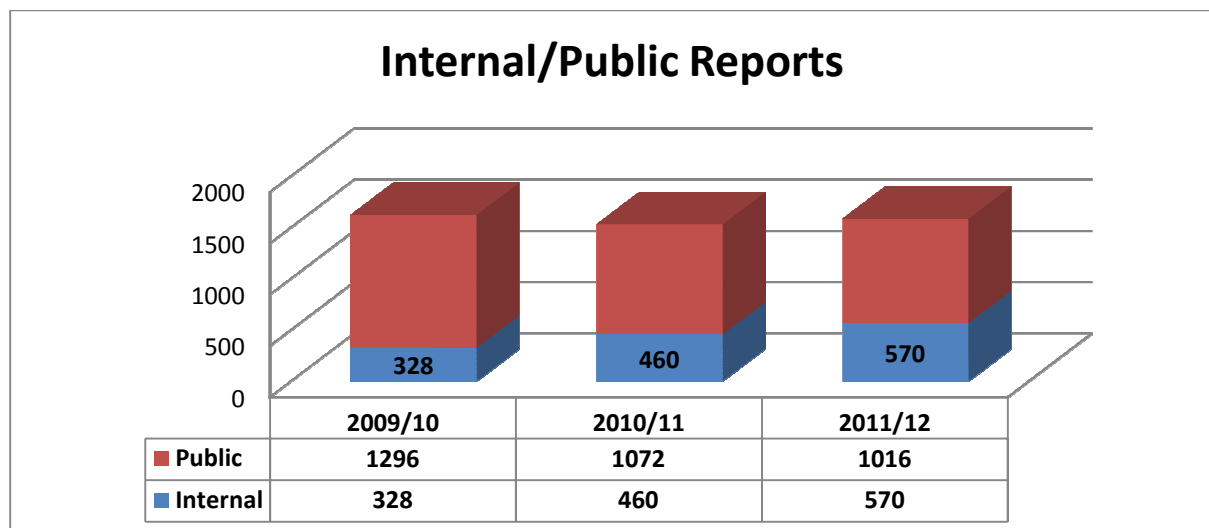
1. A lack of understanding of WA Police policy/procedure by an individual/business area.
2. Individual/group behavioural issues.
3. Aspects of individual ethics, integrity, professionalism or the ethical health of WA Police.
4. Conflicts of interest.
5. Policy and standard operating procedures that require amendment.

The information and intelligence gathered by BAU is integrated with the other activities within the portfolio and often forms the basis for other covert and overt investigative effort. Figure 2 hereunder depicts the proactive effort being undertaken by BAU.



**Figure 2: Early Intervention Outcomes 2009 – 2012**

The implementation and promotion of the EIP throughout the agency has had a noticeable impact on the willingness of WA Police personnel to identify and report unprofessional conduct. In the last three years, internally generated reports have significantly increased, whilst external reports exhibited a downward trend. This is indicative of the success of the EIP and a reflection of the maturing ethical health of the agency. Figure 3 clearly demonstrates the increasing trend in this regard.



**Figure 3: Internal/Public Reports 2009 – 2012**

### **3.3.1.2 Alcohol and Drug Testing**

The Police Force (Member Testing) Regulations were enacted in 2011. The Regulations allow for random, mandatory (high risk business areas) and targeted tests, and to date, no officer has tested positive to alcohol or drugs following a critical incident.

A targeted test may be conducted when there is credible information, intelligence or suspicion that a selected member may be affected or impaired by alcohol or drugs, or may have taken or ingested targeted drugs at any time. The authority enables police officers to be recalled to duty for the purpose of testing.

Testing of police officers and auxiliary officers commenced in November 2011. As at 22 July 2012, 1,329 officers have been subject to alcohol and drug testing. Two officers tested positive to illicit drugs and three to alcohol in excess of 0.02%. One officer resigned after tampering with a sample.

### **3.3.1.3 BlueLine**

The BlueLine is a confidential, dedicated telephone line for WA Police personnel who are seriously concerned about the unprofessional conduct of any WA Police member/employee.

Callers are electronically offered the choice of direct communication or anonymous reporting. Calls to the BlueLine are not traced and information is treated with the highest possible degree of confidentiality. Calls are free and may be made 24 hours a day.

The facility is also available for police personnel seeking advice on ethical issues they feel they are unable to discuss with a senior officer or a colleague.

Personnel accessing the BlueLine will:

- Receive a randomly selected Caller Code Number which they can quote if they make subsequent calls to the BlueLine; and
- Be afforded personal support and assistance, for example, referral to the Supported Internal Witness Program, if required.

Figure 2 at page 15 depicts the success of BlueLine which shows a significant increase in the number of reports made in the last three years.

### **3.3.1.4 Supported Internal Witness Program**

It is agency policy to assist and support WA Police personnel who report unprofessional conduct.

The purpose of this Program is to influence, promote, encourage and demonstrate that WA Police will support and assist its employees to report unprofessional conduct, no matter what the issue might be or who it might involve. Employees involved in the Program are afforded the confidence that their personal safety and

future in the agency will be protected and the reported matter both fully examined and investigated.

### **3.3.2 Internal Affairs Covert Services**

IAU has developed and maintains a covert investigation capacity independent of the State Intelligence Division. IAU regularly consults with the Commission to ensure there is no duplication of effort and to mitigate risk against the possibility of operations being compromised by the activities of both organisations.

Both the Commission and IAU have the capability to undertake integrity testing, albeit the Commission has the legislative authority to employ strategies and undertake certain acts that IAU have no such authority to do. The *Criminal Investigation (Covert Powers) Act 2011* (when enacted) will however, enable IAU to enhance and extend its integrity testing program.

The use of integrity testing by IAU is becoming more frequent, rising from one test in 2009/10 to six in 2011/12. The Commission has had no impact upon or involvement in these operations. During the period 2011/12, there have been no joint Commission and IAU covert investigations.

WA Police is not advised on integrity testing conducted by the Commission.

Integrity testing is a useful tool in verifying or refuting unsubstantiated reports/allegation/rumours of serious unprofessional conduct and it has been successful in causing the voluntary resignation of officers suspected of having engaged in serious unprofessional conduct. Material and evidence gained through the conduct of integrity tests, may form the basis for a Commissioner's LOC action.

### **3.3.3 Personnel Security Vetting Unit**

The Kennedy Royal Commission recommended the introduction of security vetting as a corruption prevention strategy. The Unit undertakes this activity for personnel assigned to designated high risk areas and officers in senior executive level positions.

The vetting process incorporates an extensive and intrusive examination of an applicant's financial and personal affairs. Information provided that is considered a corruption risk is populated into the intelligence cycle for formal investigation. Such risks include inappropriate associations, extent of gambling habits, financial stress, extra marital/relationships and sexual affairs all of which may render an officer susceptible to corruption or other serious unprofessional conduct.

### **3.4 Ethical Standards Division (ESD)**

The primary role of ESD is to manage the Commissioner's LOC process and to prepare and manage disciplinary charges. The ESD is headed by a Superintendent and staffed primarily with Inspectors who conduct formal reviews of LOC nominations in accordance with legislative provisions. On completion of formal reviews, recommendations are referred to the Assistant Commissioner Professional Standards before referral to the Commissioner of Police.

### **3.5 Management Audit Unit (MAU)**

The MAU is a small, dynamic, and multi-disciplinary team of 12 personnel, established to independently and impartially appraise the activities, operations and systems of the WA Police.

Section 53(1)(d) of the *Financial Management Act 2006* (FMA) requires the Commissioner of Police, as the Accountable Authority, to maintain the function *inter alia* of:

*"...developing and maintaining an effective internal audit function for the agency..."*

The establishment of the MAU discharges the obligations of Commissioner of Police under the FMA and plays an important role in providing independent advice to management with regard to the agency's efficient, effective and economic operation. The MAU assists management to achieve sound managerial practice over all aspects of the agency's activities and operations by undertaking key audit functions including:

- Assurance and Control Audits;
- Comprehensive Audits and Reviews;
- Coordination of the Business Area Management Review (BAMR) Program; and
- Other associated audit activities.

During 2011, the work of the Unit was further enhanced by the return of the Unit to the Professional Standards portfolio. This placement recognised the intrinsic link between the governance and assurance roles of MAU with the broader standards of agency professionalism and integrity.

Greater synergies have been achieved through a bi-partisan working relationship with other portfolio business areas linking common goals, objectives and outcomes. The pooling of resources and expertise in joint investigations/reviews has contributed to enhancing governance and professional ethical behaviour across the agency. For example:

- Referral of BAMR audit reports to the BAU for recording and profiling purposes;

- Specific audit issues identified and MAU Internet usage reports are referred to the IAU for further investigation where appropriate; and
- Joint examination of malpractice allegations from an auditing and police complaint perspective.

The Unit's current form and business model is strategically placed to augment the intent and deliverables of the portfolio and accordingly make a significant joint contribution to the ethical health of the agency. In turn, the combined efforts of the portfolio's business areas is achieving greater personal acceptance for "doing the right thing" and "doing things right".

In order to maintain the independence of the internal audit function, the Unit has an administrative reporting relationship to the Assistant Commissioner Professional Standards and a functional reporting relationship to the Commissioner of Police and the Audit and Risk Management Committee.

## **4.0 INTERNAL INVESTIGATION, QUALITY ASSURANCE AND COMPLAINT MANAGEMENT**

WA Police has a highly developed internal investigative framework primarily undertaken by PCAC and IAU, which is supported by a robust quality assurance process. Central to this capacity is the IAPro case management system.

### **4.1 Police Complaint Administration Centre**

#### **4.1.1 Receipt of Complaints**

Complaints against police officers and police staff (both internal and external) can be made by either writing, attending at police stations, by telephone, electronically by email, and by on-line reporting via the WA Police website. WA Police place significant importance on providing community members easy and convenient ways to make and communicate complaints against police.

Complaints may also be made to BlueLine or direct to the Commission, whom after assessment, may refer the complaint to WA Police for investigation.

Once received, complaints are recorded on a Complaint Advice Note (CAN) with the relevant information captured electronically in IAPro. As previously detailed, the Commission has restricted access and visibility over the database contents. All complaints are referred electronically to the Commission as part of the official notification process.

#### **4.1.2 Assessment of Complaints**

All complaints received by PCAC are assessed by a 'Triage Team' which is managed by the Complaints Manager who is an officer at the rank of Inspector. All complaints are categorised utilising a classification schedule (as agreed to by the Commission and WA Police) and allocated for investigation in accordance with allocation protocols detailed in the MIM. Allegations received involving corruption and/or serious unprofessional conduct, are referred to IAU.

### 4.1.3 Investigation of Complaints

PCAC categorises complaint investigations in accordance with the following categories:

1. Reviewable Police Investigation  
Due to the serious nature of these types of complaints a formal and comprehensive investigation is undertaken. (Fully Assessable Investigations).
2. Short Format Report  
A Short Format type of investigation is a less comprehensive investigation utilising the short format report template. These types of investigations may include all internally generated complaint files concerning police officers and those external complaints that according to PCAC categorisation are above the requirement of a Local Complaint Resolution or below that required for a serious unprofessional conduct matter.
3. Local Complaint Resolution (LCR)  
These types of investigations include complaints related to communication and customer service issues involving matters such as rudeness, poor attitude and practice, careless and inadequate service, or a failure to adequately explain lawful police procedures. The method used for these types of complaints is less formal in nature and usually involves conflict resolution and local management solutions. This approach maintains an effective means of dealing with these types of complaints, while maintaining the required level of thoroughness and accountability.

All investigations must align with the WA Police *Complaints against Police Investigation Guidelines*<sup>3</sup>. Investigations are subject to strict time frames and are monitored and managed by PCAC. There is a timeframe of 60 days for fully assessable and short format inquiries and 30 days for the LCR process. Any extension in time must be approved by the respective Assistant Commissioner. Approval may only be granted for periods of 7, 14 or 21 days.

### 4.1.4 Quality Assurance of Investigations

On completion of investigations, investigation files are returned to PCAC for Quality Assurance (QA) and review by senior officers. The QA process examines the quality and standard of the investigation and the appropriateness of findings and outcomes. Should the QA identify issues of a substandard nature, the investigation file is returned to the respective district/division for remedial action. On satisfactory completion, all relevant materials are scanned into IAPro. All investigation files and complaint matters may be subject to further review/examination by the Commission.

### 4.1.5 Investigation Doctrine

The *WA Police Investigation Doctrine* introduced by the WA Police in 2010, provides clear guidance on the style and manner in which all investigations are to be conducted and is a key platform in standardising quality investigative practices

<sup>3</sup> Guidelines are on WAPOL Professional Standards intranet site.



across the agency. It provides practical guidance and instruction on investigative process to facilitate common standards for all WA Police investigations. It provides an enhanced methodology ranging from simple to indictable offences and introduces the **CRIME** Model:

1. **Contact**
2. **Respond**
3. **Investigate**
4. **Manage**
5. **Evaluate**

The doctrine is applied to the investigations of 'Unprofessional Conduct' and introduced *The Five Key Investigative Strategies (The 5KI'S)* which are a practical means of identifying investigative actions and ensuring a thorough investigation in a structured framework. *The 5KI'S* detail investigative strategies in the areas of:

1. Physical Material
2. Witnesses
3. Intelligence
4. Public Awareness
5. Suspects/Persons of Interest (POI)

The strategies assist the investigator to:

1. Minimise the potential for 'tunnel vision' and/or premature closure.
2. Identify all possible avenues of inquiry.
3. Collate and prioritise investigative actions in each area.
4. Determine resource requirements such as the number of investigators and levels of expertise required.
5. Brief the investigative team and/or supervisors on the investigation status.

#### **4.1.6 Investigations Generally**

A police officer remains both responsible and accountable for his/her conduct and behaviour whether on duty or not and managerial and behavioural interventions will occur for unprofessional conduct in every instance, no matter where the conduct and behaviour occurs, whether in Western Australia or not.

The same approach is applied to internal investigations. Should a complaint against police allege criminality, the investigation will take the form of a criminal investigation and outcomes will be considered in the context of the agency's Prosecution Policy.

Should criminal charges be preferred, managerial intervention/behavioural modification to either manage or deal with unprofessional conduct will occur

simultaneously to the criminal matters. Neither is dependent on the other, nor should one influence the other in any way.

Both processes rely on the same facts in issue albeit criminal matters are judged on the basis of the criminal proof whilst managerial/behavioural matters are judged on the civil proof. It is common for managerial/behavioural considerations to occur well before the outcome of a contested criminal matter is known.

In its recent report into misconduct handling practices in WA Health, the Commission acknowledged that:

*“Western Australia Police is an organisation that is also under constant public scrutiny. It has a long standing, generally highly effective misconduct management mechanism.”<sup>4</sup>*

When comparing the WA Health Department and WA Police misconduct management systems, the Commission outlined that in WA Police:

*“There is a sophisticated internal quality assurance process at the centre of the organisation that seeks to ensure equitable outcomes, and attends to policy and procedural issues highlighted by internal investigations. The central quality assurance process is sufficiently resourced and maintains sufficient information to identify trends and issues.*

*Western Australia Police initially commenced with a centralised model similar to Department of Education and evolved to the decentralised approach at a point when their misconduct management mechanism was mature enough to do so with confidence”.*

## **4.2 Internal Affairs Unit (IAU)**

### **4.2.1 Investigation Sources**

The IAU sources investigations from three areas.

1. Public Sources - in addition to direct public complaints, these sources include Crime Stoppers, the media, referrals from the Commission, Coroner and other agencies. The Unit engages in human source management as a means of identifying officers and business areas engaged in misconduct and serious misconduct.
2. Internal Sources – refers to employees and sources within the agency and includes BlueLine reports, audit results and referrals from the PCAC Complaints Administration Centre. The Unit monitors the day to day business activity reports (District Alert System and other reports) to identify instances of misconduct and reviewable police action requiring intervention and investigation.

<sup>4</sup> Corruption and Crime Commission (2010) Misconduct Handling Procedures in the Western Australia Public sector: WA Health p11.

3. Critical Incidents – refers to any contact between police and the public where the act/omission of police may have contributed to death or serious injury. Such instances include deaths in police custody or police presence; emergency driving; and/or the use of force application.

#### **4.2.2 Critical Incident Investigations**

Upon receipt of information that a critical incident has occurred, the IAU applies the following actions:

1. The 'golden hour' rule applies with efforts made to exercise command and control over the scene within an hour. IAU provides a 24 hour, 7 day a week on call investigative service.
2. Command and control of those incidents occurring in Regional WA is exercised in the first instance by remote communication with senior officer/s responsible for the District in which the incident occurs. IAU will then attend as soon as it is possible to do so.
3. There are no after hours reporting protocols with the Commission. In respect to a critical incident resulting in death, the office of the State Coroner is immediately advised.
4. In all instances the critical incident and/or report of misconduct, serious misconduct is entered onto IAPro and email advice is provided to the Commission.

As the Commission has visibility over IAPro, it has the capacity to intervene and engage with any investigation recorded by IAU. There are no known examples of the Commission exercising 'active oversight' of critical incident investigations conducted by IAU.

In respect to critical incident investigations, IAU have adopted and apply the principles published in the report *'Review of the Investigation Process following a Death Associated with Police Contact'* produced by the Victorian Office of Police Integrity in June 2011.

In the 2011/12 reporting period, there have been no adverse reports by the State Coroner in respect to the quality of IAU investigations in this regard.

#### **4.2.3 Quality Assurance of Investigations**

The IAU undertakes its own QA processes throughout an investigation (refer to Internal Affairs Unit Investigation Management Workflow at Appendix 3) and will provide status reports to the Commission when requested. The Commission plays no role in the quality assurance processes during the life of an investigation and undertakes a review upon completion of the investigation.

All information and Incident Reports received are assessed and additional analytical work undertaken to assist with determining what action needs to be taken. Critical incidents are responded to immediately.

On completion of the assessment process, the matter is referred to the Tasking and Coordinating Group and allocated for investigation. Throughout the life of the investigation, the methodology and evidence is frequently reviewed and assessed to ensure all pertinent and known avenues of inquiry are followed and the conclusions and recommendations consistent with the evidence and relevant facts in issue. The frequency of these reviews may alter depending upon the urgency and criticality of the incident/information, but at a minimum, occur weekly.

The IAU selects contemporary experienced and trained investigators, commencing at the rank of Detective Sergeant. Investigation oversight occurs at all supervisory (Detective Senior Sergeant position) and management levels (Detective Inspector positions) and the Detective Superintendent conducts the final review of all investigations. The Unit is unique with respect to the levels and extent of the supervisory and management oversight applied.

The quality assurance of IAU investigations remains a routine and regular process of review throughout the life of an investigation. Modifications and improvements to IAU procedures and practices are now internally driven and are not reliant on Commission intervention and/or oversight.

Criticisms of IAU by the Commission arising from the 2008 Perth Watch House investigation (Spratt), are to be balanced against recent Commission observations indicating significant improvements in the IAU quality assurance process.

In the Systems Based Evaluation Audit undertaken by the Commission during the 2011/12 reporting period, IAU was found to have a 100% adequacy rate.

## **5.0 MANAGERIAL INTERVENTION MODEL (MIM)**

It is the policy of the WA Police that all managers and supervisors will in the first instance, adopt a managerial approach to the resolution of demonstrated and identified unprofessional conduct.

The MIM (refer to HR-31 Management Intervention Model WA Police Policy at Appendix 4) is a remedial/developmental approach which recognises that officers will make honest mistakes and provides for a 'fair go' approach to changing behaviour and conduct and to achieve improvement in both individual and organisational performance. The MIM involves development of local management intervention strategies to rectify/modify at risk behaviours or other unprofessional conduct/performance traits, with a remedial/developmental focus, rather than the imposition of traditional punitive sanctions.

A guidelines document has also been established and is published on the WA Police Intranet site to assist supervisors and managers with the MIM policy.

## **6.0 DISCIPLINE AND COMMISSIONER OF POLICE LOSS OF CONFIDENCE**

For serious breaches of unprofessional conduct and for those matters that cannot be reasonably dealt with by way of managerial intervention and behavioural modification, disciplinary charges and Commissioner's LOC action may be considered. Both are considered high end outcomes and both are premised by legislative provisions under the *Police Act 1892* and the Police Regulations 1979. Prior to progressing either disciplinary charges or Commissioner's LOC action, the approval of the Assistant Commissioner Professional Standards is required to ensure consistency of application.

### **6.1 Discipline**

On a disciplinary charge being laid, the material facts and charge/s are presented to the subject officer who has the option to plead guilty or not guilty. In the case of a guilty plea, the matter is referred before the Deputy Commissioner who presides over a Defaulter Parade. The subject officer can address the Deputy Commissioner in mitigation and an outcome in accordance with provisions of s.23 of the *Police Act 1892* is considered. The legislated options include a reprimand, fine, demotion, reduction in salary, suspension or dismissal.

In the case of a not guilty plea, the Commissioner of Police will appoint an Investigative Examining Officer (which over time has become known as a Hearing Officer), usually an Assistant Commissioner, to hear and consider all the material evidence and relevant facts in issue before coming to a decision. Contrary to what was originally intended by the legislation, the process has taken a criminal court setting and criminal law procedures are applied when what was intended was a review process by a senior police officer.

Additionally, the process has been hijacked by legal argument and legal particularisation and accordingly, disciplinary charges are now fewer in number. The value of disciplinary charges is also now in question in terms of the capacity for them and the process, to modify behaviour and conduct, being punitive by intent and design. The outcome of a disciplinary charge/s may be appealed to the Police Appeal Board which is enacted by the *Police Act 1892*.

### **6.2 Commissioner of Police Loss of Confidence**

Should a matter be referred to the Commissioner's LOC process, an ESD Inspector is appointed as the Review Officer in accordance with the provisions of the *Police Act 1892*. This officer independently and objectively reviews the available evidence and material contained within the internal investigation file. Following review and analysis, the Review Officer formulates a recommendation for consideration.

The review outcome is first presented to the Commissioner's Legal Counsel for an opinion. The Review Officer personally briefs the Assistant Commissioner Professional Standards for consideration by him to ensure consistency in application and to ensure the recommendation is reasonably premised. Subject to the action being supported by the Assistant Commissioner Professional Standards, the

submission is forwarded to the Commissioner of Police for consideration and determination.

Part IIB of the *Police Act 1892* articulates the various stages and processes in the Commissioner's LOC process. Should an officer be removed from WA Police, an avenue of appeal exists in law to the WA Industrial Relations Commission.

The independence of the ESD, together with legal validation from the Commissioner's Legal Counsel and consideration by the Assistant Commissioner Professional Standards, are the key to ensure validation and consistency of the process and outcomes. Ultimately, it is the Commissioner of Police who makes the final decision and he should not be influenced by anything other than the materials that give rise to the LOC and relevant legal advice.

### 6.3 Outcome of Statutory (Criminal) Charges

All District and Divisions have the capacity to prefer criminal charges against police officers. The following depict the number of statutory and criminal charges preferred by IAU and Districts/Divisions.

#### Statutory Charges Preferred by IAU

Outcome	2009/10			2010/11			2011/12		
	Police Officer	Police Staff	Other	Police Officer	Police Staff	Other	Police Officer	Police Staff	Other
Guilty Plea	3	0	1	5		1	8	1	3
Convicted at trial	3	0	1	5		1	8	1	3
Acquitted at trial	5	0	1	2	1	0	2	0	0
Yet to appear in Court							4		1
<b>Sub Total</b>	8	0	2	7	1	1	14	1	4
<b>TOTAL</b>	10			9			19		

Figure 4: Statutory Charges Preferred by IAU

#### Statutory Charges Preferred by Districts/Divisions

Outcome	2009/10			2010/11			2011/12		
	Police Officer	Police Staff	Other	Police Officer	Police Staff	Other	Police Officer	Police Staff	Other
Guilty Plea	6	6	2	9	2	1	2	1	1
Convicted at trial	6	6	2	9	2	1	2	1	1
Acquitted at trial	0	0	0	4		1	1		
Yet to appear in Court				1			1		
<b>Sub Total</b>	6	6	2	14	2	2	4	1	1
<b>TOTAL</b>	14			18			6		

Notes: Acquitted at trial includes matters Discontinued, Dismissed and Not Proven.

Other personnel include Traffic Wardens, Custodial Officers and members of the public.

Figure 5: Statutory Charges Preferred by Districts/Divisions

## 6.4 Outcome of Section 23 Disciplinary Charges

Section 23 of the *Police Act 1982* provides for the preferring of internal disciplinary charges' as outlined in the Police Force Regulations 1979.

### 6.4.1 Disciplinary Charges Preferred by Districts and Divisions

The following is a summary of District/Division preferred disciplinary charges.

**Section 23 Charges Preferred by Districts/Divisions**

	2009/10	2010/11	2011/12
	Police Officers	Police Officers	Police Officers
Guilty Plea	7	5	1
No Hearing Held	1	1	0
Withdrawn	1	0	0
Yet to be Heard	0	0	0
<b>TOTAL</b>	<b>9</b>	<b>6</b>	<b>1</b>

*Figure 6: Section 23 Charges Preferred by Districts/Divisions*

Part IIB of the *Police Act 1892* provides for the Commissioner Loss of Confidence provisions, which allows the to review the allegations made against the officer and to determine if confidence can be retained to remain in the agency.

The following is a summary of District/Division PCAC managed files resulting in referral to the Commissioner's Loss of Confidence process by the Assistant Commissioner Professional Standards.

**Commissioner's Loss of Confidence Process**

	2009/10	2010/11	2011/12
Outcome	Police Officers	Police Officers	Police Officers
LOC Nomination	13	12	10
Dismissed	2	0	1
Resigned	6	3	4
Returned to Duty	3	4	3

*Note: Officers 'returned to duty', are those officers who, following review of relevant materials by the Commissioner of Police, (including the officer's response to the LOC grounds), the Commissioner of Police has retained confidence in the officer's ability to remain a member of the WA Police Force. In such cases, the Commissioner of Police can refer the matter for an internal discipline charge and/or impose relevant behavioural modification actions as available through the Managerial Intervention Model or alternatively, impose no sanction at all. The officer then resumes normal duties.*

*Figure7: LOC referrals by Districts and Divisions for consideration by Commissioner of Police*

## 6.4.2 Disciplinary Charges Preferred by Internal Affairs

The following is a summary of IAU managed files resulting in disciplinary charges.

### Section 23 Charges Preferred by IAU

	2009/10	2010/11	2011/12
Outcome	Police Officer	Police Officer	Police Officer
Guilty Plea	4	9	2
No Hearing Held	1	1	0
Withdrawn	0	0	0
Yet to be Heard	0	1	1
<b>TOTAL</b>	<b>5</b>	<b>11</b>	<b>3</b>

*Figure 8: Section 23 Charges preferred by IAU*

Following is a summary of IAU managed files resulting in referral for the Commissioner's Loss of Confidence process by the Assistant Commissioner Professional Standards.

### Nominations for Commissioner's Loss of Confidence Process by IAU

	2009/10	2010/11	2011/12
Outcome	Police Officer	Police Officer	Police Officer
LOC Nomination	10	12	12
Dismissed	4	0	1
Resigned	4	6	3
Reinstated	6	6	3

*Note: Officers 'returned to duty', are those officers who, following review of relevant materials by the Commissioner of Police, (including the officer's response to the LOC grounds), the Commissioner of Police has retained confidence in the officer's ability to remain a member of the WA Police Force. In such cases, the Commissioner of Police can refer the matter for an internal discipline charge and/or impose relevant behavioural modification actions as available through the Managerial Intervention Model or alternatively, impose no sanction at all. The officer then resumes normal duties.*

*Figure 9: LOC referrals by IAU for consideration by Commissioner of Police*



## **7.0 IMPACT OF THE CORRUPTION AND CRIME COMMISSION'S PRACTICES ON THE CAPACITY OF WA POLICE TO DEAL WITH POLICE MISCONDUCT**

### **7.1 The Impact of Closed Commission Hearings on the Capacity of WA Police to Deal with Unprofessional Conduct**

The Commission, from time to time, conducts closed hearings on matters relative to WA Police. These are conducted in the absence of any communication or consultation, leaving WA Police exposed in terms of its ability to managerially deal with officers who may have engaged in unprofessional conduct.

By way of example, in 2010, the Commission undertook closed hearings into a historic matter (1990) involving the discharge of a firearm by police, resulting in serious injury to Mr Ian Quartermaine. Seven officers were called to give evidence and the Commissioner of Police was not accordingly informed.

The officers were not permitted to communicate the fact the Commission was holding a hearing and the evidence given on policy and practices, was not challenged and was later found to be erroneous. Involving WA Police in such matters would assist the Commission in sourcing accurate, contemporary information, whilst at the same time affording WA Police the opportunity to manage both the subject officers and any operational risks that may present.

In the example above, had the Commission communicated with the WA Police and sought a submission, or indeed extended an invitation for a representative to observe, the probative value of the hearing would have been enhanced. Additionally, WA Police would have been able to assess the extent to which the involved subject officers posed a risk both operationally and from a health and welfare perspective.

Additionally, the Commission did not disclose the names of the officers and made recommendations for changes to procedures that existed 20 years previously and which no longer applied. The hearings failed to examine then current practises, rendering the recommendations meaningless and irrelevant.

The Parliamentary Inspector undertook his own examination into the adequacy of the Commission response to the complaints of Mr Quartermaine and commented;

*"I should also mention that in this report I quote from a letter addressed by the CCC to the Commissioner of Police which is critical of police procedures. I should make two comments in that respect (arising from the Commissioner's submission to me). The first is that WAPOL was not a party to, or an observer at, the CCC hearings that led to those criticisms and is consequently in no position to assess their validity. The second is that the Commissioner of Police has informed me that, in any event, since the events considered in this report (which took place as long ago as 1990), WAPOL has taken significant steps to improve its response to and investigation of 'critical incidents' arising from the discharge of firearms."*

The practice of isolating the Commissioner of Police from such hearings inhibits his ability to make proper assessments about the conduct of individual officers. Whilst the Commission may form opinions and make recommendations pursuant to s.53 of the Act, the same legislation provides the findings cannot be used by the Commissioner of Police to form an opinion as to the suitability of a police officer to remain a member of the WA Police, or indeed to take any other action. In effect, WA Police then has to conduct another investigation to achieve the same outcome. Accordingly, misconduct findings are limited and questionable in terms of value and practical application.

In the past, the Commission has conducted three audit type reviews of WA Police and in draft reports that followed, significant criticism was responded to by WA Police in absolute terms. The process of responding and subsequent engagement with Commission officers proved exhaustive if not frustrating. The three reports were eventually amalgamated into one report which WA Police further responded to.

It remains unclear to WA Police whether the audits were conducted under the provisions of s.17 (prevention and education function) or s.18 (misconduct function) of the Act. The Commission argued the audits were conducted in accordance with the latter provision with WA Police offering a counter argument. In any event, putting aside the findings and recommendations, they were mostly out of date by the time they were published and of limited value.

WA Police argues the Commission does not sufficiently invest in the prevention and education function and when an adverse matter is identified, it should be immediately communicated to WA Police so that remedial action can occur, not simply left to make a point in a report that will not be published for two to three years as in the case above.

A further example of the indifference that occurs from time to time with the Commission is in the Spratt/Perth Watch House Taser matter. In a draft report on the Commission Review on Tasers, a notation was included that WA Police had adequately investigated the matter, a position the Commission later withdrew from. The withdrawal was particularly disappointing to WA Police given the history and consequences of that matter.

## **7.2 Communications between the Commission and IAU**

Whilst the relationship between IAU and the Commission at the operational level can be described as professional and cooperative, there are instances in which the Commission will issue a s.42 Notice prohibiting IAU from investigating a matter, undertake their own investigation for a period of time and then refer the inquiry back to WA Police without explanation or advice as to the nature of the inquiries conducted and the evidence found.

In these circumstances, IAU is required to commence its own investigation, often duplicating the work of the Commission. This results in lost effort and time and is counter productive.

### 7.3 Joint Investigations

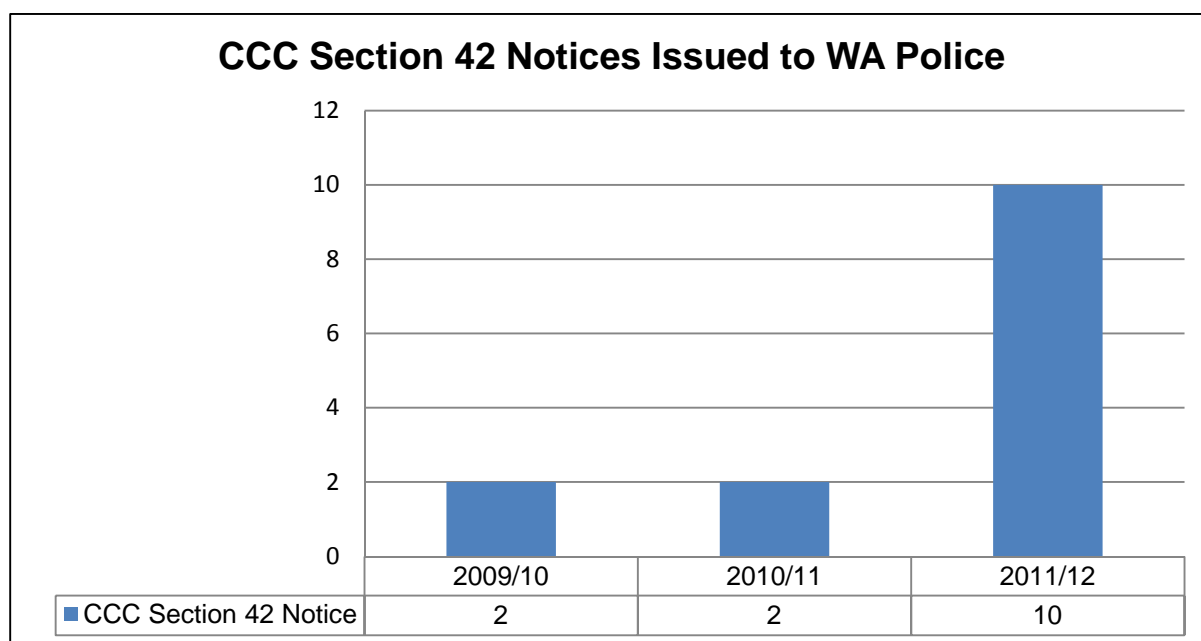
The IAU is open to the concept of undertaking joint investigations with the Commission, and believes there is value in conducting joint protracted and complex investigations. However, in the preceding three years, there has only been one such joint operation. That operation resulted in the successful criminal prosecution of a police officer then attached to the Telephone Intercept Unit for releasing information to an organised crime group.

Ultimately, the decision to undertake a joint investigation lies with the Commission.

### 7.4 Impact of Section 42 Notices (Commission may direct appropriate authority not to take action)

Under s.42 of the Act, the Commission may, by written notice, direct WA Police to either not commence an investigation of a misconduct matter or, if an investigation has already commenced, to discontinue the investigation. It is the firmly held view of WA Police that in cases such as these, WA Police needs to be engaged to ensure officer management with respect to managerial and risk management intervention occurs.

With the exception of those ‘misconduct matters’ subject of a Notice issued pursuant to s.42 of the Act and investigated by the Commission itself, each and every report made to it, is returned to IAU for investigation pursuant to s.33 and s.37 of the Act.



*Figure 10: Commission Section 42 Notices Issued to WA Police 2009/10 – 2011/12*

The increase in s.42 Notices in the period 2011/12 outlined in Figure 10, above, is a direct result of the engagement of the Commission in the investigation of ‘Use of Force’ incidents (Reviewable Police Action). There has been no change in the Commission’s level of involvement in critical incident or serious misconduct investigations.

## **8.0 CONCLUSION**

WA Police recognise that like every police jurisdiction both nationally and internationally, it is not immune from corruption, criminality and/or serious misconduct by its people. WA Police is however, confident that it has in place sufficiently robust and proven policies, practices and processes to identify, report and investigate incidents of unprofessional conduct.

The agency has also heavily invested in building corruption resistance, positive peer pressure and self regulation through initiatives such as the Early Intervention Program and Alcohol and Drug testing. Organisational maturity has been achieved in identifying, reporting and investigating incidents of unprofessional conduct, a position recognised by the Commission and demonstrated by the content of this submission. The challenge remains to sustain and improve in this regard, further building on the ethical health of the agency.

The submission has raised and commented on a number of Commission practices that are adversely impacting on the capacity of the WA Police to effectively deal with and respond to incidents of unprofessional conduct and procedural matters, in a timely manner.

WA Police welcomes fair and balanced comment from the Commission in all forms that may be provided. Although this submission includes comment that may be perceived to be critical of the Commission, WA Police nevertheless remains committed to working with the Commission and other oversight authorities to continue to improve the ethical health of the agency.

### Corruption and Crime Commission

#### WA Police

#### Categorisation of Complaints

Valid at 01/07/2011

This document is to be used for the categorisation of all matters received at either PCAC or IAU. Consideration needs to be given to the seriousness of the matter, which category best suits the issues and the level of inquiry required. For matters which appear to be of a very minor nature guidance is available within the *Parliamentary Commissioner Act 1971 Section 18(1)* which provides for no investigation to be conducted into matters which fall under the following points:

- The matter raised in the complaint is trivial;
- The complaint is frivolous or vexatious or is not made in good faith;
- The person aggrieved has not sufficient personal interest in the matter raised in the complaint (consider interviewing the person affected by the alleged police behaviour);
- Having regard to all the circumstances of the case, the investigation, or the continuance of the investigation of the matter raised in the complaint, is unnecessary, unjustifiable or unwarranted.

The following are dictionary definitions and synonyms of the terms used in these matters for assistance in assessing complaints (reference Concise Oxford dictionary, Chambers pocket dictionary):

- Trivial: small value of importance; trifling (raised trivial objections), unimportant, inconsequential, minor, insignificant, slight, petty, marginal
- Frivolous: paltry, trifling, trumpery, lacking seriousness, silly, unimportant, inconsequential
- Vexatious: not having sufficient grounds for action and seeking only to annoy

The above points should not be seen as a strategy to rid the WA Police of persons who may have minor complaints, as the complaints may not be minor to these people. Even though it may be decided not to investigate their matters efforts should be made wherever reasonable to provide the person with advice, assistance and/or a resolution of the matter. In all cases persons are to be advised that no investigation will be instigated and the reasons why.

**1<sup>st</sup> level inquiry types** – matters that must be reported upon utilising a fully assessable file. These are matters which fall into the **SERIOUS MISCONDUCT** category as defined by s.29 of the Corruption and Crime Commission Act 2003.

<b><i>Inquiry Type: EXT; COP; IR; Folio; Info – IAU Only</i></b>	
<b>CRIMINALITY</b>	Where matter is domestic violence related the letters 'DV' prefix the allegation
Allegation	<b>Breach of Move On Notice</b>
"	<b>Breach of Police Order</b>
"	<b>Breach of Restraint Order</b>
"	<b>Breach of Violence Restraint Order</b>
"	<b>Burglary</b> (members have entered premises without consent and have intent to commit an offence or committed an offence therein Crim Code 402)
"	<b>Cruelty to Animals</b>
"	<b>Damage – unlawful or criminal</b>
"	<b>Deprivation of Liberty</b> (Unlawfully detain another person Crim Code Sect 333)
	<b>DV Assault – Intent to Cause Grievous Bodily Harm</b>
	<b>DV Assault – OBH</b>
	<b>DV Breach of Family Court Order</b>
	<b>DV Breach of Move On Notice</b>
	<b>DV Breach of Police Order</b>
	<b>DV Breach of Restraint Order</b>
	<b>DV Breach of Violence Restraint Order</b>
	<b>DV Burglary</b> (members have entered premises without consent and have intent to commit an offence or committed an offence therein Crim Code 402)
	<b>DV Common Assault</b>
	<b>DV Cruelty to Animals</b>
	<b>DV Damage – unlawful or criminal</b>
	<b>DV Deprivation of Liberty</b> (Unlawfully detain another person Crim Code Sect 333)

	<b>DV Fraud</b>
	<b>DV Grievous Bodily Harm</b>
	<b>DV Impersonate Police</b> (non sworn members)
	<b>DV Indecent Assault</b>
	<b>DV Intimidation/Harassment</b>
	<b>DV Manslaughter/Murder</b> (Crim Code S.280, 278)
	<b>DV Other</b> (Matters not otherwise specified)
	<b>DV Serious Assault</b>
	<b>DV Service of Misconduct Restraining Order</b>
	<b>DV Service of Violence Restraint Order</b>
	<b>DV Sexual Assault</b>
	<b>DV Stalking - Breach of Statute Law</b> (Pursue another person or third person Crim Code 338E)
	<b>DV Stealing</b>
	<b>DV Threats</b> (To kill-injure and other Crim Code 338A & 338B)
	<b>DV Trespass</b> (members have entered a place without consent)
	<b>DV Unlawful Killing</b>
	<b>DV Unlawful Wounding</b>
"	<b>Fraud</b>
"	<b>Impersonate Police</b> (non sworn members)
"	<b>Manslaughter/Murder</b> (Crim Code S.280, 278)
"	<b>Other</b> (Matters not otherwise specified)
"	<b>Stalking - Breach of Statute Law</b> (Pursue another person or third person Crim Code 338E)
"	<b>Threats</b> (To kill-injure and other Crim Code 338A & 338B)
"	<b>Trespass</b> (members have entered a place without consent)
"	<b>Unlawful Killing</b>
"	<b>Unlawful Wounding</b>

<b>ASSAULT</b>	
Allegation	<b>Assault Bodily Harm</b> (Unlawful assault resulting in injury or harm Crim Code Sect 317)
“	<b>Assault Common</b> (Unlawful assault, Crim Code Sect 313)
“	<b>Assault Grievous Bodily Harm</b> (Causing injury that endangers or is likely to endanger life, or cause or be likely to cause permanent injury to health Crim Code Sect 294)
“	<b>Assault Indecent</b> (Assault of an indecent nature, with or without medical evidence)
“	<b>Assault Intent</b> to Cause Grievous Bodily Harm (Crim Code Sect 317A(b))
“	<b>Assault Serious</b> (Assault with intent to: commit or facilitate the commission of a crime; do grievous bodily harm; resist or prevent lawful arrest; or assault a public officer or person from doing his/her lawful function or any person attempting to help the public officer carry out his function Crim Code Sect 318)
“	<b>Assault Sexual</b> (Assault of a sexual nature, with or without medical evidence)
<b>STEALING</b>	
Allegation	<b>Government</b> (Government property or money, includes theft of donations, petty cash etc)
“	<b>Money</b> (Stealing cash, currency or negotiable bonds)
“	<b>Prisoner</b> (stealing from persons in custody)
“	<b>Property</b> (stealing items other than money, not including drugs)
“	<b>Search</b> (seized property stolen, missing or misappropriated)



<b>CORRUPTION</b>	
Allegation	<b>Conspiracy</b>
“	<b>Evidence</b> (Fabricate, destroy or tamper with evidence, provide false testimony)
“	<b>Perjury</b> (Give evidence that is not true – note usually identified by judiciary)
“	<b>Prosecution</b> (Fail to prosecute, or malicious prosecution)
“	<b>Records</b> (falsify, fabricate, destroy)
“	<b>Witnesses</b> (influence, intimidate or interfere)
<b>DRUGS</b>	Officer's involvement in illicit drugs
Allegation	<b>Conspiracy Drugs</b>
“	<b>Drugs Theft</b> (Theft of drugs - seized or during search)
“	<b>Manufacture/Culture</b>
“	<b>Possession</b> (possession of illicit drugs, home or workplace)
“	<b>Sell/Supply</b>
“	<b>Use</b> (consumption of illicit drugs)
<b>INFORMATION SECURITY</b>	
Allegation	<b>Divulge</b> (Disclose information obtained in the course of the officer's duties to an unauthorised person)
“	<b>Unauthorised Access</b> (Accessing computer systems without proper authorisation, for reasons unrelated to the officer's required tasks and duties)
“	<b>Unlawful</b> (Censorship Act. Electronic non-work related unlawful material likely to cause offence, transmitted or accessed)

**2<sup>nd</sup> level inquiry types** – matters that may be reported upon utilising a short format file. These are matters which fall into the **REVIEWABLE POLICE ACTION** category. At any time during the investigation the inquiry officer may report upon the matter using fully assessable format to reflect the complexity of the inquiry.

<b><i>Inquiry Type: BAMR; EXT; COP; PCAC Investigation; Information; Information Report; Folio; Firearm; Information – IAU Only</i></b>	
<b>EQUAL OPPORTUNITY</b>	Matters arising from complaints about breaches of the Equal Opportunity Act 1984, lodged with WA Police Service Equal Employment Opportunity Section or not
Allegation	<b>Discrimination Gender</b> (EEO complaint of discrimination on the basis of gender, sexual orientation etc.)
“	<b>Discrimination Race</b> (EEO complaint of discrimination on the basis of race)
“	<b>Harassment Racial</b> (EEO complaint of racial harassment)
“	<b>Harassment Sexual</b> (EEO complaint of sexual harassment)
“	<b>Victimisation</b> (Adverse/discriminatory or different treatment of person who had lodged an EEO Complaint)
<b>ACCOUNTABILITY</b>	(Records and systems to be kept in accordance with FAA, BAMR and Regulations)
Allegation	<b>Asset Records</b> (Incomplete or lack of records relating to assets)
“	<b>Diaries/Notebooks</b> (breaches of regulations relating to diaries and notebooks)
“	<b>Drug Records</b> (incomplete or lack of records relating to seizure, receipt etc drugs)
“	<b>HR Records</b> (incomplete or lack of records for attendance, leave, rosters, etc)
“	<b>Processes</b> (eg appropriate independent BAMR officer, GFT recording, banking of monies, lack of attention to processes, lack of action when problems found, lack of handover)

<b>MISSING</b>	(Items not found during BAMR or other audit)
Allegation	<b>Found Property</b> (items handed by public or found by police but not seized)
"	<b>Government Assets</b> (eg computers, laptops, Alcolmeters, but not accoutrements )
"	<b>Police Firearms/Ammunition</b>
"	<b>Police Issue</b> (eg accoutrements, uniform - excluding firearms)
"	<b>Seized Drugs</b>
"	<b>Seized Property</b> (includes firearms and ammunition)
<b>STORAGE</b>	Items identified by BAMR audit not to be securely or properly stored
Allegation	<b>Storage Assets</b>
"	<b>Storage Drugs</b>
"	<b>Storage Firearms/Ammunition</b> (Both police and seized)
"	<b>Storage Property Found</b>
"	<b>Storage Property Seized</b>
<b>COMPUTERS</b>	Misuse of computers or electronic systems other than serious criminal actions or minor policy breach
Allegation	<b>Offensive</b> (Non-work related material that is likely to cause offence, transmitted or accessed)
<b>ESCAPE CUSTODY</b>	
Allegation	<b>Device</b> (Equipment failure or damage to equipment that allows prisoner to escape)
"	<b>Security</b> (Failure to secure prisoner)
"	<b>Struggle</b> (Prisoner escaped after a struggle pr physically overpowering officer)
"	<b>Unattended</b> (Prisoner left unattended)

<b>FIREARM DISCHARGE</b>	
Allegation	<b>Accidental</b> (unintentional discharge of firearm with or without non-threatening injury)
"	<b>Intentional</b> (intentional discharge of firearm with or without non-life threatening injury)
<b>FIREARM DRAW</b>	
Allegation	<b>Draw</b> (Unholstering of firearm in circumstances that are likely to cause public alarm, unnecessary fear, or intimidation)
<b>FIREARM LOSS</b>	
Allegation	<b>Loss</b> (Firearm not located, misplaced, not BAMR related)
"	<b>Theft Firearm</b> (Firearm stolen, not BAMR related)
<b>OHSW</b>	
	Matters relating to occupational health, welfare and safety of employees
Allegation	<b>Bullying</b> (consistent belittling, intimidation, using strength or power to coerce others by fear, not yet legislated under EEO Act but addressed by policy)
"	<b>Workplace</b>
<b>USE OF FORCE</b>	
Allegation	<b>Baton</b> (Unwarranted, unnecessarily forceful or misuse of baton)
"	<b>Handcuff</b> (Handcuffs applied too tightly, unwarranted use)
"	<b>Physical</b> (Unnecessarily forceful, rough contact, overpowering or manhandling)
"	<b>Restraint</b> (Unnecessary force or rough handling when person is restrained)
"	<b>Spray</b> (Unwarranted, unnecessarily forceful, or misuse of Capsicum spray)
"	<b>Taser – deploy</b> (activation by depressing trigger – firing cartridge or drive stun)
"	<b>Taser – draw</b> (display or red dot control)
"	<b>Use of Force Other</b> (use of other objects to apply force when approved force options are not used)

**3<sup>rd</sup> level inquiry types** – matters that may be reported upon utilising a short format file or as an LCR file (PCAC determination giving consideration to seriousness of complaint). *These are matters which fall into the **REVIEWABLE POLICE ACTION** category. At any time during the investigation inquiry officer may report upon the matter using fully assessable format to reflect the complexity of the inquiry.*

<b><i>Inquiry Type: EXT; COP; PCAC Investigation; Information; Information Report; Folio; Firearm; Information – IAU Only</i></b>	
<b>CONDUCT</b>	
Allegation	<b>Damage</b> (Substantial damage caused to property during search and/or seizure)
“	<b>Drive</b> (DUI, Dangerous Driving, Breaches of Road Traffic Act)
“	<b>Improper</b> (matters that are grave or weighty)
“	<b>Improper Association</b>
“	<b>Secondary Employment</b> (Unauthorised, inappropriate, or conflict of interest)
“	<b>Sponsorship/Donation</b> (Breach of policy regarding sponsorship or donations, material or money)
“	<b>Unbecoming</b> (Behaviour that detracts from officer's appearance, character, or reputation, creating unfavourable impression of officer and Police Service)
<b>NEGLECT</b>	
Allegation	<b>Custody</b> (Failure to provide the required duty of care for a person in custody)
“	<b>Duty</b> (Failure to carry out the direction or lawful order of another officer)
“	<b>Investigate</b> (Failure to carry out further inquiries or take action on a complaint)
“	<b>Job</b> (Failure to attend to a task or take a complaint)
“	<b>Report</b> (Fail to submit an offence report or arrange the correct procedural write-off of a task attended)

<b>PROFESSIONALISM</b>	
Allegation	<b>Abuse</b> (Use abusive language or gestures, swear)
“	<b>Abuse authority/position</b> (asking for discount/favouritism)
“	<b>Attitude</b> (Off hand, improperly dressed; disinterested in the complaint or complainant; generally lax in manner)
“	<b>Force</b> (Mere jostling)
“	<b>Harass</b> (Disturb persistently, constantly bother the complainant by actions, repeated bookings, bona fide checks)
“	<b>Intimidation</b> (Cause apprehension or fear prevent or hinder a person from doing their lawful business)
“	<b>Law</b> (Misunderstanding of law)
“	<b>Manner</b> (Demeanour, rude without being abusive; sarcastically polite; being impolite) or attitude of officer
“	<b>Minor Damage</b> (Small amount of damage to complainant's property during obtaining lawful entry and/or lawful seizure)
“	<b>Minor Traffic</b> (Police committing minor traffic infringement, i.e., going through stop sign; speeding, etc)
“	<b>Negligence</b> (careless or negligent actions resulting in a detriment eg incorrect service address)
“	<b>Procedure</b> (Matters pertaining to police practices or policies, administrative procedures, including issues relating to investigations)
“	<b>Racial</b> (Language that refers to the person in a racially tainted way)

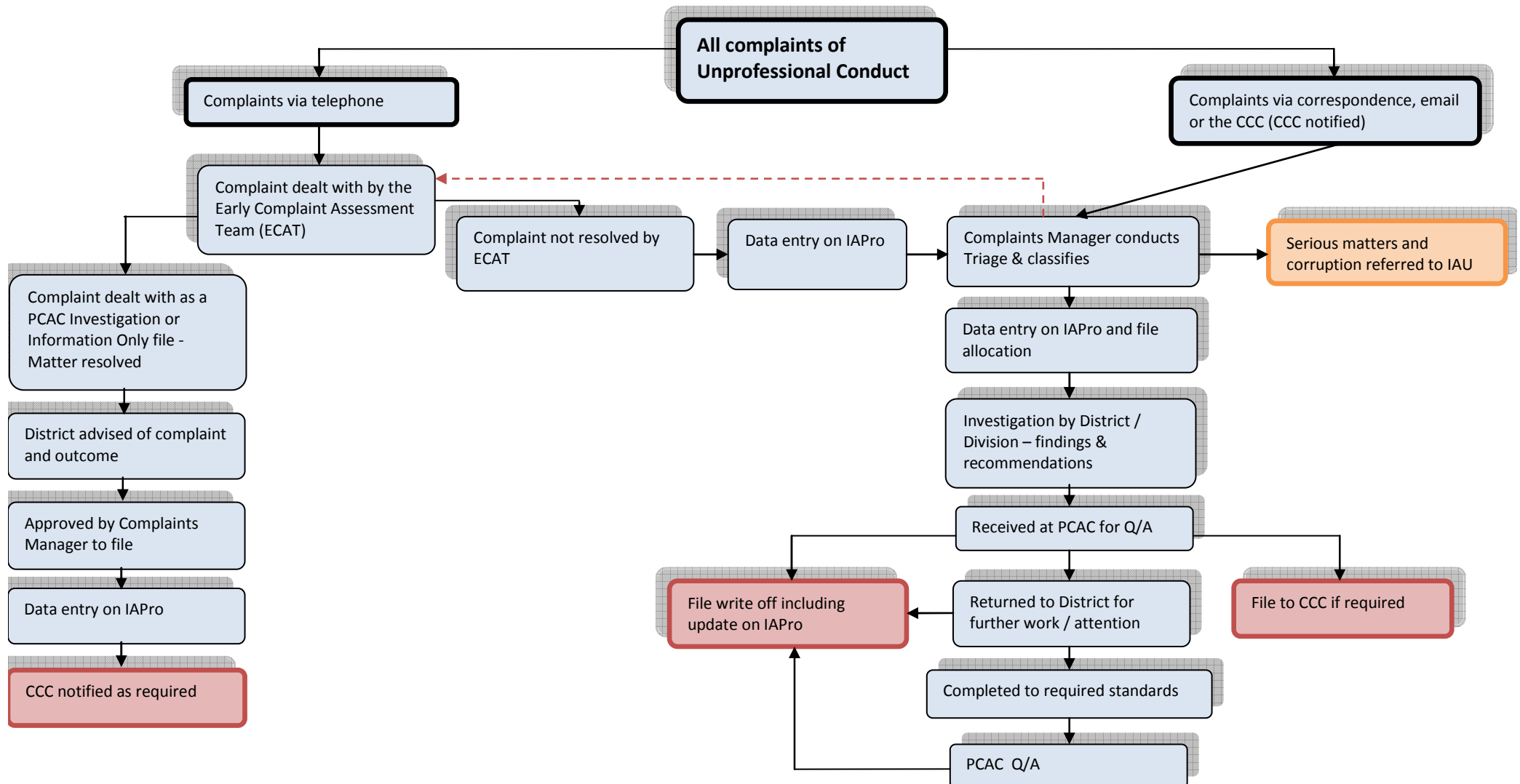
**4<sup>th</sup> level inquiry types** – matters that are NON-REPORTABLE to the CCC and are not reviewable (with exceptions listed below).

[illegible]

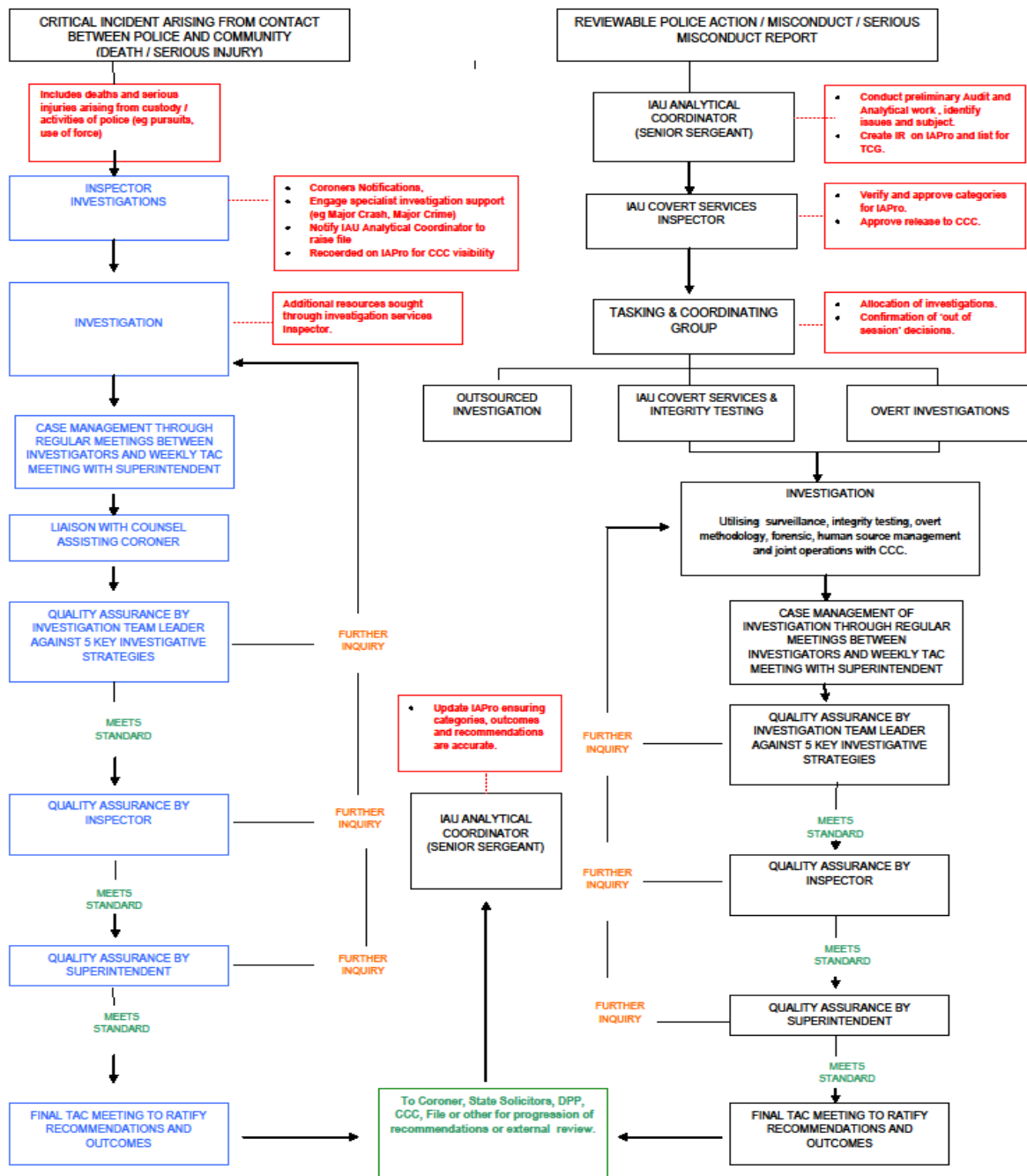
<b>DEATH/INJURY</b>	Includes Self Harm - No Allegations for this Inquiry Type
Sub-Classification	<b>Attempted Suicide in Custody</b> (Person apprehended, self-harm)
"	<b>Attempted Suicide in Police Presence</b> (not apprehended, self-harm)
"	<b>Death in Custody</b> (Person apprehended not apparent self-harm, eg heart attack)
"	<b>Death in Police Presence</b> (Person not apprehended, eg vehicle pursuit)
"	<b>Death of Serving Officer</b>
"	<b>Fatal Police Shooting (Review by CCC)</b>
"	<b>Injury in Custody</b> (Person apprehended, not apparent self harm, eg fall, accident)
"	<b>Suicide in Custody</b> (Person apprehended, self-harm)
"	<b>Injury in Police Presence</b> (Person not apprehended, eg vehicle pursuit)
"	<b>Injury Police Shooting (Review by CCC)</b>
"	<b>Sudden Illness in Custody</b> (Person apprehended, eg heart attack)
"	<b>Suicide in Police Presence</b> (Person not apprehended, self-harm)
<b>EQUIPMENT</b>	Police Equipment issued to and/or used by police personnel
Allegation	<b>Accoutrements</b> (Loss of batons, handcuffs and other issued equipment by theft or misplacement through carelessness, not BAMR)
"	<b>Assets</b> (Loss of items such as computers, laptops, by theft or misplacement or through carelessness, not identified by BAMR)
"	<b>Police ID</b> (loss of Police Identification card, by theft or misplacement through carelessness, Not BAMR)



## Police Complaints Administration Centre (PCAC) – Complaint Management and CCC Notification Flowchart



## Internal Affairs Unit Investigation Management Workflow



**HR-31      Managerial Intervention Model**

---

**Best Practice**

The Western Australia Police (WA Police) are committed to the development and implementation of best practice policy for the management of demonstrated and identified unprofessional conduct by Police personnel. The primary objectives of the Policy are to improve the ethical health of the agency; demonstrate openness and accountability; reinforce and improve corruption resilience and to maintain and improve public confidence in WA Police.

In order to maintain best practice and consistency of application, managers and supervisors at all levels within the agency, are expected to demonstrate and live the established standards of behaviour, conduct and professionalism and accept both responsibility and accountability for their personal conduct and for the conduct of the personnel they may supervise and lead during the ordinary course of business. This approach reinforces the discretion and flexibility leaders, managers and supervisors need to effectively manage human and general resources and work areas.

The policy has been developed in the context of Government policy and direction, the *WA Police Strategic Plan*, the reform agenda of the WA Police and the changing cultural environment of policing.

**POLICY**

It is the policy of the WA Police that all managers and supervisors will, in the first instance, adopt a managerial approach to the resolution of demonstrated and identified unprofessional conduct.

The policy also commits the WA Police to ensuring the procedures and practices employed to deal with concerns and complaints against police assist in building the trust and confidence of the community, oversight bodies and key stakeholders. Within the WA Police the managerial approach is known as the Managerial Intervention Model (MIM).

The MIM is a remedial/developmental approach which recognises that officers will make honest mistakes and provides for a “fair go” to change behaviour and conduct to achieve improvement in both individual and organisational performance. To this end, a learning and developmental approach will be adopted.

The mechanisms for the management of complaints are not enough on their own to bring about significant changes to organisational culture. Complaints management mechanisms need to be linked to and integrated with other initiatives including training, professional development, performance management, corruption prevention, risk management, and performance reporting.

While managerial intervention may be appropriate for most incidents of unprofessional conduct managed by the WA Police, the MIM approach also recognises the need for more serious incidents to be dealt with by other means, more notably by:

- Preferring criminal/statutory charge/s;
- Preferring disciplinary charge/s (dealt with by section 23 of the *Police Act 1892*); and/or
- Commencing Commissioner's Loss of Confidence action (pursuant to section 8 of the *Police Act 1892*).

Further to the above, in those instances where a criminal investigation is undertaken, investigators will need to refer to the Complaints against Police Investigation Guidelines and where applicable, the *WA Police Investigation Doctrine*.

## **Effective Date**

This policy and associated guidelines are effective as from the 3<sup>rd</sup> October 2006 with amendments effective from the 24<sup>th</sup> January 2007, 20<sup>th</sup> August 2008, 9<sup>th</sup> September 2009, 21 April 2010 and December 2011.

## **PURPOSE**

The purpose of this policy is to ensure:

- All managers/supervisors first adopt a managerial approach to the resolution of all incidents and complaints of unprofessional conduct.
- All managers/supervisors are responsible and accountable for the management of unprofessional conduct.
- All managers/supervisors are required to discuss with subject officers the outcome of internal complaint investigations; make clear how demonstrated and or identified unprofessional conduct failed to meet the standards set by the *WA Police Code of Conduct*, and how the identified unprofessional conduct will be addressed through either managerial intervention and or by other means.
- All WA Police employees are aware of the principles and key responsibilities that underpin the managerial approach (the MIM).
- All managers/supervisors and senior leaders model behaviour, conduct, performance and decision-making that supports the cultural change sought by the agency and this policy.
- WA Police recognises the need to build on the ethical health of the agency and achieve a high level of professionalism and integrity to further build on community trust and confidence and that by oversight bodies and key stakeholders.
- To create an environment and management system to make clear, to reinforce and to promote the acceptance of roles, responsibilities and accountabilities.
- To create balance and equity in the rights and responsibilities of all interested and involved parties, including those lodging a complaint and those who are subject of a complaint.

The policy intent is also to embody and maximise the agency's commitment to valuing and developing all employees in order to maximise potential and commitment to performance.

## Definitions

**Aboriginal Police Liaison Officer** – refers to Aboriginal Police Liaison Officers appointed under Part IIIA of the *Police Act 1892 (Police Act)*, employed by the Commissioner of Police (Commissioner).

**Assistant Commissioner's Warning Notice** – refers to a formal notice issued and delivered by an Assistant Commissioner to a subject officer to demonstrate the seriousness of unprofessional conduct and to detail the consequences should such conduct continue. It is the highest form of management intervention and places a subject officer on notice to correct behaviour and conduct. The 'Warning Notice' reinforces the premise that a subject officer's continued employment with the agency may be at risk should any form of unprofessional conduct be further demonstrated and or identified.

**Custody Officer** – refers to persons employed under *the Public Sector Management Act 1994* who have specific provisions in their Certificate of Appointment that enables them to perform the custody role as Special Constables under *Section 36 of the Police Act*.

**Delegated Officer** - for purposes of this policy, refers to the Assistant Commissioner Professional Standards or person acting in that capacity, delegated by the Commissioner to determine key decisions, actions and outcomes.

**Delegations** - The levels to which authority has been delegated in relation to the management of complaints and discipline are contained in the Delegation Schedule published within the Corporate Knowledge Database, Manuals and Guidelines (ADS-1 Human Resource Management and Administration).

**Employee** – for the purposes of this Policy and respective Guidelines, refers to Police Officers, Aboriginal Police Liaison Officers, Police Auxiliary Officers, Police Staff (including Police Cadets and Custody Officers) and wages staff.

**Equity or Equitable** - refers to the Macquarie Dictionary definition of; 1. the quality of being fair or impartial, fairness, impartiality; 2. that which is fair and just and; 3. Law - the application of the principles of natural justice.

**Management Action Plan (MAP)** - refers to an instrument to record and manage a behavioural modification action as recommended and agreed following an internal investigation where unprofessional conduct is sustained.

**Managerial Intervention** - refers to behavioural modification actions/strategies including MAP's, Managerial Notice and/or Assistant Commissioner's Warning Notice, all designed to address unprofessional conduct/behaviour, and/or work performance deficiency/ies.

**Managerial Notice** – refers to a formal notice which is the second highest form of managerial intervention, to demonstrate to a subject officer the seriousness of the unprofessional conduct engaged in and the consequences that may follow should any form of unprofessional conduct re-occur.

**Officer/s** – refers to Police Officers and Aboriginal Police Liaison Officers appointed under the *Police Act*.

**Police Auxiliary Officer** – refers to employees who are employed under *Section 38C of the Police Act* with their own set of terms and conditions (limited police powers) who are employed to assist police officers and be used in specific support roles where full police powers or police training is not required.

**Police Staff** - refers to employees (including Police Cadets employed as trainees) employed under the *Public Sector Management Act 1994* (and various wages awards) by the Commissioner.

**Procedural Fairness** - refers to those principles which ensure that decision-making is fair and reasonable (that is, industrially defensible) and in accordance with the *WA Police Code of Conduct*.

**Subject Officer** - refers to officers or employees appointed under the *Police Act* and/or the *Public Sector Management Act* against whom a complaint is lodged or investigation conducted.

**Unprofessional Conduct** – refers to behaviour, actions and conduct as defined in Sections 3 and 4 of the *Corruption and Crime Commission Act 2003*, notably ‘Reviewable Police Action’ and ‘Misconduct’; conduct which contravenes the ‘General Rules Relating to Discipline in Part VI of the *Police Force Regulations 1979*’; conduct which contravenes the *WA Police Code of Conduct*; conduct which is prima facie, criminal conduct; and conduct which has the potential to cause damage to agency reputation and or erosion of public confidence in WA Police.

**Verbal Guidance** – is the lowest form of managerial intervention and is intended to bring to a subject officer’s attention, identified and sustained low level unprofessional conduct; the remedial action required; and to remind a subject officer of the required standards of behaviour and conduct.

Explanatory Notes:

- (1) *An Assistant Commissioner’s Warning Notice may also be issued in circumstances where an officer fails to comply with a previously agreed management intervention and in circumstances of a repeated failure to correct behaviour and conduct.*
- (2) *A Managerial Notice is neither a sanction nor a penalty but rather a notice documenting unprofessional conduct and creating a mechanism for formal acknowledgement. The Managerial Notice stands in its own right in terms of an outcome to an internal investigation. A Managerial Notice may also be accompanied by behavioural modification actions as a joined up approach to address unprofessional conduct.*
- (3) *Accountability for managing a MAP, resides with the relevant Commander/Superintendent/Branch Head, whilst responsibility for day-to-day administration of a MAP resides with the officer-in-charge and manager/supervisor of the officer subject of the MAP.*

(4) *The more common managerial interventions and actions include the following;*

- *Coaching*
- *Mentoring*
- *Re-training and re-education*
- *Personal development*
- *Increased supervision*
- *Verbal guidance*
- *Counselling*
- *Improvement strategies*
- *Restricted duties*
- *Re-assignment of duties*
- *Change of shift*
- *Transfer*
- *Managerial Notice*
- *Assistant Commissioners Warning Notice*

*Source: Fisher Review (page 67)*

## **HR-31.1. APPLICATION**

---

### **HR-31.1.1. Introduction**

The Managerial Intervention Model (MIM) applies to all officers within the WA Police irrespective of rank, although it is recognised the majority of complaints about police involves officers below the ranks of Commander and Superintendent. The Policy does not preclude the application of the MIM to the ranks of Commander and Superintendent and above and where that is the case, a reference within the Policy to Commander/Superintendent/Branch Head is to be read as a reference to the rank/police staff classification immediately senior to that of the officer subject of the MIM.

The MIM is an approach adopted by the WA Police to deliver managerial intervention in response to identified and demonstrated unprofessional conduct. (Police Staff subject of a complaint are generally managed under the provisions of the *Public Sector Management Act 1994*).

The application of the MIM will not limit or touch on the agency's performance management programs and, where performance falls below the required standard, the Substandard Performance Management Policy is to be applied.

In addition, the *WA Police Strategic Plan* and *Service Delivery Standards* make clear the requirement in providing responsive and quality policing services. This premise is extended by the MIM to ensure WA Police similarly responds to community concerns and complaints against police and in dealing with demonstrated and reported incidents of unprofessional conduct.

Officers and employees who engage in criminal conduct will be held criminally responsible and be subject to the same provisions at law as all others are in the community.

Officers who are subject of a criminal / disciplinary / statutory charge/s and/or Commissioner's Loss of Confidence action may remain in the workplace when determined appropriate by the outcome of a risk assessment completed within the scope of the *Organisational Risk Management framework* – (AD-95 & HR-31.1.8).

Managerial Intervention through behavioural modification actions recorded on a Management Action Plan will, when deemed necessary, be employed to manage and influence an officer's conduct during a period of internal/criminal investigation or whilst awaiting the outcome of criminal / disciplinary charges and or Commissioner's Loss of Confidence action.

The primary onus is on the subject officer to change behaviour and address unprofessional conduct. To reinforce and promote positive outcomes in this regard, all managers and supervisors agency wide will be held both responsible and accountable in facilitating for all subject officers, opportunities for both behavioural modification and personal development.

**The MIM is premised on the following:**

- Ensuring managerial intervention is applied to all incidents of demonstrated and or identified unprofessional conduct, whether by a reporting mechanism, investigation or otherwise.
- Restricted use of disciplinary charges confined to more serious incidents of unprofessional conduct and for those incidents that fall short of the Commissioner of Police losing confidence in a subject officer.
- Fair and equitable application to achieve behavioural modification.

**The MIM will contribute to:**

- Maintaining and improving professional standards and professional conduct within and throughout the agency, including making a significant contribution to the ethical health of the agency.
- Changing and positively improving the ethical and professional culture within and throughout the agency.
- Building corruption resilient and organisational professionalism to secure the trust of the community, partner agencies and groups, key stakeholders and all oversight bodies.

**In general terms the MIM is characterised by:**

- The *WA Police Code of Conduct* as the primary standard and reference point for the behaviour, conduct and performance.
- A “top down” commitment, touching all in the agency and focusing on ethical and professional conduct, with a strong commitment to performance.



- A focus on managerial intervention to address demonstrated and identified unprofessional conduct.
- A remedial/developmental approach which recognises that officers will make honest mistakes and which provides a “fair go” to positively change behaviour and conduct to improve both individual and organisational performance and ethical health by:
  - Maximising the opportunity to improve service delivery.
  - Enhancing the professional and personal development of individuals.
  - Contributing to organisational learning and development.
  - Contributing and enhancing the public confidence in the WA Police and strengthening organisational integrity and professionalism.
  - Encouraging and empowering managers and supervisors at all levels to respond effectively and react in a timely manner to all instances of demonstrated and identified unprofessional conduct.
  - A contribution to achieving sustainability in building positive peer pressure between officers; officer self regulation; and positive organisational culture.
- Restricted use of disciplinary charges, confined for more serious and systemic breaches of conduct.
- Managers and supervisors accepting both responsibility and accountability for the development of relevant behavioural modification actions capable of changing and positively influencing behaviour and conduct and to ensure such actions are managed to a successful conclusion (MAP). Additionally, it is critical the day-to-day administration of a MAP rests with the subject officer’s direct line officer-in-charge and or manager.
- Management Action Plans (behavioural modification actions) being delivered by senior officers to reinforce the need to change behaviour and address demonstrated and identified unprofessional conduct.
- Senior managers positively engaging subject officers during the delivery of a MAP to secure the willingness and agreement of the subject officer to actively participate in the agreed behavioural modification action/s. *(Note – without a willingness by the subject officer to participate in a behavioural modification action, behaviour and unprofessional conduct will not change).*
- Accountability by Commander / District-Divisional Superintendent / Branch Heads for the implementation and administration of the MIM within their respective areas of command is in the ordinary course of business, monitored by the Police Complaints Administration Centre (PCAC) and externally by the *Corruption and Crime Commission (CCC).*

### **HR-31.1.2.            Achieving Outcomes**

---

The management of subject officers is based primarily on the principle of modifying behaviour by training and development and by addressing demonstrated and identified unprofessional conduct through managerial intervention.

---

### **HR-31.1.3. Standards**

---

The standards for assessing behaviour and conduct with respect to demonstrated and identified unprofessional conduct are found in the *WA Police Code of Conduct* and the *Police Force Regulations 1979*.

### **HR-31.1.4. MIM Principle**

---

The MIM is premised on a remedial/developmental approach with fairness and equity to all parties being key and to provide members of the community with the right and opportunity to make and lodge complaints against police officers or other police employees with a clear expectation that all complaints will be either examined and or thoroughly investigated in a timely and thorough manner.

The application of the MIM must demonstrate and ensure procedural fairness with respect to all involved parties and in all relevant practices, process and outcomes.

### **HR-31.1.5. Managerial Intervention Outcome**

---

When considering the most appropriate form of managerial intervention to address demonstrated and or identified unprofessional conduct; the following are to be key considerations:

1. The *WA Police Code of Conduct* is the primary reference document.
2. Selection of managerial intervention is the most appropriate in the circumstances with a real and measurable capacity to correct unprofessional conduct.
3. The subject officer/s complaint history is carefully and contextually considered.
4. Whether any deficiency in supervision and or management contributed in any way to the demonstrated and or identified unprofessional conduct.
5. If applicable, whether any Health and Welfare issues contributed in any way to the demonstrated and identified unprofessional conduct.
6. Timelines of incidents / unprofessional conduct.
7. Utilisation / application of all opportunities to enhance professional and personal development and learning, and contribute to organisational learning and ethical health.
8. Utilisation / application of the opportunity to improve commitment to service delivery and contribute to the enhancement of community confidence and in the professionalism and integrity of the WA Police.
9. If applicable, consider prior applications of managerial intervention action/s and the extent to which a specific outcome was achieved as well as the extent to which behaviour and conduct was positively influenced.
10. Whether the managerial intervention / behavioural modification action being considered is reasonable, fair-and equitable.

Explanatory Note:

*Considerations are not to be confined to those above and an attempt is to be made to identify all which will assist in determining the most beneficial form of managerial intervention to deliver the best outcome.*

#### **HR-31.1.6                      Delivery of a Management Action Plan**

---

- Following the decision to progress management intervention by way of behavioural modification action/s, the senior officer engaging the subject officer in this regard is to fully explain the decision and seek the subject officer's agreement to participate. Without agreement, this form of behavioural modification is not to proceed and another form of managerial intervention will need to be considered. To progress behavioural modification actions in the absence of the subject officer's agreement, is considered a wasted effort, given behavioural modification will not occur unless the subject officer is a willing participant.
- For more serious incidents of unprofessional conduct, it is a requirement for the respective Commander / Superintendent / Inspector / Branch Head or person acting in these positions, to deliver the MAP.
- In circumstances where a Managerial Notice also forms part of the outcome of either an examination and or investigation, (in addition to a behavioural modification action/s), the delivery of both the Managerial Notice and MAP is to be facilitated by the Commander / Superintendent / Branch Head. (An exception to this applies to select districts within Regional WA - refer to the MIM Guidelines for information).
- For a MAP arising from Local Complaint Resolution (LCR), Local Dispute Resolution (LDR) and Short Format Investigation, the delivery may be by an officer other than the Commander / Superintendent / Inspector / Branch Head, but not by an officer below the rank of Sergeant and providing the delivery officer is senior to the subject officer.
- For a behavioural modification action (the action) arising from an Internal Affairs Unit investigation, the action and MAP will be delivered by the Superintendent / Inspector Internal Affairs Unit in conjunction with the Commander / Superintendent / Branch Head of the subject officer.
- Irrespective of who delivers a MAP, it is incumbent upon the Commander / Superintendent / Branch Head of the subject officer to endorse and take overall responsibility and accountability for the management of the MAP and to ensure behavioural modification actions are discharged and the MAP formally concluded.
- When the requirements of a MAP have been finalised, (both on development/service and subsequent discharge) PCAC is to be advised and provided a copy in all instances.
- A MAP is to be forwarded to and retained by PCAC and a copy placed on a subject officer's Employee Management File.

### **HR-31.1.7. Management of a MAP**

---

The delivery officer is to communicate in writing (email will suffice), with the subject officer when significant milestone/s in the MAP have been achieved.

When all behavioural modification actions have been successfully completed, the delivery officer is to advise the subject officer in writing accordingly and to formally advise the MAP is 'discharged'. It is also recommended the delivery officer personally engage with the subject officer in this regard as a follow up, to receive feedback and to reinforce the original key messages. A copy of the written communication in this regard and other feedback, notes of discussions, are to be forwarded to the PCAC.

The delivery officer is required to personally meet with the subject officer when time frames to complete behavioural modifications actions either have not been met or are unlikely to be met. The subject officer is to be reminded of the agreement to undertake the behavioural modification actions and or consequences for such actions not being undertaken. The delivery officer is then to make a written record of the meeting and a copy of the record either attached to the internal investigation file or forwarded to PCAC for placement on the file.

Should behavioural modification actions not be completed after the follow up meeting, the delivery officer is to immediately consider other forms of managerial intervention and engage the subject officer accordingly. PCAC is to be immediately advised in this regard.

Transfer or other change in deployment status and location (including a change in rank), does not free a subject officer from the agreement and obligation to complete outstanding behavioural modification action/s. In such circumstances, the respective MAP is to be formally presented / delivered by the delivery officer to the Commander/Superintendent/Branch Head of the subject officer's new workplace and forms part of the Employee Management File.

The Commander/Superintendent/Branch Head on receiving the MAP, effectively takes over the delivery officer role and assumes accountability in this regard and within a reasonable time, is required to meet with the subject officer and make clear the original agreement and expectations. The new delivery officer will then engage the area OIC/Manager/Supervisor to which the subject officer has transferred to. This officer then assumes responsibility for the management of MAP.

In all instances an OIC/Manager/Supervisor, on an officer being transferred to a new area, is to check the officer's Employee Management File as a back up to ensure an outstanding MAP is identified and managed accordingly.

### **HR-31.1.8. Disciplinary Offences / Charges**

---

Disciplinary charges may be brought against Police/Auxiliary Officers pursuant to section 23 of the *Police Act 1892*.

A Commander / Superintendent / Branch Head may recommend a disciplinary charge. Approval to progress such a charge can only be made by either the Commissioner of Police or the Assistant Commissioner Professional Standards. Officers acting as the

Commissioner of Police and Assistant Commissioner Professional Standards have delegated authority to approve disciplinary charges.

The recommendation and associated disciplinary referral materials are to be forwarded together with the completed internal investigation file to PCAC. Recommendations by the Internal Affairs Unit are referred direct to the Assistant Commissioner Professional Standards.

When considering disciplinary charges, it is important that an officer's behaviour and conduct during the course of the disciplinary charge process be carefully considered. It may be appropriate to consider a behavioural modification action to assist with the management and control of a subject officer's behaviour and conduct. Such considerations are to be made in context, relevant to the behaviour and conduct and be individualised to the subject officer.

It is mandatory for the Commander / District / Divisional Superintendent / Branch Head to continue to be both responsible and accountable for the subject officer prior to, during and after the disciplinary charge process has commenced. With regard to the latter, the process commences as soon as the recommendation is made.

A recommendation to deal with a matter by way of a disciplinary offence is not to be used as a means, or indeed a premise, not to prefer / consider either criminal and or statutory charges. With regard to the latter, the Police Prosecution Policy is the primary reference and it stands alone.

#### **HR-31.1.9. Management of Officers Subject to Other Managerial Intervention Action**

---

Officers subject of criminal / statutory charges and or Commissioner's Loss of Confidence proceedings are also to be carefully managed and consideration on whether to engage in behavioural modification actions should always occur in the ordinary course of business. Responding to an officer's health and welfare needs is also critically important with respect to either direct action or by way of consideration only.

#### **HR-31.1.10. Stand Down / Stand Aside**

---

Stand-Down and Stand-Aside action needs to be considered in all instances where serious unprofessional conduct has been exhibited and or demonstrated. The premise for such action is risk assessment / mitigation and the 'Organisational Risk Framework' is to be employed (risk summary). The decision to Stand-Down / Stand-Aside should not be solely premised on the seriousness of the conduct.

The risk assessment should consider the capacity to achieve and influence the day to day management of a subject officer. For these reasons and if risks can be sufficiently mitigated, it may be more appropriate to have subject officer/s remain in the work place.

#### **Stand Aside:**

Once a risk summary has been completed, a Stand-Aside application is to be presented to the Portfolio Head for consideration of approval. Employees who are subject of Stand-

Aside need to be subject of a managerial regime (to manage behaviour / documented on a MAP).

The Superintendent PCAC and the Superintendent Ethical Standards Division are to be advised of all Stand-Aside Notices issued and be kept informed of the Notice status.

### **Stand-Down:**

An application for a Stand-Down is to be presented to the Assistant Commissioner Professional Standards by the Commander / District / Divisional Superintendent after approval by the respective Portfolio Head. The Assistant Commissioner Professional Standards will consider and progress the Stand-Down application to the Commissioner of Police.

Officers on Stand-Down will be appointed a welfare officer by the District Divisional Superintendent and the appointed welfare officer will maintain regular contact (weekly), with the officer to manage and guide the officer throughout the period of Stand-Down. With regard to the latter, a running sheet is to be maintained detailing the contact times / dates and general matters discussed / raised at each contact.

During a period of Stand-Down / Stand-Aside, responsibility and accountability for the management of the subject officer does not shift from the district / division / portfolio to which the officer is attached. In addition to legislative requirements, both a Stand-Down and Stand-Aside are to be the subject of regular reviews by the district / divisional head.

### **HR-31.1.11. Criminal/Statutory Offences and Legal Opinion**

Where a criminal/statutory offence is identified during the course of an internal investigation, there may be instances where the investigator, because of legal complexities, requires legal advice. In these instances, the investigator is encouraged to source such assistance and advice from the agency's Legal and Legislative Services business area.

There is no need to seek legal opinion for matters where prima-facie evidence clearly supports a criminal/statutory offence and considerations in this regard are in accord with the agency *Prosecution Policy and Guidelines*.

In cases where prima-facie evidence exists but the preferred recommendation of the Commander / Superintendent / Branch Head is not to proceed by way of a criminal/statutory charge (either indictable or summarily), the following is to apply:

- Analysis and comment is to be made in the internal investigation final report with respect to considerations relative to criminal/statutory charges. Such considerations need to include reference the agency's Prosecution Policy and Guidelines.
- Approval by the Portfolio Head (Assistant Commissioner and/or Commander where applicable), to not prefer a criminal / statutory charge/s when prima facie evidence has been established.
- Recording of the decision not to prefer criminal/statutory charges in the district / division Discretionary Register for all indictable and summary offences. The registry entry is to be endorsed by the respective Portfolio Head.



In circumstances where the investigating portfolio is not represented by an Assistant Commissioner and/or Commander then approval not to proceed by way of a criminal/statutory charge is to be made by the Assistant Commissioner Professional Standards Portfolio.

#### **HR-31.1.12. Complaints Generally and Complaint Allocation Rules**

---

In all instances where unprofessional conduct has been reported, suspected, demonstrated and or identified by other means, a *Complaint Advice Note* is to be immediately submitted to PCAC. All such matters will be the subject of examination and / or internal investigation in accordance with PCAC SOP's.

#### **Complaints / Incidents of unprofessional conduct and solely of a managerial / disciplinary nature (not criminal conduct):**

- Alleged unprofessional conduct is to be investigated by the portfolio/district /division where the member is ordinarily assigned to on a full time basis, including periods of secondment. It is irrelevant whether the member is on duty or off duty.

#### **Criminal Conduct**

- To be investigated by the district in which the alleged criminal conduct occurs.
- In circumstances whether the alleged criminal behaviour is either in the place of work (whilst on duty) or arising directly from official and rostered duties, the alleged unprofessional conduct will be investigated by the portfolio/district/division in which the officer is assigned to on a full time basis, including periods of secondment.
- In certain circumstances and to accord with the Specialist Crime Portfolio Service Delivery Charter, a criminal allegation involving a member may be allocated to a specialist crime squad (various) for investigation.
- Any criminal investigation undertaken must have regard to the Complaints against Police Investigation Guidelines and the WA Police Investigation Doctrine.

#### **Allocation Determinations**

- In all instances where criminal conduct is being investigated, the portfolio/district/division in which the officer is assigned on a full time basis, including periods of secondments, will conduct an internal examination of the member's unprofessional conduct and be responsible to progress general disciplinary/managerial action in accordance with legislative provisions and those in the Managerial Intervention Model.

#### *Explanatory Note:*

*The criminal investigation and internal examination are to be conducted simultaneously and relevant legislative/managerial action is to be taken at the earliest opportunity and not unnecessarily delayed.*

- There will be occasions, premised on demonstrated need, special circumstances, policy requirements, when PCAC and Internal Affairs Unit protocols, determine an investigation (for either criminal/unprofessional conduct) is to be assigned contrary to the general allocation rules.
- The Superintendent PCAC and Superintendent Internal Affairs Unit, have authorised discretion to alter the allocation rules, premised on demonstrated need, reasonable opportunity/capacity for investigation and special circumstances.

In instances when multiple districts/divisions are conducting separate investigations for either criminal and or unprofessional conduct matters involving the same officer/s and incident, immediate liaison, communication and consultation is to occur to ensure completeness of legislative, policy and procedural requirements.

Further information about these requirements and the Complaint Investigation Allocation Rules is contained in the MIM Guidelines – located in the PCAC Intranet site.

When a criminal charge has or is to be preferred against a WA Police employee, the investigating officer shall as soon as practical, prepare a briefing note and a draft media release setting out the details of the charge/s and court date for the advice of the Commissioner, Assistant Commissioner Professional Standards and the Superintendent Ethical Standards Division.

### **HR-31.1.13. General Responsibilities, Accountabilities and Obligations**

---

#### **HR-31.1.13.1. For Commanders/Superintendents/Branch Heads**

- To conduct a risk assessment and general analysis on receipt of a complaint investigation file and or allegation of unprofessional conduct.
- To appoint a suitably skilled and experienced investigator.

#### **Important considerations in appointing the internal investigator:**

- The appointed investigator is to be of equal or higher rank to that of the subject officer/s and must have the capacity to complete the investigation within established timeframes. The investigator is also required to have the necessary skills, attributes, knowledge and experience to conduct the investigation to the agency standard.
- In appointing an investigator, personal associations and conflict of interest issues will need to be considered, although the association and conflict will need to be compelling and supported by real facts in issue. Being a subject officer's direct line manager and or supervisor is not sufficient to premise a decision with respect to the latter. The primary intent is that an investigation should not be compromised and the integrity of the investigation and professionalism of the investigator, are to be preserved and demonstrated. It is imperative the investigation is not allocated to an officer who may be either a party to or involved in the matter to be investigated.



- A compelling conflict of interest or supported perceived conflict of interest, are to be declared and a declaration form is to be submitted. (Refer to the MIM Guidelines and PCAC for further advice about conflicts of interest and other issues to be considered when determining an appropriate investigator. Also refer to the *WA Police Code of Conduct* and Police Manual AD-16.10 to gain an understanding of what is considered a conflict of interest).

**Additional roles, responsibilities and accountabilities are as follows:**

- Ensuring all investigations are completed in a timely manner and to the highest possible standard.
- Ensuring investigations are completed in a fair and equitable manner and in accordance with procedural fairness.
- Where appropriate, seeking the advice from specialist areas (such as Health and Welfare Services, Human Resources Equity Unit, Workplace Relations Branch and Occupational Safety and Health Branch).
- Ensuring investigation recommendation/s are proportionate, supported by the evidence and reasonably defensible.
- Accept both responsibility and accountability for managing the behaviour and conduct of subject officers during the course of the investigation and then in applying managerial intervention and or other action in response to demonstrated and identified unprofessional conduct.
- Researching and developing real and measurable behavioural modification action/s which have the capacity to positively modify and influence conduct and then to record and manage the behavioural modification action on a MAP.
- In applying managerial intervention, to maximise all opportunities to ensure service delivery standards are not adversely affected; to ensure the ongoing professional and personal development / learning of affected officers; and to ensure community confidence and the integrity of WA Police is preserved and improved.
- Ensuring the managerial intervention and outcomes are consistent with values articulated in the *WA Police Code of Conduct*.
- Ensuring the identification of training, supervision, legislative, process, policy and procedural issues which may require change and or amendment, and in formally communicating the latter.
- Ensuring learning outcomes arising from the conduct of internal investigations are communicated.
- Acknowledging and accepting the extent of management and supervision required by the MIM and the extent to which the application of the MIM will be assessed and evaluated as part of performance reviews and formal evaluations.

### HR-31.1.13.2. For Commanders/Superintendents/Branch Heads and Others who Deliver Managerial Intervention

---

- Upon a decision being made to engage a subject officer in a form of managerial intervention, direct communication is to occur with the subject officer and his/her officer-in-charge/manager. Relevant details and information is to be provided to the parties to ensure sufficient understanding and to afford the opportunity for cognisance and preparation.
- With respect to behavioural modification actions, it is important to secure the agreement of the subject officer during the course of the MAP delivery. Should agreement not be forthcoming, another form of managerial intervention is to be considered.

#### Explanatory Note:

*Behavioural modification actions will not succeed without willing participants being sincere in their intentions to modify their behaviour. The actions are not to be considered or interpreted as punitive actions and this point needs to be made clear by the delivery officer. Similarly a MAP does not have a punitive intent and/or purpose and accordingly, should not be considered and/or portrayed as such. They merely provide the mechanism to record and manage a behavioural modification action/s.*

- During the delivery meeting, engage in open and honest discussion with the subject officer in a non-threatening environment and manner, to:
  - Inform officers of the findings of the investigation and the outcome/s.
  - Make clear managerial intervention is not a punitive remedy rather a genuine attempt to change behaviour and conduct.
  - Ensure understanding, to explain the intent and deliverables of the behavioural modification action/s and making clear the expectations with respect to the MAP generally and in terms of timeframes.
  - Achieve agreement on the behavioural modification action and adopt a consultative and collaborative approach.
  - Make clear to a subject officer the consequences of non compliance to either engaging or completing agreed behavioural modification actions.
  - Take into consideration and resolve concerns that may be raised by the subject officer. Such concerns may be about the conduct of the investigation; the integrity of the investigation; the investigation outcome; professionalism of the investigator; and the appropriateness of recommendations and or managerial intervention. Disagreement with the investigation outcome without valid argument is not in itself sufficient reason for the subject officer not to accept the behavioural modification action.
  - Make a record of the concern/s raised by the subject officer and the outcome achieved and for such record to be attached to the investigation file.

- In instances where agreement cannot be reached on a behavioural modification action, to consider another managerial intervention action and advise the subject officer accordingly either at the time, or subsequent to the delivery meeting.
- Advise the subject officer that a copy of the MAP will be attached to the officer's Employee Management File.
- On successful completion of a behavioural modification action, to formally advise the subject officer accordingly.

**Explanatory Note:**

*The attendance at the delivery meeting by the subject officer's manager or supervisor is either by mutual agreement between the parties or when determined necessary by the delivery officer.*

**HR-31.1.13.3. For Subject Officers**

---

- On being advised of an impending managerial action to be delivered, ensure familiarisation with the relevant and broader provisions of the MIM.
- Accept responsibility and be prepared to engage in open, honest and reasonable discussion with the delivery officer.
- Respond positively to the intended/proposed managerial intervention.
- Acknowledge and ensure absolute understanding of the consequences should there be a failure to comply with any form of managerial intervention
- Be prepared to accept responsibility and accountability for demonstrated and identified unprofessional conduct.
- Be prepared to accept responsibility and accountability for the outcome of decisions and actions.
- Be prepared to raise any issues or concerns about any aspect of the internal investigation, the internal investigation outcome, and or delivery meeting.
- Be accepting that managerial intervention is about a genuine attempt by all parties to positively change behaviour and conduct and it is neither a punitive remedy nor action.
- Where a MAP is a part of the managerial intervention action, be an active participant in the planning, organising and in ensuring successful completion.
- Seize the opportunity for managerial intervention to enhance both professional and personal development and so maximise opportunity for career potential and continued employment.
- Learn from the experience and self regulate to reinforce the need to accept both responsibility and accountability for behaviour and conduct into the future.

#### **HR-31.1.13.4. For Officers in Charge and Managers/Supervisors (Attending Officers)**

---

- The attending officer is to be of equal or higher rank to that of the subject officer.
- Following advice being received that a managerial intervention action is to be delivered, the attending officer is to personally meet with the subject officer prior to the delivery meeting and:
  - Provide the subject officer with support and explain the process, conduct and intent of the delivery meeting; and
  - Advise the subject officer to fully familiarise themselves with the relevant and broader provisions of the MIM and to assist the subject officer in this regard.
- The attending officer is to attend with the subject officer and participate in the delivery meeting.
- The attending officer for the delivery of an Assistant Commissioner's Warning Notice will in all cases, be the subject officer's district/divisional superintendent.
- On invitation by the delivery officer and or on permission being sought from the delivery officer, attending officers may actively participate during the delivery of the managerial intervention.
- After the delivery meeting, the attending officer will engage the subject officer to reinforce and make clear expectations arising from the delivery meeting and to further reinforce the consequences should unprofessional conduct reoccur and or continue.
- In instances where a MAP is a part of the managerial intervention, the attending officer will be held accountable in terms of planning, organising and in ensuring successful completion.

#### **HR-31.1.13.5. For the Police Complaints Administration Centre (PCAC)**

---

- Provide support, assistance, advice and information to all both internal and external stakeholders.
- Recording (milestone and other) dates associated with various aspects of investigation files and monitoring compliance with those dates.
- Reviewing, assuring and influencing the standard and quality of internal investigations and the application of the MIM.
- Reviewing, assuring and influencing the quality of internal investigation outcomes and managerial intervention generally.
- Provide timely feedback to all involved and interested parties on all relevant aspects of the MIM.

- Ensure timely, accurate and comprehensive recording of all information and data obtained through the review/quality assurance (QA) process.
- Following the QA process, review recommendations for disciplinary charge/s and/or Loss of Confidence nomination/s and referring those matters in the first instance to the Superintendent PCAC and then to the Assistant Commissioner Professional Standards for approval / endorsement.
- Communicating with relevant oversight bodies to ensure business expectations and deliverables are being met.
- Facilitate and enable first point of contact and ongoing communication with the Corruption and Crime Commission for matters touching PCAC roles, responsibilities and deliverables.
- Providing advice and assistance to district / divisional heads, governance officers and investigators to ensure the timeliness, quality and consistency in investigations and investigation outcomes.

#### **HR-31.1.14. Verbal Guidance**

---

Verbal Guidance is the lowest form of managerial intervention and is intended to bring to a subject officer's attention the identification of unprofessional conduct, the remedial action required and to remind a subject officer of the required standards of behaviour and conduct.

The application of verbal guidance will be confined to minor incidents involving low level unprofessional conduct.

Verbal Guidance requires acceptance and acknowledgement by the subject officer and when such is not forthcoming other forms of managerial intervention action/s will need to be considered.

A process for review is not provided for as the delivery involves communication, consultation and agreement.

#### **HR-31.1.15. Managerial Notice**

---

A Managerial Notice is the first level 'high end' form of managerial intervention action to demonstrate to a subject officer the seriousness of the unprofessional conduct engaged in and the consequences that may follow, should any form of unprofessional conduct re-occur. A Managerial Notice is to be promoted as a genuine attempt by all parties to positively change the behaviour and conduct of a subject officer.

A Managerial Notice is neither a punitive remedy nor outcome, rather an instrument to encourage and promote professional conduct into the future. A Managerial Notice is to be considered when behavioural modification action/s alone, are not considered sufficient to modify both behaviour and conduct or when unprofessional conduct continues.

Generally, a Managerial Notice:

- Stands alone or may be part of a wider solution/outcome involving both disciplinary offences and or behavioural modification action/s as managed by a MAP.
- Is approved and personally delivered by the Commander/Superintendent /Branch Head (delivery officer) - (An exception to the latter applies to select districts within Regional WA – by reason of remoteness - refer to the MIM Guidelines for information).
- Is a written record of a subject officer's unprofessional conduct and it is to be attached to the officers Personnel File, Employee Management File and the Internal Investigation File.

A delivery officer issuing a Managerial Notice will engage the subject officer in discussion on the facts and issues / decision/s giving rise to the Managerial Notice and attempt to secure the subject officer's commitment to both accept the Managerial Notice and to change his/her behaviour and conduct. Sufficient notes will be recorded by the delivery officer to adequately represent the nature and outcome of the discussion and delivery. A formal written response is not required by the subject officer.

Should a subject officer not accept a Managerial Notice, the details of such non acceptance are to be recorded by the delivery officer and other action will then need to be considered. Such action need not be decided on at the time of delivery, however the delivery officer is to immediately inform the subject officer that by reason of non acceptance, he/she will need to further consider the outcome/intended actions.

Following non acceptance of a Managerial Notice, the delivery officer is to carefully consider the interim management of the officer which is to include operational status (stand down/stand aside) and or engaging the officer in behavioural modification action/s.

When a Managerial Notice is part of a wider solution/outcome which also involves behavioural modification action/s as recorded on a MAP, a copy of the MAP is also to be attached to the officers Personnel File, Employee Management File and the Internal Investigation File. Additionally and as a consequence of the latter, the delivery officer is also required to directly communicate with the subject officer with regard to the completion / outcome of the MAP.

A process of review is not provided for as the delivery involves communication, consultation and agreement.

#### **HR-31.1.16. Assistant Commissioner's Warning Notice**

An 'Assistant Commissioner's Warning Notice' is the highest level of managerial intervention. Its primary purpose is a formal warning notice to reinforce the premise that a subject officer has to correct and address any identified unprofessional conduct and should there be a failure in this regard, continued employment and engagement with the agency may be at risk.

It may also be issued in circumstances where a subject officer refuses to discharge a previously agreed managerial intervention, or in circumstances where there is repeated failure to correct unprofessional conduct.

A Notice may be issued in response to serious and sustained unprofessional conduct. It may also be considered appropriate in circumstances where there is repeated failure by a subject officer to correct unprofessional conduct and in circumstances when a subject officer refuses to either accept or discharge managerial intervention actions previously agreed to.

The issue and service of a Notice is a formal and documented process designed intentionally for personal delivery and presentation to reinforce the key messages and deliverables. A subject officer will present personally before the respective Assistant Commissioner in the uniform of the day.

**Generally, an Assistant Commissioner's Warning Notice:**

- Is recommended and prepared by, the subject officer's Commander/Superintendent/Branch Head, or in the case of a matter investigated by the Professional Standards Portfolio the Superintendent Internal Affairs Unit;
- Must be considered and supported by the respective Assistant Commissioner before issue. If not supported, the investigation file is to be returned to the District/Division for alternate action to be considered;
- Once supported by the respective Assistant Commissioner, the internal investigation giving rise to a Notice is to be quality assured by PCAC in the first instance and then, the issue of the Notice is to be approved by the Assistant Commissioner Professional Standards to ensure consistency in application and approach (Note: for IAU investigations, IAU QA protocol to be applied);
- After consideration by the Assistant Commissioner Professional Standards, the investigation file will be returned to the respective Portfolio Assistant Commissioner for the outcome to be progressed;
- Is to contain a detailed written record of the summary of facts giving rise to the unprofessional conduct and likely consequential outcomes;
- Is to be personally delivered by the respective Assistant Commissioner or in the case of unprofessional conduct sustained through an Internal Affairs Unit investigation, by the Assistant Commissioner Professional Standards in the presence of the subject officer's District / Divisional Superintendent;
- After delivery, a copy is to be placed on the subject officer's Personnel File (held at Personnel Services) with a copy retained on the investigation file and the subject officer's Employee Management File; and
- When the Portfolio Head is not an Assistant Commissioner, the Notice will be delivered by the Assistant Commissioner Professional Standards.

The personal delivery of a Notice by the respective Assistant Commissioner or Assistant Commissioner Professional Standards provides the opportunity for full discussion of the issues and the subject officer can either respond to, or comment on, the Notice content. The Assistant Commissioner will make note of the time, date and location of delivery on the notice and record any response or comment/s made by the subject officer. Accordingly, a formal written response from the officer is not required.

During delivery, it is critical the subject officer is clearly made aware of the magnitude of the unprofessional conduct engaged in and to reinforce the subject officer's continued employment and engagement with the agency may be at risk should there be any further form of unprofessional conduct demonstrated and or identified.

To this end, the respective Assistant Commissioner will explain to the subject officer the severity of the unprofessional conduct and/or non acceptance of managerial intervention, the likely consequences of any form of unprofessional conduct continuing into the future and agency and community expectations with respect to the member's conduct. In detailing the consequences, the subject officer is to be left in no doubt that continued employment will be at risk of termination should there be continuance of any form of unprofessional conduct. The subject officer is to also be encouraged to acknowledge the delivery and service of the notice and sign the receipt of service.

A process of review is not provided for as the delivery involves communication, consultation and agreement.

Any notes made during the delivery of the Notice and any communication with the subject officer, are to be attached to the investigation file. Again, a copy of the warning notice and receipt of service is to be placed on the officer's Personnel File and Employee Management File.

**Explanatory Notes:**

- (1) *The Assistant Commissioner's Warning Notice template is available in the MIM folder on the WA Police Intranet site at: Ethics & Integrity/Professional Standards/PCAC/Managerial Intervention Model.*
- (2) *It is open for the Commissioner, Deputy Commissioner (DC) of Police and Executive Director to respectively prepare and deliver a 'Warning Notice'. In these instances, the policy as it applies to the Assistant Commissioner's Warning Notice will also apply to the Commissioner, DC and Executive Director Warning Notice respectively.*

#### **HR-31.1.17. No Right of Review**

---

The MIM is premised on fairness, equity and professionalism and outcomes are premised on communication, consultation and agreement. Accordingly, a right of review is not provided for and issues with respect to non agreement and concerns are to be communicated, considered and dealt with during the delivery process.

Managerial Intervention is a genuine attempt by the agency to positively involve officers who have engaged in sustained unprofessional conduct, to positively change behaviour and conduct and so make an investment in the officer's continued development and performance.



For any form of managerial intervention to be successful, all parties have to be in agreement and it is firmly held that behavioural modification will not occur if a subject officer is not a willing and genuine participant. Mere objection and defiance, work against the intent and deliverables of the MIM.

To mitigate perceived concerns in not providing a review mechanism, PCAC, in the ordinary course of business and in facilitating the QA process, consider in all instances, the following factors:

- Whether the internal investigation complies with or has been conducted in accordance with relevant legislation and or the established agency investigative protocols / standards (*Complaints against Police Investigation Guidelines* and *WA Police Investigation Doctrine*).
- Whether the managerial intervention action is supported by real and sustained facts in issue.
- Whether there has been an appropriate analysis of the evidence.
- Whether the outcome is proofed on the balance of probability.
- Whether there have been other issues that have influenced the investigation outcome and or management intervention action.
- Whether the managerial intervention action is fair and reasonable considering all the circumstances and extent of unprofessional conduct engaged in.
- Whether the managerial intervention action is consistent with the intent and deliverables of the MIM.

All deficiencies identified by PCAC in the QA process, will be referred to the respective district/divisional officer in the ordinary course of business.

It is also open for the Superintendent PCAC to personally engage the district/divisional officer for identified deficiencies in dispute and if required, refer such matters to the Assistant Commissioner Professional Standards for adjudication.

### **HR-31.1.18. Conclusion**

---

The extent of ethical and professional conduct by all WA Police employees, is fundamental to the agency delivering a quality policing service to the community of Western Australia and in significantly making a contribution to the overall ethical health of WA Police.

Effectively and decisively managing complaints against police is a key influence with respect to community confidence in police and in assisting the agency to achieve statutory and internal/external policy obligations.

The MIM is a contemporary approach to managing employees' subject of complaints and premises a framework focused on managerial intervention and behavioural modification, in a genuine attempt to change a subject officer's behaviour and conduct and to provide an

opportunity and mechanism for all subject officers to do so. It relies on communication, consultation and agreement to achieve the intents and deliverables of the policy.

The MIM framework and approach has been constructed to ensure associated practices, procedures and outcomes are fair, reasonable and equitable.

### **Further Information and Assistance**

For further information support or assistance, contact is to be made with PCAC on Ph:9223 1000 or access the *MIM Guidelines, Complaints against Police Investigation Guidelines* and associated documents located in the Intranet at: Ethics & Integrity/Professional Standards/PCAC/Managerial Intervention Model.

For recommendations to either improve or enhance the policy, please contact the Superintendent PCAC.

### **Statute Law:**

- *Police Act 1892*
- *Police Force Regulations 1979*
- *Corruption and Crime Commission Act 2003*
- *Public Sector Management Act 1994*
- *Equal Opportunity Act 1984*
- *Occupational Safety and Health Act 1984*

### **References:**

- *WA Police Code of Conduct*
- *WA Police Policy HR-1.1 (Establishment, Maintenance and Security of Employee Records)*
- *Report of the Royal Commission into Whether There Has Been Corrupt Or Criminal Conduct By Any Western Australian Police Officer – Final Report: Kennedy Royal Commission (specifically Chapter 9 relating to ‘Complaints’ and Key Reform Area 8 relating to ‘Complaints Management and Discipline’)*
- *Review of Professional Standards in the Australian Federal Police: The Fisher Review 2003*
- *WA Industrial Relations Commission’s decision in Carlyon v Commissioner of Police (2004 WAIRC 11428)*
- *Australian Standard: AS ISO 10002-2006 “Customer satisfaction – Guidelines for complaints handling in organizations”*
- *Department of Premier and Cabinet, 2004. Whole of Government Complaints Management Strategy; Government of Western Australia, Perth. (Premier’s Circular 2004/04)*
- *The Ombudsman’s Redress Guidelines; Parliamentary Commissioner for Administrative Investigations, February 2008*
- *Putting the picture together: Inquiry into response by government agencies to complaints to family violence and child abuse in Aboriginal communities; Gordon. (The Gordon Inquiry)*
- *WA Police Local Complaint Resolution Guidelines*
- *WA Police Managerial Intervention Model (MIM) Guidelines*
- *WA Police Complaints Against Police Investigations Guidelines*
- *WA Police Investigation Doctrine*

- *Public Sector Standards in Human Resource Management*
  - *WA Police Policy HR-18 (General Principles of Human Resource Management)*
  - *WA Police Policy HR-27 (Managing Staff Performance Policy)*
  - *WA Police Policy HR-27.3 (Substandard Performance Management)*
  - *WA Police EEO Management Plan*
  - *WA Police Policy HR-5 (Equal Opportunity)*
  - *WA Police Strategic Plan*
  - *WA Police Service Delivery Standards*
-