



ASSISTANT COMMISSIONER REFORM, CULTURE AND STANDARDS

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8 March 2017

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Committee Secretary,

**Questions on Notice - Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Bill 2016**

I refer to questions on notice received by the Australian Federal Police (AFP) on 27 February 2017.

The Committee sought statistics regarding Category 3 investigations over the past five years, in particular: the number of employees suspended; the number of employees who resigned before the investigation was concluded; and the number of investigations unable to be completed due to resignation by the employee.

The Committee also sought a breakdown of the AFP's Professional Standards (PRS) 'non-investigations' staff into Complaints, Integrity Assurance, and Education and Policy.

The AFP has sought to provide additional information related to the Committee's questions at **Attachment A**. However, as outlined in the AFP's response of 14 February to the Committee's questions on notice from 8 February (**Attachment B**), the AFP is unable to provide exact statistics regarding Category 3 investigations in advance of the Committee's reporting deadline of 23 March. This is due to the way in which PRS investigations are recorded and documented in AFP systems.

Information about each PRS investigation is recorded in a discrete file on the Police Real-time Online Management Information System (PROMIS). The recording of investigations in PROMIS reflects operational requirements, and does not facilitate systemic review of cases.

Individual PROMIS files can be reviewed to determine which AFP Act powers were applied, and the length and outcome of each investigation. However, to ascertain the exact numbers of suspensions and investigation outcomes requested by the Committee, each individual PRS file, of which there are over 700 for the last five years, would need to be manually reviewed.

Each PRS file would also need to be cross-checked with the corresponding human resources file in order to determine details about resignation and secondary

employment. PRS and human resources files are kept separately to ensure that only persons with a 'need to know' are able to access sensitive information regarding investigations and employment and personal circumstances.

As PROMIS was designed to reflect operational policing requirements, the approach to the recording of cases in PROMIS has evolved over time in accordance with investigation standards and practices. Consequently, it would be difficult to assure the Committee that any statistics provided based on manual review of files would be accurate.

Any instance of an employee resigning to avoid having their employment terminated for serious misconduct or corruption is a very serious matter. The AFP will endeavour to provide all assistance possible to the Committee in considering these amendments, noting the limitations of its operational systems in providing statistical data.

Yours sincerely

Ray Johnson  
Assistant Commissioner  
Reform, Culture and Standards

## **ATTACHMENT A – Additional information relevant to the Questions on Notice**

The following information is provided as additional information relevant to the Committee's questions, noting the limitations on the AFP's ability to generate statistics on these matters.

### **Suspension**

The AFP goes to considerable lengths to ensure AFP appointees are not unfairly disadvantaged by PRS allegations that have not been proven. A number of factors are considered when deciding whether to suspend an appointee that is under investigation. These include the seriousness of the allegations, the strength of the allegations, the sensitivity of the role being performed by the appointee, and whether or not they can be temporarily redeployed to a less sensitive role.

In the vast majority of cases, employees under investigation for Category 3 or 4 misconduct are not suspended. As at January 2017, approximately 5 percent of AFP appointees under investigation for Category 3 or 4 misconduct were suspended from duties.

It is even rarer for an AFP appointee to be suspended from duties without pay. Across the entirety of 2015, less than 1 percent of AFP appointees under investigation for category three or four misconduct were suspended without pay.

### **Resignation prior to investigation conclusion**

The AFP can confirm that in the past five years at least 12 people have resigned prior to the final outcome of a PRS investigation. Three of these individuals resigned after PRS made a finding of Category 3 conduct, but before their employment could be terminated. Others resigned during the course of the investigation.

### **Continuing an investigation after resignation**

Where possible, PRS investigations are continued after the employee's resignation. For example, one of the aforementioned investigations resulted in a finding in relation to a missing AFP firearm, two resulted in findings relating to illicit drug use, and another two resulted in findings in relation to assaults by the employee. These investigations were all finalised after the employees' resignation.

A criminal investigation into alleged misconduct may not be appropriate or possible, particularly given the higher standard of proof required in a criminal prosecution. Moreover, once a person ceases to be an AFP appointee, PRS can no longer use their power to compel evidence under Part V of the AFP Act.

Furthermore, PRS misconduct does not always constitute a criminal offence. For example, in one case, the AFP successfully prosecuted an employee for unauthorised data access and stalking. The prosecution was followed by a PRS investigation into additional misconduct at work that fell outside the parameters of the criminal prosecution. Due to the complexity of the matter, the PRS investigation was not completed within the timeframe available and the employee resigned before their employment could be terminated.

## **Breakdown of full time staff and funding**

The team structure of the non-investigation component of PRS has changed over the past five years. The non-investigation teams provide active and holistic support to the organisation and its appointees through the AFP's integrity framework. The focus across the teams is on prevention, detection and continuous improvement, with support to investigations response. The team compositions will reflect priority areas and as such have been relatively fluid over time as resources are allocated accordingly. Education and policy aspects of PRS's work are also supported by the AFP's Learning and Development branch, which sits outside of PRS.

Consequently, it is not possible to provide an exact breakdown of staff and funding in the categories of Complaints, Integrity Assurance, and Education and Policy. The figures previously provided by the AFP, and enclosed at **Attachment B**, include a grouping of these categories under the term 'Non-investigations'.