



AFP Practical Guide on International Police to Police Assistance in Death Penalty Charge Situations

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Table of Contents

Security Classification of Instrument	2
Acronyms.....	2
Definitions	2
Authority to Create the Practical Guide	2
Introduction	2
Authority to Provide Information to Foreign Law Enforcement Agencies.....	2
Policy for Cooperation with Foreign Law Enforcement Agencies	2
Further Advice.....	3
References	3

Security Classification of Instrument

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

Acronyms

AFP	Australian Federal Police
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Definitions

Mutual Assistance Request - has the meaning as stated in the [Mutual Assistance in Criminal Matters Act 1987](#) (Cth).

Authority to Create the Practical Guide

This guideline was created by the National Manager Border and International Network using power under s. 37(1) of the [Australian Federal Police Act 1979](#) (Cth) as delegated by the Commissioner under s. 69C of the Act.

Introduction

This Practical Guide is intended to provide members with information relating to the basis for conducting enquiries:

- From foreign law enforcement agencies to the AFP
- To foreign law enforcement agencies from the AFP

where offences may attract the death penalty.

Authority to Provide Information to Foreign Law Enforcement Agencies

The AFP is authorised to provide information to foreign law enforcement agencies in accordance with the [Australian Federal Police Act 1979](#) and Ministerial Direction. Additionally, a number of United Nations Conventions, to which Australia is a signatory, further support the processes of conducting international police cooperation.

This Guide applies only to the provision of information which can be provided on a police-to-police basis. This Guide does not apply to the provision of assistance that requires a mutual assistance request. In such cases, ss. 8(1A) and 8(1B) of the [Mutual Assistance in Criminal Matters Act 1987](#) apply. That Act is administered by the Attorney-General's Department.

Policy for Cooperation with Foreign Law Enforcement Agencies

The policy for AFP cooperation with foreign law enforcement agencies on a police-to-police basis is as follows:

Prior to a person being charged with an offence that attracts the death penalty:

- Police-to-police assistance can be provided, without reference to the Attorney-General or Minister for Home Affairs, until charges are laid for the offence.
- Information provided by the AFP to foreign law enforcement agencies must be in accordance with the [Australian Federal Police Act 1979](#), and any other legislation, treaty, convention, Ministerial Direction, agreement, memorandum of understanding, policy, guideline, and practical guide or associated document relevant to the provision of information to foreign law enforcement agencies.

After charges have been laid for a crime attracting the death penalty:

- Note that the timing of the charging process differs from country to country.
- The Attorney-General or the Minister for Home Affairs may decide that police-to-police assistance can continue to be provided.
- No action is to be taken, nor should any indication be given as to the decision likely to be taken in respect of the request. All such requests are to be notified to the Manager International Network as soon as possible after receipt.
- Following consultation with the Attorney-General's Department, the **National Manager Border and International** will provide the Commissioner and the Deputy Commissioner (Operations) with such advice as considered necessary to seek advice from the Attorney-General or the Minister for Home Affairs.
- AFP will seek advice from the Attorney-General or the Minister for Home Affairs on a case-by-case basis to ensure ongoing AFP actions correlate with Australian Government policy and other international obligations.

Further Advice

Any queries relevant to the content of this Practical Guide may be referred to the Manager International Network.

References

- [*Australian Federal Police Act 1979*](#)
- [*Mutual Assistance in Criminal Matters Act 1987*](#)

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