



AFP Practical Guide on extraditions (ACT Policing)

Metadata	
Caption	Extraditions (ACT Policing)
Document Identifier	AG00027
Description	Outlines the procedures for members regarding extraditions of persons from other jurisdictions
Governance Function	Community Policing
Owned by	Chief Police Officer (ACT Policing)
Date First Approved	20/02/2003 11:00 AM
Contact Person	Superintendent Criminal Investigations
Date Published	16/03/2007 11:00 AM
Date Modified	19/12/2011
Date Last Reviewed	18/09/2011 12:00 AM
Authorised by	Chief Police Officer ACT Policing
Date of Next Review	18/09/2013 12:00 AM
Review Notification	'ACT-MOS-Governance@afp.gov.au'
Instrument Type	Practical Guide
Replaces	AG00027-002, OG00016
Stakeholders	
Instrument Classification	UNCLASSIFIED

1. Disclosure and compliance

This document is classified **UNCLASSIFIED** and is intended for internal AFP use.

Disclosing any content must comply with Commonwealth law and the [AFP National Guideline on disclosure of information](#).

Compliance

This instrument is part of the AFP's professional standards framework. The [AFP Commissioner's Order on Professional Standards \(CO2\)](#) outlines the expectations for appointees to adhere to the requirements of the framework. Inappropriate departures from the provisions of this instrument may constitute a breach of AFP professional standards and be dealt with under Part V of the [Australian Federal Police Act 1979](#) (Cth).

2. Acronyms

AFP	Australian Federal Police
AOCC	AFP Operations Coordination Centre
OIC	Officer In Charge
PROMIS	Police Real-time Online Management Information System

3. Definitions

Extradition means the official process whereby authorities in one jurisdiction surrender a suspected or convicted criminal to authorities in another jurisdiction in accordance with legal processes.

Person under restraint is defined in the [Service and Execution of Process Act 1992](#) (Cth).

4. Guideline authority

This guideline was issued by the Chief Police Officer for the ACT 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.

5. Introduction

This practical guide outlines the procedures for members regarding the:

- extradition of persons from other Australian jurisdictions to the ACT
- receipt of extradition requests by ACT Policing from other Australian jurisdictions.

The procedures relating to international extraditions are addressed in the [AFP National Guideline on overseas extradition](#).

6. Preparing extradition requests

All applications for the extradition of a person from another jurisdiction to the ACT must be approved by the Chief Police Officer or the Deputy Chief Police Officer.

When seeking extradition, the AFP case officer must submit to their team leader a:

- mention brief containing available evidence
- report supporting the application for extradition, **s37(2)(b)** :

- o
- o
- o
- o

s37(2)(b)

If required, the team leader may request advice from the Director of Public Prosecutions regarding:

- the sufficiency of evidence to establish a prima facie case and / or
- whether a prosecution would be supported.

The team leader must also determine, in consultation with their Superintendent or Officer In Charge (OIC), whether the application for extradition is justified, s37(2)(b)

If the team leader concludes the application:

- lacks evidence, they must return the application to the member for further attention
- contains sufficient evidence, they must advise, via their OIC and Superintendent, either the Chief Police Officer or the Deputy Chief Police Officer (e.g. by way of a Minute).

7. Issue of warrants

When the extradition application is approved, the case officer must apply to the ACT Magistrates Court for the issue of an arrest warrant (if one has not already been issued).

Once the arrest warrant has been issued the case officer must:

- make arrangements with officers from the relevant State or Territory police force to have the person arrested
- supply the relevant officers with:
 - o a copy of the warrant
 - o a description and photograph (where available) of the person named in the warrant
 - o any other information that may assist in establishing and confirming the identity of the person named in the warrant
 - o any information that may assist in locating the person.
- notify the AFP Operations Coordination Centre (AOCC) Duty s37(2)(b)

s37(2)(b)

The case officer must also ensure that prior to, or at the time of arrest, the relevant interstate

officers and prosecutor are supplied with information regarding:

- any opposition to bail (police and / or court)
- any intention to have the arrested person taken into custody by ACT Policing for extradition back to the ACT
- the strength of the prosecution case
- details which identify the arrested person as the person named in the interstate arrest warrant
- the person's criminal history, including:
 - any prior convictions not noted on the printed criminal history
 - any outstanding matters
- if the person is a 'person under restraint'.

After arrest, the AFP case officer must:

- determine the need to travel to appear before the relevant court to give evidence, after consulting the arresting officer or relevant prosecutor. If the person is to be extradited in custody, the AFP case officer must attend and provide information in accordance with s. 7 (per above) of this Guide
- advise the ACT Director of Public Prosecutions to prepare for the person returning to the ACT.

The [Service and Execution of Process Act 1992](#) (Cth) provides that, if accommodation is required prior to extradition, the arresting jurisdiction must house the person as if they are a prisoner in that state. This is relevant where extradition sought through the attendance of ACT members in geographically distant jurisdictions is approved and requirements need to be made to keep the person in custody overnight prior to travel back to the ACT.

When a person is being extradited to the ACT from another jurisdiction, the case officer must notify the ACT Watch House of this and of any special considerations or needs of the person in custody.

8. Incoming extradition requests

All incoming interstate extradition requests must be approved by a member holding the rank of Superintendent. This should be the actioning member's Superintendent or, if that Superintendent is unavailable, the member performing duties as Alpha 7 (ACT Policing on-call Superintendent).

In serious, urgent or time-critical circumstances where a Superintendent is unable to be consulted, a team leader may give approval for members to seek and / or arrest the subject of the incoming interstate extradition request. These circumstances may include after-hours requests where the subject can be arrested promptly and safely without the need for further specialist policing resources. Where a team leader gives approval, they must make a written record of the circumstances and nature of their approval. The team leader must then promptly notify their Superintendent or, if that Superintendent is unavailable (including after-hours), the member performing duties as Alpha 7.

AFP members may arrest without possessing a copy of the interstate arrest warrant.

Once arrested, the person must be brought before an ACT magistrate as soon as is practicable and a copy of the warrant must be produced to the court, if it is available. The lack of a

warrant must not delay a person's appearance before the court.

In the absence of a warrant, the magistrate may:

- release the person or
- adjourn proceedings, remanding the person on bail or in custody.

When interstate police are not present at court, the Director of Public Prosecutions' advice must be sought regarding how to progress the extradition application.

If an extradition is not being contested, a magistrate may make an extradition order in the absence of the interstate police. Where extradition is contested, the magistrate will take into account the evidence when deciding whether to make the order for extradition immediately or to adjourn proceedings to wait until the interstate police arrive.

Extradition request for person already in custody

If a person is arrested or otherwise taken into custody in the ACT for ACT matters (unrelated to any extradition request or interstate arrest provisions) and is found to be subject to an interstate arrest warrant, the case officer for the ACT matter(s) must:

- notify the relevant interstate law enforcement agency
- clarify if extradition will be sought
- determine if extradition would be supported by ACT Policing after considering:
 - the person's current ACT court matters
 - whether the person is a 'person under restraint' in the ACT
 - any other relevant information.

When extradition is sought and is supported by ACT Policing, the AFP case officer must:

- confirm the person's identity
- determine if the person is a 'person under restraint'
- ensure all relevant ACT Policing members, including the Service and Process Team, are provided with a copy of the warrant
- confirm ACT court attendance details, including the date and time.

If extradition is not being sought, the case officer must ensure that:

-

s37(2)(b)

-

Prior to attending court in the ACT (to facilitate extradition to another jurisdiction), the AFP case officer must ensure that:

- the warrant has been:
 - endorsed for the jurisdiction
 - lawfully issued by the relevant authority per the [Service and Execution of Process Act 1992](#) (Cth)

- copied and provided to the ACT Policing Service and Process Team
- an indictment under s. 217 of the [Crimes Act 1900](#) (ACT) is generated at the ACT Watch House and provided to the ACT Magistrates Court
- the ACT Director of Public Prosecutions is briefed and provided with the following information:
 - the location, date and time of the court hearing
 - if the person must be taken to court in custody, or bailed to appear
 - the strength of the prosecution case
 - details identifying the arrested person as the person named in the interstate arrest warrant
 - the person's criminal history, including any relevant information about outstanding matters or prior convictions not printed on the criminal history
 - if the person is a 'person under restraint'.

At court, the AFP case officer must:

- if required, facilitate a remand date with the ACT court to enable the case officer from the initiating jurisdiction to attend court in the ACT to formally seek extradition (such as giving further evidence in accordance with s. 7 of this Guide) and to take custody of the person
- ensure the relevant interstate case officer is advised of the date, time and location of this hearing
- if an extradition order is made (whether or not in the presence of interstate law enforcement officers) ensure the court order specifies the time and place that the person is to appear and in whose custody they are to travel.

Once the person is brought before an ACT court, and is detained in custody pending extradition procedures (e.g. the matter is adjourned per s. 83 of the [Service and Execution of Process Act 1992](#) (Cth)) the person must be detained as directed by the magistrate, at either:

- the ACT Watch House or
- another ACT custodial facility.

Members must be aware that the [Bail Act 1992](#) (ACT) provisions do not apply to the detained person and ACT Policing must comply with the order of the magistrate made in accordance with the [Service and Execution of Process Act 1992](#) (Cth).

Members (particularly ACT Watch House staff) must consider the restrictions on the length of time for which people can be detained in the ACT Watch House per s. 30 [Corrections Management Act 2007](#) (ACT):

- a young detainee can not be continuously detained at the ACT Watch House for more than 12 hours
- a detainee (adult) can not be continuously detained at the ACT Watch House for more than 36 hours.

In circumstances where a person may be detained at the ACT Watch House beyond this prescribed duration, ACT Watch House staff shall ensure that relevant legislation is adhered to and, if required, other appropriate detention facilities are utilised in accordance with relevant ACT Watch House procedures.

9. Bail

People arrested or taken into custody by ACT Policing for the purpose of commencing extradition procedures are covered by the [Bail Act 1992](#) (ACT). A person arrested on warrant is not automatically remanded in custody.

The AFP case officer must be aware of the person's background and the relevant offence (subject of the interstate arrest warrant) in order to give evidence to the adjudicating ACT Watch House Sergeant and / or presiding magistrate.

Members must ensure that the initiating jurisdiction advises whether bail should be opposed, the grounds upon which the opposition is based and all other relevant information, including:

- prior convictions
- current investigations and active charges
- the grounds for believing the person may abscond if released on bail
- the seriousness of the offence(s)
- the weight of evidence
- the likelihood of imprisonment.

If a person is brought before a magistrate and then released on bail or released because the warrant is not produced, per s. 85A [Service and Execution of Process Act 1992](#) (Cth) the AFP case officer must notify the issuing court of that fact.

10. Transport by aircraft

When a person in custody will be transported by aircraft, the escorting member must refer to s. 27 of the [AFP National Guideline \(Aviation\) Persons in Custody](#).

See also:

- [AFP Practical Guide on escorts](#)
- [Aviation Transport Security Regulations 2005](#).

11. Further advice

Queries about the content of this guideline should be referred to Superintendent Criminal Investigations.

12. References

Legislation

- [Australian Federal Police Act 1979](#) (Cth)
- [Bail Act 1992](#) (ACT)
- [Corrections Management Act 2007](#) (ACT)
- [Crimes Act 1900](#) (ACT)
- [Service and Execution of Process Act 1992](#) (Cth)
- [Aviation Transport Security Regulations 2005](#)

AFP governance

- [AFP National Guideline on overseas extradition](#)
- [AFP National Guideline \(Aviation\) Persons in Custody](#)
- [AFP Practical Guide on escorts](#)