AFP National Guideline on politically sensitive investigations

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1. Disclosure and compliance

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

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
MHA	Minister for Home Affairs
MP	Member of Parliament

3. Definitions

AFP Senior Executive - means an Assistant Commissioner, a Deputy Commissioner or the Commissioner.

Relevant manager - means the portfolio Commander responsible for the relevant incident type(s), which will generally be Manager Special References.

Member of Parliament (MP) - for the purposes of this guideline, means any member of the Commonwealth House of Representatives or the Senate, or a state or territory equivalent.

Parliamentary privilege - means the protection of the proceedings of parliament.

Politically sensitive matter - means matters under investigation which either:

- are likely to be of particular interest to:
  - the Commonwealth Government
  - MPs
  - foreign governments
  - the media
  - the community.
- involve interference with the administration of good government
- have the ability to adversely impact on international relationships
- have potential adverse implications concerning:
  - an MP
  - MP staff
  - a senior member of the Commonwealth Public Service
  - another politically significant figure.
- are triggered by Australia s international obligations.

Examples of politically sensitive matters include:

- war crimes
- bribery or corruption of domestic and foreign officials
- unauthorised disclosure of Commonwealth information
- ministerial misconduct.

4. Guideline authority

This guideline was issued by National Manager Crime Operations 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 guideline outlines the framework for managing politically sensitive investigations and politically sensitive matters that have been referred to the AFP for evaluation, but that have not yet been accepted for investigation. It does not cover counter terrorism investigations.

6. Policy

Politically sensitive investigations within the AFP are managed, reported and undertaken with complete impartiality. This approach is consistent with the AFP s approach to all investigations. The AFP s investigation management principles must be strictly adhered to. Politically sensitive investigations must also consider broader Australian policy and Australia s international obligations.

7. Matter referral

When politically sensitive matters are referred to the AFP, the relevant manager must be consulted during the referral process.

Where a matter is referred directly to the AFP and not via the Minister for Home Affairs (MHA), the AFP must advise the MHA at the earliest opportunity unless there may be a conflict of interest in accordance with s. 11.3 of this guideline.

All reporting to ministers must be conducted in consultation with the relevant manager and in accordance with the AFP Practical Guide on ministerial and parliamentary procedures.

8. Referral evaluation

All matters which are considered to be politically sensitive must be evaluated in consultation with the relevant manager, who should determine their priority in accordance with the Case Categorisation and Prioritisation Model.

As referral documentation may initially be limited, coordinating further information should be conducted in consultation with the referring body.

9. Parliamentary privilege

When parliamentary privilege issues are likely to be encountered during an investigation, the functional management team should be consulted in the first instance.

The relevant National Manager must be consulted prior to:

- conducting interviews with Members of Parliament (MP)
- executing search warrants upon MP s premises.

Members undertaking politically sensitive investigations should familiarise themselves with the AFP National Guideline for the Execution of Search Warrants where Parliamentary Privilege may be involved which outlines procedures members must follow when seizing documents/property related to 'proceedings in parliament'.

When dealing with parliamentary privilege issues, members should also consider consulting with:

- AFP Legal
- the Commonwealth Director of Public Prosecutions
- the Attorney-General's Department
- the Australian Government Solicitor, on referral from AFP Legal.

10. Case security

The case officer should give early consideration to restricting access to any potentially sensitive information by those not required to access it.

Members must consider restricting access to case information by referring to National PROMIS Procedure 13 - Team level cases and team level entries.

11. Record keeping and reporting

11.1 Recording critical decisions

All critical decisions should be comprehensively recorded in the PROMIS case. If the decision is made by a member of the AFP Senior Executive, the case officer should enter the details of that decision into PROMIS and ensure that the decision maker is provided with a copy of that log entry. Any notations or signing of a critical decision should also be scanned and uploaded into the PROMIS case by the case officer.

11.2 Internal reporting

Case officers must ensure that internal reporting is proactive, prompt, accurate and comprehensive and must consider early consultation with the relevant manager to develop agreed reporting timeframes and methodologies.

The senior investigating officer or case officer should also provide regular briefings to the relevant coordinator, when possible. In all circumstances, the relevant manager must be kept up to date on all politically sensitive investigations. Sharing information beyond this line of reporting must be conducted strictly on a need to know basis.

Internal reporting to the relevant manager team should include:

- milestone achievement
- investigation direction
- media interest
- communication strategies
- anticipated engagement with either:

- a Member of Parliament (MP)
- the staff of an MP
- a Commonwealth Public Service employee
- any other politically significant figure.

11.3 Ministerial reporting

All Ministerial reporting should be conducted in accordance with the AFP Practical Guide on ministerial and parliamentary procedures and take into account the individual characteristics of the particular investigation.

Where any perceived conflicts of interest in briefing the Minister of Home Affairs (MHA) exist, the AFP Senior Executive must be advised at the earliest opportunity so appropriate and preventative action can be taken.

To ensure the AFP's reporting obligations are maintained without compromise to any operational activity, case officers must:

- consult with the relevant manager when considering the timing and content of ministerial reports
- ensure they address any real or perceived conflict of interest when reporting on politically sensitive investigations involving MPs to the MHA
- consider briefing MHA parallel to, or after, operational activity has taken place to avoid any perception of irregularity.

11.4 Media reporting

Any media reporting must be conducted in accordance with the AFP National Guideline on media issues.

Functional areas should consider developing a media strategy which should be coordinated with the AFP National Media Team and take into account the information security considerations above.

The timing and contents of all AFP media reporting must be determined in consultation with the relevant manager and the AFP National Media Team, with all media reports being cleared, at a minimum, by the relevant manager.

12. Interdepartmental committee/emergency taskforce

Depending on the nature of the matter, a joint agency or whole of government response may be required. If so, an interdepartmental committee or emergency taskforce may be established by the lead Commonwealth agency and should include a representative from the relevant AFP function.

13. Further advice

Queries about the content of this guideline should be referred to Manager Special References on 02 61315786 or 145786.

14. References

AFP governance instruments

- AFP National Guideline for Execution of Search Warrants where Parliamentary Privilege may be involved
- AFP National Guideline on media issues
- AFP Practical Guide on ministerial and parliamentary procedures

Other sources

- National PROMIS Procedure 13 - Team level cases and team level entries
- Case Categorisation and Prioritisation Model