



## AFP National Guideline on undercover operations

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### 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

<b>AFP</b>	Australian Federal Police
<b>AI</b>	assumed identity
s37(2)(b), s47E(d)	
<b>HTCO</b>	High Tech Crime Operations
<b>NCPA</b>	National Coordinator Program Axiom
<b>UCC</b>	undercover controller
<b>UCO</b>	undercover operative

## 3. Definitions

**Authorised officer** – means an appropriately trained AFP member, or person working under the direction or control of the AFP, who is qualified to participate in approved undercover operations.

s37(2)(b), s47E(d)

**Board of Management** – is the committee convened to evaluate and approve undercover operations.

**Case officer** – is the AFP member responsible for a specific investigation, or investigation segment, using an approved undercover operative (UCO)

s37(2)(b), s47E(d)

s37(2)(b), s47E(d)

**Evidential instrument** – means an item obtained under Part 1AC of the [Crimes Act 1914](#)(Cth) or the [Law Enforcement and National Security \(Assumed Identities\) Act 1998](#) (NSW), and reflects the identity of the authorised AI.

s37(2)(b), s47E(d)

s37(2)(b), s47E(d)

**National Assumed Identity Register** – is a register of all AI records held by the AFP.

**National Registrar (Assumed Identities)** – means the person responsible for the administrative duties of the National Assumed Identity Register. s37(1)(a)

**Program Axiom** – is the dedicated team in the AFP Intelligence function responsible for managing and administrating the AFP national undercover program.

s37(2)(b), s47E(d)

**Undercover controller** – is an appropriately trained or qualified member of the AFP, or an officer of a participating agency, authorised by the AFP to perform duties under an AI who during any undercover operation oversees the operational environment in which the UCO is deployed.

**Undercover operation** – is a planned investigation technique where authorised officers using an AI are covertly deployed to communicate with a person/persons of interest to obtain evidence or intelligence concerning any investigation. s37(2)(b), s47E(d)

**Undercover operative** – is an appropriately trained or qualified AFP member, or an officer of a participating agency, authorised by the AFP to perform duties under an AI during an investigation.

## 4. Authority to create guideline

This guideline was issued by National Manager Intelligence 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 authorisation process, legislation, roles and defining terms for undercover operations.

More detailed and highly classified information exists outside the Governance Instrument

Framework and may be obtained from the National Coordinator Program Axiom.

## 6. Policy

The AFP's highest priority for undercover policing is the welfare and safety of its personnel.

Program Axiom will operate to ensure that undercover operations are conducted within the laws of each operation's jurisdiction(s) and comply with the [AFP Code of Conduct](#).

## 7. Roles and responsibilities

### 7.1 Program Axiom

Program Axiom provides the AFP with a professional undercover capability to meet the challenges of the s37(2)(b), s47E(d) criminal environment. It oversees and manages all AFP undercover operations, s37(2)(b), s47E(d).

s37(2)(b), s47E(d)

### 7.2 Case officer

The case officer:

- maintains, controls and coordinates investigations using UCOs to collect evidence and intelligence
- consults with Program Axiom UCCs to establish and agree to the objectives of undercover deployments
- s37(2)(b), s47E(d)
- obtains necessary Controlled/Major Controlled Operation Certificates
- creates and maintains a PROMIS operational support case s37(2)(b), s47E(d)
- s37(2)(b), s47E(d)

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## 7.3 Undercover controller

The UCC's primary responsibility is the security and welfare of the undercover operative.

s37(2)(b), s47E(d)

## 7.4 Undercover operative

s37(2)(b), s47E(d)

s37(2)(b), s47E(d)

The UCO must:

- lawfully collect evidence having regard to the effects of entrapment and 'agent provocateur'
- observe the [Commissioner's Code of Conduct](#)

s37(2)(b), s47E(d)

The UCO must not:

- breach any law unless indemnified by a Controlled/Major Controlled Operations Certificate

s37(2)(b), s47E(d)

## 8. Requesting and authorising undercover operations

### 8.1 Commencing undercover operations

s37(2)(b), s47E(d)

- [Commonwealth of Australia - Australian Federal Police Act 1979 Determination under Section 40H\(1\) relating to Fixed Term Assignment to Program Axiom.](#)

## 8.2 Requesting Program Axiom resources

s37(2)(b), s47E(d)

## 8.3 Approval process

s37(2)(b), s47E(d)

## 9. Legislation

The following legislation has primary relevance to undercover operations:

- [Crimes Act 1914](#) (Cth)
- [Crimes Amendment \(Controlled Operations\) Act 1996](#) (Cth)
- [Law Enforcement \(Controlled Operations\) Act 1997](#) (NSW)
- [Law Enforcement and National Security \(Assumed Identities\) Act 1998](#) (NSW).

## 10. Criminal offences

Undercover operatives must not commit any criminal offence unless permitted to do so under the provisions of the [Crimes Amendment \(Controlled Operations\) Act 1996](#) (Cth) or other relevant legislation.

## 11. Agent provocateur

AFP appointees must not counsel, incite or procure the commission of a crime by acting as an agent provocateur.

s37(2)(b), s47E(d)

s37(2)(b), s47E(d)

## 16. Further advice

Any queries about this guideline, including requests for access to the complete undercover operations management program, may be directed to the National Coordinator Program Axiom.

## 17. References

### Legislation

- [Crimes Act 1914](#) (Cth)
- [Crimes Amendment \(Controlled Operations\) Act 1996](#) (Cth)
- [Criminal Code Act 1995](#) (Cth)
- [Law Enforcement \(Controlled Operations\) Act 1997](#) (NSW)
- [Law Enforcement and National Security \(Assumed Identities\) Act 1998](#) (NSW).

### AFP instruments

- [AFP National Guideline on the management of human sources](#)
- [AFP National Guidelines on property and exhibits](#)
- [Commissioner's Code of Conduct](#)
- [Commonwealth of Australia - Australian Federal Police Act 1979 Determination under Section 40H\(1\) relating to Fixed Term Assignment to Program Axiom.](#)