

# AFP Privacy Policy

## 1. Introduction

This policy outlines how the AFP complies with its obligations under the *Privacy Act 1988* (Cth) (Privacy Act).

The Australian Privacy Principles (APPs) govern the way the AFP collects, uses, discloses and stores personal information and provides a mechanism by which you, as a member of the public, may access and correct your personal information held by the AFP.

Personal information is defined in section 6 of the Privacy Act to mean:

Information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.

Contractors and consultants engaged by the AFP are also required to comply with the APPs.

This policy is not intended to cover the AFP's handling of commercially sensitive information or other information that is not personal information.

The AFP's website privacy information section explains the privacy aspects of personal details, email addresses, clickstream data and cookies.

## 2. Abbreviations

ACT – Australian Capital Territory

AFP – Australian Federal Police

AFP Act – *Australian Federal Police Act 1979* (Cth)

AFP Regs – *Australian Federal Police Regulations 1979* (Cth)

APPs – Australian Privacy Principles as set out in Schedule 1 to the Privacy Act

FOI Act – *Freedom of Information Act 1982* (Cth)

OAIC – Office of the Australian Information Commissioner

Privacy Act – *Privacy Act 1988* (Cth)

PO – Privacy Officer

WP Act – *Witness Protection Act 1994* (Cth)

### **3. Definitions**

APP entity – is defined in section 6 of the Privacy Act to mean an agency or organisation and includes the AFP.

Police services - is defined in section 4 of the AFP Act to mean services by way of prevention of crime and the protection of persons from injury or death, and property from damage, whether arising from criminal acts or otherwise.

Police support services - is defined in section 4 of the AFP Act to mean services related to:

- (a) the provision of police services by an Australian or foreign law enforcement agency; or
- (b) the provision of services by an Australian or foreign intelligence or security agency; or
- (c) the provision of services by an Australian or foreign regulatory agency.

Sensitive information is a type of personal information defined in section 6 of the Privacy Act to mean:

- (a) information or an opinion about an individual's:
  - (i) racial or ethnic origin; or
  - (ii) political opinions; or
  - (iii) membership of a political association; or
  - (iv) religious beliefs or affiliations; or
  - (v) philosophical beliefs; or
  - (vi) membership of a professional or trade union association; or
  - (vii) membership of a trade union; or
  - (viii) sexual preferences or practices; or
  - (ix) criminal record;that is also personal information; or
- (b) health information about an individual; or
- (c) genetic information about an individual that is not otherwise health information; or
- (d) biometric information that is to be used for the purposes of automated biometric verification or biometric identification; or
- (e) biometric templates.

### **4. The purposes for which the AFP collects, holds, uses and discloses information**

The AFP collects, holds, uses and discloses information generally (which may

include personal information) for purposes which are directly related to our functions or activities as set out in section 8 of the AFP Act and the [Ministerial Direction](#), and only collects, holds, uses or discloses such information when it is necessary to do so for these purposes. These purposes include:

- the provision of police services in relation to:
  - (i) the Australian Capital Territory;
  - (ii) Jervis Bay;
  - (iii) the laws of the Commonwealth;
  - (iv) the property of the Commonwealth;
  - (v) safeguarding Commonwealth interests; and
- investigation of State offences that have a federal aspect; and
- performing functions conferred by the WP Act or by a law of a state or territory that is a complementary witness protection law for the purposes of the WP Act; and
- performing functions under the *Proceeds of Crime Act 2002* (Cth); and
- performing protective and custodial functions; and
- the provision of police services and police support services for the purposes of assisting, or cooperating with, an Australian or foreign:
  - (i) law enforcement agency; or
  - (ii) intelligence or security agency; or
  - (iii) government regulatory agency; and
- the provision of police services and police support services in relation to establishing, developing and monitoring peace, stability and security in foreign countries; and
- to do anything incidental or conducive to the performance of the foregoing functions.

The AFP also collects, holds, uses and discloses information as authorised under other legislation, including the:

- *Crimes Act 1914* (Cth)
- *Crimes Act 1900* (ACT)
- *Crimes (Forensic Procedures) Act 2000* (ACT)
- FOI Act
- *Mutual Assistance in Criminal Matters 1987* (Cth)
- *National Vocational Education and Training Regulator Act 2011* (Cth)
- *Surveillance Devices Act 2004* (Cth)
- *Telecommunications (Interception and Access) Act 1979* (Cth)

## 5. Collection of personal information

### (a) The kinds of personal information the AFP collects and holds

The AFP collects and holds a range of personal information in connection with our functions as outlined in part 4 of this policy. This personal information can be generally categorised to include:

- licensing records including applications, assessments and registration details for various licences,
- administrative records including reports, minutes, messages, registers, lists, correspondence and directories,
- records that assist in the enforcement of the criminal law, preservation of peace, the prevention, detection and investigation of criminal incidents, the protection of life, safety and property,
- investigation records,
- intelligence records,
- court records including documents authorising arrests, searches, seizures, extraditions and to present evidence in support of prosecutions,
- criminal records,
- professional standards records, including records relating to the investigation of complaints against AFP appointees and security clearance records,
- traffic records,
- illicit drug testing records,
- records relating to forensic procedures,
- personnel records including payroll records, medical and dental records, personal development, qualifications, training records, travel documents, performance appraisals, leave records, recruitment records, compensation and rehabilitation records, and
- records relating to coronial investigations into deaths and fires in the ACT.

The personal information that may be contained in these records could include your: name, date of birth, physical description, gender, next of kin, details of pay or allowances, security clearance details, address, telephone

numbers, account and credit card details, email addresses, user names and passwords, internet addresses, drivers, firearms and other licences, tax file numbers, motor vehicle and other registrations, and government and employer identifiers.

The sensitive information that may be contained in these records could include your: personal, business or criminal relationships, political affiliations, formal and informal memberships of, and associations with, organisations, religion, allegations and complaints, expressed opinions and other statements, activities, personal habits and pastimes, physical and mental health, disabilities, sexual behaviour, ethnicity, financial details and transactions, assets, contracts and agreements, traffic and criminal convictions, criminal intelligence, pictures and other images, fingerprints, forensic samples, employment and education details, travel movements, and aspects of personal conduct.

(b) How the AFP collects personal information

Your personal information may be collected by the AFP from a number of sources, including:

- you
- a third party
- your lawyer or representative
- another APP entity
- a publicly available source
- a Commonwealth, state or territory security, intelligence or government agency
- a state or territory police force
- a foreign law enforcement, security, intelligence or government agency
- a court or tribunal
- a royal commission
- the Commonwealth, state or territory Director of Public Prosecutions.

The AFP may also collect personal information or sensitive information about you by utilising legislative provisions including the:

- AFP Act
- *Crimes Act 1914* (Cth)
- *Crimes Act 1900* (ACT)
- *Crimes (Forensic Procedures) Act 2000* (ACT)
- *Mutual Assistance in Criminal Matters Act 1987* (Cth)
- *National Vocational Education & Training Regulator Act 2011* (Cth)
- *Surveillance Devices Act 2004* (Cth)
- *Telecommunications (Interception and Access) Act 1979* (Cth)

Where personal or sensitive information has been collected through the use of a legislative mechanism, the governing legislation may also contain specific provisions setting out how the AFP may hold, use and disclose that

information. In these cases, the AFP will comply with the requirements of the governing legislation.

(c) Collection of personal information from you

You have the option of remaining anonymous or using a pseudonym when dealing with the AFP, unless:

- the AFP is required or authorised by, or under, an Australian law, or a court / tribunal order, to deal with individuals who have identified themselves; or
- it is impracticable for the AFP to deal with you if you do not identify yourself.

If you wish to report a crime you can do so on the AFP's website at [www.afp.gov.au](http://www.afp.gov.au).

If you want to remain anonymous or provide information about a crime you can also contact Crime Stoppers on 1800 333 000 or via [Home | CSA National](#).

If you wish to report information about possible terrorist activities anonymously you can contact the National Security Hotline on 1800 123 400 or by email: [hotline@nationalsecurity.gov.au](mailto:hotline@nationalsecurity.gov.au).

(d) How the AFP holds personal information

The AFP stores your personal information in a number of ways including in:

- paper files,
- notebooks, diaries and field books,
- computer files,
- video tapes,
- audio tapes,
- photographic images,
- microfiche,
- laser disc, and
- film.

If the collection of your personal information was authorised by a legislative mechanism, the AFP will hold your personal information in accordance with any

specific requirements contained in that legislation.

All records are handled and stored in accordance with the requirements of the *Archives Act 1983* (Cth), AFP Records Authority issued by the National Archives and the Australian Government Protective Security Policy Framework.

(e) How the AFP protects your personal information

The AFP takes steps to protect the personal information we hold against misuse and loss, as well as unauthorised access, use, modification and disclosure. These steps include:

- our information technology systems are protected in accordance with the principles of the Australian Government Information Security Manual and related policies;
- paper files containing classified information are protected in accordance with the broader Australian Government Protective Security Policy Framework (security classifications, dissemination limiting markers and caveats) and secured in Australian Government approved security containers or secure rooms with restricted access;
- AFP premises have 24 hour security controls; and
- ensuring all AFP appointees (as defined under section 4 of the AFP Act) who require access to certain information only require such access to allow them to perform their official duties and ensuring they comply with AFP governance and directions, including section 60A of the AFP Act, Division 2.4 of the AFP Regs and the Privacy Act.

## **6. Use and disclosure of personal information**

(a) In Australia

The AFP only uses and discloses personal information for:

- the purposes for which it was given;
- as provided for by legislation;
- for purposes which are directly related to one of AFP functions as described in section 8 of the AFP Act and the [Ministerial Direction](#); and
- in accordance with the provisions set out in section 60A of the AFP Act and Division 2.4 of the AFP Regs.

The AFP does not provide your personal information to other Australian or foreign law enforcement, intelligence, security or government agencies, organisations or individuals unless the disclosure is authorised by section 60A

of the AFP Act and one of the following applies:

- you have consented;
- you would reasonably expect, or have been advised, that personal information of that kind may be disclosed for a secondary purpose and the secondary purpose is:
  - (i) if the information is sensitive information – directly related to the primary purposes; or
  - (ii) if the information is not sensitive information – related to the primary purpose
- the disclosure is required or authorised by, or under, an Australian law or a court or tribunal order;
- the AFP reasonably believes that the disclosure of your personal information is reasonably necessary for one of more of the following enforcement related activities:
  - (i) the prevention, detection, investigation, prosecution or punishment of:
    - criminal offences;
    - breaches of a law imposing a penalty or sanction;
  - (ii) the conduct of surveillance activities, intelligence gathering activities or monitoring activities;
  - (iii) the conduct of protective or custodial activities;
  - (iv) the enforcement of laws relating to the confiscation of the proceeds of crime;
  - (v) the protection of the public revenue; or
  - (vi) the prevention, detection, investigation or remedying of misconduct of a serious nature, or other conduct prescribed by the regulations; or
  - (vii) the preparation for, or conduct of, proceedings before any court or tribunal, or the implementation of court/tribunal orders.
- it is unreasonable or impracticable to obtain your consent to the disclosure and the AFP reasonably believes that the disclosure is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety;
- the AFP has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the AFP's functions has been, is being, or may be, engaged in and the AFP reasonably believes that the disclosure is necessary in order for the AFP to take appropriate action in relation to the matter;
- the AFP reasonably believes that the disclosure is reasonably necessary to assist any APP entity, body or person to locate a person who has been reported as missing and the disclosure is consistent with any rules issued by the Australian Information Commissioner;



- the disclosure is reasonably necessary for the establishment, exercise or defence of a legal or equitable claim; or
- the disclosure is reasonably necessary for the purposes of a confidential alternative dispute resolution process.

(b) Disclosing personal information to overseas recipients

The AFP is authorised to provide assistance and cooperate with foreign law enforcement, intelligence and security agencies in accordance with the AFP Act and the [Ministerial Direction](#). The Minister has directed that the AFP will deliver on the following key strategic priorities:

- *contributing effectively to the Government's international law enforcement interests including matters involving cooperation with key international partners to combat transnational organised crime and corruption, responses to emergencies, law and order capacity building missions, and participation in internationally mandated peace operations*
- *continue its extensive cooperation and collaboration with law enforcement and other partners across the Commonwealth, States and Territories in developing, implementing and managing national security, law enforcement and crime prevention policies, and operational activities, including through information and intelligence sharing*

The AFP may also disclose personal information overseas in accordance with the *Mutual Assistance in Criminal Matters Act 1987* (Cth) and relevant treaties.

Information regarding treaties is available from the Department of Foreign Affairs and Trade's [website](#).

## **7. Access to personal information**

You have a right to access your personal information held by AFP. You can apply to access this information under either the Privacy Act or the FOI Act.

(a) Application under the Privacy Act

You can apply for access to your personal information under APP

12. Requests can be made in writing to:

|       |   |
|-------|---|
| Post  | Privacy Officer<br>AFP Legal<br>Australian Federal Police<br>GPO Box 401<br>Canberra ACT 2601 |
| Email | <a href="mailto:privacy@afp.gov.au">privacy@afp.gov.au</a>                                    |

Your request must include:

- your name, including any alias or maiden name
- your date of birth
- postal address and previous addresses, if relevant
- contact details
- details about the personal information you are seeking, including any applicable date periods
- photographic identification

The AFP will respond to your request to access your personal information within 30 days of receipt of your request.

Requests for access to personal information will be permitted unless there is a sound reason under the Privacy Act, FOI Act or other relevant law to withhold your personal information.

If the AFP refuses to give you access to the information sought or is unable to give access in the manner you requested, you will receive a written notice setting out the reason for the refusal and any mechanisms available to you to complain about that refusal.

(b) Application under the FOI Act

Details of how to apply for access to your personal information under the FOI Act is available on the AFP's website.

**8. Correction of personal information**

You have the right under APP 13 to request the correction of your personal information held by the AFP. The AFP is required to make the corrections to your personal information if those steps are reasonable in the circumstances, taking into account the purpose for which the personal information is held and whether the AFP considers the information is accurate, up-to-date, complete, relevant and not misleading.

Requests can be made in writing to:

|       |   |
|-------|---|
| Post  | Privacy Officer<br>AFP Legal<br>Australian Federal Police<br>GPO Box 401<br>Canberra ACT 2601 |
| Email | <a href="mailto:privacy@afp.gov.au">privacy@afp.gov.au</a>                                    |

Your request needs to include:

- your name, including any alias or maiden name
- your date of birth
- postal address
- contact details
- details about the personal information you are seeking to have amended, including any applicable date periods and the amendment
- photographic identification.

The AFP will respond to your request to correct your personal information within 30 days of receipt of your request.

If the AFP refuses to correct your personal information, you will receive a written notice setting out the reason for the refusal and any mechanisms available to you to complain about the refusal.

If the AFP refuses to correct your personal information, you can request that a statement be attached to the record noting that you believe the information is inaccurate, out-of-date, incomplete, irrelevant or misleading.

You can obtain further information about how to request access or changes to the information we hold about you by contacting the Government Relations, Information Access team.

## **9. Privacy Complaints**

If you are unhappy with the way the AFP has handled your personal information you can lodge a complaint with the AFP.

No particular form is required to make a complaint, but it would assist the Privacy Officer if you detail in writing how you believe your privacy has been breached.

Upon receipt of your complaint, the Privacy Officer will consult with the affected areas of the AFP to investigate and resolve the issues you have raised.

The Privacy Officer investigates privacy complaints, usually in cooperation

with the AFP's Professional Standards area. If your complaint raises issues relating to AFP practices or procedures, then the matter will be dealt with per the procedures contained in Part V of the AFP Act and the AFP National Guideline on Complaint Management.

The Privacy Officer will provide you with a written response to your complaint within 30 days of its receipt.

The AFP's contact details are:

|       |  |
|-------|--|
| Post  | Privacy Officer<br>Australian Federal Police<br>GPO Box 401<br>Canberra ACT 2601 |
| Email | <a href="mailto:privacy@afp.gov.au">privacy@afp.gov.au</a>                       |

If you are unsatisfied with the AFP's response, you can refer your complaint to the OAIC. The OAIC contact details are:

|                       |   |
|-----------------------|---|
| Telephone             | 1300 363 992  |
| Post                  | Office of the Australian Information Commissioner<br>GPO Box 5288<br>Sydney NSW 2001  |
| Facsimile             | +61 2 6123 5145   |
| Online Complaint Form | <a href="https://www.oaic.gov.au/privacy/privacy-complaints/lodge-a-privacy-complaint-with-us">https://www.oaic.gov.au/privacy/privacy-complaints/lodge-a-privacy-complaint-with-us</a> |