



## Functional governance

# Better Practice Guide on Ministerial Briefings for Investigations

Date of initial endorsement:	1 September 2020
Date of last review:	17 November 2020
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Owner:	Manager Government and Executive Advice
Contact:	Ministerial and Parliamentary Liaison
Identifier:	MGEA001
IPS status	Full

### Disclosure and classification

This document is classified **OFFICIAL** and is intended for internal AFP use. Disclosing any content must comply with Commonwealth law and the [AFP National Guideline on information management](#).

### Compliance

This instrument is part of the AFP's professional standards framework. The [AFP Commissioner's Order on professional standards \(CO2\)](#) outlines the conduct expected of AFP appointees. 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).

This document is a functional governance instrument as defined in the [AFP Commissioner's Order on governance \(CO1\)](#).

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## Acronyms

<b>AFP</b>	Australian Federal Police
<b>DLO</b>	Departmental Liaison Officer
<b>MHAO</b>	Minister for Home Affairs' Office
<b>MPL</b>	Ministerial & Parliamentary Liaison Team
<b>SES</b>	Senior Executive Service

## Introduction

Ministers are accountable to the Australian Parliament and public for the policies and actions implemented through their Portfolio. The AFP is part of the Home Affairs Portfolio, which administers the *Australian Federal Police Act 1979*, and is the responsibility of the Minister for Home Affairs. This Ministerial accountability needs to be balanced with the AFP's requirement to maintain the integrity of our investigations.

### Purpose of this better practice guide:

This document provides guidance to AFP appointees on relevant considerations when considering briefing relevant Ministers' offices on AFP matters, including sensitive or otherwise significant investigations. There is no "one size fits all" approach for briefing the Minister. Appointees need to consider the unique circumstance of each case, balancing the requirement to provide accurate and timely advice against operational considerations. This will enable the AFP to maintain an appropriate relationship with the Minister's office, to support the administration and operations of the AFP, and maintain our accountability requirements.

### When should a matter be briefed to the Minister's Office?

The MHAO should be briefed by an AFP SES officer on any sensitive or otherwise significant operational matter. It is vital to the good reputation of the AFP that the Minister is appropriately briefed on these issues in a timely manner (the 'no surprises' principle). A key threshold for briefing will be when overt action has or is about to occur, or when it is considered likely that a matter will otherwise come to the attention of the Minister or the broader public. Consideration should be given to briefing the MHAO where there is anticipated media attention, international aspects which could affect broader relationships, cross-portfolio or political implications. This list is not exhaustive and SES officers should exercise judgement in determining other drivers for ensuring the Minister is aware of operational activity.

The Minister should have an awareness of significant matters in case they arise as part of Ministerial duties. Matters need to be briefed **as soon as practicable** and **within a reasonable timeframe**. This ensures there is sufficient time to address media enquiries and other inquiries in Parliament.

Timing for the briefing needs to maintain the integrity and security of the investigation and ensure the safety of members. You could consider whether it is prior to, simultaneous to, or post execution of operational activity, depending on the unique circumstances of each matter. Consideration of appropriate timing is imperative to avoid any real or perceived interference in AFP operations.

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A matter can be briefed to the MHAO at various stages of an investigation dependent on the circumstances including:

- When a report alleging criminal conduct has been made to the AFP or a request for service has been made
- Before overt operational activity such as search warrants, or other activity likely to be made public
- During overt operational activity
- Immediately after overt operational activity
- At the conclusion of the AFP investigation
- At other times where the AFP deems it necessary to inform the Minister of its activities

Some further considerations for when the MHAO is briefed may include:

- When will the complainant or public be notified of the outcome or status of the investigation?
- Is Ministerial approval required under legislation, or National Guideline, for example in death penalty matters? (in these matters, refer to the relevant legislation and AFP National Guideline e.g. [International police-to-police assistance in death penalty situations](#))
- Are there sensitivities that the Minister needs to be aware of, for example implications for other Portfolio agencies?

## Anticipated media attention

The MHAO should be briefed by an AFP SES officer on any matter where media attention is reasonably anticipated. This could include cases where the media might report on:

- Overt activity, including search warrants and arrests
- Current court proceedings
- The conclusion of a significant investigation
- The achievement of a significant milestone during an investigation
- The passing of legislation which could impact on an investigation
- A report being received by the AFP which alleges a crime, if it is likely the reporting agency or person will make it public.

## Media enquiries

Providing talking points to AFP media does not mean the most appropriate person in the MHAO has been briefed. The level of detail and the intended audience of these responses are different. It may be the case that both media talking points and a briefing for the MHAO is required.

What should be briefed to the Minister's Office?

## What to include in the briefing

As a standard approach, a briefing could include:

- The date the AFP received the report or request
- In certain circumstances, the reporting agency or entity who made the report or request

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- The current status of the report or request e.g. the AFP is investigating the report, the AFP is no longer investigating the report
- If available: existing media talking points or proposed responses to media enquiries on the matter (note, AFP Media will also liaise directly with the Minister's media advisers). Prior to providing any briefings to the MHAO it is imperative to coordinate with both AFP Media and AFP Ministerial Team.

The MHAO may request follow up information, including a timeframe for response. The AFP may decline to provide additional details on operational matters if it is not appropriate at the time.

The timing and level of detail in the information briefed to the MHAO will vary on a case-by-case basis to balance accountability and operational sensitivities, and the public interest.

There are a number of considerations which will influence the level of detail to be provided in briefings, including:

- Is it likely information relating to the matter will be released publicly by another party?
- Does the information involve a member of the Australian Parliament?
- Does the matter involve international relations?

## Briefing other Government Ministers

Under certain circumstances, Ministers outside of the Home Affairs Portfolio will need to be briefed on AFP activity, for example, as part of a joint taskforce. The Ministerial and Parliamentary team should be contacted in the first instance to ensure necessary engagement with the MHAO.

Where multiple Ministers are being briefed by multiple agencies (for example where AFP is working in a Taskforce environment with agencies outside of the Home Affairs Portfolio), the timing of those Ministerial briefings should be coordinated. There should be consultation with partner agencies about agreed timing of briefings. The Minister for Home Affairs should not become aware of AFP operations from another Minister.

Where the AFP needs to brief another Minister (for example where there is a legislative requirement to seek Attorney-General's approval to charge), the MHAO should also be briefed at an appropriate time.

## Briefing non-Government members

The AFP may be requested to brief members of non-Government parties and cross-party Committees. The MHAO will need to be briefed on such requests. The MPL team will engage with the MHAO on such requests and work with line areas to arrange briefings.

## Who should brief the Minister's Office?

Unless otherwise agreed between the AFP and MHAO, only AFP Senior Executives (SES Band 1 and above) should brief the MHAO. If a Ministerial Adviser calls other officers or team members, they should advise that an SES officer will return the call as soon as possible. The MPL team and/or AFP DLO should be advised of this contact.

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Depending on the circumstances and the level of public and media interest, matters may generally be briefed in via:

- AFP Commissioner to Minister for Home Affairs
- AFP Senior Executive to Minister's Chief of Staff or Ministerial Advisers
- E-mail advice through the MPL team to the Departmental Liaison Officer network (including the AFP Liaison Officer)
- Ministerial submission through the MPL team to the Departmental Liaison Officer network (including the AFP Liaison Officer)

*Reminder: the AFP Liaison Officer should be copied into, or notified of, all communications between AFP and the MHAO.*

## How to brief the Minister's Office?

Regardless of how the MHAO is briefed, it is important to keep the AFP Liaison Officer informed of engagement with the MHAO.

### Written

Written briefings can either be in the format of a ministerial submission or an email to the MHAO. The decision on which is appropriate will depend on the timing, sensitivities, level of detail, and significance of the briefing. The MPL team will provide advice on the appropriate briefing method. The appropriate level of clearance of the briefings will depend on context, but is always SES Band 1 or above.

Ministerial submissions (requiring Minister for Home Affairs signature):

- All ministerial submissions should be progressed using the Parliamentary Document Management System (PDMS) and must include out of hours mobile details for the relevant AFP SES contact officer.
- The Ministerial and Parliamentary team quality check ministerial submissions to ensure they meet the Minister's briefing requirements, and facilitate the submission to the MHAO.
- All ministerial submissions with a **deadline for Ministerial signature of less than 14 days must have prior approval from the MHAO**. To seek approval, an AFP SES officer should email or call the relevant Adviser, who will then seek clearance of the deadline from the Minister's Chief of Staff. If there is no urgency, the submission should specify the timeframe as 'at the Minister's convenience'.

E-mail (to Minister's advisers who will brief the Minister as required, or to Minister's advisers via DLO):

- Email key issues and background to the MPL team (or Manager, Government and Executive Advice) who will facilitate provision to the MHAO.

### Verbal

Phone call:

- Verbal briefings may be appropriate to ensure timely briefings in urgent situations (and can be followed up with written advice as at appropriate time).
- The verbal briefing should cover off on key issues and any relevant background that would be provided in a written briefing.

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- The verbal briefing can be initiated by the AFP SES or at the suggestion of the MPL team, or in response to a request from the MHAO.

## Meeting:

- The MHAO may request a face-to-face meeting to discuss a matter. At least one AFP SES officer should attend.

## Record of engagement

Key to verbal briefings is the record of engagement. Verbal briefings with the MHAO should, where practicable and appropriate, be reported to the **MPL team** and the DLO. It is preferable that an official record be created of this contact, for agency and Parliamentary accountability purposes, and Freedom of Information processes.

Advice should note the date and time of briefing and any undertakings to provide follow up information or advice. SES can also verbally advise the MPL team who can then facilitate the creation of a record of their behalf (i.e. email). Refer to the [National Guideline on information management](#) for further guidance.

## Role of the AFP Liaison Officer to the Minister for Home Affairs' Office

The AFP DLO is physically located in the Office of the Minister for Home Affairs at Parliament House, and co-located with Minister's Chief of Staff and Advisers. The DLO has access to ministerial submissions, briefs and formal correspondence and emails between the MHAO and the AFP, and facilitates the sharing of information between the AFP and the MHAO.

The Minister's needs and expectations around briefing are fluid and the AFP DLO is a crucial source of advice on this for the AFP. The AFP DLO should be engaged early on potential briefings to ensure they can effectively fulfill their role.

## Further information

Should you need further advice or to discuss the best course of engagement with the MHAO, you can contact Manager Government and Executive Advice or the [MPL team](#).