



THE HON PETER DUTTON MP MINISTER FOR HOME AFFAIRS

Minister for Home Affairs – Ministerial Direction to Australian Federal Police Commissioner relating to investigative action involving a professional journalist or news media organisation in the context of an unauthorised disclosure of material made or obtained by a current or former Commonwealth officer

This Ministerial Direction is issued under subsection 37(2) of the *Australian Federal Police Act 1979* (the AFP Act). This Ministerial Direction is intended to complement any previous Ministerial Direction issued under subsection 37(2) with effect from the date this Ministerial Direction commences. This Ministerial Direction does not constrain investigation by the Australian Federal Police (AFP) of an unauthorised disclosure of material made or obtained by a current or former Commonwealth officer.

This Ministerial Direction outlines the Government's expectations for the AFP in relation to investigative action involving a professional journalist or news media organisation in the context of an unauthorised disclosure of material made or obtained by a current or former Commonwealth officer.

A key function of the AFP is, and must remain, the enforcement of the criminal law, without exception. In its performance of this function, however, I expect the AFP to take into account the importance of a free and open press in Australia's democratic society and to consider broader public interest implications before undertaking investigative action involving a professional journalist or news media organisation in relation to an unauthorised disclosure of material made or obtained by a current or former Commonwealth officer.

In particular, where consistent with operational imperatives, I expect the AFP to exhaust alternative investigative actions, including in relation to any other persons that may be involved in the matter, prior to considering whether any investigative action involving a professional journalist or news media organisation is necessary. Where possible, I also expect the AFP to continue to seek voluntary assistance, if relevant, from professional journalists or news media organisations.

I also expect the AFP to strengthen its guidance and processes about the types and level of information required from a Government department or agency in referring an unauthorised disclosure of material made or obtained by a current or former Commonwealth officer to the AFP for investigation. This should include an explicit requirement that the referring department or agency provides a harm statement indicating the extent to which the disclosure of the material would be expected to significantly compromise Australia's national security.

This stronger framework around the referral process should enable the AFP to comprehensively assess all relevant information and make an informed decision about whether and in what way to proceed with a criminal investigation, having due regard to relevant public interest considerations. In undertaking that assessment, the AFP must have regard to any whole-of-government guidance that may be issued concerning the levels of harm caused to Australia's national interest by disclosure of the various types of information held across Government.

Dated 8th August 2019



Peter Dutton

The Hon Peter Dutton MP

Minister for Home Affairs

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THE AUSTRALIAN FEDERAL POLICE
UNDER THE FREEDOM OF INFORMATION ACT 1982



THE HON PETER DUTTON MP MINISTER FOR HOME AFFAIRS

This Ministerial Direction is issued under subsection 37(2) of the *Australian Federal Police Act 1979* (the AFP Act). It supersedes and revokes the previous Direction issued on 12 May 2014, and complements the Direction issued on 8 August 2019 relating to investigative action involving unauthorised disclosures to media organisations.

The Government is committed to ensuring the safety and security of Australians and Australia's interests. The AFP plays a key role in protecting the community as well as Australia's interests. My expectation is that the AFP delivers all functions under section 8 of the AFP Act, and will focus its activities to maximise its impact upon the criminal environment.

In the current environment, the expected focus areas for the AFP are:

COUNTERING TERRORISM, ESPIONAGE AND FOREIGN INTERFERENCE

- Prevent and disrupt violent extremist threats within Australia including the risks posed by foreign fighters, the release of High Risk Terrorist Offenders and residual risk of domestic radicalised persons.
- Provide critical specialist support and investigate harmful espionage and foreign interference affecting Australia's national interests.

COMBATting CHILD EXPLOITATION

- Identify, disrupt, pursue and prosecute child sex offenders, preventing the exploitation of children and removing victims from harm.
- Drive a collaborative, national response to counter the online exploitation of children through the Australian Centre to Counter Child Exploitation (ACCCE).

TRANSNATIONAL SERIOUS AND ORGANISED CRIME

- Prevent, deter, disrupt and investigate organised criminal activities affecting Australia, including illicit drug importation, firearms offences and money laundering.
- Disrupt the economic incentives of organised criminal groups, restraining criminal assets and removing the profits of crime.
- Contribute to Australia's international law enforcement interests through cooperating with international partners to combat crime and corruption, responding to international emergencies, and building law and order capacity.

CYBER CRIME

- Deter malicious actors from targeting the Australian cyber environment across government, industry, and the community, including systems of national significance.
- Reducing the impact and harm to everyday Australians from cybercrime.
- Prevent and investigate technology-enabled crime, disrupting criminal groups exploiting anonymising technologies and clandestine networks to harm Australians and Australian interests.

FRAUD AND ANTI-CORRUPTION

- Protect Commonwealth revenue, by deterring, disrupting and investigating serious or complex fraud and corruption against the Commonwealth, especially criminal exploitation of the Government's COVID-19 response.
- Work with partner agencies to strengthen the Commonwealth's resilience to fraud and corruption.

PROVISION OF SPECIALIST PROTECTION SERVICES AND OPERATIONS

- Ensure the safety, security and freedom of movement of Australian High Office Holders in support of their official duties within Australia and offshore.
- Safeguard the security and dignity of identified foreign dignitaries whilst on Australian soil.
- Ensure the security of Commonwealth assets and critical infrastructure in support of Australia's national security and economic interests.
- Prevent, disrupt and respond to security and criminal threats at Australia's designated airports, ensuring integrity of Australia's borders and facilitating safe travel of Australian's and foreign visitors.
- Ensure the safety of AFP members, capabilities and policing infrastructure.
- Work with the communities of the ACT, Jervis Bay, Norfolk Island, Cocos (Keeling) Islands and Christmas Islands to address victim-based crime, threats to community safety and serious and organised crime.
- Provide expertise, training, development and support to neighbouring law enforcement partners to enhance the security of the region and protect Australia's national interests.

In delivering against these priorities, I have high expectations that the AFP operates in a collaborative, accountable and responsive manner. In this regard, I expect the AFP to:

- Utilise all available strategies to combat criminal activity
 - o Mobilise the AFP's international footprint in the pursuit of maximum impact on this Government's areas of focus.

- Capitalise on all opportunities to remove profits from crime, targeting criminals' financial benefits and removing the incentives for criminality.
- Consider all avenues available to target criminals, including coercive ACIC powers and innovative disruption methodologies employed by partner agencies.
- Work collaboratively to achieve its goals
 - Strong engagement within the Home Affairs Portfolio, ensuring a connected approach with the Department and Portfolio Agencies.
 - Close collaboration with state and territory policing partners, providing support and access to Commonwealth resources, intelligence and capabilities.
 - Ongoing liaison with domestic and international partners to execute law enforcement and crime prevention strategies to protect Australia and its global region.
- Create an efficient, effective workforce
 - Continue the efforts to embed a regional command structure, ensuring the AFP is best placed to respond to criminal threats and strengthen its local partnerships.
 - Continue to grow a high-performing, innovative and values-driven policing agency that prioritises the development of its people, and their health and wellbeing in the pursuit of operational outcomes.
- Demonstrate best corporate practice
 - Ensure strong corporate governance and information management, and comply with relevant legislative requirements such as the PGPA Act.
 - Provide advice to Government concerning emerging risks and criminal threats.
 - Raise issues affecting the AFP's performance and capacity to achieve priorities in a timely and comprehensive manner.



Peter Dutton
Minister for Home Affairs

Date: 16/12/2020



THE HON MARK DREYFUS KC MP ATTORNEY-GENERAL

I issue this Ministerial Direction under subsection 37(2) of the *Australian Federal Police Act 1979* (the AFP Act). It supersedes and revokes the Directions issued on 16 December 2020 and 8 August 2019.

The Government is committed to ensuring the safety and security of Australians and Australia's national interests. The role of the Australian Federal Police (AFP) is to uphold and enforce Commonwealth criminal law, contribute to combating complex, transnational, serious and organised crime affecting Australia's national security and protect Commonwealth interests from criminal activity in Australia and overseas.

The rule of law underpins the way Australian society is governed. Everyone—including citizens and the Government—is bound by and entitled to the benefit of laws. In upholding the law, I expect the AFP to act in accordance with the rule of law and enforce the law in a rational and fair manner. Further, I expect the AFP will uphold the highest integrity standards when conducting operations and interacting with the public. This includes acting honestly and fairly in service of all members of the community.

1. Areas of focus

When performing its functions under section 8 of the AFP Act, I expect the AFP will focus its activities to maximise impact on the criminal environment. This is in addition to the AFP working with the communities of the ACT, Jervis Bay, and Australia's external territories to address victim-based crime, threats to community safety and serious and organised crime.

In addressing these priority areas of focus, I recognise that the AFP operates in a highly complex and rapidly evolving criminal environment and must remain agile and responsive to changing demands.

Protection of life

- Identify, prevent, disrupt and investigate violent extremism in all its forms.
- Identify, prevent, disrupt and investigate human exploitation, modern slavery and the exploitation of children, including working through the Australian Centre to Counter Child Exploitation, with a focus on protecting and supporting victims and removing them from harm.
- Support domestic and international partners to combat people smuggling ventures to Australia.

Protection of livelihoods

- Identify, prevent, deter, disrupt and investigate transnational and serious organised criminal activities affecting Australia, including illicit drug importation, firearms offences, money laundering, returning criminal assets and removing the profits of crime.
- Deter malicious actors from targeting the Australian cyber environment across government, industry and the community and protect Australians from cybercrime.
- Safeguard Commonwealth revenue by deterring, disrupting and investigating serious or complex fraud and corruption against the Commonwealth, including foreign bribery.

Protection of the Commonwealth

- Disrupt and investigate espionage and foreign interference affecting Australia's national interests.
- Ensure the security of people (including Australian High Office Holders and foreign dignitaries when in Australia), assets, critical infrastructure and systems of national significance.
- Prevent, disrupt and respond to security and criminal threats at designated Australian airports.
- Provide expertise, training and development to law enforcement partners in our region and beyond to build law and order capacity and enhance regional security.
- Respond to critical incidents in the international community as requested from time to time by foreign jurisdictions, including responding to the breakdown of law and order, criminal activities resulting in mass casualties and humanitarian crises such as natural disasters and pandemics.

2. Expectations

To fulfil its role as Australia's federal law enforcement agency and maintain high levels of trust, the AFP must act with the upmost integrity and continue to engage with government and the community through a range of legislated accountability mechanisms. Further, the operational independence of the AFP must be preserved so that the Commissioner continues to have general administration and control of the operations of the AFP.

Collaboration and partnerships with domestic and international policing counterparts, as well as industry, academia, civil society and the community is essential. The AFP must work closely with the Attorney-General's Department, the Australian Criminal Intelligence Commission, the Australian Transaction Reports and Analysis Centre and other Commonwealth law enforcement and intelligence agencies. As a federal police force, the AFP must develop close relationships and work collaboratively and cooperatively with state and territory law enforcement bodies. This will ensure a strategic and coordinated approach

to law enforcement policy and operations across Australia. Further, the AFP must develop close relationships with Australia's international partners, including those in the Pacific.

In performing its functions under section 8 of the AFP Act, I expect that the AFP will:

- Maintain a deep understanding of the threat environment to ensure the AFP is best placed to respond to criminal threats wherever they may occur;
- Conduct its activities with the utmost integrity and respect;
- Adhere to Australia's international obligations, including protecting human dignity and upholding the human rights of all persons;
- In protecting and serving the community, engage with members of the community with respect and in a culturally appropriate way, with special care taken when engaging with children;
- Provide advice and support whole-of-government decision-making, contributing operational perspectives on matters of national security to ensure an effective response to emerging threats to the Australian community;
- Use the AFP's significant international presence and relationships to address criminal threats offshore to prevent harm reaching Australian shores and maintaining security in the region;
- Continue to maintain a high-performing, innovative and values-driven policing agency that prioritises the development of its people and their health and wellbeing in the pursuit of operational outcomes;
- Ensure the safety of AFP members, capabilities and policing infrastructure;
- Ensure strong corporate governance and information management, comply with relevant legislative requirements and act with integrity at all times; and
- Proactively identify and address issues affecting the AFP's performance and capacity to achieve priorities in a timely and comprehensive manner.

3. Investigations involving a professional journalist or news media organisation

Regarding the investigation of unauthorised disclosure of material made or obtained by a current or former Commonwealth officer involving a professional journalist or news media organisation, I expect the AFP to take into account the importance of a free and open press in Australia's democratic society and to consider the broader public interest implications before considering investigative action involving a professional journalist or news media organisation.

I also expect the AFP to exhaust all alternative lines of inquiry and to seek voluntary assistance wherever operationally possible from a professional journalist or news media organisation, prior to exercising powers against a journalist or news media organisation.

Further, the AFP should follow the National Guideline on investigative action involving professional journalists or news media organisations and have regard to any whole-of-government guidance that may be issued concerning the levels of harm caused to Australia's national interest by disclosure of the various types of information held across government.



MARK DREYFUS KC MP

20 / 10 / 2023

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