

**MEMORANDUM OF UNDERSTANDING ON THE EXECUTION
OF SEARCH WARRANTS IN THE PREMISES OF MEMBERS
OF PARLIAMENT
BETWEEN
THE ATTORNEY-GENERAL
THE MINISTER FOR JUSTICE AND CUSTOMS
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND
THE PRESIDENT OF THE SENATE**

1 Preamble

This Memorandum of Understanding records the understanding of the Attorney-General, the Minister for Justice and Customs, the Speaker of the House of Representatives and the President of the Senate on the process to be followed where the Australian Federal Police ('the AFP') propose to execute a search warrant on premises occupied or used by a member of Federal Parliament ('a Member'), including the Parliament House office of a Member, the electorate office of a Member and the residence of a Member.

The process is designed to ensure that search warrants are executed without improperly interfering with the functioning of Parliament and so its Members and their staff are given a proper opportunity to raise claims for parliamentary privilege or public interest immunity in relation to documents or other things that may be on the search premises.

2 Execution of search warrants & parliamentary privilege

The agreed process is spelt out in the AFP's *National Guideline for the Execution of Search Warrants where Parliamentary Privilege may be involved* ('National Guideline'). This National Guideline establishes the procedures that AFP officers shall follow when executing search warrants on premises occupied or used by a 'Member'. The National Guideline is set out at Annexure A to this Memorandum of Understanding and covers the:

- Legal background to parliamentary privilege;
- Purpose of the guideline;
- Application of the guideline;
- Procedure prior to obtaining a search warrant;
- Procedure prior to executing a search warrant;
- Execution of the search warrant;
- Procedure to be followed if privilege or immunity is claimed; and
- Obligations at the conclusion of a search.

3 Promulgation of the Memorandum of Understanding

This Memorandum of Understanding will be promulgated within the AFP by publishing the Memorandum of Understanding on the AFP Hub, together with an electronic message addressed to all AFP employees or special members affected by the Memorandum of Understanding to bring it to their attention.

This Memorandum of Understanding will be tabled in the House of Representatives and the Senate by the Speaker of the House of Representatives and the President of the Senate respectively.

4 Variation of the National Guideline

Subsection 37(1) of the *Australian Federal Police Act 1979* (AFP Act) provides that the Commissioner of the AFP has the general administration and control of the operations of the AFP. Section 38 of the AFP Act provides that when exercising his powers under section 37, the Commissioner may issue orders about the general administration and control of the operations of the AFP in writing. The Commissioner has delegated this power in relation to the issuing of national guidelines to National Managers.

The AFP will consult with the Speaker of the House of Representatives and the President of the Senate when revising and reissuing the National Guideline.

The most current National Guideline applies to this Memorandum of Understanding. The version attached at Annexure A is current at the time this Memorandum of Understanding is signed.

5 Conflict Resolution

Any issues or difficulties which arise in relation to the interpretation or operation of this Memorandum of Understanding are to be discussed, at first instance, by the parties to the Memorandum of Understanding. If necessary, the Attorney-General or the Minister for Justice and Customs will raise those issues or difficulties with the Commissioner of the AFP.

6 Variation of this Memorandum of Understanding

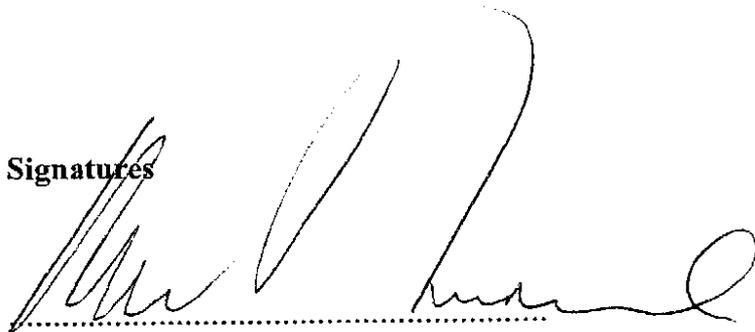
This Memorandum of Understanding can be amended at any time by the agreement of all the parties to the Memorandum of Understanding.

This Memorandum of Understanding will continue until any further Memorandum of Understanding on the execution of search warrants in the premises of Members of Parliament is concluded between the parties holding the positions of the Minister for Justice and Customs, the Attorney-General, the Speaker of the House of Representatives and the President of the Senate.

7 Revocation of agreement to this Memorandum of Understanding

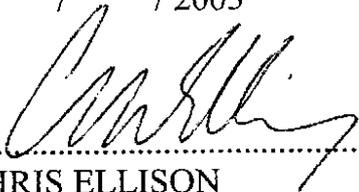
Any party to this Memorandum of Understanding may revoke their agreement to the Memorandum of Understanding. The other parties to this Memorandum of Understanding should be notified in writing of the decision to revoke.

Signatures



PHILIP RUDDOCK
Attorney-General

1 / 2005



CHRIS ELLISON
Minister for Justice and Customs

9 / 2 / 2005



DAVID HAWKER
Speaker of the House of Representatives

2 / 3 / 2005



PAUL CALVERT
President of the Senate

15 / 2 / 2005