



## AUSTRALIAN CUSTOMS SERVICE PRACTICE STATEMENT

**PRACTICE STATEMENT NO:** PS2008/13  
**PUBLISHED DATE:** 14 April 2008  
**AVAILABILITY:** Internal and external

**SUBJECT:** Customs investigations  
**PURPOSE:** To outline Customs policy regarding the investigation of breaches of Customs administered legislation  
**OWNER:** National Director Enforcement & Investigations  
**CATEGORY:** Operational Procedures (OP)

### SUMMARY OF MAIN POINTS

Customs Practice Statements are CEO endorsed national policy and must be followed by all Customs employees. This Practice Statement outlines:

- The range of border-related offences that Customs investigates;
- That both frontline detection areas and the Investigations Branch have specific roles in the investigative process;
- That Customs investigations and prosecutions must follow Government policy and standards; and
- Customs policy regarding the resolution of complaints regarding Customs investigations.

*The electronic version published on the intranet is the current Practice Statement.*

### STATEMENT

#### Introduction Statement:

Customs is Australia's primary border protection agency, with responsibility for managing the security and integrity of Australia's borders. In circumstances where Australia's border controls are breached, Customs is empowered to undertake an investigation into the contravention and prosecute alleged offenders.

The law enforcement challenges encountered by Customs investigators require specialist tools and legislative powers, such as the ability to execute warrants and arrest offenders, the use of personal defence equipment, and technical skills such as computer forensics.

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Customs investigates breaches of Australian border controls, associated proceeds of crime and offences against Customs officers, including:

- the illegal movement (and possession) of prohibited and restricted goods across the Australian border, such as: Border Controlled Precursors used to make narcotics; performance and image enhancing drugs; native and exotic wildlife; firearms, ammunition and other weapons; objectionable publications such as child pornography; and defence and strategic goods.
- Smuggling and the evasion of Customs duty including tobacco and cigarette smuggling;
- the proceeds (e.g. cash, property and vehicles) associated with breaches of border controls; and
- threat to, and assault of, officers undertaking duties under Customs legislation.

### **Context and Scope**

This Practice Statement relates to Customs investigations and the processes that support those activities. It includes:

- the application of related Government policy and guidelines;
- the internal roles associated with Customs investigations; and
- Customs policy regarding complaint resolution.

Detailed information regarding law enforcement processes is not included in this Practice Statement and will be contained in internal Instructions and Guidelines.

### **Policy Statement**

Customs officers involved in the investigation of breaches of legislation for which Customs has functional responsibility must undertake their duties in a professional, legal, ethical and efficient manner.

Customs investigations and subsequent prosecutions must comply with the Australian Government Investigation Standards, the Commonwealth Fraud Control Guidelines and the Prosecution Policy of the Commonwealth.

### **Procedural Statement**

#### Functional responsibilities

##### *Investigations Branch*

The Investigations Branch is responsible for conducting investigations into alleged breaches of legislation for which Customs has functional responsibility, and for bringing such investigations to an appropriate conclusion. These investigations are in response to detections at the border or can be proactive activity in relation to particular entities or goods.

Where cases have been referred to the Investigations Branch, we will provide the source of a referral with information regarding the result of their referral, indicating whether or not it has been accepted for investigation and any associated prosecution results.

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The Investigations Branch is also responsible for:

- all policy, instructions and guidelines relating to the identification, collection, preservation and presentation of evidence at any stage of the investigative process in relation to Customs investigations;
- provision of nationally accredited investigative training to officers within the Branch;
- quality assurance of regional investigations;
- reporting against the investigative function; and
- administration of the case management system.

#### *Front line detection areas*

All Divisions and Branches with front line detection capabilities, such as the Passengers, Compliance and Cargo Divisions and Enforcement Branch, are responsible for detecting and referring suspected breaches of legislation for which Customs has functional responsibility to the Investigations Branch.

Should the Investigations Branch not accept a referral as a case, it is the responsibility of the detection area to undertake seizure, compliance improvement or administrative penalty action as appropriate. While some Divisions have the capacity to undertake simple prosecution action, this should not encompass operational activity past the border. Relevant Customs-administered legislation, Practice Statements, Instructions and Guidelines and legal advice should guide these actions.

#### *Intelligence and Border Targeting Division*

The Intelligence and Border Targeting Division is responsible for:

- Collecting, analysing and disseminating information to the Investigations Branch that provides insight into Customs' investigative environment;
- Identifying key issues and trends that may assist the Investigations Branch's operational activities;
- Referring suspected breaches of legislation for which Customs has functional responsibility and information on entities of interest to the Investigations Branch; and
- Providing intelligence and targeting support to live investigations.

Should the Investigations Branch not accept a referral as a case, this decision will be relayed to the Intelligence and Targeting Division and further negotiations between the Branches will take place regarding the most appropriate progression of the referral.

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### *Complaint resolution*

Any complaint regarding Customs' investigations will be taken seriously and handled in a timely, appropriate and comprehensive manner. Options for contacting Customs regarding complaints or compliments include:

- Telephoning the Complaints and Compliments Unit on freecall 1800 228 227,
- Emailing us at [comments@customs.gov.au](mailto:comments@customs.gov.au),
- Writing to us at 'Complaints and Compliments, Australian Customs Service, Reply Paid 9834, in your capital city',
- Speaking to a Customs officer, or
- Filling out and electronic feedback form at [www.customs.gov.au](http://www.customs.gov.au)

### **RELATED INSTRUCTIONS AND GUIDELINES**

- Instructions and Guidelines on Notebooks

### **RELATED POLICIES AND REFERENCES**

- Australian Government Investigations Standards
- Commonwealth Fraud Control Guidelines
- Prosecution Policy of the Commonwealth
- Chief Executive Officer Direction on Warrants

### **KEY ROLES AND RESPONSIBILITIES**

The National Director Enforcement and Investigations is responsible for this Practice Statement.

### **CONSULTATION**

#### **INDUSTRY ENGAGEMENT**

The following external stakeholders have been consulted in the development of this Practice Statement:

Australian Federal Police	Australian Crime Commission	Department of Defence
Department of the Environment, Water, Heritage and the Arts	NSW Police Force	Victoria Police
Queensland Police Service	South Australia Police	Western Australian Police
NT Police, Fire and Emergency Services	Tasmania Police	

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**INTERNAL CONSULTATION**

The following internal stakeholders have been consulted in the development of this Practice Statement:

Cargo Division	Intelligence and Targeting Division	Passengers Division
Compliance Division	Internal Affairs Unit	People and Place Division
Customs Legal Unit	International Branch	Trade Division
Enforcement and Investigations Division	Law Enforcement Strategy Branch	

**APPROVAL**

Approved on 3/3/2008 by:

**Roxanne Kelley**  
**National Director**  
**Enforcement and Investigations**

**ENDORSED**

Endorsed on 8/4/2008 by:

**Marion Grant**  
**Deputy Chief Executive Officer (Border Enforcement)**

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