

SERIOUS CRIMES

PROTOCOL BETWEEN THE COMMISSIONER OF POLICE AND THE ATTORNEY GENERAL REGARDING CRIMINAL PROSECUTIONS THAT INVOLVE SERIOUS CRIMES

1. Introduction

- 1.1 This Protocol concerns the co-operation, assistance and obligations between the Commissioner of Police of the Royal Anguilla Police Force (“RAPF”) and the Attorney General of Anguilla (“A.G.”) and Chambers in respect of the investigation of offences involving serious crimes and other general matters pertaining to such criminal proceedings. The roles of the RAPF and the Attorney General are set out in section 3(2) of the Anguilla Police Act and section 34 of the Constitution respectively.
- 1.2 This Protocol is intended to serve as a general guide to the co-operation between the parties and to allow the necessary flexibility in the activities undertaken by the parties to the agreement.
- 1.3 This Protocol sets out the shared aims of the parties in implementing the provisions of the Criminal Code and other relevant laws in Anguilla.
- 1.4 This Protocol also seeks to make clear the expectations and intentions of the parties to it.
- 1.5 Nothing in this protocol affects the constitutional position of the Attorney General. Moreover nothing in this agreement shall be construed as taking precedence over the individual aims and objectives of either the Royal Anguilla Police Force or the Attorney General’s Chambers.
- 1.6 In this agreement; “serious crimes” means, murder, manslaughter or any other offence triable only on indictment; “case handling” means process of handling the file (i.e. once an individual is charged and a file is prepared for the individual’s prosecution) and not the investigation.

2. Parties to the Protocol

- 2.1 This protocol is between the Commissioner of Police on behalf of the Royal Anguilla Police Force (‘RAPF’) and the Attorney General in the role of Director of Public Prosecutions and Crown Counsel within Chambers as Prosecutors.

3. Case Conference, written briefs and requests for early advice in serious crimes

- 3.1 The Attorney General or any Crown Counsel within the criminal team in chambers are to be available during the early stage of an investigation of an offence involving a serious crime. Unless impracticable, a case conference is to be conducted within 24 hours of a serious offence attended by the lead investigator or other representative investigators and the Attorney General or members of the criminal team.
- 3.2 The lead investigator shall provide a written brief, report or summary of evidence to the Attorney General's Chambers within 24 hours of the commission of an offence involving a serious crime. If it is not practicable for the written brief to be provided within 24 hours, the lead investigator may provide an oral briefing which will be followed by a written brief no later than 72 hours after the commencement of the investigation.

4. Submission of File to AG's Chambers

- 4.1 The police are to use their best endeavours to ensure a file shall be submitted to the Attorney General's Chambers not less than 4 weeks before the date for the preliminary inquiry unless the RAPF and Crown Counsel agree to a shorter timescale
- 4.2 The RAPF file submitted to the Attorney General's Chambers shall include the following:
- (a) All charges;
 - (b) All available witness statements;
 - (c) A list of all exhibits in the matter, together with photocopies or photographs of the exhibits;
 - (d) A list of outstanding matters to be completed by the investigator upon submission of the file to the Attorney General's Chambers (eg. Additional witness statements, exhibits etc.);
 - (e) Expert reports;

- (f) An indication as to whether any of the witnesses may require protective measures when giving evidence;
 - (g) A record of interview and caution statement;
 - (h) A copy of all file-endorsements made by police prosecutors in relation to all court hearings;
 - (i) Where the accused has been granted bail, a copy of the bail form;
 - (j) Where the accused has not been granted bail, the reasons why bail has been withheld; and
 - (k) Any relevant unused material.
- 4.3 Prior to the submission of a file to the Attorney General's Chambers, the RAPF shall provide a written summary / report of the evidence relied upon and identify, amongst other matters, whether it is believed that there exists sufficient evidence to prosecute and to ensure that there is a good chain of custody in relation to all exhibits to be used in evidence at Court.
- 4.4 Where the accused's first language is not English the complaint, charge sheets, statements, exhibits and all other documents **MUST** be translated in the accused's first language.
- 4.5 Exhibits
- (a) Exhibits shall be retained by the RAPF and, where relevant, photocopies provided to the Attorney General's Chambers.
 - (b) Exhibits should be properly identified and labeled in compliance with section 28 of the Magistrate's Code of Procedure.
- 4.6 All files shall be submitted to the Attorney General's Chambers and signed as delivered by a member of the RAPF.
- 4.7 The Attorney General's Chambers shall review the file in a timely manner and give advice to the RAPF as to any lines of inquiry or evidential requirements. The Attorney General's Chambers shall also agree a timescale as to what further evidence the RAPF may be able to provide and within what timescale.

4.8 The Attorney General's Chambers shall review the sufficiency of evidence and public interest in prosecuting in accordance with the Code for Prosecutors before the commencement of a Preliminary Inquiry.

4.9 The RAPF shall, as far as possible, provide written information when seeking advice and Chambers shall provide written advice.

5. Urgent requests

5.1 In the event that the RAPF needs urgent advice, Chambers shall provide advice expeditiously and within an agreed timescale.

5.2 In the event of an urgent request where it is not possible to provide written information or written advice, any oral information or advice shall be followed up with a written record of the information received and advice given.

6. AG's Chambers and police expertise

6.1 The Commissioner of Police and the Attorney General shall ensure that staff who handle serious crime investigations and prosecutions are appropriately experienced and qualified to deal with these cases

6.2 The Commissioner of Police and the Attorney General will be jointly responsible for providing continuous training to both sets of staff to deal with serious crime work.

7. Use of External Counsel

7.1 Wherever it is deemed necessary by the Attorney General, because a case is of exceptional difficulty and/or sensitivity, after careful evaluation, the Attorney General may consult with the Commissioner of Police regarding the issue of a fiat to instruct external Counsel (ie. not within chambers) to advise and / or prosecute.

7.2 The final decision on using external Counsel and the selection of Counsel rests with the Attorney General.

8. Case handling

- 8.1 In the first instance, where a difference of opinion arises between Crown Counsel and an investigating officer of the RAPF concerning case handling (eg. police procedures, the selection of offences to be charged, the nature of the evidence to be tendered etc), the matter should be discussed between them.
- 8.2 Where the difference of opinion persists, Crown Counsel and the Investigating officer will each discuss the matter with his or her immediate superior.
- 8.3 If the difference of opinion remains unresolved the matter will be considered by the Commissioner of Police and the Attorney General.
- 8.4 The final decision about case handling rests with the Attorney General.

9. Appeal

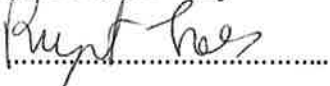
- 9.1 Where there is a conviction and the Defendant has appealed, the Attorney General will submit a copy of the appeal to the Commissioner of Police for the views of the police.

10. Variation to this Protocol

- 10.1 This protocol may be subject to change with the agreement of the parties.
- 10.2 This protocol will be reviewed after 6 months from the date beneath.

Signatories

Dated this 29 day of July 2015


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Rupert Jones


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Amanda Stewart

Attorney General

Commissioner of Police