



15 August 2023

Naveen Nathan

BY EMAIL: foi+request-10306-af06f81e@righttoknow.org.au

In reply please quote:

FOI Request: FA 23/05/00821

File Number: FA 2305/00821

Dear Naveen Nathan

Freedom of Information (FOI) request – Access Decision

On 14 May 2023, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

1 Scope of request

You have requested access to the following documents:

Under Freedom of Information I request any information, records, paper documents, electronic records (or their contents) held or accessible by the Department of Home Affairs ('DHA') in relation to the activities of officers (including Electronic Examination officers) or Immigration and Border Protection workers (all collectively referred to as 'officers' for the purpose of this request) under the Customs Act 1901 (Cth) or Migration Act 1958 (Cth) or Australian Border Force Act 2015 (Cth) in the examination, copy of contents, extraction of data from, and retention of, mobile phones or other digital devices at the airport, specifically:

- 1. Any documents including policies, procedures, checklists, protocols or pro forma templates in databases (including the Customs document management system and the pro forma template forms for Information Reports and BAGS reports) guiding the activities of officers in the detention and search of Australian citizens who refuse to cooperate by disallowing examination or forensics of electronic devices such as laptop or mobile phones..*

2 Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate records.

3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the documents relevant to the request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)

4 Documents in scope of request

The Department has identified three documents as falling within the scope of your request. These documents were in the possession of the Department on 14 May 2023 when your request was received.

Attachment A is a schedule which describes the relevant documents and sets out my decision in relation to each of them.

5 Decision

The decision in relation to the documents in the possession of the Department which fall within the scope of your request is as follows:

- Release three documents in part with deletions

6 Reasons for Decision

Detailed reasons for my decision are set out below.

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

6.1 Section 22 of the FOI Act – irrelevant to request

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

On 17 May 2023, the Department advised you that its policy is to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile and work telephone numbers of SES staff, contained in documents that fall within scope of an FOI request.

I have decided that parts of documents marked 's22(1)(a)(ii)' would disclose information that could reasonably be regarded as irrelevant to your request. I have prepared an edited copy of the documents, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

I note that the scope of your request relates to documents guiding the activities of officers in the detention and search of Australian citizens only. Therefore, the documents not relating to the Australian Citizens have been marked as irrelevant to the scope. The remainder of the documents have been released to you as they are relevant to your request.

7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Series/C2004A02562>. If you are unable to access the legislation through this website, please contact our office for a copy.

8 Your Review Rights

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

9 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

10 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at foi@homeaffairs.gov.au.



David COYLES

Position number: 60043941

Authorised Decision Maker

Department of Home Affairs

ATTACHMENT A

SCHEDULE OF DOCUMENTS
REQUEST UNDER FREEDOM OF INFORMATION ACT 1982

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No	No. of pages	Description	Decision on release	
1.	27	Baggage Examination at the border	Irrelevant material deleted	s22
3	18	Use of Digital Device Examination to examine electronic devices	Irrelevant material deleted	s22
4	15	Digital Device Examination	Irrelevant material deleted	s22