

Our ref: CRM2016/168

27 October 2015

Mr Sohair Adas
Right to Know

By Email: foi+request-1264-4513c7a3@righttoknow.org.au

Dear Mr Adas,

FREEDOM OF INFORMATION REQUEST RE: Khaled Sharrouf's case

I refer to your request dated 30 September 2015 for documents held by the Australian Federal Police (AFP) pursuant to the *Freedom of Information Act 1982* (the Act). Under the Act you requested:

*"A sound audio of the accused Khaled Sharrouf proclaiming his hatred towards the Australian Law;
Any documentations or reports of his chronic Schizophrenia diagnoses from the previous usage of LSD and ecstasy;
Photographs of the 6 clocks and 140 batteries stolen from the Big W store
Any other documentations relevant to this case."*

The Commissioner of the Australian Federal Police, being the principal officer, has authorised me, Nathan Scudder, Coordinator of Freedom of Information under section 23 of the Act to make decisions on behalf of the AFP in respect of the Act.

I reference my previous notification of my intention to refuse access dated 12 October 2015 sent to you. In this notification you were advised of the extensive resources that may be required to locate, retrieve and process the relevant documents to meet your request.

The AFP has not received a response from you to either redefine the scope or to engage in the consultative process to remove the grounds for refusal.

Accordingly the AFP maintains that to process this request in its current form would substantially and unreasonably divert the resources of the AFP from its other operations including core policing and investigational functions.

I have decided to refuse you access to the requested documents pursuant to the provisions of section 24AA of the Act.

The following attachments form part of my decision regarding the refusal of access.

Annex A. Sections 24AA and 24AB of the Act

Annex B. Review and Complaints Rights

Yours sincerely,



Nathan Scudder
Coordinator
Freedom of Information
Australian Federal Police

FREEDOM OF INFORMATION ACT 1982 EXTRACT

24AA When does a *practical refusal reason* exist?

- (1) For the purposes of section 24, a ***practical refusal reason*** exists in relation to a request for a document if either (or both) of the following applies:
 - (a) the work involved in processing the request:
 - (i) in the case of an agency—would substantially and unreasonably divert the resources of the agency from its other operations; or
 - (ii) in the case of a Minister—would substantially and unreasonably interfere with the performance of the Minister's functions;
 - (b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).
- (2) Subject to subsection (3), but without limiting the matters to which the agency or Minister may have regard, in deciding whether a practical refusal reason exists, the agency or Minister must have regard to the resources that would have to be used for the following:
 - (a) identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister;
 - (b) deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for:
 - (i) examining the document; or
 - (ii) consulting with any person or body in relation to the request;
 - (c) making a copy, or an edited copy, of the document;
 - (d) notifying any interim or final decision on the request.
- (3) In deciding whether a practical refusal reason exists, an agency or Minister must not have regard to:
 - (a) any reasons that the applicant gives for requesting access; or
 - (b) the agency's or Minister's belief as to what the applicant's reasons are for requesting access; or
 - (c) any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.

24AB What is a *request consultation process*?

Scope

- (1) This section sets out what is a ***request consultation process*** for the purposes of section 24.

Requirement to notify

- (2) The agency or Minister must give the applicant a written notice stating the following:
 - (a) an intention to refuse access to a document in accordance with a request;
 - (b) the practical refusal reason;
 - (c) the name of an officer of the agency or member of staff of the Minister (the ***contact person***) with whom the applicant may consult during a period;

- (d) details of how the applicant may contact the contact person;
- (e) that the period (the **consultation period**) during which the applicant may consult with the contact person is 14 days after the day the applicant is given the notice.

Assistance to revise request

- (3) If the applicant contacts the contact person during the consultation period in accordance with the notice, the agency or Minister must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists.
- (4) For the purposes of subsection (3), **reasonable steps** includes the following:
 - (a) giving the applicant a reasonable opportunity to consult with the contact person;
 - (b) providing the applicant with any information that would assist the applicant to revise the request.

Extension of consultation period

- (5) The contact person may, with the applicant's agreement, extend the consultation period by written notice to the applicant.

Outcome of request consultation process

- (6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:
 - (a) withdraw the request;
 - (b) make a revised request;
 - (c) indicate that the applicant does not wish to revise the request.
- (7) The request is taken to have been withdrawn under subsection (6) at the end of the consultation period if:
 - (a) the applicant does not consult the contact person during the consultation period in accordance with the notice; or
 - (b) the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

Consultation period to be disregarded in calculating processing period

- (8) The period starting on the day an applicant is given a notice under subsection (2) and ending on the day the applicant does one of the things mentioned in paragraph (6)(b) or (c) is to be disregarded in working out the 30 day period mentioned in paragraph 15(5)(b).

Note: Paragraph 15(5)(b) requires that an agency or Minister take all reasonable steps to notify an applicant of a decision on the applicant's request within 30 days after the request is made.

No more than one request consultation process required

- (9) To avoid doubt, this section only obliges the agency or Minister to undertake a request consultation process once for any particular request.