



Australian Government
Attorney-General's Department

13/9716

22 July 2013

Mr Matthew Watt
Righttoknow

Sent via E-mail only: foi+request-242-c85e4030@righttoknow.org.au

Dear Mr Watt

Freedom of Information Request no. 13/079

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act).

I, Natalie Pearse, A/Assistant Secretary, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

On 22 June 2013 you requested access to documents relating to joint statements on intelligence sharing. Specifically, you sought access to:

1. *An unredacted copy of the signed joint statements between the Australian and United States Governments regarding intelligence sharing, signed by former Attorney-General Nicola Roxon and United States Secretary of Homeland Security Janet Napolitano.*

Applicable statements:

- *Joint Statement on Countering Transnational Crime, Terrorism and Violent Extremism. Canberra, 4th May 2012*
 - *Joint Statement on Collaborative Targeting. Canberra, 4th May 2012*
 - *Joint Statement on Supply Chain Security. Canberra, 4th May 2012*
 - *Joint Statement on Frequent Traveller Facilitation. Canberra, 4th May 2012*
 - *Joint Statement on Cyber Security. Washington, 18th May 2012*
2. *And any other joint statements between the Australian Attorney-General's Department and the United States Department of Homeland security relating to information sharing between October 2010 and June 2013.*

I have identified 5 documents which fall within the scope of your request. I did this by arranging for an electronic search of documents, as well as making enquiries of those who may have been able to help locate relevant documents. Some of the documents that you have requested are publicly available.

Regarding part 1 of your request, the following documents are publicly available at the website of the Embassy of the United States, Canberra:

- *U.S.-Australia Joint Statement on Countering Transnational Crime, Terrorism and Violent Extremism* of 4 May 2012, publicly available at: <http://canberra.usembassy.gov/events2010/u.s.-australia-joint-statement-on-countering-transnational-crime-terrorism-and-violent-extremism>
- *U.S.-Australia Joint Statement Regarding the Development of a Framework for Cooperative International Targeting and Assessment* of 4 May 2012, publicly available at: <http://canberra.usembassy.gov/events2010/u.s.-australia-joint-statement-regarding-the-development-of-a-framework-for-cooperative-international-targeting-and-assessment>
- *U.S.-Australia Joint Statement On Global Supply Chain Security* of 4 May 2012, publicly available at: <http://canberra.usembassy.gov/events2010/gscs.html> and
- *U.S.-Australia Frequent Traveler Facilitation Statement of Intent* of 4 May 2012, publicly available at: <http://canberra.usembassy.gov/events2010/u.s.-australia-frequent-traveller-facilitation-statement-of-intent>.

Regarding your request for the, 'Joint Statement on Cyber Security', please find attached a signed copy of the *Statement of Intent Regarding Cooperation on Cyber security and Cyber Incident Response* of 15 May 2012, as that document is not publicly available.

Regarding part 2 of your request for, 'any other joint statements', I have identified that the Attorney-General's Department has no documents that fall within the scope of your request. I did this by arranging for an electronic search of documents, as well as making enquiries of those who may have been able to help locate relevant documents.

I have accordingly decided to refuse part 2 of your request for access to the documents. More information, including the reasons for my decision, is set out below.

I have identified publicly available information regarding the *Australia-United States Emergency Management Cooperation Memorandum of Understanding (MOU)* of 28 April 2010, which may be of interest:

- <http://robertmcclelland.com.au/2010/04/29/emergency-management-agreement-with-the-united-states-of-america/> and
- <http://www.dhs.gov/news/2010/04/28/us-and-australia-sign-landmark-emergency-management-coordination-agreement>.

DECISION AND REASONS FOR DECISION

With regard to your request for documents, I have decided:

- to grant access in full to part 1, as the documents are publicly available and
- to refuse access to part 2, as the documents do not exist (section 24A(1)(b)(ii)) – information about the searches we carried out to locate them is provided above).

Material taken into account

I have taken the following material into account in making my decision:

- the FOI Act (specifically section 24A(1)(b)(ii))
- the advice of the relevant line areas of this Department and

- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

My reasons for refusing access are given below.

Findings on material questions of fact

My findings on material questions of fact are that the documents you requested under part 2 of your request do not exist.

Documents non-existent (s 24A(1)(b)(ii))

Under section 24A(1)(b)(ii) of the FOI Act, an agency may refuse a request for access to documents if:

- (a) *all reasonable steps have been taken to find the document; and*
- (b) *the agency or Minister is satisfied that the document:*

...

- (ii) *does not exist.*

Following all reasonable steps to find the documents, I am satisfied that the documents that you have requested under part 2 of your request do not exist, so I have decided to refuse access to part 2 of your request for documents under Section 24A(1)(b)(ii) of the FOI Act.

Your review rights

If you are dissatisfied with the searches we did to locate documents related to your request, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the Attorney-General's Department for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter, and be lodged in one of the following ways:

online: foi@ag.gov.au
 post: Freedom of Information and Privacy Section,
 Attorney-General's Department,
 3-5 National Circuit
 BARTON ACT 2600

Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review/>
 e-mail: enquiries@oaic.gov.au

post: GPO Box 2999, Canberra ACT 2601
in person: Level 3, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

Questions about this decision

If you wish to discuss this decision, please contact the action officer, Logan Tudor, on (02) 6141 3715 or e-mail foi@ag.gov.au.

I enclose the documents you requested, along with website links to publicly available documents and information.

Yours sincerely



Natalie Pearce
A/Assistant Secretary

Attachments

- A. Schedule of documents



Australian Government
Attorney-General's Department

Attachment A – Schedule of documents for FOI matter no. 13/079

Document No.	Date	Document title / description	Decision on access	Exemption Claimed
FOI request – Part 1				
1	4 May 2012	<i>U.S.-Australia Joint Statement on Countering Transnational Crime, Terrorism and Violent Extremism</i>	Released in full	N/A – publicly available
2	4 May 2012	<i>U.S.-Australia Joint Statement Regarding the Development of a Framework for Cooperative International Targeting and Assessment</i>	Released in full	N/A – publicly available
3	4 May 2012	<i>U.S.-Australia Joint Statement On Global Supply Chain Security</i>	Released in full	N/A – publicly available
4	4 May 2012	<i>U.S.-Australia Frequent Traveler Facilitation Statement of Intent</i>	Released in full	N/A – publicly available
5	15 May 2012	<i>Statement of Intent Regarding Cooperation on Cyber security and Cyber Incident Response</i>	Released in full	None
FOI request – Part 2				
N/A	N/A	N/A	No documents	Section 24A(1)(b)(ii) – documents non-existent