



31 October 2017

Our ref: CRM2018/127

Mr Asher Hirsch

By Email: [foi+request-4047-a6a5bd2c@righttoknow.org.au](mailto:foi+request-4047-a6a5bd2c@righttoknow.org.au)

Dear Mr Hirsch,

### **Freedom of Information Request – Section 24AB(2) Notice**

I refer to your email of 20 August 2017 seeking information under the Freedom of Information Act 1982 (the Act).

I refer also to our email of 18 September 2017 seeking further clarification about your request and your response of 2 October 2017.

### **Notification**

1. Notice is hereby given under section 24AB(2) of the Act of an intention to refuse to grant access to the documents sought, pursuant to section 24AA of that Act. For the reasons outlined in paragraphs 6 through 8 below, the Australian Federal Police (“the AFP”) is satisfied that the work involved in processing that request would substantially and unreasonably divert the resources of the AFP from its other operations.
2. I am the agency officer with whom you may consult with a view to making the request in such a form that would remove the ground for refusal. I may be contacted on (02) 6131 6131.
3. The following information is provided to assist you in making a request in such a form that the grounds for the section 24AA refusal is removed.
4. Preliminary enquiries concerning your request for information have been made which indicate that there is a large volume of documents which fall within the scope of your request.
5. The AFP maintains that to process the request in its current form would substantially and unreasonably divert the resources of the AFP from its other operations. Following is a forecast of the probable resource demands posed by your FOI Act request.

6. In your initial request you have sought "...a list of gifts or donations...". I can advise that pursuant to the FOI Act, your request in this form requires the creation of a document not already in existence. To create a document with this information would require extensive search and retrieval of relevant documents and marshalling it into the suggested format you have requested. This process would be a substantial burden on the AFP line area to locate relevant documents and the FOI Team to produce a document of the type requested which will impact severely on other requests for information to the detriment of a number of other applicants.

7. Further, the line area has confirmed that no single list containing the requested information already exists. Compiling a list as currently requested would involve examining 3929 individual records on the local drive. This does not include data in other locations across the AFP, including the AFP's office in Bali and potentially the Jakarta Centre for Law Enforcement Cooperation. It is estimated that it would take approximately 200 hours (5 weeks) of AFP International Operations staff time for the search and retrieval of information. This time is in addition to the FOI staff time to assess and compile the information, decision-making time and notification of a decision to you. This is a burden in terms of resources and is made relevant to a section 24AA(1) decision by virtue of sections 24AA(2)(a), (b), (c) and (d).

8. The AFP maintains that the type of information requested is not readily available in a discrete form nor can it be produced by interrogating the AFP's primary database PROMIS, to produce a discrete document. Your email of 2 October 2017 sought to narrow the scope of your request to "only to equipment, vehicles and vessels provided to the Indonesian National Police for the purpose of combating people smuggling." Unfortunately, this attempt to narrow the request has not provided any further parameters to sufficiently reduce the amount of work entailed to produce the information sought. Furthermore, although you have offered to divide your request into smaller requests by year, you have not reduced the overall time frame of information sought, which still covers a 15 year period. Therefore, to process your request in its current form would substantially and unreasonably divert the resources of the AFP from its other operations, and is not in accordance with the objects of the Act.

9. You could consider narrowing your request within a reasonable form which would remove the ground for the section 24AB refusal. As a suggestion, you may wish to consider significantly reducing the time frame of your request or specifying a particular gift or donation you are seeking information on.

10. As noted above, I would of course be available to discuss the matter. Should you not avail yourself of this opportunity to consult within 14 days of the date of this letter, notice will be given of a decision to refuse access on the basis stated above.

11. An extract of sections 24AA and AB of the Act is attached for your information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Brunetti', with a stylized flourish at the end.

Sophie Brunetti  
Senior Team Member  
Freedom of Information  
Australian Federal Police

#### **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.