



# AFP

AUSTRALIAN FEDERAL POLICE

Our ref: CRM 2018/557

22 June 2018

Mr Asher Hirsch

Via email: [foi+request-4477-33659bdc@righttoknow.org.au](mailto:foi+request-4477-33659bdc@righttoknow.org.au)

Dear Mr Hirsch,

## Freedom of Information request

I refer to your application dated 10 April 2018, under the *Freedom of Information Act 1982* (the Act) seeking the following:


*"Under Freedom of Information I request a copy of the document titled 'Chronology of MOU and other major commitments between AFP - POLRI'. This document was referred to in documents provided under FOI request CRM 2018/236."*

Attached at Annexure A to this letter is my decision and statement of reasons for that decision. A "Schedule of Documents" identified as falling into the scope of your request is at Annexure B.

## Information Publication Scheme (IPS)

As notified to you on 11 April 2018 it has been decided to publish the documents (in part) in respect of your request as they contain personal information. Publication of the documents and any relevant documents will be made on the AFP website at <http://www.afp.gov.au/about-the-afp/information-publication-scheme/routinely-requested-information.aspx> in accordance with timeframes stipulated in section 11C of the Act.

Yours sincerely,

  
Helen Drew  
Coordinator  
Freedom of Information Team  
Chief Counsel Portfolio

POLICING FOR A SAFER AUSTRALIA

**STATEMENT OF REASONS RELATING TO AN FOI REQUEST BY  
Asher HIRSCH**

I, Helen Drew, Coordinator, Freedom of Information Team, am an officer authorised under section 23 of the Act to make decisions in relation to the Australian Federal Police.

What follows is my decision and reasons for the decision in relation to your application.

**BACKGROUND**

On 10 April 2018, this office received your application in which you requested:

*"Under Freedom of Information I request a copy of the document titled 'Chronology of MOU and other major commitments between AFP - POLRI'. This document was referred to in documents provided under FOI request CRM 2018/236."*

**SEARCHES**

In relation to this request, a search of all records held by the relevant line areas within the AFP including the International Operations portfolio has been undertaken.

**WAIVER OF CHARGES**

Given that the request has exceeded all statutory timeframes as outlined at Section 15 of the Act, the AFP is not able to impose any fees or charges as outlined at Regulation 5(2)&(3) of the *Freedom of Information (Charges) Regulations 1982*.

**DECISION**

I have identified two documents relevant to your request. A schedule of each document and details of my decision in relation to each document is at Annexure B.

I have decided that both of the documents that relate to your request are released with deletions pursuant to subsection 33(a)(iii) of the Act.

**REASONS FOR DECISION**

***Folios to which subsection 33(a)(iii) applies:***

Subsection 33(a)(iii) of the Act provides that:

*"A document is an exempt document if disclosure of the document under this Act:*  
     (a)      *would, or could reasonably be expected to, cause damage to:*  
     ...  
     (iii)     *the international relations of the Commonwealth..."*

The parts of documents identified in the Schedule as exempt under this section of the Act relates to information provided by an agency of a foreign government. The information was provided to the AFP by a foreign government for investigative purposes on the understanding that it would only be used for that purpose and not be disseminated further. I am satisfied that to grant access to the documents would, or could reasonably be expected to cause

damage to the international relations of the Commonwealth as this information was communicated with the expectation that it would remain confidential and therefore, to disclose this material would damage the Commonwealth's relations with a foreign country. If these documents were to be released, it would be likely to inhibit the exchange of information to the AFP.

I find that release of the parts of the documents would be an unreasonable disclosure under subsection 33(a)(iii) of the Act.

#### **EVIDENCE/MATERIAL ON WHICH MY FINDINGS WERE BASED**

In reaching my decision, I have relied on the following documentary evidence:

- ❖ the scope of your application;
- ❖ the contents of the documents listed in the attached schedule;
- ❖ advice from AFP officers with responsibility for matters relating to the documents to which you sought access;
- ❖ *Freedom of Information Act 1982*; and
- ❖ Guidelines issued by the Office of the Australian Information Commissioner.

**\*\* YOU SHOULD READ THIS GENERAL ADVICE IN CONJUNCTION WITH THE LEGISLATIVE REQUIREMENTS OF THE FREEDOM OF INFORMATION ACT 1982.**

#### **REVIEW AND COMPLAINT RIGHTS**

If you are dissatisfied with a Freedom of Information decision made by the Australian Federal Police, you can apply for an internal or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking an IC review.

You do not need to seek a review by either the AFP or the IC should you wish to complain about the AFP's actions in processing your request.

#### ***REVIEW RIGHTS under Part VI of the Act***

##### ***Internal Review by the AFP***

Section 53A of the Act gives you the right to apply for an internal review in writing to the Australian Federal Police (AFP) within 30 days of being notified of a decision. No particular form is required. It would assist the independent AFP decision-maker responsible for the internal review if you set out in the application, the grounds on which you consider that the decision should be reviewed.

Section 54B of the Act provides that the internal review submission must be made within 30 days. Applications for a review of the decision should be addressed to:

Freedom of Information  
Australian Federal Police  
GPO Box 401

**REVIEW RIGHTS under Part VII of the Act**

***Review by the Information Commissioner (IC)***

Alternatively, Section 54L of the Act gives you the right to apply directly to the IC or following an internal review by the AFP. In making your application you will need to provide an address for notices to be sent (this can be an email address) and a copy of the AFP decision. It would also help if you set out the reasons for review in your application.

Section 54S of the Act provides for the timeframes for an IC review submission. For an *access refusal decision* covered by subsection 54L(2), the application must be made within 60 days. For an *access grant decision* covered by subsection 54M(2), the application must be made within 30 days.

Applications for a review of the decision should be addressed to:

Office of the Australian Information Commissioner  
GPO Box 5128  
Sydney NSW 2001

Further, the OAIC encourages parties to an IC review to resolve their dispute informally, and encourages agencies to consider possible compromises or alternative solutions to the dispute in this matter. The AFP would be pleased to assist you in this regard.

Information about the IC review process can be found in Part 10 of the Guidelines which are available on our website at <http://www.oaic.gov.au/publications/guidelines.html>.

***RIGHT TO COMPLAIN under Part VIIB of the Act***

Section 70 of the Act provides that a person may complain to the IC about action taken by the Australian Federal Police in relation to your application.

A complaint to the IC may be made in writing and identify the agency against which the complaint is made.

The IC may be contacted on 1300 363 992. There is no particular form required to make a complaint, but the complaint should set out the grounds on which you consider the action should be investigated.

## SCHEDULE OF DECISION

Scheduler - 2018-557

Document No	Folio #	Description
1	<b>1</b>	s 33(a)(iii): Deletions are made on the grounds that disclosure would, or could reasonably be expected to cause damage to the international relations of the Commonwealth.
2	<b>3</b>	s 33(a)(iii)
The following folios are released in full: 2 and 4		

## CHRONOLOGICAL OF MOU AND OTHER MAJOR COMMITMENTS BETWEEN AFP – POLRI

In December 1992, the AFP Liaison Office at the Australian Embassy Jakarta was re-opened.

On 27 October 1995 the Treaty between Australia and the Republic of Indonesia on Mutual Assistance in Criminal Matters was concluded in Jakarta. The Treaty was given domestic effect by the Mutual Assistance in Criminal Matter (Republic of Indonesia) Regulations – Statutory Rules No.50 of 1999, which entered into force on 17 July 1999.

On 5 August 1997, a Memorandum of Understanding (MoU) between the Australian Federal Police (AFP) and the Indonesian National Police (Polri) was signed in Jakarta. This was undertaken by the parties having regard to the Treaty between Australia and the Rep of Indonesia on Mutual Assistance in Criminal Matters signed in Jakarta on 27<sup>th</sup> of October 1995, desiring further cooperative efforts in law enforcement, and subject to domestic and international agreements and the laws of each country, the parties have reached nine (9) points of understandings. Point 6 of this MoU indicates:

s 33(a)(iii)

The first MoU Working Group (WG) Meeting was held in Canberra on 16 February 1998.

The 2<sup>nd</sup> MoU WG meeting was held in Jakarta on 15 February 1999.

The 3<sup>d</sup> MoU WG meeting was held in Canberra on 10-11 July 2000.

On 15<sup>th</sup> September 2000 a document titled 'Protocol Under the Memorandum of Understanding between the Indonesian National Police and the Australian Federal Police on the Targeting of the People Smuggling Syndicates Located in the Rep of Indonesia' was signed in Jakarta.

The 4<sup>th</sup> MoU WG meeting was held in Lombok, Indonesia from 8-10 May 2001.

On 17<sup>th</sup> September 2001 a meeting was held between Commissioner Mick Keelty and the then Chief of the Indonesian National Police (Kapolri) Pol General Bimantoro to review/revisit the MoU between AFP and Polri.

On 13 June 2002, a **new** MoU titled 'Memorandum of Understanding Between the Government of the Republic of Indonesia and the Government of Australia on Combating Trans National Crime and Developing Police Cooperation' was signed in Perth during the 5<sup>th</sup> MoU WG meeting.

On 18 October 2002, a document titled 'Technical Arrangement Between the Indonesian National Police and the Australian Federal Police on Joint Operation in Dealing with the Bomb Blast Case in Bali On 12<sup>th</sup> October 2002' was signed in Denpasar, Bali.

The 6<sup>th</sup> MoU WG meeting was held in Jakarta from 2-4 December 2003.

The 7<sup>th</sup> MoU WG meeting was held in Melbourne from 18-20 May 2004.

On 2 July 2004, the Transnational Crime Coordination Centre (TNCC) was opened in Jakarta by the Chief of the Indonesian National Police Gen. Da'i Bachtiar and AFP Commissioner Mick Keelty.

On 3 July 2004, the Jakarta Centre of Law Enforcement Cooperation (JCLEC) was opened in Semarang, Central Java by the President of the Rep of Indonesia Megawati Soekarnoputri.

The next MOU WG meeting is scheduled for August 2005. The INP/AFP have agreed to extend the current MOU until that time to allow for change of Kapolri and further preparation.



## CHRONOLOGICAL OF MOU AND OTHER MAJOR COMMITMENTS BETWEEN AFP – POLRI

In December 1992, the AFP Liaison Office at the Australian Embassy Jakarta was re-opened.

On 27 October 1995 the Treaty between Australia and the Republic of Indonesia on Mutual Assistance in Criminal Matters was concluded in Jakarta. The Treaty was given domestic effect by the Mutual Assistance in Criminal Matter (Republic of Indonesia) Regulations – Statutory Rules No.50 of 1999, which entered into force on 17 July 1999.

On 5 August 1997, a Memorandum of Understanding (MoU) between the Australian Federal Police (AFP) and the Indonesian National Police (Polri) was signed in Jakarta. This was undertaken by the parties having regard to the Treaty between Australia and the Rep of Indonesia on Mutual Assistance in Criminal Matters signed in Jakarta on 27<sup>th</sup> of October 1995, desiring further cooperative efforts in law enforcement, and subject to domestic and international agreements and the laws of each country, the parties have reached nine (9) points of understandings. Point 6 of this MoU indicates:

s 33(a)(iii)

The first MoU Working Group (WG) Meeting was held in Canberra on 16 February 1998.

The 2<sup>nd</sup> MoU WG meeting was held in Jakarta on 15 February 1999.

The 3<sup>d</sup> MoU WG meeting was held in Canberra on 10-11 July 2000.

On 15<sup>th</sup> September 2000 a document titled 'Protocol Under the Memorandum of Understanding between the Indonesian National Police and the Australian Federal Police on the Targeting of the People Smuggling Syndicates Located in the Rep of Indonesia' was signed in Jakarta.

The 4<sup>th</sup> MoU WG meeting was held in Lombok, Indonesia from 8-10 May 2001.

On 17<sup>th</sup> September 2001 a meeting was held between Commissioner Mick Keelty and the then Chief of the Indonesian National Police (Kapolri) Pol General Bimantoro to review/revisit the MoU between AFP and Polri.

On 13 June 2002, a **new** MoU titled 'Memorandum of Understanding Between the Government of the Republic of Indonesia and the Government of Australia on Combating Trans National Crime and Developing Police Cooperation' was signed in Perth during the 5<sup>th</sup> MoU WG meeting.



On 18 October 2002, a document titled 'Technical Arrangement Between the Indonesian National Police and the Australian Federal Police on Joint Operation in Dealing with the Bomb Blast Case in Bali On 12<sup>th</sup> October 2002' was signed in Denpasar, Bali.

The 6<sup>th</sup> MoU WG meeting was held in Jakarta from 2-4 December 2003.

The 7<sup>th</sup> MoU WG meeting was held in Melbourne from 18-20 May 2004.

On 2 July 2004, the Transnational Crime Coordination Centre (TNCC) was opened in Jakarta by the Chief of the Indonesian National Police Gen. Da'i Bachtiar and AFP Commissioner Mick Keelty.

On 3 July 2004, the Jakarta Centre of Law Enforcement Cooperation (JCLEC) was opened in Semarang, Central Java by the President of the Rep of Indonesia Megawati Soekarnoputri.

On 18 November 2005, new MoU titled 'Memorandum of Understanding Between the Government of the Republic of Indonesia and the Government of Australia on Combating Trans National Crime and Developing Police Cooperation' was signed in Jakarta by Kapolrik Jen Sutanto and AFP Commissioner Mick Keelty.

The next MOU WG meeting is scheduled for early in 2006.