



AFP
AUSTRALIAN FEDERAL POLICE

Our ref: CRM 2018/576

30 August 2018

Mr Asher Hirsch

By email: foi+request-4519-3b502ad3@righttoknow.org.au

Dear Mr Hirsch,

FREEDOM OF INFORMATION REQUEST RE: PEOPLE SMUGGLING TRAINING MATERIAL

I refer to your request dated 19 April 2018 for documents held by the Australian Federal Police (AFP) pursuant to the *Freedom of Information Act 1982* (the Act). Under the Act you requested:

Under Freedom of Information I request the following documents:

Training material used to provide training on people smuggling at Jakarta Centre for Law Enforcement Cooperation.

This may include (but not limited to):

- PowerPoint slides
- manuals and booklets
- training handouts
- speaker notes
- flyers

Please limit this request to training conducted between 2008 and 2018.

As an example of the training I am referring to, the 2008-2009 AFP Annual Report provides that:

"The AFP has conducted three training programs on people smuggling at the Jakarta Centre for Law Enforcement Cooperation in Semarang."

The 2009-2010 AFP Annual Report provides that:

"The AFP conducted 14 training programs on people smuggling during 2009-10 at the Jakarta Centre for Law Enforcement Cooperation in Semarang."

I would like details on what training was provided and the materials for that training.

FREEDOM OF INFORMATION
GPO Box 401 Canberra City ACT 2601

Australian Federal Police
Telephone: 02 6131 6131
afp.gov.au

ABN 17 864 931 143
Email: foi@afp.gov.au

The Commissioner of the Australian Federal Police, being the principal officer, has authorised me 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 1 August 2018 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.

Your response dated 9 August 2018 has been assessed, however I do not believe you have sufficiently narrowed to remove the grounds for refusal. Specifically, the relevant line area has advised that it is not practicable to develop a meaningful list of all documents relevant to your request and asks that you identify the particular components you are interested so that we may apply narrower search criteria across the material.

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.

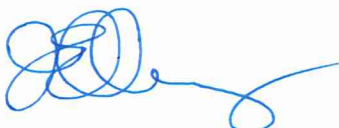
I have decided to refuse you access to the requested documents pursuant to the provisions of section 24AA of the Act.

Please find the following information attached relevant to my decision regarding the refusal of access.

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

Annex B. Review and Complaint Rights

Yours sincerely,



Jacqueline Ellery
Team Leader
Freedom of Information
Chief Counsel Portfolio

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.

**** 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
Canberra ACT 2601

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.