



AFP

AUSTRALIAN FEDERAL POLICE

Our ref: CRM 2018/683

16 July 2018

Mr Asher Hirsch

Email: foi+request-4653-92fc49c4@righttoknow.org.au

Dear Mr Hirsch,

Freedom of Information request

I refer to your email dated 18 June 2018, under *the Freedom of Information Act 1982* (the Act) seeking the following:

"A copy of the 'Memorandum of Understanding between the Indonesian National Police and the Australian Federal Police on Combating Transnational Crime and Developing Police Cooperation' dated June 13, 2002."

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 19 June 2018 it has been decided not to publish the document in respect of your request.

Yours sincerely,

Jacqueline Ellery
Principal FOI Officer/Team Leader
Freedom of Information Team
Chief Counsel Portfolio

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

I, Jacqueline Ellery, Principal FOI Officer/Team Leader, 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 18 June 2018, this office received your email in which you requested:

"A copy of the 'Memorandum of Understanding between the Indonesian National Police and the Australian Federal Police on Combating Transnational Crime and Developing Police Cooperation' dated June 13, 2002."

On 1 July 2018, you agreed to an extension of time pursuant to section 15AA of the Act.

SEARCHES

In relation to this request, searches were undertaken by the Chief of Staff and International Operations portfolios for all relevant documents.

WAIVER OF CHARGES

Given that the request has totalled only ten pages and was not a complex request to process, I am waiving any further fees and charges which are normally associated with the processing of applications under the Act.

DECISION

I have identified one document relevant to your request. A schedule detailing my decision is at Annexure B.

I have decided the document that relates to your request is exempt in full, pursuant to subsection 33(a)(iii) of the Act.

My reasons for this decision are set out below.

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 document identified in the Schedule as exempt under this section of the Act relates to a Memorandum of Understanding (MOU) between the Commonwealth and a foreign government. MOUs between the Commonwealth and foreign governments are, by their nature, confidential agreements and are signed on the understanding that the MOU would not be disseminated further without consent. The AFP has not received consent to disclose the MOU. I am satisfied that to grant access to the document would, or could reasonably be expected to cause damage to the international relations of the Commonwealth in particular, the AFP's police to police arrangements with a foreign government. I find that release of the document 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
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.

SCHEDULE OF DECISION

CRM 2018-683

Schedule B

Document #	Folio #	Description	
1	1	Folio exempt in full: 33(a)(iii)	s33(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	Folio exempt in full: 33(a)(iii)	
	3	Folio exempt in full: 33(a)(iii)	
	4	Folio exempt in full: 33(a)(iii)	
	5	Folio exempt in full: 33(a)(iii)	
	6	Folio exempt in full: 33(a)(iii)	
	7	Folio exempt in full: 33(a)(iii)	
	8	Folio exempt in full: 33(a)(iii)	
	9	Folio exempt in full: 33(a)(iii)	
	10	Folio exempt in full: 33(a)(iii)	

33(a)(iii)

THIS DOCUMENT IS DE-CLASSIFIED
AND RELEASED BY
THE AUSTRALIAN FEDERAL POLICE
UNDER THE
FREEDOM OF INFORMATION ACT 1982