

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.

THIS DOCUMENT HAS BEEN DECLASSIFIED
AND RELEASED IN ACCORDANCE WITH THE
FREEDOM OF INFORMATION ACT 1982
(COMMONWEALTH)
BY THE AUSTRALIAN FEDERAL POLICE

s22(1)(a)(ii)

From: Asher Hirsch <foi+request-4519-3b502ad3@righttoknow.org.au>
Sent: Thursday, 9 August 2018 4:00 PM
To: FOI
Subject: Re: Freedom of Information request - CRM 2018/576 [SEC=UNCLASSIFIED]

Categories:

s22(1)(a)(ii)

Dear s22(1)(a)(ii)

Thank you for your email and the clarification about the difficulties with this request. I can appreciate that the current number of documents makes this request impractical.

I think the best way to proceed would be a request for the list of relevant documents you have uncovered in your search, as you have already identified. You mention there are 1,000 PowerPoint presentations and over 8000 files that have been identified.

If you can provide a list of these documents (such as a print out or screenshot), I will then choose a few documents from the list for you to provide through FOI.

Please let me know if you can provide this list.

Yours sincerely,

Asher Hirsch

-----Original Message-----

UNCLASSIFIED

Dear Mr Hirsch,

Please refer to the attached documents in relation to your Freedom of Information request.

Kind regards,

s22(1)(a)(ii)(AFP14692)
FOI TEAM MEMBER

FREEDOM OF INFORMATION
CHIEF COUNSEL

Tel +61(0) 2 61316131

I am unavailable Fridays.
[1]Australian Federal Police

UNCLASSIFIED

References

Visible links

1. <http://www.afp.gov.au/>

Please use this email address for all replies to this request:
foi+request-4519-3b502ad3@righttoknow.org.au

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:

<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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AFP

AUSTRALIAN FEDERAL POLICE

E-MAILED
1 August 2018

Our ref: CRM2018/576

August 2018

Mr Asher Hirsch

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

Dear Mr Hirsch,

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

I refer to your email of 19 April 2018 seeking information under the *Freedom of Information Act 1982* (the Act).

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 paragraph 6 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. Tanya is 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.
3. The following information is provided to assist you in making a request in such a form that the ground 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. Documents held by the AFP's international post in Jakarta are saved electronically. A preliminary search of the relevant drive was undertaken which produced a result of over 1,100 PowerPoint presentations (not including individual slides) and over 8000 files containing people smuggling training material being identified as possibly relevant to the terms of your request. It is estimated that it would take over 320 hours (8 weeks) of AFP staff time for the search and retrieval of documents. 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).

7. The AFP is of the opinion that to process your request in its current form would be an unreasonable diversion of AFP resources and a substantial burden on the AFP Freedom of Information Team which will substantially impact on other requests for information to the detriment of a number of other applicants.

8. 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 identify the particular components of the training material you require.

9. 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.

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

Yours sincerely,

s47F

s22(1)(a)(ii)

Principal FOI Officer/Team Leader
Freedom of Information
Australian Federal Police

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 - (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
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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.

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- (2) The agency or Minister must give the applicant a written notice stating the following:
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- (6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:
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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.

From: s22(1)(a)(ii) on behalf of FOI
Sent: Monday, 23 April 2018 9:02 AM
To: 'Asher Hirsch'
Cc: FOI
Subject: FOI Request-acknowledgement letter CRM 2018/576 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Asher,

YOUR FREEDOM OF INFORMATION REQUEST

I refer to your application dated 16 April 2018 in which you seek access to documents under the *Freedom of Information Act 1982* (the Act) as follows:

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."

Information considered irrelevant to the scope of your request

The AFP, in its management of FOI requests, excludes the following information on the basis that is irrelevant to the scope of a request:

- Names of AFP members, other than the Senior Executive.
- Direct telephone numbers, signatures and mobile telephone numbers of AFP members.
- Duplicate documents, including duplicate emails. The AFP will only provide emails where they form a final email chain and the authors/recipients are contained within the final email.
- Information that is publicly available, for example, newspaper articles, online publications including information available on the AFP Information Publication Scheme and the AFP disclosure log.

Disclosure of your Identity

In addition, should the AFP be required to consult with third parties in accordance with the sections 26A (Commonwealth/State information), 27 (business affairs) and 27A (personal information) of the Act, do you have any objections to those parties/organisations knowing your identity for the purposes of the consultation? If we do not receive your consent or do not receive a response, we will not disclose your identity to third parties.

Timeframe

Your request was received by this agency on 16 April 2018, and the 30 day statutory period for processing your request commenced from that date.

Charges

You will be notified of any charges in accordance with the *Freedom of Information (Fees and Charges) Regulations*, should they apply, in relation to your request as soon as practicable.

Yours sincerely

s22(1)(a)(ii) (AFP18764)

FOI OFFICER

CHIEF COUNSEL PORTFOLIO

Tel s22(1)(a)(ii)

www.afp.gov.au



AFP
AUSTRALIAN FEDERAL POLICE

POLICING FOR
A SAFER AUSTRALIA

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From: Asher Hirsch <foi+request-4519-3b502ad3@righttoknow.org.au>
Sent: Thursday, 19 April 2018 2:17 PM
To: FOI
Subject: Freedom of Information request - Training material on people smuggling for the Indonesian National Police

Categories: New Request

Dear Australian Federal Police,

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.

Yours faithfully,

Asher Hirsch

Please use this email address for all replies to this request:
foi+request-4519-3b502ad3@righttoknow.org.au

Is foi@afp.gov.au the wrong address for Freedom of Information requests to Australian Federal Police?
If so, please contact us using this form:
https://www.righttoknow.org.au/change_request/new?body=afp

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

If you object to the AFP excluding any of the above information, please advise this office within seven days of receipt of this letter.

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