



**AFP**  
AUSTRALIAN FEDERAL POLICE

Our ref: 2020/77

25 November 2019

Mr Asher Hirsch

By email: [foi+request-5541-2806e590@righttoknow.org.au](mailto:foi+request-5541-2806e590@righttoknow.org.au)

Dear Mr Hirsch

**Freedom of Information request**

I refer to your application dated 30 July 2019 under *the Freedom of Information Act 1982* (the Act) seeking the following:

*"All Documents used to provide training on people smuggling at the Jakarta Centre for Law Enforcement Cooperation. Please limit this request to the years 2008 to 2010. 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 a copy of the documents used for those training programs. Previous request CRM 2019/632."*

Attached at Annexure A to this letter is my decision and statement of reasons for that decision. A schedule of documents identified as falling within the scope of your request is at Annexure B.

I have decided to publish the documents in part in respect of your request. Publication of the documents will be made on the AFP website at <https://www.afp.gov.au/about-us/information-publication-scheme/routinely-requested-information-and-disclosure-log> in accordance with timeframes stipulated in section 11C of the Act.

Yours sincerely

Shelley Miller  
A/Coordinator  
FOI and Information Law  
Chief Counsel Portfolio

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

I, Shelley Miller, A/Coordinator, FOI and Information Law, 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 30 July 2019 this office received your application in which you requested:

*"All Documents used to provide training on people smuggling at the Jakarta Centre for Law Enforcement Cooperation. Please limit this request to the years 2008 to 2010. 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 a copy of the documents used for those training programs.  
Previous request CRM 2019/632."*

On 29 August 2019, you agreed to 30 day extension of time pursuant to section 15AA of the Act.

I note that the statutory timeframe has expired, and I apologise for the delay and any inconvenience this may have caused.

**SEARCHES**

In relation to this request, a search was undertaken by International Operations, Crime Operations and the Learning and Development teams for the documents stipulated in the scope of your request.

**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 one document relevant to your request. The schedule (Schedule) detailing my decision in relation to the document is at Annexure B.

I have decided to release the document to you in part, with deletions pursuant to sections 22(1)(a)(ii), 33(a)(iii) and 47F of the Act. My reasons for this decision are set out below.

REASONS FOR DECISION

***Folios to which section 22(1)(a)(ii) applies:***

Section 22(1)(a)(ii) of the Act provides that:

- “(1) Where:*  
*(a) an agency or Minister decides:*  
*(ii) that to grant a request for access to a document would disclose information that would reasonably be regarded as irrelevant to that request;”*

The part of the document redacted under this section of the Act contains information which is considered irrelevant to the request. This information comprises the name of an AFP member who is not a senior executive employee. As set out in our acknowledgement email dated 1 August 2019, the AFP treats this information as irrelevant to your request unless you object. The AFP did not receive any objection. Therefore, I have found that this part of the document would reasonably be regarded as irrelevant to the request under section 22(1)(a)(ii) of the Act.

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

Section 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 comprises 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. This information was communicated in the expectation that it would remain confidential. 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 in the future.

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

***Folios to which section 47F applies:***

Section 47F of the Act provides that:

- “(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).”*

The parts of the document identified as exempt under this section of the Act contain personal information of third parties. Personal information is information or an opinion about an individual whose identity is known or easily ascertainable. I find that these documents

contain details including the names and other identifying information including photographs of third party individuals.

I have taken into account the factors at section 47F(2), including:

- (a) the extent to which the information is well known;
- (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the documents;
- (c) the availability of the information from publicly accessible sources;
- (e) the current relevance of the information; and
- (f) the circumstances in which the information was obtained and any expectation of confidentiality.

I find release of this personal information to be unreasonable. The information is not well known or publicly available information and would significantly prejudice the privacy of the relevant individuals.

I have also considered the public interest factors both in favour and against disclosure of the information in these folios.

In relation to the factors favouring disclosure, I believe the general public interest in access to documents as expressed in sections 3 and 11 of the Act is relevant.

In relation to the factors against disclosure, I believe the following are relevant::

- (a) prejudice to the protection of an individual's right to privacy;
- (b) the need for the agency to maintain the confidentiality with regard to the subject matter and the circumstances in which the information was obtained;
- (c) if such information was disclosed, it may discourage public cooperation in AFP investigations; and
- (d) the fact that the information is not on the public record or available from publicly accessible sources.

While there is a public interest in providing access to documents held by the AFP, I have given greater weight to the factors against disclosure above and conclude that on balance, disclosure is not in the public interest. I find that the release of these parts of the document would be an unreasonable disclosure of personal information. Therefore, I find these parts of the document are exempt under section 47F of the Act.

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

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

- ❖ 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;
- ❖ consultation with relevant Commonwealth agencies;
- ❖ *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 IN 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 either for internal review of the decision, or for a review by the Information Commissioner (IC). You do not have to apply for internal review before seeking review by the IC.

For complaints about the AFP's actions in processing your request, you do not need to seek review by either the AFP or the IC in making your complaint.

### ***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 internal review in writing to the 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 reviewing the file 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 submission for review must be made within 30 days. Applications 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***

Alternatively, section 54L of the Act gives you the right to apply directly to the IC for review, including after 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 assist if you set out the reasons for review in your application.

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

Applications for review by the IC should be addressed to:

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

Further, the OAIC encourages parties to 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 this process can be found in Part 10 of the Guidelines which are available on the OAIC's 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. 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.

The IC may be contacted on 1300 363 992.

SCHEDULE OF DECISION – CRM 2020/77  
RELEASE OF DOCUMENTS – ASHER HIRSCH

ANNEXURE B

Document No	Folio No	Date	Author	Description	Exemption	Reason
1	1-16	11/6/208	Australian Federal Police (AFP)	People Smuggling Powerpoint presentation	Released in part: s47F, s22(1)(a)(ii), s33(a)(iii)	<b>s47F</b> Deletions are made on the grounds that disclosure would involve the unreasonable provision of personal details of people other than the FOI applicant. Access must be given unless it would be contrary to the public interest. <b>s22(1)(a)(ii)</b> Exempted material would disclose information that would reasonably be regarded as irrelevant to the request. <b>s33(a)(iii)</b> Deletions are made on the grounds that disclosure would, or could reasonably be expected to cause damage to the international relations of the Commonwealth.

Authorised Decision Maker: Shelley Miller  
A/Coordinator  
FOI and Information Law  
Australian Federal Police

Date of Decision: 21 November 2019



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**People smuggling: Intelligence & Investigations**

Presented by **[REDACTED]** Analyst, People Smuggling Intelligence Team

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BY THE <sup>s22(1)(a)</sup> AUSTRALIAN FEDERAL POLICE

11 June 2008

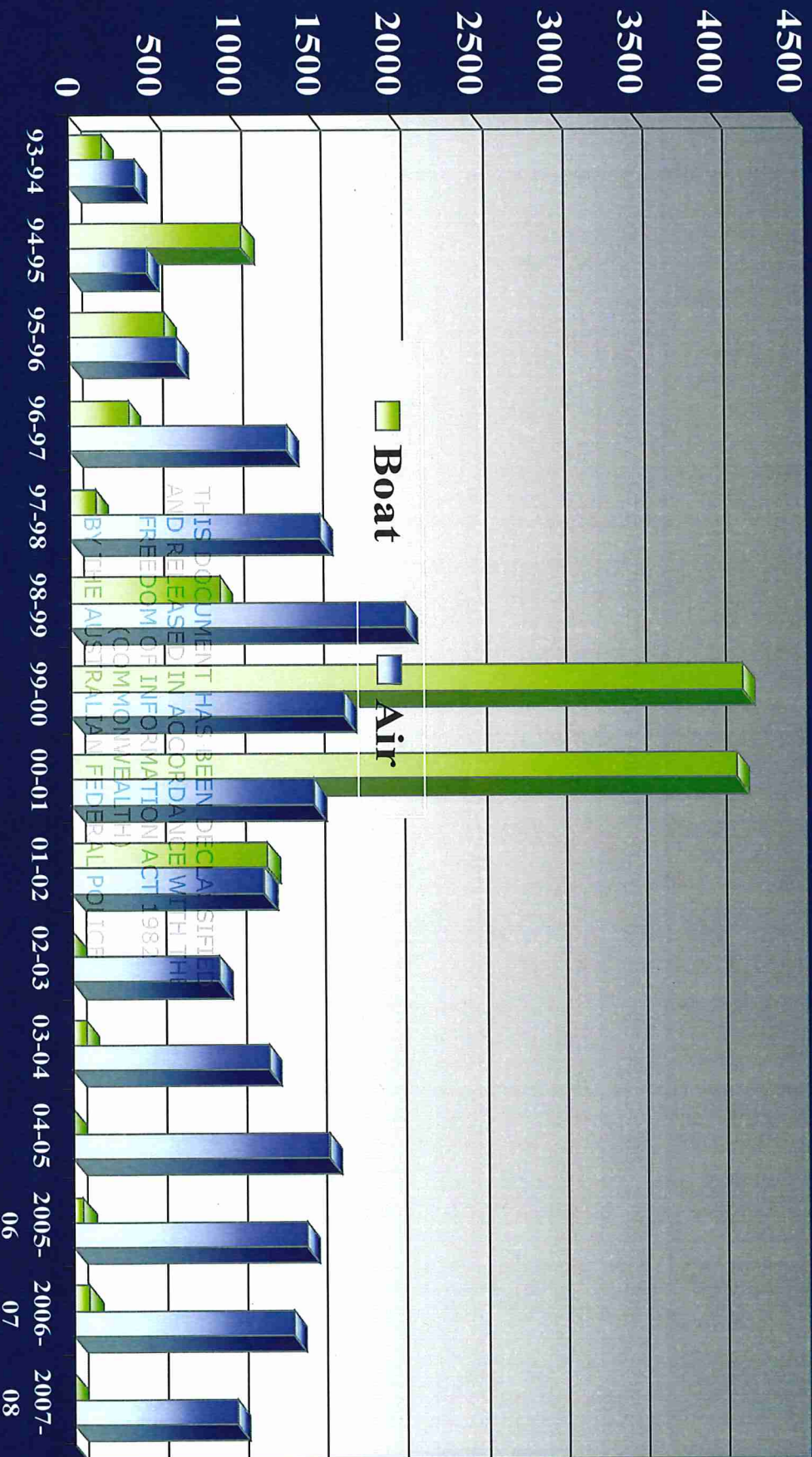


# AFP role

- Department of Immigration and Citizenship (DIAC) has the lead role in relation to illegal immigration.
- AFP responsible for investigation of organised crime involvement in people smuggling and prosecution of boat crews, and any other matters referred by DIAC and accepted for investigation.
- Ministerial Direction in relation to people smuggling.



# Unauthorised Arrivals detected in Australia by Year



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# Penalties for people smuggling

- Under the Migration Act 1958, the maximum penalty for people smuggling used to be two years imprisonment.
- Since 22 July 99, the maximum penalty is 20 years or \$220,000.
- Minimum sentence of 5 years for first offence and 8 years for second offence. Introduced October 2001.
- Jan 2003 Criminal Code Act – offence of smuggling to a foreign country.
- Foreign Passports (Law Enforcement and Security) Act 2005 offences.

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## Strike Team concept

- Funding provides for a team of 15 including 11 investigators.
- DIAC: 4 x investigators & 1 x analyst.
- Team is intelligence driven and has its own intelligence component: People Smuggling Intelligence Team - 1 x T/L, 2 x analysts, 2 x IOs and 1 x ISO.
- Work closely with AFP overseas posts.
- Close cooperation with other agencies including national security agencies & Border Protection Command, and with interested agencies overseas.
- Focus on boat organisers. Air arrivals problematic.

# Whole of Government Approach

- “Whole of Government Approach” is an absolute requirement in responding to people smuggling.
- In HQ, liaison with DIAC, Border Protection Command, intelligence & security agencies, etc.
- At Post, liaison with relevant agencies and coordination of activities.
- PSIT disseminates information and intelligence obtained by AFP, especially o/s posts.

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## AFP Liaison Network

- Mainly deal with Jakarta, Kuala Lumpur, Dhaka, Bangkok, Port Moresby and Dili. But also other Posts from time to time, including Phnom Penh, Ho Chi Minh City, Islamabad, Port Vila and Suva.
- Intelligence requirements: (1) anything on boat ventures to Australia; (2) anything on air ventures to Australia; (3) anything on people smuggling to other destinations; (4) anything on Australian nationals involved in people smuggling; (5) information about the capacity of local authorities to respond to people smuggling; and (6) anything indicating a change in conditions likely to give rise to people smuggling (natural disaster, conflict).
- Need to avoid duplication of reporting.



## AFP Liaison Network (cont'd)

- Investigation requirements:
- (1) prevent boat departures through liaison with local agencies to disrupt through seizure of vessel and/or arrest/detention of potential illegal immigrants – often involves going to site of alleged activity & urging local action;
- (2) occasional assistance with long term PSS T investigations – e.g. obtaining provable photos, etc., arranging for PSS T investigators to have access to Plls, etc.
- (3) occasional coordination of joint investigations.
- (4) very occasional requests for assistance with surveillance devices legislation requirements.



# Criminal syndicates involved in people smuggling by boat

- Overt and covert.
- Overt smuggling operations have changed dramatically since 1999.
- Nature of the boat syndicates.





# PS - MO

## Source countries

Principals  
Recruiters  
Escorts  
Document providers

Indonesia  
Thailand  
Malaysia  
Pacific Island  
Countries

## Destination

Agents / collectors of  
fees

## Transit countries

Recruiters  
Agents

Australia

## Document providers

Security providers

China

China

Vietnam

Middle East

Afghanistan

Sri Lanka

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Australia



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## Links to other criminal activity

- Lack of evidence re concurrent people smuggling and drug trafficking to Australia.
- Some drug traffickers known to be involved in people smuggling.
- People are just another commodity.
- Close nexus between people smuggling and document fraud.
- Increasing nexus between people smuggling and credit card fraud.
- No crossover between people smuggling and people trafficking at this stage.
- Nexus between people smugglers and CT ?

# Challenges in investigating people smuggling activity

- Lack of appropriate offences overseas and inability to extradite
- Problems in identifying offenders
- Widespread official corruption
- Availability of witnesses
- Witness intimidation
- Working on old matters

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# Successful prosecutions in Australia

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# Recent successful <sup>For Official Use Only</sup> disruptions Overseas



s47F

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## Where now?

- Dramatic reduction in boats from 2002 but the smuggling infrastructure remains in many places.
- Still trying to organise new ventures and there is now renewed interest.
- Upsurge in Tamils moving thru SEA.
- Increasing mention of Indian nationals.
- Seeking new client sources and looking at new methods.
- Expect people smuggling to be a continuing problem.
- PSST still working on major boat organisers.

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AND FEDERAL INFORMATION ACT 1982  
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**QUESTIONS?**