



AFP
AUSTRALIAN FEDERAL POLICE

Our ref: 2020/367

20 December 2019

Mr Steve Smith

By email: foi+request-5921-a45681cf@righttoknow.org.au

Dear Mr Smith

Freedom of Information request

I refer to your application dated 19 November 2019 under *the Freedom of Information Act 1982* (the Act) seeking access to:

"I am requesting documents comprising all correspondence between Ramzi Jabbour and John Lawler re Mohommad Haneef."

My decision and statement of reasons for that decision is at Annexure A.

Disclosure Log

I have decided to publish the documents in part in respect of your request. Publication of the documents will be made to the Disclosure Log 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/Deputy General Counsel
FOI and Information Law
Chief Counsel Portfolio

**STATEMENT OF REASONS RELATING TO AN FOI REQUEST BY
STEVE SMITH**

I, Shelley Miller, A/Deputy General Counsel, 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 19 November 2019, this office received your application in which you requested:

"I am requesting documents comprising all correspondence between Ramzi Jabbour and John Lawler re Mohommad Haneef."

SEARCHES

In relation to this request, an ICT email audit was undertaken for any emails relating to the scope of the request.

WAIVER OF CHARGES

Given that the request has totalled only four pages, 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.

I have decided that document be released in part with deletions pursuant to sections 22(1)(a)(ii), 46(b), 47E(d) 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;”

Parts of the document contain information which is considered irrelevant to the request. I have determined that information contained in some of the folios is irrelevant because it does not come within the scope of your application. On 20 November 2019 you were advised in the acknowledgement letter that information would be excluded unless you objected. Accordingly,

the names of AFP members, other than the Senior Executive, direct telephone numbers and contact details have been excluded.

Accordingly, I find those parts 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 46(b) applies

Section 46(b) of the Act provides that:

“A document is an exempt document if public disclosure of the document would, apart from this Act and any immunity of the Crown:

- (b) Be contrary to an order made or direction given by a Royal Commission or by a tribunal or other person or body having power to take evidence on oath;”*

I find the part identified as exempt under this section of the Act contains information concerning evidence given on oath. The disclosure of this information would breach a suppression order. Accordingly, I find that parts of the document is exempt under section 46(b) of the Act.

Folios to which section 47E(d) applies:

Section 47E(d) of the Act provides that:

“A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- ...
(d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency;...”*

The parts of the document identified as exempt under this section of the Act contain information, the release of which, would have a substantial adverse effect on the conduct of AFP operations – specifically, the AFP’s operational functions in undertaking its expected functions as a law enforcement agency.

The AFP performs statutory functions relating to services by way of the prevention and investigation of offences. The information identified as exempt under this section of the Act provides details relevant to the AFP’s processes in detecting, investigating, preventing and prosecuting criminal offending. I am of the view that disclosure of the information could reasonably be expected to have a substantial adverse effect on the proper and efficient performance of those functions. This information would reveal aspects of the AFP’s technical capability and methodology. The release of this information could alert offenders to this capability and assist them to commit offences and avoid detection. I find release would therefore undermine the AFP’s law enforcement operations.

I have 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 consider the following are relevant:

- (a) the general public interest in access to documents as expressed in sections 3 and 11 of the Act; and

- (b) the public interest in people being able to scrutinise the operations of a government agency and in promoting governmental accountability and transparency.

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

- (c) the need for the agency to maintain confidentiality with regard to the subject matter, particularly so far as this relates to proper and efficient procedures involved in assessing and evaluating information;
- (d) that if information concerning the operation was revealed, it may have a substantial adverse effect on the conduct of similar operations and investigative processes in the future; and
- (e) if such information was disclosed, it may prejudice security, law enforcement and public safety.

While there is a public interest in providing access to documents held by the AFP, I have given greater weight to factors (c) to (e) above and conclude that on balance, disclosure is not in the public interest, given the need to ensure the effectiveness current AFP procedures.

I find the parts of the document are exempt under section 47E(d) 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 about individuals the subject of the investigation.

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;
- (d) the current relevance of the information; and
- (e) the circumstances in which the information was obtained and any expectation of confidentiality.

I find release of this personal information to be unreasonable because it is not well known or publicly available. Further, this information was obtained by the AFP as part of an investigation.

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 consider the general public interest in access to documents as expressed in sections 3 and 11 of the Act is relevant.

UNCLASSIFIED

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

- (a) prejudice to the protection of an individual's right to privacy (including in consideration of whether their consent was provided);
- (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;

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 the 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;
- ❖ *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.

From: Jabbour, Ramzi
Sent: Friday, 14 September 2007 4:50 PM
To: Lawler, John
Subject: FW: Op RAIN Situation Report as at 13SEP07 [SEC=HIGHLY-PROTECTED]
Attachments: SITUATION REPORT AS AT 1600 HRS 13SEP2007.doc

Categories: SEC=HIGHLY-PROTECTED

DCNS

Op Rain Sitrep FYI

regards



RAMZI JABBOUR
MANAGER COUNTER TERRORISM DOMESTIC
COUNTER TERRORISM
Tel + s22(1)(a)(ii)
www.afp.gov.au

From s22(1)(a)(ii)
Sent: Thursday, 13 September 2007 3:00 PM
To s22(1)(a)(ii) Jabbour, Ramzi s22(1)(a)(ii)
Cc s22(1)(a)(ii)
s22(1)(a)(ii)

Subject: Op RAIN Situation Report as at 13SEP07 [SEC=HIGHLY-PROTECTED]

Good afternoon all,

Please see attached the weekly SITREP for Op Rain.

Regards,



s22(1)(a)(ii)
COUNTER TERRORISM
BRISBANE OFFICE
Tel + s22(1)(a)(ii)
www.afp.gov.au

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OPERATION RAIN

SITUATION REPORT AS AT 1600 HRS 13 SEPTEMBER 2007

BACKGROUND

Operation Rain commenced as a result of information provided to the AFP on 2 July 2007, by the Metropolitan Police Service (MPS) who were conducting an investigation into alleged terrorist incidents committed in the UK on 29 and 30 June 2007. Operation Rain focused primarily upon the activities and associates of two Gold Coast based doctors, Mohamed HANEEF (HANEEF) and Mohammed Asif ALI (ALI).

On 14 July 2007, HANEEF was charged by members of the JCTT with Providing Support to a terrorist organisation, section 102.7 – *Criminal Code Act 1995*.

On 27 July 2007, the above charge was withdrawn following a review of all supporting evidence by the Commonwealth Director of Public Prosecutions. Despite this, enquiries are ongoing into HANEEF's suspected involvement in terrorism related activities.

On 29 July 2007, HANEEF departed Australia for India. He lodged an appeal following the Australian Government's decision to revoke his 457 Employer Sponsored Worker's Visa. On 21 August 2007, the Federal Court found in HANEEF's favour and the Crown was granted a 21 day stay to allow the Minister to consider an appeal.

s47F

CURRENT OPERATIONAL SYNOPSIS

There are currently outstanding lines of enquiry to be pursued overseas and limited enquiries in Australia. Subsequent to the CDPP withdrawing the charge, while significant enquiries have been undertaken, there has been little material evidence supporting an offence being committed by any person contrary to sections 102 or 103 of the *Criminal Code Act 1995 (Cth)*.

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- The final report of the outcomes and avenues of inquiry for Op Rain completed by FA's s22(1)(a)(ii) in consultation with SIO Op RAIN and was forwarded to DNS and the Commissioner.
- A briefing was provided by SIO Op Seagram on Tuesday 11 September 2007 to members involved in Op RAIN.

s46(b)

s47E(d)

- D/Sgt s22(1)(a)(ii) and FAs s22(1)(a)(ii) have departed the UK. All following taskings will be sent through to Post. Enquiries conducted in the UK to date have not advanced the investigation towards the allegation.
- Authorisation for the destruction of HANEEF s47F property ineligible for return has been received from their Solicitors.
- FAs s22(1)(a)(ii) have completed the auditing tasks generated as a result of analysis of property seized from HANEEF s47F

Intelligence

s47E(d)

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- Completion of outstanding Promis tasks and follow up with members responsible will continue to be pursued.

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Intelligence

s47E(d)

- Audit of outstanding Op Rain Intelligence taskings to be completed.

s47E(d)

Media

Some media representatives were present at the Federal Court on 10 September 2007 in relation to the lodgement of DIAC's appeal of the Federal Court's decision to overturn the Minister's revocation of HANEEF's visa.

Next situation report is due 1600hrs Thursday 20 September 2007.

s22(1)(a)(ii)

**Coordinator
Operation Rain**

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