



AFP

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Our Ref: LEX 3276

19 December 2024

ADS (Right to Know)

Email: foi+request-12229-7a9b90b9@righttoknow.org.au

Dear ADS

Freedom of Information request

I refer to your request dated 26 October 2024 made under the *Freedom of Information Act 1982* (the Act).

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.

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

C.A

Casey
FOI Team Leader - Corporate
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Chief Counsel Portfolio

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Freedom of Information

/ GPO Box 401 Canberra City ACT 2601

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**STATEMENT OF REASONS RELATING TO AN FOI REQUEST BY
ADS (RIGHT TO KNOW)**

I, Casey, Team Leader, Freedom of Information, am an officer authorised under section 23 of the *Freedom of Information Act 1982 (Act)* to make decisions in relation to the Australian Federal Police (AFP). What follows is my decision and reasons for the decision in relation to your request.

A. BACKGROUND

1. On 26 October 2024, the AFP received your request in the following terms:

"Please provide all up to date internal policy and materials on the processes and decision making to investigate or continue an investigation when a report of criminal activity is received involving money laundering or the products or proceeds of crime."

2. On 4 November 2024, you agreed to a 28 day extension of time pursuant to section 15AA of the Act.

B. SEARCHES

1. Searches for documents were undertaken by Criminal Assets Confiscation (CAC) and National Operations State Service Centre (NOSSC) as the business areas holding documents relevant to your request.

C. WAIVER OF CHARGES

1. Given the request has totalled only 43 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.

D. EVIDENCE/MATERIAL ON WHICH MY FINDINGS WERE BASED

1. In reaching my decision, I have relied on the following:
 - (a) the scope of your request;
 - (b) the contents of the documents identified as relevant to the request;
 - (c) advice from AFP officers with responsibility for matters contained in the documents;
 - (d) the Act; and
 - (e) the guidelines issued by the Office of the Australian Information Commissioner under section 93A of the Act.

E. DECISION

1. I have identified four (4) documents relevant to your request.
2. I have decided to:
 - (a) release four (4) documents in part with deletions pursuant to sections 22(1)(a)(ii), 47E(c) and 47E(d) of the Act.
3. A schedule of each of document and details of my decision in relation to each document is at Annexure B.
4. My reasons for this decision are set out below.

F. REASONS FOR DECISION

Material to which section 22(1)(a)(ii) applies:

1. Section 22 of the Act allows the AFP to grant access to an edited copy of a document that has been modified by deletions to remove material that is either exempt or irrelevant to the request.
2. Parts of the documents contain information outside the scope of this request. Information relating to reports of criminal activity that do not involve "money laundering or the products or proceeds of crime" have been deemed exempt and are removed under this section due to irrelevancy.
3. Accordingly, I find parts of the document would be reasonably regarded as irrelevant to the request under section 22(1)(a)(ii) of the Act.

Material to which section 47E(c) applies:

4. Section 47E(c) 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:

...

- (c) *have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency."*

5. The FOI Guidelines at paragraph [6.103] state the following in respect of section 47E(c):

"For this conditional exemption to apply, the document must relate to either:

- *the management of personnel – including broader human resources policies and activities, recruitment, promotion, compensation, discipline, harassment and work health and safety*
- *the assessment of personnel – including the broader performance management policies and activities concerning competency, in-house training requirements, appraisals and underperformance, counselling, feedback, assessment for bonus or eligibility for progression."* (footnotes omitted).

6. Parts of the documents have been identified as being exempt under section 47E(c). This material contains the names of AFP appointees below SES level.
7. The information I have identified as conditionally exempt could publicly identify staff not only as working for the AFP, but their work location and activities. The public disclosure of this information could expose those appointees to unwelcome behaviour from hostile actors. Law enforcement employees have been a target of planned and actual attacks in Australia. AFP appointees have also been the target of attempts to obtain information.
8. Publicly identifying a person as an AFP appointee could also compromise the ability of some to work in operational areas which require them to have no public profile.
9. These risks are not far-fetched, and need to be considered in the context that information released under FOI can be easily published online, and may widely available. On the basis that they present risks to the health and safety, wellbeing, morale and career development of AFP appointees, I am satisfied that release this information could have a substantial adverse effect on the management of personnel within the AFP.
10. However, I must give access to this information unless, in the circumstances, access at this time would be contrary to the public interest.

11. I have considered the following factors favouring disclosure:
- (a) the general public interest in access to documents as expressed in sections 3 and 11B 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.
12. I have considered the following factor against disclosure:
- (c) prejudice to the safety, welfare and morale of AFP personnel;
 - (d) release may have a substantial adverse effect on the management of personnel in future.
13. Ultimately, while there is a public interest in providing access to documents held by the AFP, consequently, I have given greater weight to factors (c) and (d) above, and conclude that on balance, disclosure is not in the public interest. I consider the need to ensure the safety of AFP personnel, and the AFP's ability to support and manage its personnel weighs against disclosure.
14. Accordingly, I find those parts of the document identifying staff names are exempt under section 47E(c) of the Act.

Material to which section 47E(d) applies:

15. 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;..."*

16. The documents or parts of documents 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 expected functions as a law enforcement agency.
17. 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.
18. Information that guides the AFP in deciding how to proceed when a report of crime is received reveals protected processes that would compromise the proper functioning of the organisation. These processes must be protected for the benefit of public safety and the efficiency of the AFP as a crime-fighting organisation. In order for the AFP to safely and properly pursue and investigate reports of crime, the detailed processes involved must remain undisclosed and secure from public knowledge.
19. Further, information redacted under this section of the Act reveals internal AFP email addresses and contact details. These contact details are not widely known (such as through government directories or websites). They are not the established channels of communication with the relevant agency established to ensure the efficient functioning its operations. To disclose this information would impact on the AFP's day to day operations by resulting in the diversion of AFP resources to responding to unsolicited correspondence received through those points of contact. In addition, public release of this information would expose the agency to diversion of external

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enquiries and possible harassing or vexatious communication from the established communication channels, thereby adversely impacting their agency operations.

20. However, I must give access to this information unless, in the circumstances, access at this time would be contrary to the public interest.
21. I have considered the following factors favouring disclosure:
- (a) the general public interest in access to documents as expressed in sections 3 and 11B 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.
22. While it may be argued the release of this information would promote the objects of the Act, scrutinise the operations of a government agency and promote government accountability and transparency, I consider release would make only a minimal (if any) contribution to those public interest factors.
23. On the other hand, I consider the prejudice to the agency operations and should be given greater weight. I have considered the following factors against disclosure:
- (c) the need for the agency to maintain the confidentiality with regard to the subject matter of information relating to the AFP's procedures during an investigation;
 - (d) the need for the agency to maintain the efficiency of current procedures;
 - (e) that if information concerning internal contact details were revealed, it may have a substantial adverse effect on the conduct of AFP operations in the future; and
 - (f) if such information was disclosed, it would divert AFP resources from the proper conduct of their expected operations.
24. While there is a public interest in providing access to documents held by the AFP, I have given greater weight to factors (c) to (f) above and conclude that on balance, disclosure is not in the public interest, given the need to ensure the effectiveness and integrity of current procedures during police investigations and established communication channels. I find that release of the documents or parts of the documents would be an unreasonable disclosure under section 47E(d) of the Act.

*****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 AFP, 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 54 of the FOI Act gives you the right to apply for internal review of this decision. No particular form is required to make an application for internal review, however, an application needs to be made in writing within 30 days of this decision. It would assist the independent AFP decision-maker responsible

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for reviewing the file if you set out in the application, the grounds on which you consider the decision should be reviewed.

Section 54B of the FOI Act provides that the internal review submission must be made within 30 days. Applications may be sent by email (foi@afp.gov.au) or 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 FOI Act gives you the right to apply directly to the IC for review of this decision. 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.

Section 54S of the FOI Act provides the timeframes for an IC review submission. 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 IC review may be lodged by email (foidr@oaic.gov.au), using the OAIC's online application form (available at www.oaic.gov.au) or addressed to:

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

The IC encourages parties to an IC review to resolve their dispute informally, and to consider possible compromises or alternative solutions to the dispute in this matter. The AFP would be pleased to assist you in this regard.

Complaint

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the IC. A complaint may be lodged using the same methods identified above. It would assist if you set out the action you consider should be investigated and your reasons or grounds.

More information about IC reviews and complaints is available on the OAIC's website at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

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SCHEDULE OF DECISION – LEX 3276
RELEASE OF DOCUMENTS – ADS (RIGHT TO KNOW)

Document No	Folio No	Author	Description	Decision	Exemption
1	1-3	Australian Federal Police (AFP)	CAC-CCC Terms of Reference	Release in Part	Sections 22(1)(a)(ii) and 47E(d)
2	4-7	AFP	Criminal Assets Confiscation – Impact Prioritisation Matrix	Release in Part	Section 47E(d)
3	8-31	AFP	User Guide: Operational Prioritisation Model Version 3.0	Release in Part	Sections 22(1)(a)(ii), 47E(c) and 47E(d)
4	32-43	AFP	Better Practice Guide on Processing Report/Requests within the AFP	Release in Part	Sections 22(1)(a)(ii) and 47E(d)