



15 November 2017

**In reply please quote:**

FOI Request: FA 17/09/00022

File Number: ADF2017/93439

Dear [REDACTED]

**Freedom of Information (FOI) request - Access Decision**

On 31 August 2017, the Department of Immigration and Border Protection (the Department) received a request for access to document under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

**1 Scope of request**

You have requested access to the following document:

*All and any emails, memos, documents, notes, records and agreements, concerning the arrival of Cuban asylum seekers from the United States of America to Brisbane Australia between 1 June and 1 August 2017, in relation to these media reports:*

*<<https://www.theguardian.com/australia-news/2017/aug/22/australia-resettles-cuban-refugees-found-clinging-to-lighthouse-off-florida-keys>> and*

*<<http://www.miamiherald.com/news/local/community/florida-keys/article169284117.html>>*

On 20 September 2017 the Department issued you a notice under section 24AB of the FOI Act.

On 11 October 2017 the Department accepted the revised scope to the following:

- 1. Information the Department may hold in relation to an arrival of Cuban asylum seekers on an airline carrier owned by or funded by Donald trump in late July 2017.*
- 2. Senate Estimates briefings regarding Cuban resettlement.*
- 3. The Australian visa type that the Cubans have been issued and description of that class of visa if that information.*

## 2 Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access document or to amend or annotate records.

## 3 Relevant material

In reaching my decision, I referred to the following:

- the terms of your request
- the document relevant to the request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from Departmental officers with responsibility for matters relating to the document to which you sought access

## 4 Document in scope of request

The Department has identified one document as falling within the scope of your request. This document was in the possession of the Department on 31 August 2017 when your request was received.

## 5 Decision

### Part 1

For Part 1 of your request the relevant business area in the Department has undertaken searches and has advised no documents are held. In response to Part 1 of your request the Department advises that the flights taken by the individuals in question were funded by the Department of Immigration and Border Protection. The Department has no information to suggest the airline carrier(s) used are owned by Donald Trump.

### Part 2

The decision in relation to the document in the possession of the Department that falls within Part 2 of your request is as follows:

- Release one document in part with deletions.

**Attachment A** is a schedule that describes the relevant document and sets out my decision in relation to the document.

### Part 3

For Part 3 of your request, the relevant business area in the Department can advise the Cuban asylum seekers were granted Refugee (Subclass 200) visas. There is publically available information describing the visa at - <https://www.border.gov.au/Trav/Visa-1/200->

## 6 Reasons for Decision

For the reasons set out below, I have exempted certain information in the document.

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

### 6.1 Section 22 of the FOI Act – irrelevant to request

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

In addition, on 1 September 2017, the Department advised you that its policy is to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile and work telephone numbers of SES staff contained in documents that fall within scope of an FOI request.

I find that the documents relevant to your request contain material that is irrelevant to your FOI request. I have withheld or deleted that material accordingly. These deletions are marked s22(1)(a)(ii) in the documents released.

## 7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. If you are unable to access the legislation through this website, please contact our office for a copy.

## 8 Your Review Rights

### Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days. Applications for review should be sent to:

By email to: [foi.reviews@border.gov.au](mailto:foi.reviews@border.gov.au)

OR

By mail to:  
Freedom of Information Section  
Department of Immigration and Border Protection  
PO Box 25  
BELCONNEN ACT 2617

### Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice.

For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

## **9 Making a Complaint**

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Immigration and Border Protection as the relevant agency.

## **10 Contacting the FOI Section**

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at [foi@border.gov.au](mailto:foi@border.gov.au).



Authorised decision maker  
Department of Immigration and Border Protection

**ATTACHMENT A**

**SCHEDULE OF DOCUMENTS  
REQUEST UNDER *FREEDOM OF INFORMATION ACT 1982***

**FOI request:** FA 17/09/00022

**File Number:** ADF2017/93439

<b>No.</b>	<b>Date of document</b>	<b>No. of pages</b>	<b>Description</b>	<b>Decision on release</b>	
1.	Undated	6	Senate Estimates Brief – Budget Estimates May 2017	Irrelevant material deleted	s.22(1)(a)(ii)