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National Counter-Terrorism Committee (NCTC) Date 3 July 2007

Incident Update: Operation Rain

Talking Points

Incident update

- The AFP has commenced Operation Rain, in response to information received from the Metropolitan Police Service (MPS) about an alleged link in Australia, to the foiled terrorist attacks in London and Glasgow
 - A mobile phone number based in the United Kingdom was used by Haneef while he was in London in September 2006

s.33(1)(a)(i), s.33(1)(b), s.40(1)(d)

- On 2 July 2007, MPS advised the AFP they had identified an Australian resident as being closely connected to their investigations. The MPS requested assistance to locate the identified person, Mohamed Haneef, a Medical Practitioner, believe to be residing at 15/45 Pohlman Street, South Port, QLD.
 - Inquiries conducted by the JCTT Brisbane identified Haneef and confirmed he a Medical Registrar at the Gold Coast Hospital.
 - Haneef arrived in Australia on 11 September 2006, using an Indian passport. He entered Australia on a current work visa, due to expire in August 2010 (H)
 - Haneef entered Australia with Firdous Arshniya, also travelling on Indian passport. Arshniya departed Australia on 19 March 2007. It is believed Arshniya's Haneef's wife and has returned to India as she is pregnant. POLICE

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- The AFP identified that on 2 July Haneef was travelling to Brisbane International Airport. He was arrested about 2305 while he was attempting to depart Australia for Bangalore, India on a one way ticket, purchased on 2 July 2007.
 - Haneef is currently participating in a taped record of interview and an application for the extension time to assist with the investigation is currently underway. Haneef has not been charged at this time but is under arrest, on suspicion of providing support to a terrorist organisation (being the group which planned the attacks in the UK).
- Today, 3 July, search warrants were executed at the residence of Haneef, his vehicle, the residence of known associate s41(1) and at the Gold Coast Hospital, with the assistance of the Hospital CEO. The warrants were executed by AFP investigators and forensic capability with the assistance of QPS.
 - During the search of the residence of s41(1) a laptop computer belonging to Haneef was located and forensic examination of the laptop is underway.

s.33(1)(a)(i) and s.40(1)(e)

- Ali is voluntarily assisting police with their enquiries but has not been arrested.

Interview of Haneef: extension of investigation time

- The AFP was granted an extension for eight hours to interview Haneef earlier today (3 July). This extension was granted under the normal extension provisions available to investigators, under Part 1C of the *Criminal Justice Act 1974* (set out below).

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- A subsequent extension of investigation time was granted late today (3 July) for a further 12 hours.
- During that 12 hours the AFP intends to seek an additional extension, under the special category of dead time for terrorism offences.

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- Haneef will remain in custody for the period of the extension, to allow police to continue their investigations.
- Haneef will not be able to be questioned during dead time.
- The balance of the investigation time will reactivate at the end of dead time.

- **Investigation Period:**

- **4 hours** (initial questioning period); **PLUS**
- **20 hours** possible extensions (by application(s) to judicial officer) – 24 hours total; **PLUS**
- **'Dead time'** i.e.:
 - Communications with legal practitioner
 - Conveying the person to questioning facilities
 - Waiting for lawyer, relatives to arrive
 - Medical attention
 - Intoxication
 - Identification parade
 - Rest or recuperation etc

- **PLUS Additional category of 'dead time' for terrorism offences**

- The usual 'dead time' categories **AND**
- Any reasonable time – must be reasonable but otherwise not defined
- AFP must apply for special dead time, and must satisfy the issuing authority granting the extension that further detention is necessary to;
 - preserve/obtain evidence or complete the investigation; and
 - the investigation is being conducted properly without delay; and
 - opportunity has been given for the suspect and/or his or her lawyer to make representations
- Additional dead time category for terrorism offences was introduced into the Crimes Act by the *Anti Terrorism Act 2004*
- 'reasonable' time may include (not exhaustive):
 - the need to collate and analyse information from sources other than the ROf eg search warrants, post bomb blast analysis, overseas information;
 - the need to allow authorities other than the AFP (domestic or foreign) to collect relevant information eg ASIO, Interpol, State Police
 - Language translation of information

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- Time zone differences. For example, a request to an overseas country may not be received until some hours later due to time zone difference.
- **Application process** – is required. Application is in person, writing, phone, fax etc.

Preventative Detention

- The possibility of applying for a Commonwealth Preventative Detention order was considered, but the preferred course of action is for the application for extended dead time.
 - It is not clear at this stage how one could be satisfied that a PDO is reasonably necessary for the purposes of preserving evidence of (or relating to) the UK terrorist incidents. The principal suspect is currently detained by virtue of being under arrest and 3E search warrants have been executed at all known relevant premises.
 - At this stage there is no reasonable suspicion that there is need to preserve evidence and that the detention is reasonably necessary for this purpose.
 - At the very least we would need to show that there is some information to indicate there is outstanding evidence which is required to be preserved. We have no information at this stage that would indicate this.
 - The more pressing issue is the collection, collation and analysis of information/evidence being sought and obtained from overseas LEAs and domestic 3E search warrants.
- Accordingly, the extended 'down time' provisions under part 1C (s23CB) are more appropriate for this very purpose as they specifically recognise this type of activity when seeking down time.
 - 105.4(6) may afford some ability to apply for and obtain a PDO in relation to our first Person of Interest (POI). However, for this to occur an AFP member must be satisfied that:
 - (a) a terrorist act has occurred within the last 28 days; and
 - (b) it is necessary to detain the subject to preserve evidence of, or relating to, the terrorist act; and
 - (c) determining the subject for the period for which the person is to be detained under the order is reasonably necessary for the purpose referred to in paragraph (b).

FREEDOM OF INFORMATION ACT 1992
HOWEVER, ALL INFORMATION
NECESSARY FOR THE PURPOSE REFERRED TO IN PARAGRAPH (b).
DOCUMENT HAS BEEN RELEASED
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§ 22(1)(a)(ii) and § 41(1)
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- The utility of PDO will be continually assessed as this investigation progresses.

s.22(1)(a)(ii)

Date: 03 July 2007
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FREEDOM OF INFORMATION ACT 1982
(COMMONWEALTH)

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