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AGD SECRETARY - RECEIVED

16 SEP 2014

Priority A (Date)

Priority B

Priority C

Information

App. Action

MFA

Refer to

Reply by Sec

Reply by Cap. Sec

Reply by Dir. Head

Brief Request

Action Item

Date: 15/9/14

CM (INFO)
DF (INFO)

s 47E(c)

Our Reference: Promis 3725206

12 September 2014

Tony Sheehan
Acting Secretary
Attorney-General's Department
3-5 National Circuit
Barton ACT 2600

Dear *Tony*

I write to advise you of the outcome of the Australian Federal Police (AFP) investigation surrounding the deaths of the Australian based journalists, collectively known as the Balibo Five, in East Timor (Timor-Leste) in 1975.

The Attorney-General's Department (AGD) forwarded the matter to the AFP on 17 January 2008 following the NSW coronial inquest into the death of Brian Peters, one of the Balibo Five. The AFP commenced an investigation into the matter on 20 August 2009 for a possible offence under section 7(1) of the *Geneva Conventions Act 1957 (Cth)* (GC Act) as applicable in 1975.

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The AFP has exhausted all reasonable avenues in investigating the circumstances surrounding the deaths of the Balibo Five, including obtaining statements from all known potential witnesses based in Australia.

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The AFP contact for this matter is Assistant Commissioner Ian McCartney who can be contacted on (02) 61315650 or email [s 47E\(d\)@afp.gov.au](mailto:s 47E(d)@afp.gov.au).

Yours sincerely

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Michael Phelan APM

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OP SOLIS - AFP INVESTIGATION INTO THE DEATHS OF THE AUSTRALIAN BASED JOURNALISTS COLLECTIVELY KNOWN AS THE BALIBO FIVE

- I am aware the AFP has conducted an extensive review of the investigation into the deaths of the journalists collectively known as the Balibo 5.
- This has been a complex investigation relying on evidence that exists in overseas jurisdictions.
- I am advised that the AFP has exhausted all avenues of inquiry in relation to the matter and will be taking no further action.
- I understand a senior AFP investigator briefed the Australian based next of kin on Thursday 6 November concerning the decision to take no further action in this investigation. United Kingdom based families were likewise provided a detailed explanation, in writing, on 7 November 2014.
- I am aware of the media article authored by Senator Xenophon dated 27 October, 2014.
- Decisions relating to the investigation are a matter for the AFP, as such it would not be appropriate for me to comment further.

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Background

AFP Operation Solis – Investigation into the deaths of the journalists known as the Balibo Five.

The AFP has previously reported at Senate Estimates that the Balibo investigation is ongoing.

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If this is received, the AFP

will review the material.

Clearance officer: Linda Champion Phone: 6131 5650
Division: Crime Operations
Date Updated: 18/11/14

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AFP Ref: 3725206

Minister for Justice

cc

Attorney-General

**CONCLUSION OF OPERATION SOLIS – AUSTRALIAN FEDERAL POLICE
INVESTIGATION INTO THE DEATH OF THE ‘BALIBO FIVE’**

Deadline: Priority.

Purpose: For information.

Previous Submissions: Nil.

Information:

In November 2007, a NSW coronial inquest was held into the death of Brian Peters (one of the ‘Balibo Five’), who along with Malcolm Rennie, Gary Cunningham, Gregory Shackleton and Anthony Stewart was killed in Balibo, Timor-Leste in October 1975. The NSW Coroner found that war crimes may have been committed by two former Indonesian army officers in Timor-Leste in 1975, and in January 2008, referred this matter to the Attorney General.

2. In August 2009, the AFP commenced an investigation into this matter.

3. On 12 September 2014, Deputy Commissioner Michael Phelan wrote to the Acting Secretary of the Attorney Generals Department (AGD), Tony Sheehan, to advise him that the AFP had thoroughly investigated the matter, had exhausted all avenues of enquiry, and would not be providing a brief of evidence to the Commonwealth Director of Public Prosecutions. This letter is attached and outlines the AFP’s rationale in reaching this decision.

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7. In finalising the investigation, the AFP has developed a strategy which includes briefing the next of kin of the 'Balibo Five' in Australia and the United Kingdom in line with previous annual briefings. Talking points for this briefing are being prepared in consultation with AGD and the Department of Foreign Affairs and Trade (DFAT).

8. It is anticipated that a meeting will be held with the next of kin on 8 October 2014 in Melbourne, which will coincide with a similar meeting with next of kin in the United Kingdom. The meeting will also coincide with an AFP media release being released. A media strategy is currently being prepared in consultation with AGD and DFAT.

Consultation for the preparation of this brief: AGD, DFAT.

Future action: Proposed meeting with next of kin on 8 October 2014.

Expected reaction: This case has drawn significant media interest locally, nationally and internationally. It is expected there will be strong criticism of the AFP, particularly from certain next of kin.

South Australian Senator Nick Xenophon has been a vocal advocate on behalf of some of the next of kin and it is likely he will be critical of the AFP.

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Recommendation: That you note the contents of this brief.

Noted

Ian McCartney
National Manager
Crime Operations

2 October 2014

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Minister for Justice

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Action Officer: FA

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