



Unclassified report into the circumstances leading up to Mr al-Araibi's detention

Purpose

The purpose of this report is to:

- review the circumstances leading up to the detention of Mr Hakim al-Araibi in Thailand; and
- identify issues and initiate remediation actions to reduce the likelihood of similar incidents in the future.

Executive summary

- The Department of Home Affairs, in conjunction with Home Affairs Portfolio partners, undertook a review of circumstances leading up to the detention of Mr al-Araibi in Thailand on 27 November 2018.
- The review did not identify any systemic weakness; however, a number of possible opportunities to impact the outcome were not realised.
- A number of remediation actions are underway to address the issues identified, and minimise the risk of these circumstances reoccurring.

Background

Mr Hakim Ali al-Araibi was detained in Thailand on 27 November 2018 on the basis of an INTERPOL Red Notice, raised by Bahrain following his conviction in Bahrain for *'arson and possession of flammable material which he used in attacking a police station'*.

Issues identified

The review did not identify any systemic weakness that resulted in a failure to lift Mr al-Araibi's Red Notice in a timely fashion. It should be noted that Mr al-Araibi's decision to travel, the procedures followed by Thai authorities when a Red Notice is in place, and other factors contributed to his ongoing detention. Given this, even if this Red Notice had been lifted he may still have been detained in Thailand at the request of Bahrain.

Nonetheless, there was one opportunity missed as a result of human error that would have likely had the Red Notice on Mr al-Araibi rescinded prior to travel and two other possible opportunities, although the latter are unlikely to have affected the outcome significantly.

Loading of Red Notice onto the Central Movement Alerts List

The principal missed opportunity was the breakdown in process at the Australian Border Force's (ABF) Border Operations Centre (BOC) on 22 November 2018 while loading the Red Notice onto the Central Movements Alert List (CMAL). This action should have resulted in the Australian Federal Police's (AFP) INTERPOL National Central Bureau (NCB) Canberra and the alert owner (the Home Affairs Department's Character Assessment and Cancellations Branch) being notified by email of Mr al-Araibi's visa and residency status.

Had this notification been sent, it is likely INTERPOL Headquarters in Lyon (France) would have rescinded this notice following notification by NCB Canberra with the approval of Character Assessment and Cancellations Branch.

Departure from Melbourne on 27 November 2018

There were two other possible opportunities not realised, however these were unlikely to have affected the outcome significantly. The first was on his departure from Melbourne on 27 November 2018, where his Protection visa status was not referred to AFP NCB Canberra at that point.

However, from a law enforcement perspective there was no requirement to detain him on account of his Red Notice status, nor is it part of current ABF training and procedure for individuals on Protection visas with Red Notices about to travel to be advised if they are potentially at risk if they leave Australia (any travel restrictions are advised upon the grant of a relevant visa) or that AFP NCB Canberra should be notified of Protection visa status when advice is requested on Red Notices.

Review of the Red Notice

Had the notification been provided to AFP NCB Canberra on Mr al-Araibi's departure, NCB Canberra would have sought authority to release the information to INTERPOL's Office of Legal Affairs (OLA) to seek review of the Red Notice.

This would likely have resulted in the Red Notice being rescinded, but to affect the outcome this would have had to occur during Mr al-Araibi's flight to Bangkok. Additionally, notification would not have been provided by AFP NCB Canberra to Bahraini authorities and the engagement with Thai authorities could have been aligned to seek to achieve Australian objectives. However, Bahrain was possibly already aware of Mr al-Araibi's travel plans (their Red Notice was issued on the day his visa to Thailand was granted) and may have separately issued a request to Thailand for his arrest or detention.

Notifications provided to individual email accounts

The second possibility not realised was following an allegation by Bahrain that Mr al-Araibi was travelling on false documents, when AFP NCB Canberra requested and were sent advice on the morning of 28 November 2018 (Canberra time) from Character Assessment and Cancellations Branch, which contained notice of Mr al-Araibi's Protection visa status. Later that morning, AFP NCB Canberra were separately sent another request from Character Assessment and Cancellations Branch as part of the latter's investigation into grounds for a visa cancellation.

Neither email from Character Assessment and Cancellations Branch was accessed by AFP NCB Canberra, as both were sent to individual accounts and both officers were off-duty for several days subsequently. It would be two days before AFP NCB Canberra received and actioned separate advice to the same effect; INTERPOL Headquarters was already acting by that point to lift the Red Notice. However, even if this information from Character Assessment and Cancellations Branch

had been sent to a group email and actioned immediately on the morning of 28 November 2018, Mr al-Araibi was already in Thai detention.

Contributing factors

The review identified a number of factors that contributed to the missed opportunities outlined above. In particular, the Department's reliance on multiple aging, disconnected ICT systems requiring manual intervention, compounded by the volume of information being handled by officers, results in a degree of residual risk that remediation of processes alone cannot address completely. Business processes have also evolved around these aging systems, to the point where system and process are fused and inflexible.

Due to the way the Department's systems were built over the last two decades, ICT capabilities represent an ecosystem of siloed, aging and disparate systems that are more akin to a patch-work quilt than a highly functional operational platform. A number of systems are at end-of-life and have been candidates for decommissioning for a number of years with minimal support.

Remediation underway

A range of remediation action is underway to reduce the risk of a similar series of events.

- The ABF is revising the procedures relating to the transfer and managing of Red Notices (of which there are 600 a month) to CMAL, including better describing to AFP NCB Canberra the visa status of Red Notice matches.
- Additional checks will be conducted each day to add a layer of assurance that the email notification to AFP NCB Canberra and Character Assessment and Cancellations Branch has been sent.
- The ABF will also examine as a potential additional preventative measure the need for any changes to the procedures and training of Border Clearance Officers to include advice to AFP NCB of the visa status of individuals travelling with a Red Notice.
- ABF, AFP NCB Canberra, and the Home Affairs Department's Immigration and Citizenship Services Group will all review procedures, particularly the use of group emails and ensuring all staff are instructed in proper information-handling procedures.
- All parties will consider policies surrounding holders of Protection visas, including advice to such holders on the risks involved in overseas travel.
- The Department has a plan to remediate ICT capability and sustainment more broadly.