

Australia: Haneef documents point to Howard cabinet's role in witch-hunt

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Police documents obtained under freedom of information laws by lawyers for Dr Mohamed Haneef, whose frame-up on a terrorism charge collapsed last year, point to the culpability of leading members of the former Howard government.

Last July, facing defeat at November's federal election, Howard and his ministers orchestrated a witch-hunt against the young Indian Muslim doctor in an attempt to bolster the increasingly-discredited "war on terror". Haneef was detained on evidence that proved to be false over his supposed links to attempted bombings in London and Glasgow in June.

The documents released late last week indicate that when Haneef was finally charged on July 14—after being interrogated for 12 days—the police and the Commonwealth Director of Public Prosecutions (CDPP) told the government the case against him was weak.

A July 15 letter from the Australian Federal Police (AFP) to the Department of Foreign Affairs advised that Haneef was likely to be granted bail because of the lack of evidence against him, even though the government's anti-terrorism legislation made it extremely difficult to obtain bail.

"Under 15AA Crimes Act 1914—bail can be granted for offences only in exceptional circumstances ... CDPP advise they think it likely that Haneef will be granted bail," the letter said. "CDPP would consider appealing, however a stronger case would need to be presented by police."

The next day, as feared, a magistrate granted Haneef bail on the flimsy charge of "recklessly providing support to a terrorist organisation". To keep Haneef detained, the Howard government's National Security Committee effectively overturned the judicial ruling by cancelling his residency visa so that he would be kept in an immigration facility.

Within days, however, the operation backfired after Haneef's lawyers leaked interview transcripts to the media, allowing the public to see the fabricated nature of the charge. The CDPP was forced to abandon the case when police and prosecutors admitted making false allegations against

Haneef, including the key claim that he had "supported" a terrorist act because his old mobile phone SIM card had been found in the jeep that exploded at Glasgow airport last year.

Haneef's arrest on July 2 had been followed by sensational media claims, clearly fed by government- and police-orchestrated leaks, that he and other foreign-born doctors were part of a "terror network" with close links to those accused of involvement in the bombing attempts in London and Glasgow.

The documents obtained last week reveal that within days of Haneef's arrest the AFP started preparing plans to keep him detained if a magistrate ordered his release. At the time, he was being held for questioning without charge under another anti-terrorism provision, Part 1C of the Crimes Act, which allows a magistrate to repeatedly extend the detention.

As early as July 3, the day after his arrest, a meeting of the National Counter-Terrorism Taskforce discussed applying for a preventative detention order (PDO) or control order against him. Another document, dated July 5 and marked "Highly Protected", shows that the AFP had received advice that it lacked the evidence to get such an order. "At this stage of the investigation there is insufficient information to support ... detaining the person," the document states.

Very little is required for a preventative detention or control order. A judge or retired judge can issue a PDO if police believe a terrorist attack is imminent or to preserve evidence about an attack that has already taken place. A magistrate can impose a control order, a form of house arrest, if "on the balance of probabilities" the order would assist in preventing a terrorist act or the person had been involved in terrorist training.

Only days later, the documents show that the AFP began discussions with the immigration department about revoking Haneef's residency visa on "bad character grounds". On July 11, the AFP supplied Howard's immigration minister, Kevin Andrews, with information to support cancelling the visa. However, the material given to Andrews has been excised from the documents, in an apparent move to shield

the former government.

Andrews revoked the visa, simply on the basis that Haneef had an “association” with suspected terrorists, because his two second cousins, who lived in England, were alleged to be implicated in the London and Glasgow blasts.

Attorney-General Philip Ruddock then signed a Criminal Justice Stay Certificate, which enables the government to indefinitely detain a non-citizen who is facing criminal charges. Ruddock signed the certificate despite it stating: “There is no currently available information held by law enforcement to suggest Dr Haneef has been involved in, or engaged in planning of, violent/terrorist conduct in Australia”.

Last July 24, Howard admitted that the cabinet National Security Committee, which was comprised of his government’s most senior ministers, had discussed the operation against Haneef, including the decision, nominally taken by Andrews, to cancel the visa. The released documents indicate that they made the decision after being told by the AFP that this course of action was necessary because of the weak evidence against Haneef.

Throughout the entire affair, Howard continued to insinuate that Haneef was guilty. After Haneef was charged, the prime minister delivered a major speech in which he declared that the allegations were a wake-up call to Australians: “Just as we seemed to be taking our mind off the issue and seemed to be relaxing into a new and different era, we are reminded of the ever-present threat.”

Haneef’s lawyers have forwarded the 1,351 pages of documents to John Clarke, QC, the former judge appointed by the Rudd Labor government to conduct an inquiry into the Haneef case. The immigration department, however, has refused to hand over a large number of other documents on the grounds that their disclosure could jeopardise future investigations and discourage officials from giving frank advice to ministers.

Immigration Minister Chris Evans has claimed that the refusal is purely a departmental decision, even though one of Labor’s election promises was to amend the Freedom of Information Act to prevent the arbitrary blocking of access to documents.

Haneef’s lawyers have lodged an appeal to the Administrative Appeals Tribunal, which is due to be heard on June 16 and 17. The refusal to release the documents makes a mockery of the Labor government’s claims that the Clarke inquiry does not need powers to compel witnesses to appear or answer questions because all federal agencies have pledged to fully cooperate with Clarke.

The inquiry is being held behind closed doors and without powers to ensure the release of documents or require witnesses to be cross-examined. It is a procedure designed to

prevent public scrutiny and to protect Howard, Andrews and Ruddock, as well as ex-Queensland Premier Peter Beattie and the state police and Australian Security Intelligence Organisation (ASIO) chiefs. All were involved in the Haneef case, but none will be required to testify.

Attorney-General Robert McClelland has also rejected a request by Haneef’s lawyers to extend the inquiry’s scope to consider the continuing operations of government agencies, including the AFP, which maintains that Haneef is still a suspect. In April, AFP Commissioner Mick Keelty said Haneef remained under investigation, in an operation which has cost \$7.5 million and at its height involved more than 600 federal and state police. McClelland’s spokesman told journalists that it was up to Clarke to request any changes to the inquiry’s terms of reference.

The narrow terms of reference were drafted to prevent any inquiry into the role played by Howard and his ministers. The inquiry was asked to report on “the arrest, detention, charging, prosecution and release of Dr Haneef, the cancellation of his Australian visa and the issuing of a criminal justice stay certificate”. Its instructions, however, are limited to identifying “any deficiencies in the relevant laws or administrative and operational procedures and arrangements of the Commonwealth and its agencies, including agency and interagency communication protocols and guidelines”.

The Rudd government’s inquiry is designed to cover-up the essential character of the Haneef witch-hunt, as well as Labor’s role in supporting it until the whole case fell apart. Last July 12, while Haneef was still being detained without charge, Kevin Rudd declared he had “confidence” in the AFP to “handle this manner in an appropriate way” and reiterated that Labor would retain the anti-terrorism laws if it won office. Labor’s proposal for an inquiry only emerged amid widespread popular disgust at Haneef’s victimisation.



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