



Australian Government
Department of Defence

Freedom of Information

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FOI@defence.gov.au

Our reference: FOI 011/15/16

[REDACTED]
By email: [REDACTED]

Dear [REDACTED]

NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST

I refer to your email of 11 July 2015, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

“...any documents relating to the implementation of SOPs (Standard Operating Procedures) ADF bases, presumably RAAF bases, to replace the out-of-date and cancelled “Defence Instructions (General) ADMIN 55-1, Unusual Aerial Sightings Policy”, including copies of the SOPs themselves; plus any internal correspondence such as, but not limited to, emails; minutes of meetings; etc that went into formulating, creating and implementing SOP’s to handle so-called UFO events.”

Background

Following the receipt of your email dated 11 July 2015, your request was registered under the FOI Act. Accordingly, the statutory deadline for you to receive a response to your request is 10 August 2015.

The purpose of this letter is to provide you with decision relating to the documents that are the subject of your request.

FOI decision maker

Group Captain (GPCAPT) C Wallis, Director of Corporate and Community Relations – Air Force, is the accredited decision maker, under the FOI Act, in relation to your request.

Documents identified

GPCAPT Wallis identified four documents as matching the description of your request. The details of the documents are listed in the schedule of documents at Enclosure 1.

Decision

GPCAPT Wallis decided to:

- a. release two documents in full;
- b. release two documents with deletions made in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is either irrelevant to the request, and/or considered exempt under section 47F [public interest conditional exemptions-personal privacy] of the FOI Act; and
- c. refuse access to any other documents under subsection 24A [Requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act, on the grounds that they do not exist.

Reasons

Material taken into account

In making her decision, GPCAPT Wallis had regard to:

- a. the terms of the request;
- b. the content of the documents in issue;
- c. relevant provisions in the FOI Act;
- d. paragraph 6.29 the *Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act* (the Guidelines); and
- e. principles on open public sector information issued by the Information Commissioner.

Section 22 of the FOI Act

Upon examination of the documents, GPCAPT Wallis found that some documents contained material irrelevant to the scope of the request. Therefore, in accordance with subparagraph 22(1)(a)(ii) of the FOI Act, she decided to remove the material from the documents.

Exemption claim - Section 47F of the FOI Act

Upon examination of the documents, GPCAPT Wallis identified mobile phone numbers belonging to persons other than you. GPCAPT Wallis considered the disclosure of this information would constitute an unreasonable disclosure of their personal information.

The Guidelines note that '*the personal privacy exemption is designed to prevent 'unreasonable' invasion of third parties privacy*'. In accordance with subsection 47F(2), in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, GPCAPT Wallis had regard to:

- a. the extent to which the information is well known;
- b. whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document; and
- c. the availability of the information from publicly accessible sources.

Against those criteria, GPCAPT Wallis found that:

- a. the specific personal information is not well known;

- b. the people to whom the information relates are not known to have been associated with the matters dealt with in the documents;
- c. the personal information is not readily available from publicly available sources; and
- d. the material considered to be exempt is information that the individuals would reasonably be expected not to have disclosed to a third party without their consent.

Noting the findings against the above criteria, GPCAPT Wallis decided the disclosure of this information would constitute an unreasonable disclosure of personal information belonging to people other than you. Accordingly, GPCAPT Wallis considered this material to be conditionally exempt under section 47F of the FOI Act.

Subsection 11A(5) of the FOI Act requires Defence to allow access to a conditionally exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest.

Section 47F – Public interest considerations

In assessing whether disclosure is, on balance, contrary to the public interest, GPCAPT Wallis considered the relevant factors set out in section 11B(3) [Public interest exemptions – factors] of the FOI Act.

Subsection 11B(3) states *factors favouring access to the document in the public interest include whether access to the document would do any of the following:*

- (a) *promote the objects of this Act*
- (b) *inform debate on a matter of public importance*
- (c) *promote the effective oversight of public expenditure; and*
- (d) *allow a person to access his or her own personal information.*

GPCAPT Wallis considered that the public interest in promoting the objects of the Act have been satisfied as, in her opinion, merely removing the mobile telephone numbers from the document does not detract from public disclosure of government-held information.

GPCAPT Wallis did not consider the final two considerations were relevant in this instance as the information does not deal with public expenditure or relate to access to your own personal information.

In coming to her decision, GPCAPT Wallis also had regard to subsection 11B(4) [Irrelevant factors] of the FOI Act, which lists factors which must be taken into account in deciding whether access would, on balance, be contrary to the public interest. GPCAPT Wallis advised that none of the factors she took into account in making her decision were listed under subsection 11B(4) of the FOI Act.

Based on all the above, GPCAPT Wallis considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the exempt material contained in the documents. Therefore, GPCAPT Wallis decided it would be contrary to the public interest to release the information considered exempt under section 47F of the FOI Act.

Section 24A(1) of the FOI Act

Section 24A(1) of the FOI Act states:

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

(1) An agency or Minister may refuse a request for access to a document if:

(a) all reasonable steps have been taken to find the document; and

(b) the agency or Minister is satisfied that the document:

(i) is in the agency's or Minister's possession but cannot be found; or

(ii) does not exist.

Paragraph 8.41 of the Guidelines also gives guidance as to what is required to be included within this statement of reasons to refuse a request under section 24A(1):

8.41 The statement of reasons given to the applicant should sufficiently identify the document and give reasons as to why it cannot be found or why it is known that it no longer exists. The statement should describe the steps the agency took to search for it.

GPCAPT Wallis advised that a search of all documentation held in "Objective", the electronic Defence Records Management System, was conducted using the search parameters of: 'unusual aerial sightings'; 'UAS'; 'unidentified flying objects'; and 'UFO'. GPCAPT Wallis advised that no documentation matching the request was found for RAAF Bases Curtin, Darwin, East Sale, Learmonth, Pearce, Point Cook, Scherger, Tindal, Townsville, Wagga, Williams, and Woomera.

GPCAPT Wallis advised that she was satisfied that "all reasonable steps" have been taken to locate documents matching the request. Therefore, GPCAPT Wallis was satisfied that the documents cannot be found or do not exist, and refused access to these Items under section 24A of the FOI Act.

Your Review Rights

Internal Review

Under the provisions of section 54 of the FOI Act, you are entitled to request a review of this decision. You must request a review, in writing, within 30 days of the date of this letter, or the date you receive the documents. Requests can be sent to:

Email: FOIReview@defence.gov.au
 Fax: 02 626 62112
 Post: Freedom of Information Directorate - Reviews
 Department of Defence
 CP1-6-029
 PO Box 7910
 CANBERRA BC ACT 2610

Australian Information Commissioner

Under the provisions of section 54 of the FOI Act, you are also entitled to request an external review of this decision by the Australian Information Commissioner. You have 60 days to lodge such a request, using one of the contact methods below:

Email: enquiries@oaic.gov.au
 Phone: 1300 363 992
 Fax: 02 9284 9666
 Post: GPO Box 2999
 Canberra ACT 2601

Complaints

You may complain to Defence, the Information Commissioner or the Commonwealth Ombudsman about an action taken by Defence in the exercise of its power or the performance of its functions under the FOI Act. There is no fee for making a complaint. Should you wish to complain to the Department of Defence, your complaint can be addressed to Mr Tony Corcoran using the contact details below:

Email: Tony.corcoran@defence.gov.au
Post: Tony Corcoran
Assistant Secretary Information Management and Access Branch
CP1-6-14
PO Box 7911
CANBERRA BC ACT 2610

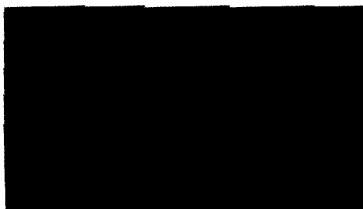
Contact details for the Commonwealth Ombudsman are below:

Phone: 1300 362 072)
Fax: 02 6276 0123
Post: Commonwealth Ombudsman
GPO Box 442
CANBERRA ACT 2601

Contact details for the Information Commissioner are as on the previous page.

Should you have any questions in regard to this matter please contact this office.

Yours sincerely



John Peterson
Case Officer
Freedom of Information

10 August 2015

Enclosures:

1. Schedule of documents
2. Documents in the form for release