



**Australian Government**  
**Department of Defence**

Freedom of Information  
CP1-6-001  
PO Box 7910  
CANBERRA BC ACT 2610  
Tel: 02 626 62200  
Fax: 02 626 62112  
FOI@defence.gov.au

Our reference: FOI 029/15/16



By email: [Redacted]

Dear [Redacted]

**NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST**

I refer to your email dated 29 July 2015, in which you sought access, under the *Freedom of Information Act 1982* (FOI Act), to:

*"a current "index", or "list", of all Operational "Standing Instructions" (including supplements, appendixes and attachments) which relate to:*

*- the detection, tracking, identification or non-identification, processing, reporting and resolution relating in any way to unknown aircraft, unannounced aircraft, hijacked aircraft, contacts of interest, tracks of interest, unknown tracks, low flying aircraft, hostile aircraft, unusually behaving aircraft, unlawful or illegal aircraft, re-entry of space debris, and the like; which were/are created by, maintained, and utilised by these areas:*

- 1. RAAF Surveillance and Response Group;*
- 2. Its subordinate Wings: 41 Wing; 42 Wing; 44 Wing; and 92 Wing;*
- 3. and the subordinate Units and Squadrons under the above Wings, ie:*
  - a) 41 Wing's: No 1 RSU; No 3 CRU; No 114 MCRU; and the training unit SACTU;*
  - b) 42 Wing's only subordinate squadron, No. 2 Squadron;*
  - c) 44 Wing's: No. 452 Squadron and No. 453 Squadron;*
  - d) 92 Wing's: No. 10 Squadron, No. 11 Squadron, and No. 292 Squadron."*

**Background**

We advised you on 6 August 2015 that Ms Andrea Sansom, Assistant Director FOI, decided to waive any financial charges for the processing of your request. Accordingly, the statutory deadline for you to receive a response to your request is 28 August 2015.

The purpose of this letter is to provide you with the 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 authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

**Identified documents**

GPCAPT Wallis identified four Standing Instructions as matching the description of your request. The titles of the documents are:

- a. 41 Wing - Standing Instruction (Operations) 03-19 Contact of Interest Reporting;
- b. 41 Wing - Standing Instruction (Operations) 04-05 41WG Tactical Procedures;
- c. 42 Wing - Standing Instruction (Operations) 04-08 Emergencies to Aircraft not under Wedgetail Control; and
- d. 42 Wing - Standing Instruction (Operations) 04-09 Aircraft Emergency Indications Detected by Wedgetail.

**Decision**

Following examination of the documents, GPCAPT Wallis decided to:

- a. release the titles of the four Standing Instructions in full; and
- b. refuse access to the titles of 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 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 searches of all Operational Instructions held on the Defence Restricted Network (DRN) and Defence Secret Network (DSN) were conducted using the search parameters of: "detection, tracking, identification, non-identification, processing, reporting, resolution, unknown aircraft, unannounced aircraft, hi-jacked aircraft, contacts of interest, tracks of interest, unknown tracks, low flying aircraft, hostile aircraft, unusually behaving aircraft, unlawful or illegal aircraft and re-entry of space debris". GPCAPT Wallis advised that no documentation matching your request was found for No. 44 Wing or No. 92 Wing and their respective subordinate units. Furthermore, GPCAPT Wallis advised that the DRN and DSN are the only locations where such documents would be located, if they existed.

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

### **FOI Disclosure Log**

In accordance with the requirements of section 11C of the FOI Act, Defence is required to publish details of information released under the FOI Act. Defence publishes identified documents relating to requests within five working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions.

## **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](mailto: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](mailto: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](mailto: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 above.

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

Yours sincerely



John Peterson  
Case Officer  
Freedom of Information

17 August 2015