



Australian Government
Department of Defence

P288832

FOI 051/17/18 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] under the *Freedom of Information Act 1982* (FOI Act), for access to:

“1. The Report that was submitted by the 'Review Team' circa mid-2009 in response to the CJOPS Directive 33109 for the MEAO Field Allowance (FA) Review Team (F49521) dated 06 May 2009.

2. Any correspondence which addressed the findings of the 'Review Team's' Report.

3. With respect to CJ OPS' Decision Brief (DB) to the CDF, HQJOC C1449511 dated 06 Aug 09, any correspondence that actions CDF's decision to "cease payment of FA to all TGs, except for those listed in Table 1 ". In the event that this decision was not actioned (which I suspect), any correspondence that documents the CDF reversing his decision.”

FOI decision maker

2. I am the accredited officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

3. I identified seven documents as matching the description of the request.

4. The decision in relation to each document is detailed in a schedule of documents.

5. I have added an FOI reference number and Item/Serial number to each of the documents, which corresponds with the schedule.

Decision

6. I have decided to:

- a. release four document in full for Items 1 and 2 of the request;
- b. partially release three documents for Items 1 and 2 of the request 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 considered exempt under section 33(a)(i) [Documents affecting national security] and/or section 47F [public interest conditional exemptions-personal privacy] of the FOI Act; and
- c. refuse access to documents of Item 3 of the request under subparagraph 24A(1)(b)(ii)[Requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act.

Material taken into account

7. In making my decision, I had regard to:

- a. the terms of the request;

- b. the content of the identified documents in issue;
- c. relevant provisions in the FOI Act;
- d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines);
- e. advice from the Office of the Chief of the Defence Force; and
- f. advice from staff at Headquarters Joint Operations Command.

Reasons for decision

Section 33(a)(i) – Documents affecting national security

8. Section 33 of the FOI Act exempts documents that would, or could reasonably be expected to cause damage to the Commonwealth's security.
9. The documents contain some information in relation to threat assessment, the disclosure of which could reasonably be expected to cause damage to the security or the defence of the Commonwealth by providing adversaries with a military advantage.
10. In evaluating the potential harmful effects of disclosing information in the documents I have also taken into account 'mosaic theory', which refers to individual pieces of information which may not be harmful in isolation, but which may cause damage to Australia's national security and defence when combined with other pieces of information.
11. I have therefore determined that the material is exempt under section 33 of the FOI Act.

Conditional Exemption - Section 47F(1) - Personal Privacy

12. Upon examination of the documents, I identified information, specifically names, phone numbers and signatures of individuals other than the applicant.
13. When assessing whether the disclosure of personal information is unreasonable, I considered the following factors:
- 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,
 - c. the availability of the information from publicly accessible sources, and
 - d. the effect the release of the personal information could reasonably have on the third party.
14. I found that the:
- a. specific personal information listed is not well known, and
 - b. information is not readily available from publicly accessible sources.
15. The release of the names, phone numbers and signatures of personnel identified in the document could reasonably be expected to cause harm to their privacy. I consider that the release of the personal information of individuals other than the applicant would be an unreasonable disclosure of personal information and is conditionally exempt under section 47F(1) of the FOI Act.

Public interest considerations – Section 47F(1)

16. I have found that the identified documents are conditionally exempt under section 47F(1) of the FOI Act. Section 11A (5) provides that if a document is conditionally exempt, it

must be disclosed unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

17. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act. The relevant factor is that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource.

18. However, the disclosure of this information would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities.

19. Paragraph 6.22 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors I find particularly relevant to this request are that release of this information could reasonably be expected to prejudice or harm:

- a. the protection of an individual's right to privacy
- b. the interests of an individual or group of individuals.

20. It is for those reasons that I find that the public interest factors against disclosure outweigh the factors for disclosure and I deem the information exempt under section 47F(1) of the FOI Act.

21. None of the factors listed in section 11B(4) [Irrelevant Factors] were taken into account when making my decision.

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

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

- (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.*

23. I have consulted with Headquarters Joint Operations Command (HQJOC) and am advised that no documents can be located for Item 3 of the request. I am advised that HQJOC undertook searches of the Electronic Document Register System (EDMS) and Document Records Management System (DRMS) for documents relating to the application.

Further Information

24. A number of the documents matching the scope of this request were classified. I have declassified the versions of the documents that are approved for release.

Clarification/Context Statement

25. The document, Item 1 Serial 1 (AM100226), is an unsigned version identified within DRMS that matches the Item 1 request. No signed version of the document was located. Similarly, of the three annexes indicated to be part of AM100226, only Annex B (Item 1 Serial 2) and Annex C (Item 1 Serial 3) were located as pages within an MS-Excel spreadsheet.



nick.cram

Digitally signed by nick.cram

DN: c=AU, o=GOV, ou=DoD, ou=PKI,
ou=Personnel, cn=nick.cram

Date: 2017.08.27 14:46:55 +10'00'

N.A. CRAM

Group Captain

Accredited Decision Maker

Joint Operations Command

27 August 2017