



**Australian Government**  
**Department of Defence**  
Defence Support and Reform Group

Ministerial and Information  
Management Branch  
Department of Defence

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Our reference: FOI 075/13/14



By email 

Dear 

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

1. I refer to your emailed letter, dated 22 August 2013, in which you requested access, under the Freedom of Information Act 1982 (FOI Act), to:

*"...documents identified in your decision letter relating to*

*Department of Defence: Senate Budget Estimates 3 - 4 June 2013.*

*Specifically, I am seeking the following briefing papers:*

*36. Combat-Related Deaths or Serious Injury of Afghan Civilians: Allegations of ADF Involvement*

*37. Detainee Management in Afghanistan."*

### **Background**

2. On 27 August 2013, I wrote to you to advise you of the preliminary assessment of charges associated with your request. The statutory processing time for the request was suspended on this date. Your email agreeing to pay charges for the processing was received in this office on 3 September 2013. As such, the statutory processing time for your request expires on 28 September 2013. I note that the due date is a Saturday. In accordance with the FOI Guidelines issued by the Australian Information Commissioner, if the last day for notifying a decision falls on a Saturday, Sunday or a public holiday, the timeframe will expire on the first day following which is none of those days. Noting Monday 30 September 2013 is a gazetted public holiday in the ACT (from where all FOI requests are administered), the due date for you to receive a response expires on 1 October 2013.

3. 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 makers**

4. Ms Geraldine Gibson, Director Afghanistan, International Policy Division, Office of the Secretary and Chief of the Defence Force and Colonel Murray Thompson, Director, Future & Afghanistan Military Commitments, Military Strategic Commitments were the accredited decision makers, under the FOI Act, in relation to your request.

#### **Documents identified**

5. Ms Gibson identified one document, titled *Senate Estimates Brief - Operations 07: Afghanistan: Detainee Management* (Document 1); Colonel Murray also identified one document, titled *Senate Estimates Brief - Operations 06: ADF Combat Incidents resulting in allegations of death or injury to Afghan civilians and subject to Administrative Inquiry as at 17 May 2013* (Document 2), as matching the description of your request.

#### **Decision**

6. Ms Gibson reviewed Document 1 and decided to release it intact. In coming to her decision Ms Gibson noted that the requested document was prepared in the context of Senate Budget Estimates hearing in June 2013. As such, she decided that there was no information that would reasonably require redaction under the FOI Act.

7. Colonel Murray reviewed Document 2 and decided to release it intact.

#### **Material taken into account**

8. In making their decisions Ms Gibson & Colonel Murray had regard to:
- a. the terms of the request;
  - b. the content of the identified document 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); and
  - e. the Principles on open public sector information issued by the Information Commissioner

#### **Payment of Charges**

9. In our letter, dated 27 August 2013, after deducting the free decision making time, the department estimated the cost associated with processing your request to be [REDACTED]. You agreed to pay charges for the administration of your request on 3 September 2013, an invoice for the preliminary assessment deposit of [REDACTED] was subsequently sent directly from Defence Finance.

10. Upon completion of your request, after deducting the free decision making time, the actual amount for processing was calculated to be [REDACTED]. However, in this instance, I have decided not to impose the further processing charges and to cap the charges amount at the deposit amount you have already paid ([REDACTED]).

11. Accordingly, copies of the documents in the form approved for release are at Enclosure 1.

**Explanatory note**

12. You will note that Document 1 contains material that has been highlighted in yellow. The area responsible for preparing the brief advised that the highlighting indicates material that has been updated in finalising the brief.

**Rights of review**

13. The FOI Act provides for rights of review of decisions. A copy of the fact sheet, "Freedom of Information – Your Review Rights" is at Enclosure 2.

**FOI Disclosure Log**

14. 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. Unless otherwise agreed, this request will be published on Defence's FOI Disclosure Log on 8 October 2013.

**Further advice**

15. The FOI Act may be accessed online at: <http://www.comlaw.gov.au/Details/C2011C00803>.

16. Should you have any questions, please contact this office.

Yours sincerely



Theresa Stinson  
Assistant Director – Media Case Management  
Freedom of Information

1 October 2013

**Enclosures:**

1. Documents in form approved for release
2. Fact Sheet: Freedom of Information – Your Review Rights