



**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 273/14/15



By email: 



1. I refer to your email, dated 27 February 2015, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

*“the last two years of mobile phone records relating to the government-issued mobile phone to Secretary of the Department of Defence, Dennis Richardson AO. I would like this information sent to me in machine readable, electronic form”*

**Background**

2. The statutory processing time for your request expires on 29 March 2015. I note that the above mentioned due date is a Sunday. 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. As such, the due date for you to receive a response is 30 March 2015.

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 maker**

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

**Documents identified**

5. I identified one document as matching the description of your request. The document in the form approved for release is at Enclosure 1.

6. Advice received from the area responsible for the department's ICT operations confirmed that the department does not directly hold any phone records. This is managed as a service by Telstra. The only records that Telstra manages on our behalf are similar to an individual's telephone bill, which is the document identified.

### **Decision**

7. I have decided to partially release the document with deletions made in accordance with subsection 22(1) [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 47F [public interest conditional exemptions-personal privacy] of the FOI Act.

### **Material taken into account**

8. In making my decision I 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);
- e. the Principles on open public sector information issued by the Information Commissioner; and
- f. advice provided by officers within the department.

### **Section 47F – Personal Privacy**

9. Upon examination of the document, I identified information, specifically, personal mobile telephone numbers and locations belonging to people other than you. This material satisfies the definition of personal information in section 4 of the FOI Act. In accordance with section 47F(2) of the FOI Act, in determining whether the disclosure of the identified personal information would be unreasonable, I 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 documents; and
- c. the availability of the information from publicly accessible sources.

10. Against those criteria, I found that:

- a. the specific personal information is not well known to the general community;
- b. the person to whom the information relates is not known to be, or to have been, associated with the matters dealt with in the documents; and
- c. the specific information is not readily available from publicly accessible sources.

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

12. 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.

13. I noted that conditionally exempt documents carry a public interest test. I considered section 11B of the FOI Act which sets out factors favouring access and irrelevant factors when considering the public interest test.

14. 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.*

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

16. I did not consider that the final three considerations were relevant in this instance as the information does not deal with public expenditure or relate to your own personal information.

17. Taking all of the above into consideration, on balance, I considered that disclosure of the telephone numbers called and the caller's location would be contrary to the public interest.

18. In coming to the above decision, I had regard to subsection 11B(4) [irrelevant factors] of the FOI Act, which lists factors which must not be taken into account in deciding whether access would, on balance, be contrary to the public interest. None of the factors I took into account were listed under subsection 11B(4) of the FOI Act.

19. Accordingly, I considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the documents that match the scope of this request. Therefore, I decided that it would be contrary to the public interest to release the information considered exempt under section 47F of the FOI Act.

### **Rights of review**

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

### **FOI Disclosure Log**

21. 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.

**Further information**

22. The FOI Act may be accessed at: <http://www.comlaw.gov.au/Details/C2014C00673>

23. All departmental action on your request is now complete. Should you have any questions in regard to this matter please contact this office.

Yours sincerely



Ms Linda McCann  
Director  
Freedom of Information

30 March 2015

Enclosures:

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