



Australian Government

Department of Defence

Office of the Chief Operating Officer

Freedom of Information and
Information Management Branch
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Our reference: 026/12/13

[REDACTED]
By email: [REDACTED]

Dear [REDACTED]

1. I refer to your email of 20 July 2012, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to a copy of:

"...the Australian Joint Service Plan (AJSP) SANJAK, dated 10 January 1989, with amendments up to 1 May 1992, excluding drafts and duplicates."

Background

2. On 6 August 2012, I advised you that the charges associated with processing your request had been imposed and that the statutory deadline was due to expire on 21 August 2012. However, due to the complexity of this request, you kindly agreed on 6 August under section 15AA [extension of time with agreement] of the FOI Act to a 30-day extension. Accordingly, the statutory deadline for you to receive a response to your request now expires on **20 September 2012**.

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. Colonel Leigh Wilton, Deputy Chief of Staff, Army Headquarters is the authorised decision maker, under the FOI Act, in relation to your request.

Documents identified

5. Colonel Wilton identified one document matching the scope of your request. The document she identified was *Australian Joint Service Plan SANJAK*. Colonel Wilton advised that the document was first issued on 16 December 1987 and contains pen-scripted amendments up to 7 April 1994. A copy of the document with amendments to 1 May 1992, only, could not be located. However, as the amendments up to May 1992 are included in the identified document, Colonel Wilton decided to consider this version of the document as matching the intent of your request.

Decision

6. Colonel Wilton decided to partially release the document in accordance with section 22 [access to edited documents] of the FOI Act on the grounds that the deleted material is considered exempt under subparagraph 33(a)(i) [security of the Commonwealth] of the FOI Act.

Reasons for decision**Material taken into account**

7. In making her decision Colonel Wilton had regard to:
- a. the content of the document in issue;
 - b. relevant provisions in the FOI Act;
 - c. contextual information provided by you; and
 - d. the guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Exemption claim – Sub-Section 33(a)(i) of the FOI Act

8. Section 33 exempts material from release if its disclosure would, or could reasonably be expected to, cause damage to the security or defence of the Commonwealth. In regards to the terms, 'could reasonably be expected to' and 'damage', the guidelines provide:

5.13 The test requires the decision maker to assess the likelihood of the predicted or forecast event, effect or damage occurring after disclosure of the documents.

5.14 The use of the word 'could' in this qualification is less stringent than 'would', and so requires no more than a degree of reasonableness being applied to deciding whether disclosure would cause the consequences. Therefore, the reasonable expectation refers to activities that might reasonably be expected to have occurred, be presently occurring, or could occur in the future.

5.25 'Damage' for the purposes of this exemption is not confined to loss or damage in monetary terms. The relevant damage may be intangible, such as inhibiting future negotiations between the Australian Government and a foreign government, or the future flow of confidential information from a foreign government or agency. In determining whether damage was likely to result from disclosure of the document(s) on question, a decision maker could have regard to the relationships between individuals representing respective governments. A dispute between individuals may have sufficient ramifications to affect relations between governments. It is not a necessary consequence in all cases but a matter of degree to be determined on the facts of each particular case.

9. In regards to the 'security of the Commonwealth', the guidelines state:

Security of the Commonwealth

5.26 *The term 'security of the Commonwealth' broadly refers to:*

(a) *the protection of Australia and its population from activities that are hostile to, or subversive of, the Commonwealth's interests...*

5.27 *A decision maker must be satisfied that damage to the security of the Commonwealth would be caused by disclosure of the information under consideration. The claim has been upheld in the following situations:*

(b) *The disclosure of a defence instruction of the Army's tactical response to terrorism and procedures for assistances in dealing with terrorism would pose a significant risk to security by revealing Australia's tactics and capabilities.*

10. Colonel Wilton advised that the vast majority of the information contained within the document could jeopardise the capability of the Australian Defence Force (ADF), if released. This particular information pertains to operational activities which may currently be used in certain situations.

11. Colonel Wilton was therefore of the view that if this information was disclosed it could be used by an adversary to compromise the capability of the ADF and the security of the Commonwealth by knowing how the ADF would react in specific circumstances.

12. Taking the above into account Colonel Wilton was therefore satisfied that sections of the identified document are exempt under section 33(a)(i) of the FOI Act.

13. The identified document contains 113 pages, of which Colonel Wilton decided to release only 10 with deletions under section 33(a)(i) of the FOI Act. The remaining 103 pages contain no information being released, as they are exempt in their entirety under section 33(a)(i) of the FOI Act, and have therefore been removed from the document. The Schedule at Enclosure 1 details the pages that have been removed.

14. Copies of the 10 pages in the form approved for release are at Enclosure 2.

15. Relevant sections of the FOI Act referred to above are at Enclosure 3.

Payment of Charges

16. In our letter dated 2 August 2012, the department estimated the cost associated with processing your request to be [REDACTED]. You agreed to pay charges for the administration of your request and paid the amount in full on 4 August 2012.

17. Upon completion of your request, the actual amount for processing was calculated to be [REDACTED]. Because the total amount you have already paid was more than the actual charges a refund of [REDACTED] is due. To enable us to process your refund, could you please complete the form at Enclosure 4 and return it to the address on the form via email or post.

Rights of review

18. The FOI Act provides for rights of review of decisions. A copy of fact sheet "Freedom of Information – Your Review Rights" setting out your rights of review is at Enclosure 5.

FOI Disclosure Log

19. 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 two working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions.

Further advice

20. 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



Melissa Davidson
Assistant Director
Freedom of Information

18 September 2012

Enclosures:

1. Schedule of documents
2. 10 pages in the form approved for release
3. Relevant sections of the FOI Act
4. Freedom of Information Refund Processing Form
5. Fact Sheet: Freedom of Information – Your Review Rights