



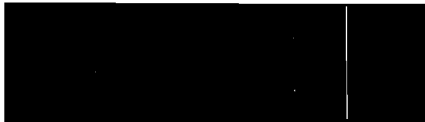
Australian Government

Department of Defence

Office of the Chief Operating Officer

Freedom of Information and
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Our reference: FOI 027/12/13



Dear 

1. I refer to your letter of 23 July 2012, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

Department of Defence Daily Occurrence Book HMAS Cerberus Coxswain's Office/ Unit Detention Centre pages 1st April 2008 to 31st May 2008 inclusive.

2. On 24 July 2012 our office advised you that your request was not valid. Accordingly, on 24 July 2012 you confirmed that this was a request under the Freedom of Information Act 1982 (FOI Act) and the request became valid under the FOI Act.

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. Captain John Vandyke, RAN, Chief Staff Officer (Establishments), is the authorised decision maker, under the FOI Act, in relation to your request.

Documents identified

5. Captain Vandyke identified two documents as matching the description of your request:

- a. HMAS *Cerberus* Daily Occurrence Book 01 Apr – 31 May 08 [Item 1]; and
- b. HMAS *Cerberus* Detention Facility Log 01 Apr – 31 May 08 [Item 2].

Decision

6. Captain Vandyke has decided to partially release the documents identified in response to your request with exempt matter removed under section 22 [deletion of exempt matter] of the FOI Act on the grounds that the deleted material is exempt under section 47F [public interest conditional exemptions – personal privacy] of the FOI Act.

Material taken into account

7. In making his decision, Captain Vandyke had regard to:
 - a. the content of the documents in issue;
 - b. the relevant provisions of the FOI Act; and
 - c. the *Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982* (the Guidelines); and
 - d. the *Principles on Open Public Section Information* issued by the Information Commissioner.

Reasons for decision

Section 47F – Personal Privacy

8. Subsection 47F(1) of the FOI Act provides that, '[a] document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).'

9. Captain Vandyke noted that these documents contained the names, signatures, mobile telephone numbers, dates of birth, ages, car registration numbers and employee identification numbers of numerous people. After examination of this material, Captain Vandyke found that the disclosure of some of this personal information would be unreasonable.

10. In making this decision on the disclosure of personal information, Captain Vandyke considered the range of factors listed under subsection 47F(2) of the FOI Act:

- 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. Any other matters that the agency considers relevant.
11. Against these factors, Captain Vandyke found that:
- a. the specific pieces of personal information relating to the third parties are not well known;
 - b. the third parties whose personal information has been deleted are not widely known to have been associated with the matters dealt with in the documents;
 - c. employee identification numbers and other personal information are not readily available from publicly accessible sources; and
 - d. no other matters were considered relevant in deciding whether the release of the personal information was unreasonable.

12. In light of the above considerations, Captain Vandyke decided that it would be unreasonable to release this personal information.

Public interest considerations

13. Section 11A(5) of the FOI Act, requires Defence to allow access to an exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest.

14. In assessing whether disclosure is, on balance, contrary to the public interest, Captain Vandyke considered the range of factors that favour access to a document set out in subsection 11B(3) [Public interest exemptions – factors] of the FOI Act. Captain Vandyke noted that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource; however, the disclosure of this information would not increase public participation in Government processes, nor would it increase scrutiny or discussion of Government activities.

15. While Captain Vandyke noted that release of this material would be of some interest to you, it would not inform public debate on any matter of public importance in any meaningful way. Additionally, disclosure of the information would not promote oversight of public expenditure, nor would it allow you access to your own personal information.

16. In coming to the above decision, Captain Vandyke had regard to subsection 11B(4) [public interest exemptions – irrelevant factors] of the FOI Act, which lists factors that must not be taken into account in deciding whether access would, on balance, be contrary to the public interest. Captain Vandyke noted that one of the factors he took into account were listed under subsection 11B(4) of the FOI Act.

17. Accordingly, Captain Vandyke considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the document that matches the scope of the request. Therefore, Captain Vandyke decided that it would be contrary to the public interest to release the information considered exempt, under subsection 47F(1) of the FOI Act.

Payment of Charges

18. In our letter to you dated 24 July 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 preliminary assessment deposit of [REDACTED].

19. On completion of the request, the actual charges associated with your request came to [REDACTED]. However, as we advised in our letter of 24 July 2012, Defence may not charge an amount greater than our original estimate. As such, the remaining balance is the difference between the estimated charges ([REDACTED]) and the deposit you have already paid ([REDACTED]).

20. Accordingly you are required to pay [REDACTED] in order to finalise your request. Please complete the payment authorisation form at Enclosure 1 and return it to the FOI Directorate. Upon receipt of the form an invoice will be generated, noting this can take up to three business days. Details about payment of the invoice are on the form.

Rights of review

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

FOI Disclosure Log

22. 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

23. Copies of relevant sections of the FOI Act are at Enclosure 3.

24. Should you have any questions about this matter please contact this office.

Yours sincerely



FOR

Trevor Greenberg
Case Officer
Freedom of Information

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1 September 2012

Enclosures:

1. Payment authorisation form
2. Fact Sheet: Freedom of Information – Your Review Rights
3. Copies of sections 11B and 47F of the FOI Act