



Australian Government
Department of Defence
Defence Support and Reform Group

Freedom of Information and
Information Management Branch
Department of Defence

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Our reference: FOI 214/12/13

By email: [REDACTED]

Dear [REDACTED]

1. I refer to your email, dated 4 December 2012, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

"...the ADFIS Assessment Report into the incident referred to in the departmental HIB #1028."

2. The purpose of this letter is to provide you with the decision relating to the document that is the subject of your request.

FOI decision maker

3. Captain B.W. Parker RAN, Provost Marshal, Australian Defence Force is the accredited decision maker, under the FOI Act, in relation to your request.

Identified document

4. Captain Parker identified one document, on the Australian Defence Force Investigative Service (ADFIS) Defence Policing and Security Management System database, as matching the scope of your request.

Decision

5. Captain Parker decided to release the identified document with deletions, in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, as the deleted material was considered exempt under section 47E [certain operations of agencies] and 47F [public interest conditional exemptions – personal privacy] of the FOI Act. Captain Parker's reasons for his decision are set out below.

Material taken into account

6. In making his decision Captain Parker had regard to:

- the content of the identified document in issue
- relevant provisions in the FOI Act
- the guidelines published by the Office of the Australian Information Commissioner (OAIC) under section 93A of the FOI Act (the guidelines) and
- the Principles of Open Public Sector Information issued by the OAIC

Reasons for decision – section 47E of the FOI Act

7. Section 47E of the FOI Act conditionally exempts documents where disclosure would, or could reasonably be expected to, prejudice or have a substantial adverse effect on certain listed agency operations.

8. After reviewing the document, Captain Parker found that it contained specific information relating to the course that was being undertaken, which reveals specific details about certain aspects of training that the students are tested on. Disclosure of this material would prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency. As such, Captain Parker considered that the material was conditionally exempt under subsection 47E(a) of the FOI Act.

Public interest considerations – section 47E of the FOI Act

9. Captain Parker considered, as required, sections 11A [access to documents on request] and 11B public interest exemptions – factors] of the FOI Act in regards to the release of this specific material. He considered that disclosure of the document promotes the objectives of the FOI Act by allowing access to government information in some form. However, disclosure of the specific conditionally exempt material would not increase public participation in the Defence process, nor would it increase scrutiny of Defence activities.

10. While Captain Parker acknowledged that the material may be of some interest to you, it would not inform public debate on any matter of public importance in any meaningful way.

11. Accordingly, Captain Parker considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the identified document. Therefore, he decided that it would be contrary to the public interest to release the specific information under subsection 47E(a) of the FOI Act.

Reasons for decision – section 47F of the FOI Act

12. Upon examination of the document, Captain Parker found that the document contained personal information such as names and employee identification details belonging to Defence employees. In accordance with subsection 47F(2) of the FOI Act, in determining whether the disclosure of the information would involve the unreasonable disclosure of personal information, Captain Parker 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.

13. Against those criteria, Captain Parker found that:

- a. the specific pieces of personal information relating to the Defence officials is not well known to the general public;
- b. the persons 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.

14. Noting the findings above, Captain Parker decided that disclosure of the specific information would be an unreasonable disclosure of personal information belonging to other people. Accordingly, Captain Parker considered that the material was conditionally exempt under section 47F of the FOI Act.

Public interest considerations – section 47F of the FOI Act

15. 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.

16. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, Captain Parker considered the range of factors that favour access to a document set out in section 11B(3) of the FOI Act. Captain Parker noted that disclosure may promote some of the objectives 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 the Defence process, nor would it increase scrutiny or discussion of Defence activities.

17. While Captain Parker 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 access to your own personal information.

18. Taking all of the above into consideration, Captain Parker decided to exempt the identified personal information under section 47F of the FOI Act.

Further information

19. Please note that Captain Parker requested that you be advised that Paragraph 6 of the identified document advises that Lieutenant Commander Dokter was appointed as the Inquiry Officer. This information was correct at the time the assessment report was written, however, Captain Parker advised that the actual Inquiry Officer was subsequently changed to another serviceman; outside of the relevant unit command.

Payment of Charges

20. In our letter, dated 5 December 2012, 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, noting that a deposit was not required at the time.

21. Upon completion of your request, the actual amount for processing exceeded the original estimate provided to you. However, as explained in the above mentioned letter the amount payable can only be more than the preliminary assessment if the decision is to release all of the documents requested in full.

22. Accordingly you are required to pay [REDACTED] in order to finalise your request. Please complete and return the form at Enclosure 1 to the FOI Directorate. Upon receipt of the form an invoice will be generated, noting this can take up to 3 business days. Details about payment of the invoice are on the form.

Rights of review

23. 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

24. 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. I will advise you of the publication date when the documents are dispatched to you.

Further advice

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

26. Should you have any questions in regard to this matter please contact me directly on (07) 3332 6359. Alternatively, the FOI team can also be contacted on the details at the top of this letter.

Yours sincerely



Theresa Stinson
Assistant Director – Media Case Management
Freedom of Information

3 January 2013

Enclosures:

1. Freedom of Information Payment Authorisation Form
2. Fact Sheet: Freedom of Information – Your Review Rights