I refer to your letter of 9 April 2011, received in our office on 19 April 2011, in which you requested access, under the Freedom of Information Act 1982 (FOI Act), to documents relating to the awarding of the Republic of Vietnam Campaign Medal (RVCM). Specifically, you requested access to:

"...a copy of any and all documents that relate to the decision in 1987 mentioned in the Senator's reply."

Background

2. I also refer to the email dated 3 May 2011 from Mrs Melissa Davidson, Assistant Director Freedom of Information, in which she advised you that your request in its original form was not considered valid under section 15(2)(b) of the FOI Act. Mrs Davidson indicated to you that she was unable to locate the specific documents that you are seeking as you sought access to ‘any and all’ documents relating to the Senator’s reply. Mrs Davidson sought your agreement to refine the scope of your request to the following:

"correspondence dated 31 Dec 1986 to 31 Dec 1987 between Navy Office and Defence Headquarters, as they were then known concerning the interpretation of the RVCM."

3. By email dated 4 May 2011 you agreed to refine the scope of your request to the terms stated in the above paragraph.

4. By email dated 14 June 2011, you agreed to extend the statutory deadline by 30-days in accordance with section 15AA [extension with agreement] of the FOI Act. Accordingly, the statutory deadline for you to receive a response to your request was reset as 14 July 2011.

5. The purpose of this letter is to provide you with the decision relating to the documents that are subject of your request.

Defending Australia and its National Interests
FOI decision maker

6. Mrs H Gouzvaris, Acting Director Honours and Awards (DH&A), Defence Support Group, is the authorised decision maker under the FOI Act in relation to your request.

Documents identified

7. Mrs Gouzvaris identified 12 documents as matching the description of your request. Details of those documents are listed in the schedule of documents at Enclosure 1.

Decision

8. Following examination of the documents, Mrs Gouzvaris decided to:

   (a) release eight documents intact; and

   (b) release four documents with deletions made in accordance with subparagraph 22(1)(a)(i) of the FOI Act, on the grounds that the deleted material is considered to be exempt under subsection 47F [public interest conditional exemptions -- personal privacy] of the FOI Act.

9. Copies of the documents in the form approved for release are at Enclosure 2.

Reasons

10. In relation to the documents identified as Serials 5, 6, 9 and 10 of the schedule of documents, Mrs Gouzvaris noted that they contain the name and other personal information, which if released would constitute an unreasonable disclosure of personal information belonging to a person other than you.

Public Interest considerations – section 47F of the FOI Act

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

12. While Mrs Gouzvaris considered that the release of 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, nor would it give you access to your personal information.

13. Accordingly, Mrs Gouzvaris considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the documents that match the scope of the request. Therefore, Mrs Gouzvaris decided that it would be contrary to the public interest to release the information that is considered exempt under subsection 47F of the FOI Act.

14. In coming to the above decision, Mrs Gouzvaris also considered subsections 11A(5) and 11B(4) of the FOI Act.

Defending Australia and its National Interests
15. Copies of the relevant sections of the FOI Act are at Enclosure 3.

Publicly available information released following an FOI access request

16. In accordance with the requirements of section 11C of the FOI Act, Defence is required to publish, on its website, information released under the FOI Act within 10 working days of the applicant being given access to documents. Defence will also publish the decision notice, with personal and business information deleted. The information published does not include personal information or the business, commercial, financial or professional affairs of any person if publication of that information would be unreasonable. Other information not published also includes that which the Australian Information Commissioner determines unreasonable to publish.

Payment of charges

17. In our letter to you dated 5 May 2011, the Department estimated the cost associated with processing your request to be ______. On 17 May 2011, you paid the ______ deposit. Accordingly, the charges associated with processing your request were imposed.

18. At the completion of processing your request the actual FOI charges amounted to ______, after taking into consideration the free decision making time. Accordingly, the outstanding amount of charges to be paid is calculated as ______, less the ______ deposit already paid, which amounts to ______.

19. Payment of charges can be made by credit card, cheque or money order. Cheques or money orders should be made payable to the Department of Defence. Credit card payments can be made by filling in the form at Enclosure 4. The form can be returned by mail to the above address, or via email to FOI.Inquiries@defence.gov.au. Please note that credit card payments will not be processed if the form is incorrectly completed.

20. Once the outstanding charges are paid, our office will dispatch the documents in the form approved for release, via registered post, without further delay.

Review rights


Further information

22. All decision-making action on your request is now completed. Please contact me if you have any questions about this matter either by telephone on (02) 6266 3685 or via email to FOI.Inquiries@defence.gov.au.

Yours sincerely

John Peterson
Freedom of Information
Case Officer

5 July 2011
Enclosures:
1. Schedule of documents
2. Documents approved for release
3. Relevant sections of the FOI Act
4. Credit Card Payment Form
<table>
<thead>
<tr>
<th>Serial</th>
<th>Date</th>
<th>Addressee</th>
<th>Author</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>3 Sep 86</td>
<td>DGSC</td>
<td>A/CDRE J.R. Da Costa</td>
<td>Minute N86/23618 DGNPS 678/86 - Veterans' Entitlements Act 1986 - Allotment</td>
<td>Full disclosure</td>
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<td>For Duty - Vietnam</td>
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<td>2</td>
<td>14 Oct 86</td>
<td>DGNPS</td>
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<td>Minute - Veterans Entitlements</td>
<td>Full disclosure</td>
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<td>3</td>
<td>7 Nov 86</td>
<td>DGSPP</td>
<td>RADM A.R Horton</td>
<td>N83/12474 CNP 970/86 - Veterans Entitlements</td>
<td>Full disclosure</td>
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<td>4</td>
<td>2 Dec 86</td>
<td>CNP</td>
<td>BRI G R.S. Buchan</td>
<td>DM 86/8757 - Veterans' Entitlements - Awards For Service in Vietnam</td>
<td>Full disclosure</td>
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<td>5</td>
<td>31 Dec 86</td>
<td>Minister for Defence</td>
<td>HMAS Sydney Association</td>
<td>HMAS Sydney &amp; Vietnam Logistical Support Veteran’s Association</td>
<td>Partially refused</td>
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<td>6</td>
<td>31 Dec 86</td>
<td>CNS</td>
<td>RADM A.R. Horton</td>
<td>CNP 1124/86 - Vietnamese Campaign Medal - Conditions Governing Awards</td>
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<td>CNP</td>
<td>A/CDRE Da Costa</td>
<td>DGNPS 1070/86 - Untitled</td>
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<td>23 Jan 87</td>
<td>CNS</td>
<td>R.G. Funnell</td>
<td>CDF 54/1987 - Vietnamese Campaign Medal - Conditions Governing Awards</td>
<td>Full disclosure</td>
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<td>11</td>
<td>31 Mar 87</td>
<td>DGNPS</td>
<td>A/CDRE G.J. Beck</td>
<td>DM 86/8757 - Veterans' Entitlements - Awards For Service in Vietnam</td>
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<td>12</td>
<td>21 Apr 87</td>
<td>DGSPP</td>
<td>A/CDRE J.R. Da Costa</td>
<td>N83/12474 DGNPS 242/87 - Veteran's Entitlements - Awards For Service in Vietnam</td>
<td>Full disclosure</td>
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</table>
11 Right of access

(1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
(a) a document of an agency, other than an exempt document; or
(b) an official document of a Minister, other than an exempt document.

(2) Subject to this Act, a person's right of access is not affected by:
(a) any reasons the person gives for seeking access; or
(b) the agency's or Minister's belief as to what are his or her reasons for seeking access.
11A Access to documents on request

Scope

(1) This section applies if:
   (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
      (i) a document of the agency; or
      (ii) an official document of the Minister; and
   (b) any charge that, under the regulations, is required to be paid before access is given has been paid.

(2) This section applies subject to this Act:

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:
   (a) section 12 (documents otherwise available);
   (b) section 13 (documents in national institutions);
   (c) section 15A (personnel records);
   (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

(3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

(4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

(5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

(6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
   (a) a conditionally exempt document; and
   (b) an exempt document:
      (i) under Division 2 of Part IV (exemptions); or
      (ii) within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).
11B Public interest exemptions—factors

Scope

(1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).

(2) This section does not limit subsection 11A(5).

Factors favouring access

(3) 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 (including all the matters set out in sections 3 and 3A);
   (b) inform debate on a matter of public importance;
   (c) promote effective oversight of public expenditure;
   (d) allow a person to access his or her own personal information.

Irrelevant factors

(4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
   (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
   (b) access to the document could result in any person misinterpreting or misunderstanding the document;
   (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
   (d) access to the document could result in confusion or unnecessary debate.

Guidelines

(5) In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.
Section 22 of the FOI Act

Access to edited copies with exempt or irrelevant matter deleted

Scope

(1) This section applies if:
   (a) an agency or Minister decides:
      (i) to refuse to give access to an exempt document; or
      (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
   (b) it is possible for the agency or Minister to prepare a copy (an edited copy) of the document, modified by deletions, ensuring that:
      (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
      (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
   (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
      (i) the nature and extent of the modification; and
      (ii) the resources available to modify the document; and
   (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

Access to edited copy

(2) The agency or Minister must:
   (a) prepare the edited copy as mentioned in paragraph (1)(b); and
   (b) give the applicant access to the edited copy.

Notice to applicant

(3) The agency or Minister must give the applicant notice in writing:
   (a) that the edited copy has been prepared; and
   (b) of the grounds for the deletions; and
   (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.

(4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.
General rule

(1) 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).

(2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:

   (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;
   (d) any other matters that the agency or Minister considers relevant.

(3) Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.

Access given to qualified person instead

(4) Subsection (5) applies if:

   (a) a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information concerning the applicant, being information that was provided by a qualified person acting in his or her capacity as a qualified person; and
   (b) it appears to the principal officer of the agency or to the Minister (as the case may be) that the disclosure of the information to the applicant might be detrimental to the applicant's physical or mental health, or well-being.

(5) The principal officer or Minister may, if access to the document would otherwise be given to the applicant, direct that access to the document, so far as it contains that information, is not to be given to the applicant but is to be given instead to a qualified person who:

   (a) carries on the same occupation, of a kind mentioned in the definition of qualified person in subsection (7), as the first-mentioned qualified person; and
   (b) is to be nominated by the applicant.

(6) The powers and functions of the principal officer of an agency under this section may be exercised by an officer of the agency acting within his or her scope of authority in accordance with arrangements referred to in section 23.
(7) In this section:

qualified person means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and,

without limiting the generality of the foregoing, includes any of the following:

(a) a medical practitioner;
(b) a psychiatrist;
(c) a psychologist;
(d) a counsellor;
(e) a social worker.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).
# Freedom of Information Request

**Credit Card Payment Form**

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<tr>
<th><strong>Full Name</strong></th>
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<td><strong>Service or PMKEYS ID (if applicable)</strong></td>
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<td><strong>Postal Address:</strong></td>
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<td><strong>Contact Phone Numbers:</strong></td>
<td><strong>Ph:</strong></td>
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**Payment for:**

- [ ] Deposit for charges
- [ ] Balance of charges

(Please tick one box only)

Enter your credit card details, sign below and return this form via email to FOI.inquiries@defence.gov.au or by post to the address below.

- [ ] VISA
- [ ] MASTERCARD

**Card Number:**  

**Expiry:** ____ / ____  

**Amount:** $______

**Name on Card:** ________________________________

**Signature:** ________________________________

Once invoice has been issued you will be contacted by the FOI Directorate for the CCV number to enable the processing of your payment online.

*Due to personal security reasons Defence will not accept this form via fax*

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*Freedom of Information Directorate*  
Department of Defence  
CP1-6-001  
PO Box 7910  
CANBERRA, ACT 2600  
Tel. (02) 6266 2200  
www.defence.gov.au/foi*
Freedom of Information – Your Review Rights

If you disagree with the decision made by the Department of Defence or the Minister under the Freedom of Information Act 1982 (the FOI Act), you can ask for the decision to be reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request or if your application to have your personal information amended was not accepted. There are two ways you can ask for review of a decision: internal review by Defence, or external review by the Australian Information Commissioner.

Internal review

If Defence makes an FOI decision that you disagree with, you can ask Defence to review its decision. Generally the review will be conducted by the FOI Directorate, however in some instances it will be referred to the area that made the decision, but it will be conducted by someone at a more senior level. There is NO charge for internal review.

You must apply within 30 days of being notified of the decision, unless you have sought an extension from Defence.

Defence must make a review decision within 30 days. Where Defence has not met its review obligation, you may then approach the Information Commissioner.

Internal review is not available if the Minister or the principal officer of the agency made the decision personally.

How to apply for internal review

You must apply in writing and should include a copy of the notice of the decision provided and the points to which you are objecting and why.

You can lodge your application in one of the following ways:

Post: Freedom of Information Directorate
Department of Defence
CP1-6-001
PO Box 7910
CANBERRA BC ACT 2600

Fax: +61 2 626 62122
Email: FOI.enquiries@defence.gov.au

External Review

Do I have to go through the Defence’s internal review process first?

No. You may apply directly to the Information Commissioner. However, going through the Defence internal review process gives Defence the opportunity to reconsider its initial decision and your concerns will most likely be addressed more quickly, without undergoing an external review process.

When can I go to the Administrative Appeals Tribunal (AAT)?

Under the revised FOI Act, you must seek external review through the Information Commissioner prior to applying to the AAT for such a review.

Making a complaint

You may make a complaint to the Information Commissioner about actions taken by Defence in relation to your application. The complaint needs to be in writing.
Contacting the Information Commissioner

Further information about the external review process or how to make a complaint to the Information Commissioner is available at the following:

Online: www.oaic.gov.au
Post: GPO Box 2999, Canberra ACT 2601
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au

Investigation by the Ombudsman

The Commonwealth Ombudsman can also investigate complaints about action taken by agencies under the FOI Act. However, if the issue complained about either could be or has been investigated by the Information Commissioner, the Ombudsman will consult the Information Commissioner to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate, the complaint, then all relevant documents and information must be transferred to the Information Commissioner.

The Information Commissioner can also transfer to the Ombudsman a complaint that could more appropriately be investigated by the Ombudsman. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. It is unlikely that this will be common. You will be notified in writing if your complaint is transferred.

Defence FOI contacts

Freedom of Information Directorate
Department of Defence
CP1-6-001
PO Box 7910
CANBERRA BC ACT 2600

Ph: +61 2 626 62200
Fax: +61 2 626 62122

Email: FOI.Inquiries@defence.gov.au
Website: www.defence.gov.au/foi