By email: [Redacted]

Dear [Redacted]

1. I refer to your email dated 5 May 2011, in which you requested access, under the Freedom of Information Act 1982 (FOI Act), to documents about lost or stolen material held by Defence:

"Specifically, I seek access to schedules, lists or reports for the last five full financial years (FY05/06-FY09/10) of lost or stolen:

1. weapons, munitions and explosives ("WME");
2. classified material such as,
   i. military identification and security devices relating to locations or things (including, but not limited to, passes, badges, keys, key fobs, passwords),
   ii. military manuals and reference guides (both electronic and hard copy and including, but not limited to, weapons systems, vehicle manuals, military operating procedures),
   iii. military plans, maps, schematic and other things that reveal information about Defence bases and other Defence places;
3. classified military communications, electronic devices and IT hardware and software (including, but not limited to, walkie talkies, laptops, GPA devices, electronic counter-warfare devices); and
4. night fighting equipment."

Background

2. By email dated 23 May 2011 you refined the scope of your request to:

"Defence Security Authority final investigation reports regarding lost or stolen Defence items, materials, devices or other things for the last five full financial years (FY05/06-FY09/10)."
3. In a letter dated 31 May 2011, you were advised of the preliminary assessment of FOI charges associated with the above mentioned scope.

Revised scope

4. By email dated 9 June 2011, you further refined the scope of your request as follows:

"...numerous investigation reports across three financial years (FY07/08, FY08/09, FY09/10). Relying upon the "INV - Loss Theft Related" schedule provided to me as a guide, I seek the following reports:

**FY07/08**
Job No 902
Job No 16
Job No 63

**FY08/09**
Reference Id INV-DSA01-SIU-2008-18
Reference Id INV-DSA01-SIU-2008-19
Reference Id INV-DSA01-SIU-2008-27
Reference Id INV-DSA01-SIU-2008-34
Reference Id INV-DSA01-SIU-2008-35
Reference Id INV-DSA01-SIU-2008-38
Reference Id INV-DSA01-SIU-2008-51
Reference Id INV-DSA01-SIU-2009-1
Reference Id INV-DSA01-SIU-2009-9
Reference Id INV-DSA01-SIU-2009-21

**FY09/10**
Reference Id INV-DSA01-SIU-2009-32
Reference Id INV-DSA01-SIU-2009-33
Reference Id INV-DSA01-SIU-2009-37
Reference Id INV-DSA01-SIU-2009-60
Reference Id INV-DSA01-SIU-2010-17
Reference Id INV-DSA01-SIU-2010-20
Reference Id INV-DSA01-SIU-2010-23
Reference Id INV-DSA01-SIU-2010-24
Reference Id INV-DSA01-SIU-2010-2"

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. Mr David Cross, Acting Director, Security & Intelligence, Defence Security Authority (DSA) is the authorised decision maker, under the FOI Act, in relation to your request.
Identified documents

5. A schedule listing the identified documents and the respective decision is at Enclosure 1. Mr Cross noted that 'Document M' is a single report, however it relates to investigation reports Reference Id INV-DSA01-SIU-2010-17, Reference Id INV-DSA01-SIU-2010-20, Reference Id INV-DSA01-SIU-2010-23 and Reference Id INV-DSA01-SIU-2010-24.

Material taken into account

6. In making his decision, Mr Cross had regard to:
   • the specific parameters of your request
   • relevant provisions in the FOI Act
   • the guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the guidelines)

Decision

7. Mr Cross decided to release three documents intact and release nine documents with deletions, in accordance with section 22 [access to edited copies with exempt or irrelevant material deleted] of the FOI Act as the material is considered exempt under section 33 [documents affecting national security, defence or international relations], section 47F [public interest conditional exemptions – personal privacy] and section 47G [public interest conditional exemptions – business] of the FOI Act. He further decided to refuse access to five documents under section 24A [requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act. Two documents were not considered in accordance with section 7 of the FOI Act. Mr Cross' reasons are set out below.

8. Copies of relevant sections of the FOI Act are at Enclosure 2.

Reasons for decision

Section 7

9. Mr Cross advised that documents H & J contain information which originated from an intelligence agency listed in section 7(2A) of the FOI Act. Agencies listed in section 7 of the FOI Act are considered exempt for the purposes of the Act, accordingly documents H & J have not been considered.

Section 24A

10. Mr Cross decided to refuse access to the documents identified as Job No. 902, 16 & 33 and INV-DSA01-SIU-2009-9 & INV-DSA01-SIU-2009-33 as they can not be located.

11. In relation to Job No. 902, 16 & 33, Mr Cross advised that searches were undertaken of both the electronic and hard copy holdings of the Directorate of Security & Intelligence. Mr Cross was advised that hard copy records for the Directorate were stored in the basement of Campbell Park Offices, where DSA is located, while the work area was being refurbished. A number of boxes of records were destroyed as a result of water damage in May 2008 while they were being stored.
12. Mr Cross advised that this damage was not discovered for a number of months resulting in the documents being blackened with decay and mould rendering them unidentifiable. Due to this all documents stored in the basement were destroyed. No electronic copies of these documents were available or kept when the documents were authored.

13. In light of the above, Mr Cross is satisfied that the documents identified as Job No 902, 16 & 33 do not exist and for this reason he has decided to refuse access to the requested documents under section 24A of the FOI Act.

14. In response to the request for documents relating to INV-DSA01-SIU-2009-9, DSA records indicate that the reported matter was referred to Victoria Police for investigation. Further, in regards to INV-DSA01-SIU-2009-33, Mr Cross advised that upon initially being accepted for investigation it was then deemed to be a vexatious complaint and no further inquiries were made by DSA. Both incidents resulted in no investigation reports being written by DSA. As such Mr Cross is satisfied those documents do not exist and he has decided to refuse access to the both investigation references under section 24A of the FOI Act.

Section 33

15. Mr Cross found that documents A, C, F & M contained information, which if disclosed, could be reasonably expected to cause damage to the security, defence and or international relations of the Commonwealth. Document A contains information which relates to matters of Defence's operational communications security with additional implications; Mr Cross also considers that this document would have implications for the Commonwealth's international relations. Document C also contains information which if disclosed may have adverse affects on Australia's international relations. Mr Cross noted that material contained in the documents was communicated in confidence and it should be treated in a confidential manner, disclosure of such information may undermine the trust between Australia and its coalition partners.

16. Document F contains information, which if released, would disclose Defence capability at a particular location. Finally, Document M contains information which, if disclosed, could reveal Defence capability to adversaries.

17. Mr Cross is satisfied that the exemption claim for section 33 has been met, however, as required by section 22 of the FOI Act, he has decided to disclose documents A, C, F & M with the exempt material removed.

Section 47 F

18. Mr Cross found that documents A, B, C, D, F, G, I, K & M contained the personal information of defence employees, Australian Defence Force members and individuals employed by private companies contracted by Defence. The information contains, but is not limited to, names, positions and signatures. Mr Cross considered that this information is conditionally exempt under section 47F of the FOI Act as its release would constitute an unreasonable disclosure of personal information.

19. Section 47F states that access to a conditionally exempt document must generally be given unless its disclosure would be contrary to the public interest (section 11B refers).
20. Mr Cross had regard to the range of factors set out in section 11B of the FOI Act. Mr Cross acknowledges the public interest in the release of material relating to loss or theft of weapons; however, he is of the opinion that the protection of persons named in the identified documents far outweighs the public interest in disclosure. Mr Cross considered that disclosing the documents with the personal information removed will still allow for any public debate on the subject of loss or theft of weapons. On balance, he considered that disclosing the documents in a form which protects the individuals, promotes the objects of the Act by granting access to government held information.

21. In light of the above, Mr Cross has decided to release documents A, B, C, D, F, G, I, K & M with deletion of the exempt material.

Section 47G

22. Mr Cross found that Documents F & K contained information regarding organisations contracted by Defence. Mr Cross considered that the information, if released, would adversely affect the organisations in respect of their lawful business and commercial affairs. Therefore, he is satisfied that parts of documents F & K are conditionally exempt under section 47G of the FOI Act.

23. Mr Cross decided to consult with a number of parties with regard to the possible release of the above mentioned information and he has taken their respective responses into consideration in making his decision.

24. Section 47G states that access must generally be given to a conditionally exempt document unless its disclosure would be contrary to the public interest. Mr Cross has considered the public interest factors in section 11B and he decided that the documents can be disclosed with the removal of the organisations' business information, he considers that organisations could be less likely to participate in investigations in the future should the information be released, further he has taken into account that the focus of this FOI request is the loss or theft of weapons and he did not consider that disclosure of the organisations' business information would contribute to public debate on the matter of loss or theft of weapons. Mr Cross considered that the object of the FOI Act is being met by disclosing a redacted form of each document. On balance, he decided that disclosure of this specific business information is not in the public interest and he has decided to disclose documents F & K with exempt material removed.

Payment of Charges

25. In our letter dated 5 July 2011, the department estimated the cost associated with processing your request to be [Redacted]. By email dated 5 July 2011, you sought waiver/reduction of the estimated charges. By letter dated 4 August 2011, I decided to reduce the charges payable to [Redacted]

26. On 24 August 2011, you agreed to pay the reduced charges for the administration of your request and paid the required deposit of [Redacted]

27. Upon completion of the request the actual charges for processing exceeded the reduced charges amount, however as advised in our preliminary assessment of charges letter and subsequent charges decision 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.
28. The remaining balance is the difference between the imposed charge and the deposit you have already paid. Accordingly you are required to pay in order to finalise your request.

29. Cheques or Money Orders should be made out to the 'Receiver of Public Monies' and forwarded to the address at the top of this letter. Credit card payments can be made by completing the form at Enclosure 3 and returning it to the FOI Directorate. The documents in the form approved for release will be dispatched upon receipt of the above mentioned payment.

FOI Disclosure Log

30. 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 the decision notice with privacy deletions.

Rights of review


Further advice

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

Yours sincerely

Theresa Stinson
Assistant Director – Media Case Management
Freedom of Information

14 October 2011

Enclosures:
1. Schedule of documents
2. Relevant sections of the FOI Act
3. Credit card form
<table>
<thead>
<tr>
<th>Document description/Request item</th>
<th>Document number</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Job No 902</td>
<td></td>
<td>Refused - s24A</td>
</tr>
<tr>
<td>Job No 16</td>
<td></td>
<td>Refused - s24A</td>
</tr>
<tr>
<td>Job No 63</td>
<td></td>
<td>Refused - s24A</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2008-18</td>
<td>Document A</td>
<td>Release with deletions - s33, S47F</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2008-19</td>
<td>Document B</td>
<td>Release with deletions - s47F</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2008-27</td>
<td>Document C</td>
<td>Release with deletions - s33, S47F</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2008-34</td>
<td>Document D</td>
<td>Release with deletions - s47F</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2008-35</td>
<td>Document E</td>
<td>Release intact</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2008-38</td>
<td>Document F</td>
<td>Release with deletions - s33, s47F, s47G</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2008-51</td>
<td>Document G</td>
<td>Release with deletions - s47F</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2009-1</td>
<td>Document H</td>
<td>Not considered - s7</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2009-9</td>
<td></td>
<td>Refused - s24A</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2009-21</td>
<td>Document I</td>
<td>Release with deletions - s47F</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2009-32</td>
<td>Document J</td>
<td>Not considered - s7</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2009-33</td>
<td></td>
<td>Refused - s24A</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2009-37</td>
<td>Document K</td>
<td>Release with deletions - s47F, s47G</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2009-60</td>
<td>Document L</td>
<td>Release intact</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2010-17</td>
<td>Document M</td>
<td>Release with deletions - s33, S47F</td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2010-20</td>
<td>(Document M)</td>
<td></td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2010-23</td>
<td>(Document M)</td>
<td></td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2010-24</td>
<td>(Document M)</td>
<td></td>
</tr>
<tr>
<td>Reference Id INV-DSA01-SIU-2010-2</td>
<td>Document N</td>
<td>Release intact</td>
</tr>
</tbody>
</table>