



Australian Government
Department of Defence

Reference: OCA/OUT/2017/R30879514

FOI 039/17/18 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] under the *Freedom of Information Act 1982* (FOI Act), for access to:

Copies of the Prohibited Substance Testing Program determination decisions Notice of Positive Test Result for all Defence Force members at the Royal Military College, Duntroon, and the Australian Defence Force Academy, Canberra, between 1 January 2011 to present.

FOI DECISION MAKER

2. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

DOCUMENTS IDENTIFIED

3. I identified one document, totalling one page, as matching the scope of this request.

DECISION

4. I have decided to
- a. release one document in full
 - b. refuse access to documents of the request under subparagraph 24A(1)(b)(ii) [Requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act.

Material taken into account

5. In making my decision, I had regard to:
- a. the terms of the request
 - b. the content of the identified documents in issue
 - c. relevant provisions in the FOI Act
 - d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines)
 - e. advice provided by the Australian Defence Force Academy (ADFA).

Reasons for decision

Section 24A(1) of the FOI Act - Requests May Be Refused

6. Section 24A(1) of the FOI Act states:
- 24A Requests may be refused if documents cannot be found, do not exist or have not been received*

Document lost or non-existent

- (1) *An agency or Minister may refuse a request for access to a document if:*
- (a) *all reasonable steps have been taken to find the document; and*
 - (b) *the agency or Minister is satisfied that the document:*
 - (i) *is in the agency's or Minister's possession but cannot be found;*
or
 - (ii) *does not exist.*

7. Paragraph 3.84 of the Information Commissioner Guidelines advises what detail this statement of reasons needs to include to refuse a request under section 24A(1):

The statement of reasons given to the applicant should sufficiently identify the document, explain why it cannot be found or is known not to exist or to be in the agency's possession, describe the steps the agency took to search for the document, and note the limitations of any search.

8. To ensure that "all reasonable steps" have been taken in this request, every reasonable avenue of locating the documents has been exhausted. The details of these searches are outlined below.

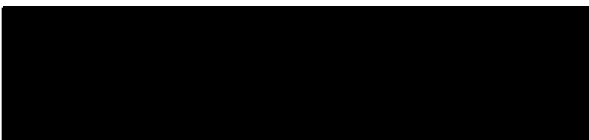
9. ADFA does not maintain a central data-base of Prohibited Substance Testing Program (PSTP) test results. Results are recorded on individual personnel files and forwarded to each individual's service.

10. Royal Australian Navy (Navy), Australian Army (Army) and Royal Australian Air Force (Air Force) conducted searches for records that they maintain on PSTP. They searched Human Resource databases, annual PSTP reporting required by services, and incident management systems. Navy, Army and Air Force advise that no personnel tested positive under the Prohibited Substance Testing Program at ADFA in the time period requested.

11. I am satisfied that "all reasonable steps" have been taken to locate the documents sought by the applicant. I am satisfied that the documents cannot be found or do not exist, and refuse access to this request under section 24A(1) of the FOI Act.

Content of the table

12. The areas at the top left and top right of the table are filled in with colour, not redacted.



TA Garrett
Lieutenant Colonel
Accredited Decision Maker
Army

8 August 2017