



Attachment A

DECISION RECORD

Request Details

FOI Request FA 15/06/01149
File Number ADF2015/26285

Scope of request

Incident detail report in relation to the death threats made against the Villawood Immigration Detention Centre Guard during March 2015.

I also request any documents attached to the detailed report.

Documents in scope

1. Incident Detail Report and attachments – 1-3MZ5J30 – containing 10 folios.

Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate Departmental records.

Information considered

In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above); and
- The Australian Information Commissioner's guidelines relating to access to documents held by government.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

Conditional exemption – personal information – s.47(1)

A document is *conditionally exempt* under s.47F(1) of the FOI Act if its release would *involve the unreasonable disclosure of personal information about any person (including a deceased person)*. I am satisfied the documents falling within the scope of your request contain the personal information of third parties.

The exemption in s.47F(1) of the FOI Act applies if I am satisfied that the release of information would involve the *unreasonable* disclosure of third parties personal information. The FOI Act states that when deciding whether the disclosure of personal information would be *unreasonable* I *must* have regard to the factors set out in s.47F(2), being:

- (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 available resources;*
- (d) *any other matters that I consider relevant.*

I have considered each of these elements separately below.

(a) *Extent to which the information is well known.*

While I note that a summary of the incident is in the public domain, the specific details of the individual's concerned have not previously been released. The identities of the individuals are not widely 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.*

As discussed above, the identity of the individuals involved in the incident is not widely known. Their personal details in connection to the incident have not been previously released.

(c) *The availability of the information from publicly available resources.*

As discussed above, there is a summary of the incident in the public domain. However, the personal information identified as exempt is not available through any public sources.

(d) *Any other matters that I consider relevant.*

- The information is not your personal information.
- Every person has the right to expect that their personal information will be securely maintained by the Department.
- Whether the personal information; on its own; or in the connection with other information already known to other persons, amounts to the individual being identified.

After considering each element in s.47F(2) I am satisfied that disclosure of personal information would be *unreasonable*.

Therefore, I am satisfied that the personal information I have identified in the relevant documents is conditionally exempt under s.47F(1) of the FOI Act. A *conditionally exempt* document **must** be released under the FOI Act unless the release would be *contrary to the public interest*. As a result, I must now consider the factors set out in the public interest test in s.11B(3) of the FOI Act.

Factors favouring disclosure

While release would promote the objects of the FOI Act, I do not consider that it would add or inform debate on a matter of public importance. This is because the Department has previously released a summary of this incident.

The Department does release information about immigration detention through reviews and reports on its website. Information is also routinely provided in Senate Estimates in relation to immigration detention.

In addition, the release of the information is irrelevant to the effective oversight of public expenditure and would not facilitate you accessing your own personal information.

Factors weighing against disclosure

The OAIC has issued guidelines that contain a list of factors weighing against disclosure which must be considered under s.11B(5) of the FOI Act. However, I note that this list is not exhaustive and I may consider any other relevant factors.

I consider that these factors are relevant to the document in question:

- prejudice the protection of an individual's right to privacy
- it is a core Government concern to maintain the integrity of the information it holds and in the maintaining of an individual's privacy
- prejudice the fair treatment of individuals.

The information contained within the documents wholly relates to a person other than you. The Department is obliged to take action to prevent the unreasonable disclosure of an individual's personal information and I have given this the greatest weight.

On balance, I am satisfied that the disclosure of the information I have identified as personal information would amount to an unreasonable disclosure of personal information. Further, I am satisfied that the release of the personal information in the documents would be contrary to the public interest. Therefore, I am satisfied that the personal information in the documents is exempt from release under section 47F(1) of the FOI Act.

Having reached that view, s.22(2) of the FOI Act requires me to provide you with an edited copy of the documents, with the exempt information deleted under s.22(1)(b).



Shannon Bevan
Authorised decision maker
Freedom of Information Section
Department of Immigration and Border Protection
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29 July 2015



Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 15/06/01149
File Number ADF2015/26285

1. Incident Detail Report and attachments – 1-3MZ5J30

Folio	Description	Decision	Legislation
1 – 3	Third party personal information identified. Information irrelevant to the scope of the request.	Exempt in Part Irrelevant material	s.47F(1) s.22(1)(a)(ii)
4	Information irrelevant to the scope of the request.	Irrelevant material	s.22(1)(a)(ii)
5	Third party personal information identified. Information irrelevant to the scope of the request.	Exempt in Part Irrelevant material	s.47F(1) s.22(1)(a)(ii)
6	Information irrelevant to the scope of the request.	Irrelevant material	s.22(1)(a)(ii)
7 - 8	Third party personal information identified. Information irrelevant to the scope of the request.	Exempt in Part Irrelevant material	s.47F(1) s.22(1)(a)(ii)
9	Information irrelevant to the scope of the request.	Irrelevant material	s.22(1)(a)(ii)
10	Third party personal information identified. Information irrelevant to the scope of the request.	Exempt in Part Irrelevant material	s.47F(1) s.22(1)(a)(ii)

Attachment C – Extract of relevant legislation

22 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.

47F Public interest conditional exemptions—personal privacy

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).