



Australian Government
Department of Immigration and Citizenship

10 October 2013

Mr Nick Olle

Sent by email to: foi+request-314-8fe5d440@righttoknow.org.au

In reply please quote:

FOI Request FA 13/08/00156-R1

File Number ADF2013/24647

Dear Mr Olle

Freedom of Information request – Internal Review Decision Letter

This letter refers to your request for internal review received on 20 September 2013. Your original request was seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

Incident Detail Report 1-3T31DN from the Department's Compliance, Case Management, Detention and Settlement Portal. I also request any documents attached to the detailed report.

Decision

I am authorised under Section 23 of the *Freedom of Information Act 1982* (the FOI Act) to make a decision on your request for internal review of an FOI decision made by Amy Thompson on 20 August 2013. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents; and
- FOI Guidelines published by the Office of the Information Commissioner.

I note that you have requested a review of the Department's handling of your FOI request for Incident Detail Report 1-3T31DN. In particular, you stated the following:

The overwhelming majority of the released document is redacted and I effectively know no more now about the incident than I did after reading the incident summary.

I have reviewed the exemptions applied in the documents released to you and my decision is to affirm the original decision. My reasons are outlined in the attached Decision Record.

Review Rights

Review by the Office of the Australian Information Commissioner

You may apply directly to the Australian Information Commissioner for a review of my decision. For more information please see FOI fact sheet 12 'Freedom of information – Your review rights', available online at www.oaic.gov.au.

If you wish to apply for review directly to the OAIC you must apply in writing within 60 days of this notice. You can lodge your application in one of the following ways:

Post	GPO Box 2999 CANBERRA ACT 2601
or	GPO Box 5218 SYDNEY NSW 2001
Online	www.oaic.gov.au
Email	enquiries@oaic.gov.au
Fax	+61 2 9284 9666
In person	Level 3, 25 National Circuit FORREST ACT
or	Level 3, 175 Pitt Street SYDNEY NSW

An application form is available on the OAIC's website at www.oaic.gov.au. Your application should include a copy of the notice of the decision to which you are seeking review of, and your contact details. You should also set out why you are seeking a review of the decision.

How to make a complaint about the handling of your FOI request

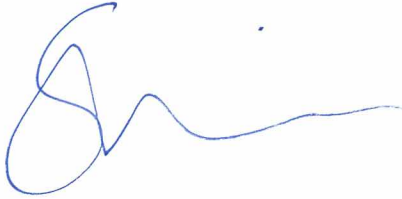
You may complain to the Australian Information Commissioner if you have concerns about how the department has handled your request under the FOI Act.

Your complaint must be in writing and must specify the agency you are complaining about. You can send your complaint to the Australian Information Commissioner using the details above. A complaint form is also available at www.oaic.gov.au.

If you are unhappy with the department's decision about giving or refusing access to documents, you should ask for the decision to be reviewed, which is a separate process which has been outlined in the previous section.

If you wish to discuss this matter, I can be contacted using the details provided below.

Yours sincerely

A handwritten signature in blue ink, consisting of a large loop followed by a series of smaller loops and a long horizontal stroke.

Steven Hocking

Position number: 60009189
Assistant Director
FOI & Privacy Policy Section
Ministerial Executive & External Accountability Branch
Department of Immigration and Border Protection

Telephone 02 6264 1007
Email FOI@immi.gov.au

Attachment
Decision Record



Australian Government
Department of Immigration and Citizenship

DECISION RECORD

In reply please quote:

FOI Request FA 13/08/00156-R1

File Number ADF2013/24647

Background to this request:

In your request for internal review, you stated the following:

The overwhelming majority of the released document is redacted and I effectively know no more now about the incident than I did after reading the incident summary.

Scope of your original request:

Incident Detail Report 1-3T31DN from the Department's Compliance, Case Management, Detention and Settlement Portal. I also request any documents attached to the detailed report.

Information considered

I am authorised under Section 23 of the *Freedom of Information Act 1982* (the FOI Act) to make a decision on your FOI request for internal review of a decision made by Amy Thompson on 20 August 2013. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents; and
- FOI Guidelines published by the Office of the Information Commissioner.

Reasons for decision

This letter is to advise you that I have made a formal decision to affirm the original decision made by Amy Thompson on 20 August 2013. My reasons for affirming the redactions applied in the original decision are outlined below:

FREEDOM OF INFORMATION ACT 1982

- SECT 22

Deletion of exempt matter or irrelevant material

- (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:*

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- (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.*

The scope of your request was related to the incident report and associated attachments. The information identified as being 'reasonably regarded as irrelevant' to your request is metadata attached to the document that was created at the time it was printed from the electronic system. You have not sought this information and it is deemed outside the scope of your request for the following reasons, as outlined in the original decision:

- The data is attached to the document after the date your request is received.
- This metadata does not appear on the reports when viewed in the electronic system and as such it is not considered to be a part of the report.

Accordingly, I have affirmed the redactions applied under section 22.

FREEDOM OF INFORMATION ACT 1982 - Section 47E(d)
Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

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

The original decision maker has used s47(E)(d) to redact information that may expose the operating methods used by those parties responsible for managing the detention facility.

I believe that the information redacted identifies processes used to manage the detention facility. While the actions on their own might be considered innocuous, in the context of the incident report, it would expose methods used to manage incidents, as well as security measures applied that may be exploited.

In accordance with the FOI Act and Office of the Australian Information Commissioner's Guidelines, I consider that releasing the information provided in the incident report

concerning the operations of the detention centre is contrary to the public interest. I therefore agree with the redactions applied under s47(E)(d).

FREEDOM OF INFORMATION ACT 1982

SECT 47F(1)

Public interest conditional exemptions—personal privacy

(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).

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

The use of exemptions under s47F(1) is to remove personal information of third parties. I do not believe it is reasonable to assume that those third parties would consent to their personal information being released to you. In assessing disclosure of personal information, I have considered the public interest in releasing this information.

Arguments in favour of disclosure of information include:

- a person having a general right of access to any material about them held by the government;
- applicants exercising rights under FOI; and
- accountability of departmental procedures.

Arguments against disclosure include:

- it is a core Government concern to maintain the integrity of the information it holds and in the maintaining of an individual's privacy. The department is obliged to take action to prevent the unreasonable disclosure of an individual's personal information; and
- that to release the documents would involve unreasonable disclosure of an individual's personal information.

The information exempted within the documents wholly relates to the personal information of third parties. The public interest in maintaining an individuals' right to privacy of their personal information held by the department outweighs any public interest in disclosure of this information.

In your request for review you have stated that *"the majority of the released document is redacted and I effectively know no more now about the incident that I did after reading the incident summary."* I do not believe that releasing additional information relating to third parties would meet the public interest test in this case. The fact that the document is heavily redacted to remove information that may identify third parties or business processes does not constitute a valid reason for releasing it.

Furthermore, the release of such information does not benefit your request in my opinion. Names and personal information of individuals, whilst within scope, does not provide additional context to the information that has been released.

I would only consider releasing additional information if I believe redactions applied in the original decision cannot be justified. I believe that redactions applied under s47F(1) are appropriate in this instance.

Based on your request for review, I am satisfied that the redactions applied in the original decision should stand and I will not be releasing any additional information.