



Australian Government
Department of Immigration and Border Protection

4 October 2013

Lawrence Bull
Right to Know

Sent via email to: foi+request-360-2730ea90@righttoknow.org.au

In reply please quote:

Client Name Lawrence Bull
FOI Request FA 13/08/00966
File Number ADF2013/27262

Dear Mr Bull,

Freedom of Information request – Release of documents

This letter refers to your request received on 22 August 2013 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

“Under the Freedom of Information Act (1982) I request all incident reports (and their attachments) concerning the escape or recapture of detainees in Darwin between 1 May 2013 and 15 May 2013.”

Decision

Under section 23 of the FOI Act I am authorised to make a decision on your FOI request.

My decision is to exempt, in part, the documents within the scope of your request. Please see the attached Decision Record and Schedule of Documents for information on those documents which have been exempted or refused as part of this decision.

Review rights

Internal review

If you disagree with my decision, you have the right to apply for an internal review by the department of a primary decision to refuse access to documents you have requested.

If you wish to make a request for internal review this must be sent within 30 days of being notified of the decision. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by an officer other than the original decision-maker and the department must make a review decision within 30 days.

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Applications for review should be sent to:

Freedom of Information
Department of Immigration and Citizenship
PO Box 25
BELCONNEN ACT 2616

Or email: foi@immi.gov.au

Review by the Office of the Australian Information Commissioner

You may apply directly to the Australian Information Commissioner for a review of my decision.

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 or	4 National Circuit BARTON ACT Level 3, 175 Pitt Street SYDNEY NSW

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

For further information about review rights under the FOI Act please see FOI fact sheet 12 'Freedom of information – Your review rights', available online at www.oaic.gov.au.

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.

Contacting the FOI section

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

Client service information

Information about our Client Service Charter and how to make a compliment, complaint or suggestion, is included in the Client Service Information attachment.

Contacting the department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.immi.gov.au.

Yours sincerely



Shannon Bevan
FOI Officer
FOI and Privacy Policy Section
National Office
Department of Immigration and Border Protection

Telephone 02 6264 4667
Email FOI@immi.gov.au

Attachments**Decision Record****Schedule of Documents****Documents released:**

- Incident Detail Report – 1-PGHD XO

Client Service Information

CLIENT SERVICE INFORMATION

Client Service Charter

Our Client Service Charter explains our service commitment to you. We are committed to service delivery that is timely, open and accountable, and responsive to your needs. The Charter explains how you can help us and how you can provide feedback or make a complaint. You can read our Client Service Charter on our website, or in a printed copy available from any of our offices.

Service satisfaction

The department remains committed to ensuring that all clients, both in Australia and overseas, receive not only fair and reasonable treatment, but also an efficient standard of service that is sensitive to each client's needs.

To provide a compliment, complaint or suggestion you can:

- telephone the Global Feedback Unit on 13 31 77 during business hours
- complete a feedback form online at www.immi.gov.au
- write to:
The Manager
Global Feedback Unit
GPO Box 241
Melbourne VIC 3001
Australia
- contact us directly through any of our offices.



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DECISION RECORD

Request Details

FOI Request FA 13/08/00966
File Number ADF2013/27262

Scope

"Under the Freedom of Information Act (1982) I request all incident reports (and their attachments) concerning the escape or recapture of detainees in Darwin between 1 May 2013 and 15 May 2013."

Documents in scope

1. Incident Detail Report – 1-PGHDXO – containing 16 folios.

Information considered

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. In reaching my decision, I have considered the following:

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

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.

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:*
 - (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*

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- (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 documents that you have been refused access to under section 22(1) of the FOI Act are those considered irrelevant to your request.

FREEDOM OF INFORMATION ACT 1982 - Section 47F
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).*
- (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).

The documents that are exempt, either in full or in part, under section 47F of the FOI Act contain personal information.

Having formed the view that the documents are of a kind to which section 47F does apply, I am required to consider whether disclosure of the documents would be unreasonable. I took the following information into consideration:

- The information is not your personal information. This weighs against the release being reasonable.
- Every person has the right to expect that their personal information will be securely maintained by the department. This weighs against the release being reasonable.
- The information does not appear to be in the public forum. This weighs against the release being reasonable.

On balance I believe it would be unreasonable to release these documents in their complete format.

Having formed the view that the documents are of a kind to which section 47F(1) does apply, I am required to consider whether disclosure of the documents would be contrary to the public interest.

I have considered:

Arguments in favour of the disclosure of the documents include:

- there is a general public interest in making information held by the Government accessible to the public;
- inform debate on a matter of public importance; and
- the need for openness and accountability of the department's operations.
- the extent to which the information is known by the public.

Arguments that against disclosure of the documents 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
- prejudice the fair treatment of individuals
- prejudice security, law enforcement, public health or safety

The information contained within the identified 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.

I consider that disclosure of this information would be contrary to the public interest and it is therefore exempt from disclosure under section 47F of the FOI Act.



Shannon Bevan
FOI Officer
FOI and Privacy Policy Section
National Office
Department of Immigration and Border Protection

4 October 2013



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Department of Immigration and Border Protection

SCHEDULE OF DOCUMENTS TO DECISION RECORD

Request Details

FOI Request FA 13/08/00966

File Number ADF2013/27262

1. Incident Detail Report - 1-PGHDXO

Folio	Description	Decision	Legislation
1-8	Information relating to personal information and information irrelevant to the scope	Exempt in Part	s.47F(1) & s.22(1)(a)(ii)
9	Information irrelevant to the scope	Exempt in Part	s.22(1)(a)(ii)
11-14	Information relating to person information	Exempt in Part	s.47F(1)
15		Release in Full	