



Australian Government
Department of Defence

Objective Reference: BN23720597

FOI 169/20/21 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:

“...documents relating to the drafting and approval of the Nature of Service Determination for the Strategic Reconnaissance Team deployment to Rwanda in July 1994.”

Personal email addresses, signatures, PMKeyS numbers and mobile telephone numbers contained in documents that fall within the scope of the FOI request and duplicates of documents are excluded from this request.

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 three documents, totalling 11 pages, as matching the scope of this request.

Decision

4. I have decided to:
- a. partially release three documents in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is considered exempt under section 7 [exemption of certain bodies], and 47F [personal privacy] of the FOI Act, and
 - b. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(b)(ii) 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); and
 - e. advice provided by Military Strategic Commitments Division within Defence.

Findings and reasons

6. I note that most of the documents related to this request were released under Defence Freedom of Information request 185/13/14 which are publicly available on the Defence Disclosure Log.

Exemption - Section 7 [exemption of certain persons and bodies]

7. The Guidelines state:

Under s 7(1), the following bodies specified in Schedule 2, Part I, Division 1 are not agencies for the purposes of the FOI Act:

...

- *Defence Intelligence Organisation (DIO)...*

8. I have identified that information relating to documents 1 and 2 is derived from Defence Intelligence Organisation, an agency exempt from the FOI Act under section 7.

9. The Guidelines go on to state:

All Australian Government agencies are exempt from the operation of the Act in relation to ‘intelligence agency documents’ (for example, a document that originated with or was received from ASIO or ONA) (s 7(2A)) and ‘defence intelligence documents’ (for example, a document that originated with or was received from the Department of Defence and relates to the collection, reporting or analysis of operational intelligence (s 7(2C)). These exemptions also apply to documents in the possession of ministers (s 7(2B)). The exemption extends to a part of a document that contains an extract from or a summary of an intelligence agency document or a defence intelligence document.

10. Taking the above into account, I consider that information identified is exempt under section 7 of the FOI Act.

Conditional exemption - Section 47F [privacy]

11. Subsection 47F(1) of the FOI Act states: ‘*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)*’.

12. ‘*Personal information*’ is defined in section 4 of the FOI Act as ‘*information or an opinion about an identified individual, or an individual who is reasonably identifiable*

(a) *whether the information or opinion is true or not; and*

(b) *whether the information or opinion is recorded in a material form or not*’.

13. I found information contained in the documents, such as names and other identifying information, is personal information that would reasonably identify an individual, and satisfies the definition of ‘*personal information*’, in section 4 of the FOI Act.

14. The test of ‘*unreasonableness*’ implies a need to balance the public interest in disclosure of government-held information and protecting the privacy of individuals. I found

for the reasons set out below that the disclosure of the above mentioned ‘personal information’ would be considered to be unreasonable.

15. The Guidelines issued by the Australian Information Commissioner note that *‘the personal privacy exemption is designed to prevent the ‘unreasonable’ invasion of third parties’ privacy’*. In accordance with subsection 47F(2) of the FOI Act, in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, I had regard to:

- 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 documents;
- c. the availability of the information from publicly accessible sources; and
- d. any other matters that the agency considers relevant.

16. Against those criteria, I found that:

- a. the specific information and details relating to the individuals is not well known to the broader community;
- b. the specific information is not readily available from publicly accessible sources;
- c. the specific information is information that individuals would not wish to have disclosed without their consent; and
- d. disclosure of such information could reasonably be expected to affect the willingness of the public to submit open, detailed, and clear enquiries creating difficulty in addressing public concerns.

17. Section 11A(5) of the FOI Act requires an agency to allow access to an exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest. My public interest considerations are set out below.

Public interest considerations – section 47F

18. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, I considered the Guidelines provided by the Information Commissioner, together with a range of factors that favour access to a document set out in subsection 11B(3) [public interest exemptions – factors favouring access] of the FOI Act.

19. In relation to the personal information, disclosure of the specific information may promote some of the objects of the FOI Act, as information held by the Government is a national resource. However, it would not increase scrutiny or discussion of government activities.

20. While release of the specific personal information considered exempt may be of some interest to the applicant, it would not in my view inform public debate on any matter of public importance in any meaningful way. Additionally, disclosure of the information would not promote oversight of public expenditure.

21. Accordingly, I consider that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the document that matches the scope of the request. I

therefore decided that it would be contrary to the public interest to release the information considered exempt, under section 47F(1) of the FOI Act.

22. None of the factors listed in subsection 11B(4) of the FOI Act were taken into account when making my decision.

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Mr Sean Judge
Accredited Decision Maker
Vice Chief of the Defence Force Executive