



## Attachment A

### DECISION RECORD

#### Request Details

FOI Request FA 15/09/00597  
File Number ADF2015/47753

#### Scope of request

1. *The Summaries of Incidents log from the Department's Compliance, Case Management, Detention and Settlement Portal, with the data columns:*
  - *incident number*
  - *type*
  - *level*
  - *Occurred On (date and time)*
  - *Summary*
  - *Location Details*
  - *with the following date ranges: February 1, 2015 - April 30, 2015.*
2. *The Summaries of Incidents logs (or equivalent documents) for the Manus Island and Nauru Regional Processing Centres, with the data columns:*
  - *incident number*
  - *type*
  - *level*
  - *Occurred On (date and time)*
  - *Summary*
  - *Location Details*
  - *with the following date ranges: February 1, 2015 - April 30, 2015.*

Clarification of the scope, received on 13 October 2015, following receipt of the charges notice, is as follows:

*the following values in the 'type' data column:*

- *Self Harm - Attempted Serious*
- *Self Harm - Actual*
- *Disturbance - Major*
- *Accident/Injury - Serious*
- *Assault - Serious*
- *Use of Force*
- *Use of Restraints*
- *Emergency - medical - offsite*
- *Public Health Risk - L/Serious*
- *Escape*
- *Media - Incident of Interest.*

### Documents in scope

1. Incident spreadsheet – 01.02.2015 to 30.04.2015 – containing 43 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.47F(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 known*

While I note that the summaries of each incident are generalised, although some of the summaries contain specific details of the individual's concerned. These specific details have not previously been released. The identity of the individuals is not widely known.

#### *(b) Whether the person to whom the information relates is known to be associated with the matters in the document*

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

#### *(c) The availability of the information from publicly available sources*

As discussed above the summaries of the incidents are provided within the document. The person information identified as exempt, within these summaries, are not available through any public sources.

(d) *Any other matters that the agency considers 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 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 releasing specific third party personal information would add or inform debate on a matter of public importance.

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 documents 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).

### **Deletion of exempt or irrelevant material under s.22 of the FOI Act**

Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information or material that is irrelevant to the request **and** it is possible for the agency to prepare an edited copy of the document with the irrelevant or exempt material deleted, then the agency must prepare such a copy.

This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reasons(s) for each of the deletions in the document (s.22(3) of the FOI Act).

Exempt material is deleted pursuant to s.22(1)(a)(i) and irrelevant material is deleted pursuant to s.22(1)(a)(ii) of the FOI Act.



Authorised decision maker  
Department of Immigration and Border Protection  
Email [foi@border.gov.au](mailto:foi@border.gov.au)

15 December 2015



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**Attachment B**

**SCHEDULE OF DOCUMENTS TO DECISION RECORD**

FOI Request FA 15/09/00597  
File Number ADF2015/47753

**1. Incident Summary spreadsheet – 01.02.2015 to 30.04.2015**

<b>Folio</b>	<b>Description</b>	<b>Decision</b>	<b>Legislation</b>
1 - 43	Incident Summary spreadsheet – 01.02.2015 to 30.04.2015	Exempt in Part	s.22(1)(a)(ii) s.47F(1)

## 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).



