



Australian Government

Department of Immigration and Border Protection

Attachment A

DECISION RECORD

Request Details

FOI Request FA 14/03/00024

File Number ADF2014/7315

Scope of request

Incident Detail Report 1-5OX60P from the Department's Compliance, Case Management, Detention and Settlement Portal. I also request any documents attached to the detailed report.

Documents in scope

1. Incident Detail Report 1-5OX60P – containing 4 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);
- the Australian Information Commissioner's guidelines relating to access to documents held by government;
- the department's FOI handbook

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.

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 reason(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.

The attached Schedule of Documents identifies documents where material has either been deleted as exempt information under the FOI Act or deleted as irrelevant to the scope of the request.

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

A document is 'conditionally exempt' under s.47F(1) of the Act if its release would 'involve the unreasonable disclosure of personal information about any person (including a deceased person)'. A conditionally exempt document **must** be released under the FOI Act unless the release would be 'contrary to the public interest'. The Act requires me to undertake a 2 step process in deciding if an exemption applies.

Would the disclosure be an 'unreasonable' disclosure of personal information?

The exemption in s.47F(1) of the Act will only apply if I am satisfied that the disclosure would involve 'unreasonable' disclosure of a third party's personal information. The Act states that, when deciding whether the disclosure of the personal information would be 'unreasonable', I 'must' have regard to the factors set out in s.47F(2) of the Act:

- (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

Although the summary of the incident detail report is known, the identity of the clients involved is not in the public domain. On balance, I believe that the factor weights in favour of the disclosure being unreasonable.

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

The clients to whom the information relates is not in the public domain. On balance, I believe that the factor weights in favour of the disclosure being unreasonable.

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

Although the summary of the incident detail report is known, the identity of the clients involved is not in the public domain. On balance, I believe that the factor weighs in favour of the disclosure being unreasonable.

(d) Any other matters that the agency considers relevant

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.

No purpose would be achieved by releasing the third party personal information. This weighs against the release being reasonable.

The current relevance of the information; this weighs against the release being reasonable.

On balance, I believe that the factors weigh in favour of the disclosure being unreasonable.

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

Therefore, I am satisfied that the information I have identified in the relevant documents is 'conditionally exempt' under s.47F(1) of the Act.

Is the release 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 Act.

Factors favouring disclosure

I have considered the factors set out in s.11B(3) of the Act which were discussed above.

While release would promote the objects of the Act, I do not consider that it would inform debate on a matter of public importance. 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

As discussed above, the AIC has issued Guidelines that contain a list of factors weighing against disclosure which must be considered under s.11B(5) of the Act.

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

The disclosure of the personal information could reasonably be expected to 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.

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 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).



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10 April 2014



Australian Government

Department of Immigration and Border Protection

Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 04/03/00024

File Number ADF2014/7315

1. Incident Detail Report 1-5OX60P

Folio	Description	Decision	Legislation
1 - 4	Information that is irrelevant to the scope of the request.	Exempt in part.	s.22(1)(a)(ii)
1 - 4	Information relating to third party personal information.	Exempt in part.	s.47F(1)

Attachment C

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).



Australian Government
Department of Immigration
and Border Protection

Sensitive
Incident Detail Report

As at 05/03/2014

Incident Summary

Incident Number:	1-5OX60P	DIAC Notified:	14/01/2011 05:58:00 PM
Type:	Self Harm - Threatened	DIAC Notified By:	RAY WILEY
Level:	Major	DIAC Contact:	WILLIAM MCGUINNESS
Version:	2	Initial Release On:	14/01/2011 08:30:05 PM
Status:	Closed	Version Released On:	14/01/2011 08:38:28 PM
Location:	North West Point Immigration Facility	Transport ID:	
Occurred On:	14/01/2011 01:50:00 PM	Sensitive:	N
Informed By:	Service Provider Staff	Summary:	Self Harm - Attempted by Client s. 47F(1) s. 47F(1)
Informed On:	14/01/2011 05:58:00 PM	Organisation:	Serco
Location Details:	NWP Visits Centre	CCTV Recording Number:	

Participants

Client

Participation Type:	s. 47F(1)	Client was armed:	s. 47F(1)
Service Number:		Interpreter:	Onsite
Family Name:		Interpreter Id:	
Given Name(s):		TIS Job No:	
Date of Birth:		Comments:	Client s. 47F(1) attempt self harm.
Minor:			

Incident Details

Version: 1 Created On: 14/01/2011 08:24:33 PM Created By: MATTHEW SWANTON

s. 22(1)(a)(ii)

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Australian Government
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Incident Detail Report

As at 05/03/2014

Description: A/CSM Swanton reports

At approximately 1350hrs MSS Officer Scott Turnbull alerted A/CSM's Swanton & Tavendale to client s. 47F(1) behaviour in the North West Point Visits Centre.

A/CSM Swanton & Tavendale immediately entered the visits area and saw client s. 47F(1) climbing the caged area to the right hand side of the roller door within the Visits vehicle sally port.

A/CSM Swanton immediately called a Code Green Response for what was believed at the time to be an attempted escape.

When s. 47F(1) had reached the electric motor housing at the top of the roller door (approximately 4m or 15ft from ground level), he sat on it and started to tie a bed sheet into what appeared to be a noose.

A/CSM Swanton directed MSS Officer Turnbull to immediately clear the vehicle sallyport of all clients, and MSS Brian McPhedran was directed to clear the adjoining property courtyard of clients from sight of client s. 47F(1). MSS Haynes was directed to inform IHMS medical and have IHMS Mental Health staff immediately attend the visits centre with a s. 47F(1) Interpreter.

At approximately 1352hrs, Operations Manager Larissa Jackson & A/CSM Joseph Zelezniack arrived onsite.

On return to visits with Mental Health staff, MSS Haynes was dispatched to notify Operations Manager Neryl Atkins & Centre Manager Ray Wiley of the situation.

The client at approximately 1353hrs demanded "interpreter" but would not engage verbally with any staff at ground level.

At this time, client s. 47F(1) appeared to still be trying to tie off the bed sheet to the steel roofing beam.

The interpreter remained out of sight as directed until the arrival of OM Atkins & CM Wiley at approximately 1356hrs

OM Atkins commenced negotiating with client s. 47F(1) whilst A/CSM's Swanton, Tavendale & Zelezniack

placed mattresses below where JANI was located in an attempt to minimise injury to the client should he have fallen.

Negotiations continued until 1427hrs when client s. 47F(1) climbed down the fencing and continued discussions with OM Atkins at ground level.

The code Green was stood down by A/CSM Swanton at 1429hrs and normal daily functions resumed.

s. 22(1)(a)(ii)

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Incident Detail Report

As at 05/03/2014

OM Atkins continued discussions with client s. 47F(1) until approximately 1455hrs when, s. 47F(1) was provided with a full set of clean clothing and escorted to IHMS Medical for a shower and mental health assessment.

All times are Local Christmas Island Time

Code Green at 1350hrs
Code Stand Down at 1429hrs
DIAC Notified 1358hrs
DIAC Notified by Centre Manager Ray Wiley

This Incident Report is being treated as a Major Incident and classified as Self Harm Attempted due to the client's fashioning of a noose from a provided bed sheet.

This client was not on any form of s. 47F(1). However the client has now been placed s. 47F(1) and is being accommodated in s. 47F(1).

This Incident Report is linked to a recent Incident Report of Escape - Successful

More information to follow.

Related Incidents

Incident Number:	1-5O3VTM	Status:	Closed
Type:	Escape	Level:	Critical
Location:	North West Point Immigration Facility	Occurred On:	12/01/2011 06:45:00 PM

Attachments

File Name:	14 Jan 11 Self harm (attempted) 1-5OX60P	File Date:	19/01/2011 05:49:00 PM
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s. 22(1)(a)(ii)

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Incident Detail Report

As at 05/03/2014

Comments: Post Incident Review

s. 22(1)(a)(ii)

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