



**Australian Government**  

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**Department of Immigration and Border Protection**

## **Attachment A**

### **DECISION RECORD**

#### **Request Details**

FOI Request FA 14/03/00020

File Number ADF2014/7312

#### **Scope of request**

*Incident Detail Report 1-2RIU6K 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 1-2RIU6K – containing 5 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 document (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 document within the scope of your request and applied exemptions in part 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 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 - certain operations of agencies - s.47E(d)***

A document is 'conditionally exempt' under s.47E of the FOI Act if its release, amongst other things, would or could reasonably be expected to 'have a substantial adverse effect on the proper and efficient conduct of an agency'. A conditionally exempt document **must** be released under the FOI Act unless the release would be 'contrary to the public interest'.

In my opinion the document listed in the Schedule as exempt, in part under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this department. Disclosure would therefore be 'unreasonable'.

I am satisfied that the release of the material I have deleted as exempt under section 47E is conditionally exempt under s.47E(d).

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.

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

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 the following factors are relevant to the document in question:

- reveal operating procedures, the release of which would require the department to change the way it operates.
- provide an unfair advantage to future clients if the operations of the department are known.
- prejudice the operations of the department in dealing with self-harm in detention centres.

On balance, I am satisfied that release of the information in the document would be contrary to the public interest and that the document is exempt under section 47E 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).

***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 two 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 individual 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 individual 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, a copy of the full incident report, in particular the identity of the individual involved is not in the public domain. On balance, I believe that the factor weights 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.

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..

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

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 04/03/00020

File Number ADF2014/7312

#### 1. Incident Detail Report 1-4QHBD8

Folio	Description	Decision	Legislation
1 - 5	Information that is irrelevant to the scope of the request.	Exempt in part.	s.22(1)(a)(ii)
2 - 5	Information relating to third party personal information.	Exempt in part.	s.47F(1)
2	Information relating to the operation of an agency.	Exempt in part.	s.47E(d)

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## 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.

#### **47E 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, by Norfolk Island 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).



## 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:	1-4QHBD8	DIAC Notified:	06/10/2010 06:52:00 PM
Type:	Disturbance - Major	DIAC Notified By:	NERYL ATKINS
Level:	Major	DIAC Contact:	SONJA RADOVANOVIC
Version:	4	Initial Release On:	07/10/2010 04:57:25 AM
Status:	Closed	Version Released On:	19/10/2010 05:27:41 PM
Location:	North West Point Immigration Facility	Transport ID:	
Occurred On:	06/10/2010 02:25:00 PM	Sensitive:	N
Informed By:	Service Provider Staff	Summary:	Two GRY clients attempted a simultaneous self harm incident. A major disturbance followed which included shouting, yelling, a client fainting in distress, and a altercations between clients.
Informed On:	06/10/2010 06:25:00 PM	Organisation:	Serco
Location Details:	White 1 Compound	CCTV Recording Number:	

**Incident Details**

Version: 4      Created On: 19/10/2010 05:26:32 PM      Created By: LISA BONSER  
Description: Post Incident Review

Version: 3      Created On: 08/10/2010 01:34:05 PM      Created By: NERYL ATKINS  
Description: Report not written within timeframe due to the duration of the incident.

Version: 2      Created On: 07/10/2010 06:55:33 AM      Created By: NERYL ATKINS  
Description: Please refer to the following incidents for a list of clients involved in the disturbance:  
1-4QHK0M Prohibited Item  
1-4QHB2W Self Harm Threat  
1-4QHAY2 Self Harm Attempt

Version: 1      Created On: 07/10/2010 04:54:58 AM      Created By: NERYL ATKINS

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

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Page 1 of 5

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**Incident Detail Report**

As at 05/03/2014

Description: On 06 Oct 10 at approximately 1425h a DIAC interpreter alerted Officer Sam Hillman that there was a client attempting to commit self harm. Officer Hillman called a code for officer assistance.

Upon approaching s. 47F(1) of s. 47F(1) Compound, Officer Hillman noticed that client s. 47F(1) was standing on a table and attempting to tie a sheet around the balcony railing. Another client s. 47F(1) was trying to pull the sheet from s. 47F(1) in attempt to stop him from hanging himself. Officer Hillman requested that clients stop s. 47F(1) from hurting himself until help could arrive, because she noticed that another client was also attempting to hang himself.

Officer Hillman noticed that client s. 47F(1) was standing on the top balcony (also in s. 47F(1)) and appeared to be tying a plaited sheet to the balcony railing. She ran to assist two other clients that were also attempting to stop s. 47F(1) from harming himself. Another Officer Andrew Tavendale arrived a short time later and came to Officer Hillman's assistance. Together they tried to calm client s. 47F(1) down and subdue him. In the process, s. 47F(1)

The clients in the compound began to crowd around the scene and the situation quickly escalated. There was a lot of shouting, pushing and verbal altercations. Several clients were trying to hold client s. 47F(1), whilst others were trying to hold client s. 47F(1). Both Self Harm Attempt clients were struggling with both officers and clients, and were extremely agitated and aggressive.

A short time later, CSM Barrett, Kemp and Dowling arrived on scene and tried to control the situation. CSM Kemp called for the roller doors to be closed. Medical arrived a short time later. A large group of clients had gathered around the scene and were yelling, pushing and inciting one another.

At approximately 1430h, Operations Manager Neryl Atkins arrived on scene and took control. Upon arrival, it was noticed that several clients were trying to restrain client s. 47F(1). CSM Barrett was also attempting to control the situation with that client, as was CSM Kemp. s. 47F(1)

Officer Tavendale and Hillman were attempting to get client s. 47F(1) to the lower floor. CSM Dowling went to their assistance and brought the client to the lower floor area.

Operations Manager Neryl Atkins called Officer Richard Gibson to bring down hand restraints and a video camera as several clients were non compliant. The two self harm clients, as well as other clients, were creating a scene that was inciting the watching crowd.

s. 47E(d)

Within the communal area of s. 47F(1), client s. 47F(1) was placed on the ground and received immediate medical attention. Client s. 47F(1) took longer to calm down, but eventually sat down at

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

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Page 2 of 5

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**Incident Detail Report**

As at 05/03/2014

a nearby table.

Whilst this was occurring, officers were dispersing the crowd and attempting to calm the temperament of the remaining clients. At 1510hrs, whilst they were doing this, client s. 47F(1) fainted in distress. A medical officer examined the client. Mental Health was requested to attend the scene to assist with the care of s. 47F(1).

Approximately five minutes later, s. 47F(1) and s. 47F(1) engaged in a verbal altercation over the theft of personal property. CSM Hopkins, Officer Hillman and Officer Townsend attended the scene and diffused the situation.

Throughout the disturbance, all officers in attendance were talking to clients and reassuring them. Boat s. 47F(1) clients were extremely demanding and requested that Immigration speak to them regarding their visa processing.

Client s. 47F(1) was noticed as being in distress (he seemed to disengage and was visibly distraught). He was attended to by medical staff and was encourage to speak to mental health.

Clients started to calm down and break off into smaller groups. The level of aggression subsided quickly and clients began engaging officers in conversation.

During this time medical advised Serco staff that one of their radios could not be accounted for. All clients were asked to look for the radio, but it could not be located.

At approximately 1543h, client s. 47F(1) was taken to medical by T & E. A short time later, the distressed client s. 47F(1), was also taken to medical.

A compound status check was called; all compounds responded that things were calm.

Clients that did not belong to s. 47F(1) compound were then pat searched by officers and allowed to return to their respective compounds.

All available activity and property officers were then requested to attend s. 47F(1) Compound to conduct a search of the compound in an attempt to locate the missing radio.

At approximately 1600h, a targeted search was conducted of all client rooms to find the location of the medical radio. During that search, a number of prohibited items were located. Please refer to incident 1-4QHKOM for details of items and their alleged owners.

At about 1630h, client s. 47F(1) finally agreed to go to medical. He was escorted from the compound by officers and medical staff.

At about 1640h the missing radio was located in the medical centre.

At 1650h the code was stood down. All clients were then informed that Immigration would see

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

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Page 3 of 5

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**Incident Detail Report**

As at 05/03/2014

them at a time to be advised.

**Attachments**

File Name: Disturbance 1-4QHBD8 6 OCT File Date: 19/10/2010 05:27:19 PM  
 Comments: Post Incident review

File Name: s. 47F(1) Compound Incident 06 File Date: 08/10/2010 05:27:03 PM  
 10 10  
 Comments: N Atkins report

File Name: Ivana Hopkins Altercation File Date: 07/10/2010 04:13:03 AM  
 Comments: Officer report on altercation during incident Ivana Hopkins

File Name: Ivana Hopkins Report File Date: 07/10/2010 04:11:49 AM  
 Comments: Officer Report Ivana Hopkins

File Name: 1-4QHBD Kevin Barrett 06-10- File Date: 07/10/2010 04:08:39 AM  
 10  
 Comments: Officer Report Kevin Barrett

File Name: 1-4QHBD Jo Dowling 06-10-10 File Date: 07/10/2010 04:06:57 AM  
 Comments: Officer Report Jo Dowling

File Name: 1-4QHBD Doug Kemp 06-10-10 File Date: 07/10/2010 04:05:20 AM  
 Comments: Officer Report Doug Kemp

File Name: 1-4QHBD Samantha Hillman File Date: 07/10/2010 04:03:37 AM  
 06-10-10

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

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**Incident Detail Report**

As at 05/03/2014

Comments: Officer Report Samantha Hillman

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

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