



## Attachment A

### DECISION RECORD

#### Request Details

FOI Request FA 16/11/01342  
File Number ADF2016/40414

#### Scope of request

*Please provide me with a copy of all documents relating to the Department's policy of testing visitors to Maribyrnong Immigration Detention Centre (MIDC) including:*

- 1) the maintenance records of the machine/s used to test visitors;*
- 2) the training policy and evidence of training of staff regarding the use of the machines;*
- 3) information as to when the machine/s at MIDC was serviced/maintained in the last 6 months; and*
- 4) please also include general Departmental information about the drug testing policy for visitors to detention centres and in particular MIDC*

#### 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 terms of your request
- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's guidelines relating to access to documents held by government
- Departmental documents, identified in the Schedule of Documents; and
- consultations 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.

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

### **Deletion of irrelevant material as applied to your FOI request**

The documents contain information which is considered irrelevant to your request. Irrelevant information includes the names and direct contact details of Departmental staff below Senior Executive Service level.

### **Advice from the relevant business area**

The Onshore Contacts Section advised:

The Facilities and Detainee Service Provider (FDSP) Contract does not allow for visitors to onshore detention facilities to be personally tested for drugs. However, each visitor to an onshore detention facility must read and sign a 'Visitor Conditions of Entry' form (document one). This form details requirements for visitors to be able to enter an onshore detention facility. All visitors are also subject to screening processes similar to those found at airports.

If visitors do not sign the 'Visitor Conditions of Entry' form, or are determined to have contraband/excluded items on their person, they will be refused entry to the facility.

#### In relation to point 2 of your scope:

Training of staff who are required to use the device is conducted by the manufacturer at the time of machine service. This takes place at intervals of approximately one year under normal circumstances. Serco also provides additional refresher training (minimally every 2 years) as part of the 'Security Screening' training module. Serco notes that this training is held at the majority of locations across the Onshore Immigration Detention Network and individual staff may also travel to other localities to attend this training.

Further, 'quick-reference' information is available and printed clearly at the location of the device. The device itself also includes electronic 'help' and 'how to' instructions, as well as the on-board user manual which can be displayed by the machine itself.

#### In relation to point 3 of your scope:

The machine at Melbourne Immigration Detention Centre (MIDC) was last serviced by the manufacturer on 14 March 2016. The machine is also calibrated each day by the operator(s) in accordance with the manufacturer and device instructions.

#### In relation to point 4 of your scope:

Visitors to Immigration Detention Facilities (including MIDC) are subject to screening at the time of entry. Submission to this screening is a condition of entry. At MIDC, this may include screening for particles (trace amounts) of narcotics with the use of the Morpho "Itemiser" unit.

Serco notes that the detection of trace amounts of narcotics with the Morpho "itemiser" is consistent with the methods and practices undertaken at Australian Airports, as well as Airports in the USA, UK, Europe and Asia. Morpho Itemiser units are in use extensively at Airports, military bases, prisons and Immigration Detention Facilities in Australia and Internationally.

## **Section 47E – Conditional Exemption – certain operations of an agency**

A document is *conditionally exempt* under section 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 the operations of an agency*.

In my opinion, document eight, listed in the Schedule under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this Department. Disclosure would therefore be *unreasonable*.

A conditionally exempt document must be released under the FOI Act unless the release would be contrary to the public interest. Therefore, please see below, my considerations whether its release would be contrary to the public interest.

I have considered the factors set out in the public interest test in s.11B(3) and s.11B(5) of the Act.

### Factors favouring disclosure

I am satisfied that the release of the information would promote the objects of the Act as it would provide access to information held by Government and this factor weighs in favour of the release not being contrary to the public interest.

The release of the information is, however, irrelevant to the effective oversight of public expenditure and further, would not facilitate you accessing your own personal information.

I am therefore of the view that only the first public interest factor weighs in favour of release.


### Factors weighing against disclosure

- whether disclosure of the information could reasonably be expected to prejudice the operations of this Department; and
- prejudice the management function of an agency.

The document contains detailed information about the entry and exit control methods regarding visitors to Immigration Detention Facilities. Releasing this information could compromise the security and safety processes for these facilities. The release of this information would have a substantial adverse effect of the Department's operations.

On balance, I am satisfied that the release of the operational material in the document would be *contrary to the public interest*.

Therefore, I am satisfied that the operational material in the document is exempt from release under s.47E(d) of the Act.



Authorised decision maker  
Department of Immigration and Border Protection

Email           foi@border.gov.au

5 December 2016



**Attachment B**

**SCHEDULE OF DOCUMENTS TO DECISION RECORD**

FOI Request FA 16/11/01342  
File Number ADF2016/40414

No.	Date of document	No. of pages	Description	Decision on release	
1.	22/09/2014	3	Visitor Conditions of Entry document	Release in Full	
2.	14/01/2015	1	Student Attendance Record	Released with deletions	
3.	14/03/2016	1	Maintenance Report	Release in Full	
4.	August 2016	2	Machine product details	Release in Full	
5.	August 2016	1	Photo	Release in Full	
6.	August 2016	1	Photo	Release in Full	
7.	August 2016	1	Photo	Release in Full	
8.	February 2015	12	Entry and Exit Control document	Exempt in Full	s.47E(d)

## 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.

**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).