



Australian Government

Department of Immigration and Border Protection

Attachment A

DECISION RECORD

Request Details

FOI Request FA 15/03/00044

File Number ADF2015/8011

Scope of request

Report completed by Stephen Wood regarding statements made by Peter Young at the Australian Human Rights Commission Inquiry into children in Immigration Detention.

Documents in scope

1. Report into an allegation that DIBP covered up health data relating to the mental health of detainees particularly children – containing 17 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.

47F Public interest condition exemptions – personal privacy

- (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).*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

In my view the folios that are exempt, in part, under section 47F of the FOI Act contain personal information.

people our business

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Having formed the view that the exempt material is personal information defined by the FOI Act, I am required to consider whether disclosure of the personal information would be unreasonable to release.

The department has a legal obligation to publish documents released concerning non-personal FOI requests on our disclosure log, which is embodied within our departmental website.

The department must balance its responsibilities in maintaining individual's right to privacy and in this specific case, a report has been constructed for the purposes of investigating individuals and/or groups of individuals surrounding medical related matters.

The fact particular individuals were associated with this matter, attracts a level of personal information and actions taken by individuals in a personal capacity, rather than professional working involvement. Releasing this personal information to the wider public is considered an unreasonable disclosure of personal information.

Having formed the view that the documents are of a kind to which section 47F(1) does apply, I am required to consider whether disclosure of the documents would be contrary to the public interest.

I have considered:

Arguments in favour of the disclosure of the documents include:

- there is a general public interest in making information held by the Government accessible to the public;
- disclosure may reveal the reasons for a decision encompassing a specific degree of public interest;
- the need for openness and accountability of the department's operations.

Arguments that against disclosure of the documents include:

- 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 associated within the document
- providing opportunity for malicious individuals to contact, interfere with or threaten individuals associated with the document

The information contained within the identified 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. The department has taken measures to ensure you receive a significant portion of personal information however not to the extent a release would become an unreasonable disclosure of personal information.

I consider that disclosure of this specific information would be contrary to the public interest and it is therefore exempt from disclosure under section 47F of the FOI Act.



Authorised decision maker
Freedom of Information Section
Department of Immigration and Border Protection
Email foi@immi.gov.au

A May 2015



Australian Government

Department of Immigration and Border Protection

Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 15/03/00044

File Number ADF2015/8011

1. Report into an allegation that DIBP covered up health data relating to the mental health of detainees particularly children.

Folio	Description	Decision	Legislation
1 - 4		Release in Full	
5 - 6	Third party personal information identified	Exempt in Part	s.47F(1)
6		Exempt in Part	s.47F(1)
9 - 10	Third party personal information identified	Exempt in Part	s.47F(1)
11 - 17		Release in Full	

Attachment C – Extract of relevant legislation

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).