



**NSW Police Force**

Andrew Collins

Via email: [foi+request-2876-b769a477@righttoknow.org.au](mailto:foi+request-2876-b769a477@righttoknow.org.au)

**Government Information (Public Access) Act 2009 (NSW)**

**INFORMAL APPLICATION NUMBER: 2016-39926**

<b>APPLICANT: ANDREW COLLINS</b>	<b>DATE RECEIVED: 22/12/2016</b>
<b>MADE ON BEHALF OF: RIGHT TO KNOW</b>	<b>DATE OF DECISION: 18/1/2017</b>

I refer to your request in which access was sought for information that may be held by the New South Wales Police Force.

Attached is a copy of your application and the **Notice of Decision**.

It is advised that as your 'Informal' application has been accepted, any decision made in relation to the documentation requested, is not reviewable under Part 5 of the *Government Information (Public Access) Act 2009*.

*K. Forbes*

Review Officer  
External Information Access Unit

**External Information Access Unit/Operational Information Agency**

Locked Bag 5102 Parramatta NSW 2124

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## NOTICE OF DECISION

I am authorised by the New South Wales Commissioner of Police to determine applications made under Section 8 of the *Government Information (Public Access) Act 2009* (NSW), (GIPA Act).

In response to this application a search of the Disclosure Log File was carried out and the documents were reviewed. Enquiries were also directed to Professional Standards Command. I have examined the information provided and made the following decision:

Document Description	Decision
Disclosure Log Entry 122805	Refused Schedule 1 Clause 1 – Criminal Records Act 1991 – Section 13 (Unlawful disclosure of information concerning spent convictions)
Disclosure Log Entry 124251	Refused Schedule 1 Clause 1 – Criminal Records Act 1991 – Section 13 (Unlawful disclosure of information concerning spent convictions)

### PUBLIC INTEREST CONSIDERATIONS

#### Section 8 Clause (1) – Informal release of government information

An agency is authorised to release government information held by it to a person in response to an informal request by the person (that is, a request that is not an access application) unless there is an overriding public interest against disclosure of the information.

#### Section 12: Public interest considerations in favour of disclosure

In accordance with section 12 of the GIPA Act, I have taken into account the following public interest considerations in favour of disclosure of the information:

1. the statutory presumption in favour of the disclosure of government information; and
2. the general right of the public to have access to government information held by agencies.

#### Section 13 – Public interest test

There is an overriding public interest against disclosure of government information for the purposes of this Act if (and only if) there are public interest considerations against disclosure and, on the balance, those considerations outweigh the public interest considerations in favour of disclosure.

#### 14 Public interest considerations against disclosure

- (1) It is to be conclusively presumed that there is an overriding public interest against disclosure of any of the government information described in Schedule 1.

## **Schedule 1 Information for which there is conclusive presumption of overriding public interest against disclosure**

### **1 Overriding secrecy laws**

(1) It is to be conclusively presumed that there is an overriding public interest against disclosure of information the disclosure of which is prohibited by any of the following laws (which are referred to in this Act as *overriding secrecy laws*), whether or not the prohibition is subject to specified qualifications or exceptions and whether or not a breach of the prohibition constitutes an offence:

**Criminal Records Act 1991**—section 13 (Unlawful disclosure of information concerning spent convictions)

### **OUTCOME OF THE PUBLIC INTEREST TEST**

I have applied the public interest test and considered the above sections of the Act.

I have concluded that there is an **overriding public interest against** disclosing that information, pursuant to Schedule 1 Clause 1 referring information about spent convictions, the information requested includes information about spent convictions and as such its release is unlawful under Section 13 of the Criminal Records Act. This is the reason these documents were removed from the disclosure log and why releasing the documents to you would also contravene the Act.

### **13 Unlawful disclosure of information concerning spent convictions**

(1) A person who has access to records of convictions kept by or on behalf of a public authority and who, without lawful authority, discloses to any other person any information concerning a spent conviction is guilty of an offence.  
Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

The section 12 factors are outweighed by this consideration and access to the requested material is therefore refused in full.

**Message Preview**

21/12/2016 1:20 PM

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**Subject:** Government Information (Public Access) request - Previously released document specifically listing officers dismissed under S181D. It has a table listing the rank of the officer dismissed and the allegation that they were dismissed for.

**From:** foi+request-2876-b769a477@righttoknow.org.au

**To:** #gipaapp/staff/nswpolice@nswpolice

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Dear NSW Police Force,

The above information was available in the disclosure log on your GIPA page but has disappeared. I would like a copy please

Yours faithfully,

Andrew Collins

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Please use this email address for all replies to this request:

foi+request-2876-b769a477@righttoknow.org.au

Is gipaapp@police.nsw.gov.au the wrong address for Government Information (Public Access) requests to NSW Police Force? If so, please contact us using this form:

[https://www.righttoknow.org.au/change\\_request/new?body=nsw\\_police\\_force](https://www.righttoknow.org.au/change_request/new?body=nsw_police_force)

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