



FREEDOM OF INFORMATION

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Our Ref: CRM2017/329

7 February 2017

Mr Mark R Diamond  
By email: [foi+request-2977-d5ce32c1@righttoknow.org.au](mailto:foi+request-2977-d5ce32c1@righttoknow.org.au)

Dear Mr Diamond

### **Freedom of Information Request**

I refer to your request dated 23 January 2017 for documents held by the Australian Federal Police pursuant to the *Freedom of Information Act 1982* (the Act) in relation to:

*I request access to any document(s) that shows how much it cost the Australian Federal Police to use malware produced by the Milan based software company known as Hacking Team in the years 2008, 2009, 2010. In case there is any difficulty in identifying the malware I'm referring to, it is the software that Hacking Team were pleased call "offensive security software", also known as "RCS" or "Remote Control System".*

The Commissioner of the Australian Federal Police, being the principal officer of that Agency, has authorised me to make decisions on behalf of that agency in respect of the Act.

### **SEARCHES**

In relation to this request, the following searches for documents have been undertaken:

- a) a search of all records held by AFP case officers with responsibility for matters relating to the documents to which you sought access, including but not limited to the SAP database;
- b) a search for records by AFP National Procurement and Contracts;
- c) a search for records by AFP Finance Reporting Team;
- d) a search for records by AFP ICT Finance team; and
- e) a search for records by AFP Technology & Innovation Finance team.

As a result of the above information, apart from the file made up for your FOI request, no documents relating to your request have been located in the possession of the Australian Federal Police.

Therefore, on this basis, your request for access is refused under section 24A(b)(ii) of the Act.

Section 24A states:

- "An agency or Minister may refuse a request for access to a document if:*
- (a) all reasonable steps have been taken to find the document; and*
  - (b) the agency or Minister is satisfied that the document:*
    - (i) is in the agency's or Minister's possession but cannot be found; or*
    - (ii) does not exist."*

## **REVIEW RIGHTS**

If you are dissatisfied with this decision you can apply for internal or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking IC review.

### ***REVIEW RIGHTS under Part VI of the Act: Internal Review by the AFP***

Section 53A of the Act gives you the right to apply for an internal review in writing to this Department within 30 days of being notified of this decision.

No particular form is required but it would assist the decision-maker were you to set out in the application, the grounds on which you consider that the decision should be reviewed.

Applications for a review of the decision should be addressed to:

Freedom of Information Team  
Australian Federal Police  
GPO Box 401  
Canberra ACT 2601

### ***REVIEW RIGHTS under Part VII of the Act: Review by the Information Commissioner (IC)***

Alternatively, Section 54L of the Act gives you the right to apply directly to the IC or following an internal review by the AFP. In making your application you will need to provide an address for notices to be sent (this can be an email address) and a copy of the AFP decision. It would also help if you set out the reasons for review in your application.

Section 54S of the Act provides for the timeframes for an IC review submission. For an *access refusal decision* covered by subsection 54L(2), the application must be made within 60 days. For an *access grant decision* covered by subsection 54M(2), the application must be made within 30 days.

Applications for a review of the decision should be addressed to:

Office of the Australian Information Commissioner  
GPO Box 5218  
Sydney NSW 2001

***Right to Complain***

Section 70 of the Act provides that a person may complain to the IC about action taken by this Department in relation to your application.

A complaint to the IC may be made in writing and identify the agency against which the complaint is made.

The IC may be contacted on 1300 363 992. There is no particular form required to make a complaint, but the complaint should set out the grounds on which you consider the action should be investigated.

Yours sincerely,



Nathan Scudder  
Coordinator  
Freedom of Information  
Chief Counsel Portfolio  
Australian Federal Police