



AFP
AUSTRALIAN FEDERAL POLICE

FREEDOM OF INFORMATION

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ABN 17 864 931 143

Our Ref: CRM2017/508

26 May 2017

Mr William Pettersson
Right to Know

By email: foi+request-3461-fd27af12@righttoknow.org.au

Dear Mr Pettersson

Freedom of Information Request

I refer to your request dated 2 May 2017 for documents held by the Australian Federal Police pursuant to the *Freedom of Information Act 1982* (the Act) in relation to:

"I wish to request any and all information, rules, instructions, regulations or similar held or used by the AFP, or anyone acting on their behalf, which relates to:

a) the identification or classification of journalists, or any other person or group of people, for which a journalist information warrant (as prescribed by Division 4C of the Telecommunications (Interception and Access) Act 1979) would be required; or

b) the identification or classification any other person or group of people for which the rules, instructions, regulations or similar are different than the rules, instructions, regulations or similar of the general Australian populace.

I also wish to request any rules, instructions, regulations or similar which dictate the manner in which an officer of the AFP may access metadata. This part of the request is not limited to requests pertaining to people belonging to one of the groups above."

I refer to your email of 25 May 2017 clarifying that you sought documents in which the AFP identified or classified journalists for the purposes of journalist information warrants.

You were also referred to the AFP's disclosure log on previous disclosures regarding the data retention scheme.

SEARCHES

In relation to this request, a search was undertaken by the AFP Telecommunications Intercept Division, Support Capability for documents within the scope of your request.

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