

Our ref: CRM2017/523

15 May 2017

Mark Diamond  
Via email: [foi+request-3469-c92317e9@righttoknow.org.au](mailto:foi+request-3469-c92317e9@righttoknow.org.au)

Dear Mr Diamond,

### **Freedom of Information Request**

I refer to your application dated 6 May 2017 made to the Australian Federal Police, in which you sought access to documents in respect to "the price paid by the Australian Federal Police for a licence to use the surveillance malware known as SuRootRemote", under the *Freedom of Information Act 1982* (the Act).

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.

### **DECISION**

Pursuant to section 25 of the Act, this agency neither confirms nor denies the existence of documents in relation to your request in that in the event such documents did exist, they would be exempt documents under section 33 or 37(1) of the Act.

#### ***Documents to which section 33 apply:***

*"33 Documents affecting national security, defence or international relations*

*A document is an exempt document if disclosure of the document under this Act:*

- (a) would, or could reasonably be expected to, cause damage to:
  - (i) the security of the Commonwealth;*
  - (ii) the defence of the Commonwealth; or*
  - (iii) the international relations of the Commonwealth; or**
- (b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth."*

### **Documents to which section 37(1) apply:**

*"37 Documents affecting enforcement of law and protection of public safety*

- (1) *A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:*
- (a) *prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;*
  - (b) *disclose, or enable a person to ascertain, the existence of or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or*
  - (c) *endanger the life or physical safety of any person."*

### **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.

#### ***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

#### ***Internal 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 with this Agency. In making your application you need to provide:

- an address for notices to be sent (this can be an email address).
- A copy of this decision.

It would also help if you set out the reasons for review in your application.

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 investigation.

Yours sincerely,



Nathan Scudder  
Coordinator  
Freedom of Information  
Australian Federal Police