



AFP
AUSTRALIAN FEDERAL POLICE



INFORMATION ACCESS (FREEDOM OF INFORMATION)

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Our ref: CRM 2014/96

9 October 2013

Mr C Tentchoff

Email: foi+request-386-5f1170c3@righttoknow.org.au

Dear Mr Tentchoff,

Freedom of Information request

I refer to your letter dated 9 September 2013, under the *Freedom of Information Act 1982* (the Act) seeking the following:

"...copies of any documents detailing how your Facebook page is to be run..."

Attached at Annexure A to this letter is my decision and statement of reasons for that decision. A "Schedule of Documents" identified as falling into the scope of your request is at Annexure B.

Information Publication Scheme (IPS)

As notified to you on 12 September 2013 and in accordance with section 11C of the Act, it has been decided to publish the documents in respect of your request. Publication of the documents and any relevant documents will be made on the AFP website at <http://www.afp.gov.au/about-the-afp/information-publication-scheme/routinely-requested-information.aspx> between 5 and 10 days after notification of this decision.

Yours sincerely,

Superintendent Allan J Spencer
Coordinator
Information Access (Freedom of Information)
Government Relations

STATEMENT OF REASONS RELATING TO AN FOI REQUEST BY CORIN TENTCHOFF

I, Allan J Spencer, Coordinator, Information Access Team, am an officer authorised under section 23 of the Act to make decisions in relation to the Australian Federal Police.

What follows is my decision and reasons for the decision in relation to your application.

BACKGROUND

On 9 September 2013, this office received your letter in which you requested:

"...copies of any documents detailing how your Facebook page is to be run..."

SEARCHES

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

- a) a search of all records held by the relevant line areas within the AFP;

DECISION

I have identified four documents relevant to your request. A schedule of each document and details of my decision in relation to each document is at Annexure B.

I have decided that some of the documents itemised at Annexure B are released to you in their entirety. Some of the documents that relate to your request are released with deletions pursuant to subsection/s 37(2)(b), 47E(c) and 47E(d) of the Act.

My reasons for this decision are set out below.

REASONS FOR DECISION

I find that some of the documents relevant to your request are partially exempt under the provisions of the Act, as set out in the Schedule, for the reasons outlined below.

Folios to which subsection 37(2)(b) apply:

Subsection 37(2)(b) of the Act provides that:

"(2) *A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:*

- ...
- (b) *disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures;"*

The documents or parts of documents identified in the Schedule as exempt under this section of the Act contain information that would disclose methods and procedures used by the AFP in investigations of breaches of the law. Disclosure of this information would be reasonably likely to prejudice the effectiveness of those methods and procedures as these methods and procedures are not generally known to the public.

I find that release of the documents or parts of the documents would be an unreasonable disclosure under subsection 37(2)(b) of the Act.

Folios to which subsection 47E(c) apply:

Subsection 47E(c) of the Act provides that:

"A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- ...
- (c) *have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency."*

The documents or parts of documents identified in the schedule as exempt under this section of the Act contain information, the release of which would have a substantial adverse effect on the assessment of personnel and procedures. I am of the opinion that to release this information could have a substantial adverse effect on the conduct of the operations of the AFP.

I have considered the public interest factors both in favour and against disclosure of the information in these folios.

In relation to the factors favouring disclosure, I believe the following are relevant:

- (a) the general public interest in access to documents as expressed in sections 3 and 11 of the FOI Act; and
- (b) the public interest in people being able to scrutinise the operations of a government agency and in promoting governmental accountability and transparency.

In relation to the factors against disclosure, I believe that the following are relevant:

- (c) the need for an agency to maintain confidentiality in assessing its personnel and the circumstances in which the information was obtained; and
- (d) that if information concerning the procedures was revealed, it may have a substantial adverse effect on the management and assessment of personnel in future.

While there is a public interest in providing access to documents held by the AFP, I have given greater weight to factors (c) and (d) above and conclude that on balance, disclosure is not in the public interest, given the need to ensure the continued effectiveness of assessment procedures of its personnel.

I find that release of the documents or parts of the documents would be an unreasonable disclosure under subsection 47E(c) of the Act.

Folios to which subsection 47E(d) apply:

Subsection 47E(d) of the Act provides that:

"A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- ... (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency;..."*

The documents or parts of documents identified in the schedule as exempt under this section of the Act contain information, the release of which, would have a substantial adverse effect on the conduct of AFP operations, specifically its operational functions in ensuring public safety, as it reveals how information is obtained and actioned for the purposes of protecting the public.

I have considered the public interest factors both in favour and against disclosure of the information in these folios.

In relation to the factors favouring disclosure, I believe the following are relevant:

- (a) the general public interest in access to documents as expressed in sections 3 and 11 of the FOI Act; and
- (b) the public interest in people being able to scrutinise the operations of a government agency and in promoting governmental accountability and transparency.

In relation to the factors against disclosure, I believe that the following are relevant:

- (c) the need for the agency to maintain the confidentiality with regard to the subject matter and the circumstances in which the information was obtained and collated;

- (d) that if information concerning the operation was revealed, it may have a substantial adverse effect on the conduct of similar operations in the future; and
- (e) if such information was disclosed, it may prejudice security, law enforcement and public safety.

While there is a public interest in providing access to documents held by the AFP, I have given greater weight to factors (c), (d) and (e) above and conclude that on balance, disclosure is not in the public interest, given the need to ensure public safety during police operations and the effectiveness of current procedures. I find that release of the documents or parts of the documents would be an unreasonable disclosure under subsection 47E(d) of the Act.

EVIDENCE/MATERIAL ON WHICH MY FINDINGS WERE BASED

In reaching my decision, I have relied on the following documentary evidence:

- ❖ the scope of your application;
- ❖ the contents of the documents listed in the attached schedule;
- ❖ advice from AFP officers with responsibility for matters relating to the documents to which you sought access;
- ❖ *Freedom of Information Act 1982*;
- ❖ Guidelines issued by the Department of Prime Minister and Cabinet; and
- ❖ Guidelines issued by the Office of the Australian Information Commissioner.

REVIEW AND COMPLAINT RIGHTS

YOU SHOULD READ THIS GENERAL ADVICE IN CONJUNCTION WITH THE LEGISLATIVE REQUIREMENTS OF THE *FREEDOM OF INFORMATION ACT 1982*

If you are dissatisfied with a Freedom of Information decision made by the Australian Federal Police, you can apply for an internal or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking an IC review.

You do not need to seek a review by either the AFP or the IC should you wish to complain about the AFP's actions in processing your request.

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 the Australian Federal Police (AFP) within 30 days of being notified of a decision.

No particular form is required. It would assist the independent AFP decision-maker responsible for the internal review if you set out in the application, the grounds on which you consider that the decision should be reviewed.

Section 54B of the Act provides that the internal review submission must be made within 30 days.

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

Government Relations
Information Access 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 2999
Canberra ACT 2601

RIGHT TO COMPLAIN under Part VIIB of the Act

Section 70 of the Act provides that a person may complain to the IC about action taken by the Australian Federal Police 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.

SCHEDULE OF DECISION – CRM 2014/96
RELEASE OF DOCUMENTS – CORIN TENTCHOFF

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Document No	Folio No	Date	Author/Addressee	Description	Exemption/Public Interest Claimed	Reason
1	1-7		Australian Federal Police (AFP)	AFP Social Media team Standard Operating Procedures	Released with deletions: 47E(c) Folios: 4 Released in full: Folios: 1-3, 5-7	s47E(c) Exempted material would disclose the methods used by the AFP for assessment of its personnel. Provision of this information would prejudice the effectiveness of those methods and have a substantial adverse effect on the assessment of personnel by the AFP.
2	8-55		AFP	AFP Facebook page Aide-Memoir	Released with deletions: 37(2)(b), 47E(d) Folios: 8, 11-14, 17-42, 44, 51-52, 54-55 Released in full: Folios: 9-10, 15-16, 43, 45-50, 53	s37(2)(b) Deletions are made on the grounds that release would disclose lawful methods or procedures for preventing, detecting investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures.

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3	56	AFP	How to link to a media release on Facebook	Released with deletions: 47E(d)	s47E(d) Exempted material would disclose information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the AFP and would be contrary to the public interest. Access must be given unless it would be contrary to the public interest.
4	57	AFP	How to post photos to a photo album of Facebook	Released in full:	

Authorised Decision Maker:

Superintendent Allan J Spencer
Coordinator
Information Access (Freedom of Information)
Government Relations
Australian Federal Police

Date of Decision:

9 October 2013