



# AFP

AUSTRALIAN FEDERAL POLICE

CRM 2018/282

5 February 2018

Mr Phillip Sweeney

Email: [foi+request-4198-33281b07@righttoknow.org.au](mailto:foi+request-4198-33281b07@righttoknow.org.au)

Dear Mr Sweeney,

### Freedom of Information request

I refer to your email dated 7 November 2017, under the Freedom of Information Act 1982 (the Act) seeking the following:

*"A copy of a covering letter from Mr Cowdery to the Australian Federal Police confirming the compliance of Mr Cowdery with Section 316.*

*The search period is from 1 July 2017 to present."*

Attached at Annexure A to this letter is my decision and statement of reasons for that decision.

Yours sincerely

Helen Drew  
Coordinator  
Freedom of Information  
Chief Counsel Portfolio

**STATEMENT OF REASONS RELATING TO AN FOI REQUEST BY  
Phillip SWEENEY**

I, Helen Drew, Coordinator, Freedom of Information 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 7 November 2017, this office received your email in which you requested documents under the *Freedom of Information Act 1982* as follows:

*"A copy of a covering letter from Mr Cowdery to the Australian Federal Police confirming the compliance of Mr Cowdery with Section 316.*

*The search period is from 1 July 2017 to present."*

**SEARCHES**

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."*

**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;
- ❖ advice from AFP officers with responsibility for matters relating to the documents to which you sought access;
- ❖ *Freedom of Information Act 1982*; and
- ❖ Guidelines issued by the Office of the Australian Information Commissioner.

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

## **REVIEW AND COMPLAINT RIGHTS**

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:

Freedom of Information  
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 5128  
Sydney NSW 2001

Further, the OAIC encourages parties to an IC review to resolve their dispute informally, and encourages agencies to consider possible compromises or alternative solutions to the dispute in this matter. The AFP would be pleased to assist you in this regard.

Information about the IC review process can be found in Part 10 of the Guidelines which are available on our website at <http://www.oaic.gov.au/publications/guidelines.html>.

***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.