

Our ref: CRM 2014/144

28 November 2013

Mr Luke Mansillo
Email address: foi+request-447-dd0ec696@righttoknow.org.au

Dear Mansillo

Freedom of Information request re: Randal Investigations

I refer to your application dated 19 October 2013, under the *Freedom of Information Act 1982* (the Act) seeking the following:

"I seek all documentation of requests for investigation of Mr Don Randall from August to November 2013. As these requests are submitted by the public, I would like to have the identity of all requester redacted to comply with the Privacy Act 1988."

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 22 October 2013 and in accordance with section 11C of the Act, it has been decided not to publish the documents in respect of your request.

Yours sincerely,



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

**STATEMENT OF REASONS RELATING TO AN FOI REQUEST BY
Mt Luke Mansillo**

I, Allan J Spencer, 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 19 October 2013, this office received your application in which you requested:

"I seek all documentation of requests for investigation of Mr Don Randall from August to November 2013. As these requests are submitted by the public, I would like to have the identity of all requester redacted to comply with the Privacy Act 1988."

On 16 November 2013, you agreed to an extension of time pursuant to section 15AA of the Act.

SEARCHES

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

- a) a "person" search of the AFP's investigation case management system PROMIS for records relating to "Luke Mansillo ";
- b) a "text" search of the AFP's investigation case management system PROMIS for records relating to "Luke Mansillo" ; and
- c) a search of all records held by the relevant line areas within the AFP.

DECISION

I have identified 16 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 all of the documents that relate to your request are released with deletions pursuant to subsection 47F of the Act.

My reasons for this decision are set out below.

REASONS FOR DECISION

I find that all 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 section 47F apply:

Section 47F of the Act provides that:

"(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person)."

The documents or parts of documents identified in the Schedule as exempt under this section of the Act contain personal information of third parties. Personal information is information or an opinion about an individual whose identity is known or easily ascertainable. I find that these documents contain personal information.

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;
- (b) the extent to which the information is well known;
- (c) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the documents;
- (d) the availability of the information from publicly accessible sources;
- (e) the current relevance of the information; and
- (f) the circumstances in which the information was obtained and any expectation of confidentiality.

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

- (g) prejudice the protection of an individual's right to privacy;
- (h) impede the flow of information to the police;
- (i) 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
- (j) if such information was disclosed, it may discourage public cooperation in AFP investigations.

While there is a public interest in providing access to documents held by the AFP, I have given greater weight to factors (g) to (j) above and conclude that on balance, disclosure is not in the public interest. The AFP has not received consent regarding the release of some personal information regarding this request, disclosure of that information would be contrary to an individuals' right to the protection of their personal privacy. I find that the release of these

documents or parts of documents would be an unreasonable disclosure of personal information and are therefore exempt under section 47F 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.

**** 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:

Government Relations
Information Access (FOI)
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 2014/144
RELEASE OF DOCUMENTS – Mr Luke Mansillo

Document No	Folio No	Date	Author/Addressee	Description	Exemption/Public Interest Claimed	Reason
1	1-2	17 10 2013	Australian Federal Police (AFP)	Case Note	Released with deletions: Folios: 1-2 s47F	s47F Deletions are made on the grounds that disclosure would involve the unreasonable provision of personal details of people other than the FOI applicant. Access must be given unless it would be contrary to the public interest.
2	3-4	21 10 2013	AFP	Case note	Released with deletions: Folios: 3-4 s47F	Same as above
3	5-6	22 10 2013	AFP	Case Note	Released with deletions: Folios: 5-6 s47F	Same as above
4	7-8	21 10 2013	AFP	Case Note	Released with deletions: Folios: 7-8 s47F	Same as above
5	9-10	17 10 2013	AFP	Case Note	Released with deletions: Folios: 9-10 s47F	Same as above
6	11	18 10 2013	AFP	Case Note	Released with deletions: Folios: 11	Same as above


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						s47F				
7	12-13	22 10 2013	AFP		Case Note	Released with deletions: Folios: 12-13 s47F	Same as above			
8	14-15	21 10 2013	AFP		Case Note	Released with deletions: Folios: 14-15 s47F	Same as above			
9	16-17	21 10 2013	AFP		Case Note	Released with deletions: Folios: 16-17 s47F	Same as above			
10	18-19	18 10 2013	AFP		Case Note	Released with deletions: Folios: 18-19 s47F	Same as above			
11	20-24	18 10 2013	AFP		Case note	Released with deletions: Folios: 20-24 s47F	Same as above			
12	25-26	18 10 2013	AFP		Case Note	Released with deletions: Folios: 25-26 s47F	Same as above			
13	27-28	18 10 2013	AFP		Case Note	Released with deletions: Folios: 27-28 s47F	Same as above			
14	29-30	18 10 2013	AFP		Case Note	Released with deletions: Folios: 29-30 s47F	Same as above			
15	31-33	18 10 2013	AFP		Case Note	Released with deletions:	Same as above			

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						Folios: 31-33 s47F			
16	34-35	17 10 2013	AFP		Case Note	Released with deletions: Folios: 34-35 s47F	Same as above		

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

Date of Decision:  November 2013