



AFP

AUSTRALIAN FEDERAL POLICE

UNCLASSIFIED

Our ref: CRM 2020/370

5 December 2019

Tesi Fel

Right to Know

Email: foi+request-5929-6d050d93@righttoknow.org.au

Dear Tesi Fel

Freedom of Information Request

I refer to your email dated 21 November 2019 for documents held by the Australian Federal Police (AFP) pursuant to the *Freedom of Information Act 1982* (the Act) in relation to:

"Any documents relating to current partnerships or other arrangements between the AFP and any other government agencies, particularly the QLD Police in relation to the investigation of Gold Coast Lawyer Briana Loannides and undercover operation at Broadbeach Gold Coast, QLD between 9 April 2016 and 11 April 2016.

In particular, I request the following:

Legislation, codes of practice, policy statements, guides, manuals, training materials or other records governing law enforcement authorities access to footage from home surveillance devices, including restrictions on when, where, how and against whom they may be used; limitations on retention and use of collected data; guidance on when a warrant or other legal process must be obtained; and rules governing when the existence and use of such access methods may be revealed to the public, criminal defendants, or judges."

I am authorised to make decisions on behalf of the agency in respect of the Act.

SEARCHES

In relation to this request, searches were undertaken by the operational areas that would be expected to hold documents of this nature. No documents were located as a result of these searches. There is no reason to expect documents would be held by any other areas.

On that basis, I am satisfied the AFP has conducted all reasonable searches in response to your request.

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.”

Therefore, your request for access is refused under section 24A(b)(ii) of the Act.

REVIEW AND COMPLAINT RIGHTS

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

For complaints about the AFP’s actions in processing your request, you do not need to seek review by either the AFP or the IC in making your complaint.

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 internal review in writing to the 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 reviewing the file 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 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

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 assist if you set out the reasons for review in your application.

Section 54S of the Act provides 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 IC review 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 this process can be found in Part 10 of the Guidelines which are available on the OAIC's 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. 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.

The IC may be contacted on 1300 363 992.

Yours sincerely



Shelley Miller
A/Coordinator
FOI and Information Law
Chief Counsel Portfolio