



AFP
AUSTRALIAN FEDERAL POLICE

Our ref: CRM 2021/702

24 June 2021

Ms Lucy Lovich

By Email: foi+request-7374-1466b14f@righttoknow.org.au

Dear Ms Lovich

Freedom of Information request

I refer to your request dated 3 June 2021, under *the Freedom of Information Act 1982* (the Act) seeking the following:

“Document which shows the number of FOI requests over 30 days old that relate to COVID19 between 1 February 2020 to today.”

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.

I have decided to publish the documents in part. Publication of the documents will be made on the AFP website at <https://www.afp.gov.au/about-us/information-publication-scheme/routinely-requested-information-and-disclosure-log> in accordance with timeframes stipulated in section 11C of the Act.

Yours sincerely

Shelley Miller
Deputy General Counsel (Coordinator)
Freedom of Information and Information Law
Chief Counsel Portfolio

**STATEMENT OF REASONS RELATING TO AN FOI REQUEST BY
LUCY LOVICH**

I, Shelley Miller, Deputy General Counsel (Coordinator), Freedom of Information and Information Law, am an officer authorised under section 23 of the Act to make decisions in relation to the Australian Federal Police (AFP).

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

BACKGROUND

On 3 June 2021, the AFP received your request in the following terms:

“Document which shows the number of FOI requests over 30 days old that relate to COVID19 received between 1 February 2020 to today.”

Your request was understood as requesting a document which showed the number of FOI requests that relate to COVID-19 that took longer than 30 days to process received between 1 February 2020 and 3 June 2021.

SEARCHES

Searches were undertaken by the FOI Team, including:

- (a) a text search of the AFP’s FOI case management system for requests which a scope that contained the word “COVID”; and
- (b) a text search of the AFP’s FOI case management system for requests which a scope that contained the word “coronavirus”.

WAIVER OF CHARGES

Given the request has totalled only 9 pages and was not a complex request to process, I am waiving any fees and charges which are normally associated with the processing of applications under the Act.

EVIDENCE/MATERIAL ON WHICH MY FINDINGS WERE BASED

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

- the scope of your request;
- the contents of the documents identified as relevant to the request;
- the Act; and
- the guidelines issued by the Office of the Australian Information Commissioner under section 93A of the Act.

DECISION

I have identified two (2) documents relevant to your request.

I have decided to release both documents in part with deletions pursuant to section 22(1)(a)(ii) and section 47F of the Act.

A schedule of each of document and details of my decision in relation to each document is at Annexure B.

My reasons for this decision are set out below.

REASONS FOR DECISION

Material to which section 22(1)(a)(ii) applies:

Section 22(1)(a)(ii) of the Act provides that:

- “(1) Where:*
- (a) an agency or Minister decides:*
 - (ii) that to grant a request for access to a document would disclose information that would reasonably be regarded as irrelevant to that request;”*

Parts of the documents contain information which is considered irrelevant to your request. That is, the documents contain information which refers to other matters which are not mentioned in your FOI application.

Accordingly, I find parts of the documents would be reasonably regarded as irrelevant to the request under section 22(1)(a)(ii) of the Act.

Material to which section 47F applies:

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 parts of documents identified as exempt under this section of the Act contain personal information of individuals other than you. Personal information is information or an opinion about an individual whose identity is known or easily ascertainable. I find that these documents or parts of the documents contain details of the names of third parties.

In considering whether release of this information is unreasonable, I have taken into account factors at section 47F(2), including:

- (a) the extent to which the information is well known;
- (b) 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;
- (c) the availability of the information from publicly accessible sources;
- (d) the current relevance of the information; and
- (e) the circumstances in which the information was obtained and any expectation of confidentiality.

I find release of this personal information to be unreasonable. The information is not well known nor available from publicly available sources. The information was obtained by the AFP for the purpose, and in the context of, processing access requests under the Act.

However, I must give access to the folios unless, in the circumstances, access at this time would on balance be contrary to the public interest.

I have considered the general public interest in access to documents as expressed in sections 3 and 11 of the Act as the factor favouring disclosure.

I have considered the prejudice to the protection of an individual's right to privacy (including in consideration of whether their consent was provided).

While there is a public interest in providing access to documents held by the AFP, I have given greater weight to the factor against disclosure above. On balance, I consider disclosure is not in the public interest.

Accordingly, I find parts of the documents are exempt under section 47F of the Act.

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

REVIEW AND COMPLAINT RIGHTS

If you are dissatisfied with a Freedom of Information decision made by the AFP, 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 54 of the FOI Act gives you the right to apply for internal review of this decision. No particular form is required to make an application for internal review, however, an application needs to be made in writing within 30 days of this decision. 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 the decision should be reviewed.

Section 54B of the FOI Act provides that the internal review submission must be made within 30 days. Applications may be sent by email (foi@afp.gov.au) or 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 FOI Act gives you the right to apply directly to the IC for review of this decision. 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.

Section 54S of the FOI Act provides the timeframes for an IC review submission. For an *access refusal decision* covered by section 54L(2), the application must be made within 60 days. For an *access grant decision* covered by section 54M(2), the application must be made within 30 days.

Applications for IC review may be lodged by email (foidr@oaic.gov.au), using the OAIC's online application form (available at www.oaic.gov.au) or addressed to:

Office of the Australian Information Commissioner
GPO Box 5128
Sydney NSW 2001

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

Complaint

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the IC. A complaint may be lodged using the same methods identified above. It would assist if you set out the action you consider should be investigation and your reasons or grounds.

More information about IC reviews and complaints is available on the OAIC's website at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

SCHEDULE OF DECISION – CRM 2021/702
 RELEASE OF DOCUMENTS – LUCY LOVICH

Document No	Folio No	Author	Description	Exemption	Reason
1	1-4	Australian Federal Police (AFP)	FOI Request Details 2020/674	Partial Release: s22(1)(a)(ii) s47F	s22(1)(a)(ii) Deleted material is information that would reasonably be regarded as irrelevant the request. s47F Exempt material would involve the unreasonable disclosure of personal information of people other than the FOI applicant.
2	5-9	Australian Federal Police (AFP)	FOI Request Details 2021/26	Partial release: s22(1)(a)(ii) s47F	s22(1)(a)(ii) Deleted material is information that would reasonably be regarded as irrelevant the request. s47F Exempt material would involve the unreasonable disclosure of personal information of people other than the FOI applicant.

Request Details

General

File Identifier 2020/674

s.22(1)(a)(ii)

s.22(1)(a)(ii)

Application Details

Scope

s.22(1)(a)(ii)

"Memos, correspondences and/or briefings created within the last 20 days which address plans or potential scenarios for police access to data collected via the government's contact tracing app to be used to identify people diagnosed with COVID-19."

Applicant



s.47F

Request Date

17/04/2020

s.22(1)(a)(ii)

s.22(1)(a)(ii)

Timing

s.22(1)(a)(ii)

Total Days

43

s.22(1)(a)(ii)

s.22(1)(a)(ii)

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Pages 2 through 4 redacted for the following reasons:

s.22(1)(a)(ii)

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Request Details

General

File Identifier	2021/26	s.22(1)(a)(ii)
s.22(1)(a)(ii)		

Application Details

Scope	s.22(1)(a)(ii)
	s.47F New AFP Reserve Force referred to by Commissioner Kershaw in his opening statement to the Senate Select Committee on COVID-19 on 7 May 2020. Requesting: 1. The document(s) from the Minister responsible, Vice-Regal representative, and/or legal authorities authorising the creation of this force; 2. Recruitment materials (flyers, FAQs, details of advertisements in newspapers and job-seeker websites, etcetera) for this reserve force; 3. The number of AFP reservists at the time the Commissioner appeared before the Committee and on the day this FOI application is lodged; 4. Summarising documents outlining the roles, responsibilities, and sources of funding that the AFP reserve force has; and 5. The edit history (including tracked changes and comments) of the section of the Commissioner's pre-prepared opening statement to the Committee that is relevant to the his remarks about the AFP reserve force.
Applicant	 s.47F
Request Date	13/07/2020 s.22(1)(a)(ii)

s.22(1)(a)(ii)	
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Timing

Total Days	139	s.22(1)(a)(ii)
s.22(1)(a)(ii)		

Pages 6 through 9 redacted for the following reasons:

s.22(1)(a)(ii)

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