



Our ref: D15-8734

Mr Culley Palmer

By email: foi+request-919-2b2778fa@righttoknow.org.au

Dear Mr Palmer

Freedom of information request no. 15/323

I, Sunny Leow, Senior Legal Adviser (a/g), am an officer authorised by the Chief Executive Officer of the CrimTrac Agency under section 23(1) of the FOI Act to make decisions in relation to FOI requests. The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act).

You requested access to documents relating to Gamma International's FinFisher on 7 February 2015. Specifically you sought access to:

all corporate documents authored by a CrimTrac official in 2013 or 2014 that refer to "Gamma International" and "FinFisher", excluding duplicates, drafts, personal information or documents in the public domain

I have decided to refuse your request for access to documents under section 24A(1)(b)(ii), which provides that:

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:*

...

(ii) does not exist.

In arriving at the conclusions that the documents do not exist, I have taken into account:

- Advice from the Information and Records Manager, who is the System Administrator of the CrimTrac Recordkeeping System and has access to all records in that system. The Information and Records Manager undertook keyword searches of: **Gamma, Gamma International, FinFisher, FinSpy, FinFly, FinIntrusion, FinFireWire, Spyware, Surveillance, Surveillance software**. There were no records or documents returned that were within the scope of your request.
- Advice from the CrimTrac Chief Information Officer stating that it is highly unlikely that CrimTrac would ever have a requirement to use, access or procure this type of software, given that CrimTrac is **not** directly involved in operational police work. While CrimTrac holds information

collected by operational police, CrimTrac staff do not collect information relating to crime, criminal activity, or persons of interest.

- Advice from the Director Service Delivery and Security, Director Project Delivery (Persons), Director Project Management Office, Chief Technology Officer (a/g), Agency Security Adviser, ICT Security Manager, Cyber Security Manager, Cyber Security Adviser and ICT Security Analyst that no documents fall within the scope of your request and that CrimTrac has not used or even considered procuring the FinFisher suite of software.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the CrimTrac Agency for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter, and be lodged by email to foi@crimtrac.gov.au

Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review/>
email: enquiries@oaic.gov.au
post: GPO Box 2999, Canberra ACT 2601
in person: Level 3, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

Questions about this decision

If you wish to discuss this decision, please contact me by reply email.

Yours sincerely



Sunny Leow
Senior Legal Adviser (a/g)
Legal and Commercial Directorate

19 February 2015