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Our reference: **AIC22-2**

21 October 2022

David M

By email to: foi+request-9393-92380141@righttoknow.org.au

Dear David

Freedom of Information Request AIC 22-2

On **25 September 2022**, you made a request to the Australian Institute of Criminology (AIC) under the *Freedom of Information Act 1982* (Cth) (FOI Act) to:

“documents evidencing the percentage of Australians with a criminal record”

We acknowledged your request on **7 October 2022**, and indicated that a decision would be due to you by **23 October 2022**. As this date fell on a Sunday, in accordance with s 36(2) of the *Acts Interpretation Act 1901* (Cth), your decision falls due the following business day, **24 October 2022**.

This is a decision made under the FOI Act in relation to documents within the scope of your request.

Authority and materials considered

I am authorised under s 23 of the FOI Act to make a decision concerning the information you have requested access to.

In reaching my decision I have taken into consideration:

- the relevant provisions of the FOI Act;
- my own knowledge and understanding of the breadth of AIC’s data holdings;
- advice from officers with responsibility for matters to which your request relates;
- relevant guidelines issued by the Office of the Australian Information Commissioner; and
- relevant Tribunal and Federal Court decisions concerning the operation of the FOI Act.

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Decision

I have refused your request for access to documents because the documents you have sought access to cannot be found or do not exist.

Reasons for this decision

Under section 24A of the FOI Act, an agency may refuse access to a document if all reasonable steps have been taken to find the document, and the agency is satisfied that the document cannot be found or that the document does not exist.

The AIC has taken all reasonable steps to locate documents and, in doing so, has had regard to:

- the subject matter of the documents;
- the current and past file management systems of the AIC, and procedures relating to the destruction or removal of documents;
- the individuals within the AIC who might have been able to assist with the location of the documents; and
- the age of the documents.

In conducting searches for your request, the responsible officers have searched the AIC's existing systems using the information you provided in your request. No documents relevant to your request could be found in the AIC's possession.

I consider that reasonable steps have been taken by the AIC to locate the documents that are the subject of your request. I am satisfied that the documents either cannot be found or do not exist.

Your review rights

If you are dissatisfied with this decision you can apply for internal review or review by the Information Commissioner. You do not have to apply for internal review before seeking the Information Commissioner's review.

Internal Review

You may seek internal review by making an application in writing to the AIC within 30 days of being notified of this decision. A written application for a review should be sent to the AIC at front.desk@aic.gov.au, or by post to:

FOI Coordinator
Australian Institute of Criminology
GPO Box 1936
Canberra ACT 2601

Information Commissioner review

Alternatively, you may apply in writing for review by the Information Commissioner. In making your application, you need to provide:

- an address for notices to be sent (this can be an email address); and
- a copy of this decision.

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It would also help if you set out the reasons for review in your application. Requests for review must be in writing and can be made via the website (www.oaic.gov.au), by email at enquiries@oaic.gov.au, or by post at:

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

If you are objecting to a decision to refuse access to documents you must apply to the Information Commissioner within 60 days of being given notice of the decision. You can contact the Information Commissioner by phone on 1300 363 992.

Right to complain

You may make a complaint to the Information Commissioner about action taken by the AIC in relation to your application. The complaint needs to be in writing and identify the agency against which the complaint is made.

The Information Commissioner 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.

Yours sincerely,



Dr Rick Brown

Deputy Director
Authorised FOI Decision Maker
Australian Institute of Criminology

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