



Decision and Reasons for Decision

Citation: *Z45 and Queensland Police Service [2024] QICmr 52*
(18 October 2024)

Application Number: 318066

Applicant: Z45

Respondent: Queensland Police Service

Decision Date: 18 October 2024

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - RIGHT TO INFORMATION - SCOPE OF APPLICATION - request for documents about the applicant - whether certain information falls outside the scope of the application - section 40 of the *Information Privacy Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - LAW ENFORCEMENT AND PUBLIC SAFETY INFORMATION - request for information about access to applicant's personal information within police databases - whether disclosure could reasonably be expected to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law - whether access may be refused under section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(a) and 48 and schedule 3, section 10(1)(f) of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO THE PUBLIC INTEREST INFORMATION - request for emails and other documents about the applicant - information about other individuals - accountability and transparency - personal information and privacy - whether disclosure of information would, on balance, be contrary to the public interest - section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENTS NONEXISTENT OR UNLOCATABLE - whether agency has conducted reasonable searches - whether access to further documents may be refused on the basis they are

nonexistent or unlocatable - section 67(1) of the Information Privacy Act 2009 (Qld) and sections 47(3)(e) and 52(1) of the Right to Information Act 2009 (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Queensland Police Service (**QPS**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) to access certain information about him.
2. QPS located 193 responsive pages, disclosed 20 pages and decided² to refuse access to 18 pages and parts of 155 pages, on various grounds.
3. In respect of that issued decision, the applicant then applied to both QPS (for internal review³) and the Office of the Information Commissioner (**OIC**) (for external review⁴). As a result, OIC asked the applicant to confirm whether he wished to proceed with either his internal review application or the External Review Application.⁵ In response, the applicant confirmed he wished to only proceed with the External Review Application.⁶
4. On external review, QPS located additional documents, which have not been disclosed to the applicant. The applicant remains dissatisfied with the level of information which has been disclosed to him.
5. For the reasons set out below, I vary QPS' decision and find that:
 - one located document falls outside the scope of the access application
 - access to some information may be refused, as it comprises exempt information
 - disclosure of some information would, on balance, be contrary to the public interest and access to it may be refused on that basis; and
 - access may be refused to any further documents relevant to the access application on the ground that they are nonexistent.⁷

Background

6. The applicant requested access to the following:

*I require any and all emails [sent, received and deleted] about me, ever, from 2015 - 2024 [current time] contained within the following Queensland Police Service email inboxes.
[nominated email address] @police.qld.gov.au
[nominated email address] @police.qld.gov.au,
[nominated email address] @police.qld.gov.au
the email address of [Officer A, position title], Gold Coast district
the email address of [Officer B, position title], Gold Coast district*

¹ By email to dated 11 March 2024 (**access application**). The date range of the access request was nominated as '2016-2024 (current time)' in the access application.

² Decision dated 7 June 2024.

³ By email dated 8 June 2024.

⁴ By email also dated 8 June 2024 (**External Review Application**).

⁵ By email dated 11 June 2024.

⁶ By email dated 12 June 2024.

⁷ Under section 67(1) of the IP Act and sections 47(3)(e) and 52 of the *Right to Information Act 2009* (Qld) (**RTI Act**). Section 67(1) of the IP Act sets out that an agency may refuse access to information in the same way and to the same extent that the agency could refuse access to the document under section 47 of the RTI Act were the document the subject of an access application under the RTI Act.

I also require a copy of any and all faxes, letters, cellular texts, messages, pages [including from any pagers], social media communications, personal email messages and emails, documents, notebook notes, dash cam evidence [vehicle], body cam recordings, information, memos, video and audio recordings, about me, that is in the possession of [Officer C], Robina Police Station in Queensland, [Officer D], [Officer A], [Officer B]. I also wish to receive a copy of any and all queries that they have ever done on their computers and police record keeping systems about me. I wish to also receive a copy of any and all electronic flags on their computer systems, and the QPS computer systems about me, if any...

7. The significant procedural steps taken during this review are set out in the Appendix.

Reviewable decision

8. The decision under review is QPS' decision dated 7 June 2024.

Evidence considered

9. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes and the Appendix).
10. Generally, it is necessary that decision makers have regard to the *Human Rights Act 2019* (Qld) (**HR Act**), as section 11(1) of the HR Act provides that all individuals **in Queensland** have human rights. The applicant does not reside in Queensland. However, at times relevant to the information requested in the access application he did reside in Queensland. On the basis of this nexus to Queensland, I have also had regard to the HR Act, particularly the right to seek and receive information.⁸ I consider a decision-maker will be '*respecting and acting compatibly with*' these rights and others prescribed in the HR Act, when applying the law prescribed in the IP Act and the RTI Act.⁹ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.¹⁰

Information in issue

11. As noted in paragraphs 2 and 4 above, QPS decided to refuse access to certain information and has not disclosed the additional documents which were located on external review.
12. The information which remains undisclosed to the applicant and is the subject of this decision (**Information in Issue**) comprises:
- the 18 pages and parts of 155 pages to which QPS decided to refuse access; and
 - one report and 13 recordings which were located by QPS on external review.
13. I have carefully examined the Information in Issue. The IP Act precludes me from describing the content of the Information in Issue in these reasons,¹¹ however, I can

⁸ Section 21(2) of the HR Act.

⁹ *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (**XYZ**) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111]. I note that OIC's approach to the HR Act set out in this paragraph was considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23] (where Judicial Member McGill saw '*no reason to differ*' from OIC's position).

¹⁰ I also note the following observations made by Bell J in *XYZ* at [573], on the interaction between equivalent pieces of Victorian legislation (namely, the *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic)): '*it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act.*'

¹¹ Section 121(3) of the IP Act, which prohibits the Information Commissioner from disclosing information that is claimed to be exempt information or contrary to the public interest information in an external review decision.

confirm that four of the located recordings comprise video recordings which the applicant had previously provided to QPS. I can also confirm that the written documents and the recordings in issue include the personal information of individuals other than the applicant.

Issues for determination

14. It is QPS' position that the Information in Issue comprises exempt information or would, on balance, be contrary to the public interest to disclose. On the other hand, the applicant generally contends that *'none of the redactions should have occurred'* and *'more information should have been provided'*.¹²
15. During the review, I conveyed preliminary views to the applicant to explain the basis for one recording falling outside the scope of his access application and for the refusal of access in respect of all the remaining Information in Issue.¹³ I invited the applicant to provide submissions, if he wished to contest those preliminary views, and the applicant has provided some limited responses.¹⁴
16. Accordingly, the issues for determination are whether:
 - one recording can be excluded from the scope of the application on the basis it does not contain the applicant's personal information
 - access may be refused to the remaining Information in Issue on the grounds it comprises exempt information¹⁵ or its disclosure would, on balance, be contrary to the public interest;¹⁶ and
 - access to any further information may be refused on the basis it is nonexistent or unlocatable.¹⁷

Outside scope information

17. Under section 40 of the IP Act, an individual has a right to be given access to documents of an agency to the extent they contain the individual's personal information.¹⁸ Accordingly, a document will be outside the scope of an access application made under the IP Act if it does not contain any personal information of the access applicant.
18. One located recording is of a call a QPS officer made to an individual other than the applicant. I have reviewed the content of this recording, and I am satisfied that it does not contain any of the applicant's personal information—more specifically, it does not contain information about the applicant or information from which the applicant's

¹² External Review Application. In his internal review application, which ultimately did not proceed, the applicant made similar submissions: *'More documents should have been made available and the redactions should not have occurred and are unreasonable'*.

¹³ As set out in the Appendix. It is the practice of OIC to convey a preliminary view, based on an assessment of the material before the Information Commissioner (or her delegate) at that time, to an adversely affected participant. This is to explain the issues under consideration to the participant and affords them the opportunity to put forward any further information they consider relevant to those issues. It also forms part of the Information Commissioner's processes for early resolution of external reviews.

¹⁴ As set out in the Appendix, the applicant's email submission dated 11 July 2024 disagreed with my preliminary view and submitted that information should be made available in the public interest. In his email submission dated 28 September 2024, the applicant only stated that he wished to *'adopt all of the initial Submissions [he had] made'*.

¹⁵ Section 67(1) of the IP Act and sections 47(3)(a) and 48 and schedule 3, section 10(1)(f) of the RTI Act.

¹⁶ Section 67(1) of the IP Act and section 47(3)(b) and 49 of the RTI Act.

¹⁷ Section 67(1) of the IP Act and sections 47(3)(e) and 52 of the RTI Act.

¹⁸ *'Personal information'* is defined in section 12 of the IP Act as *'information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion'*.

identity could reasonably be ascertained. Therefore, I find this document is outside the scope of the IP Act access application.¹⁹

Exemption information

19. The access right under the IP Act is subject to limitations, including grounds for refusal of access.²⁰ One refusal ground is where information comprises exempt information.²¹ Information will qualify as exempt information where its disclosure could reasonably be expected to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law (**Exemption**).²² Schedule 3, section 10(2) of the RTI Act sets out certain circumstances where the Exemption will not apply.
20. In the decision under review, QPS refused access to 11 pages and a portion of information on one page (**12 Pages**) on the ground that this information comprised exempt information pursuant to the Exemption. On external review, QPS maintained this information is exempt. It is also QPS' position that one additional document located on external review comprises exempt information—namely, the document located as being responsive to the component of the access application which requested '*...all queries that they have ever done on their computers and police record keeping systems about me. I wish to also receive a copy of any and all electronic flags on their computer systems, and the QPS computer systems about me, if any*' (**Report**).
21. The applicant's submissions in this external review (including those which are quoted in paragraph 14 above) do not specifically address the 12 Pages or the Report.
22. In the decision under review, QPS noted that the 12 Pages contain '*information relating to lawful investigative methods and procedures of the QPS*'. After examining the content of the 12 Pages, I am satisfied that they record, or reference, particular methods and procedures used by QPS in relation to intelligence or investigation. When assessing whether an outcome could reasonably be expected to arise, I must distinguish '*between what is merely possible ... and expectations that are reasonably based*' and for which '*real and substantial grounds exist*'.²³ Here, I am satisfied that disclosing this particular information could reasonably be expected to prejudice those QPS' methods and procedures, thereby reducing the effectiveness of those methods and procedures. I am further satisfied, after reviewing the content of the 12 Pages, that none of the exceptions to the Exemption (as contained in schedule 3, section 10(2) of the RTI Act) apply.²⁴
23. As noted above, in these reasons, I am unable to describe the Information in Issue in any detail,²⁵ however, I can confirm that the Report comprises what is known as a QPRIME activity report.²⁶

¹⁹ Apart from the general assertion referenced in paragraph 14, the applicant did not make any submission on this issue.

²⁰ As noted above, access may be refused to information under the IP Act in the same way and to the same extent that access can be refused to information under the RTI Act (refer to section 67(1) of the IP Act).

²¹ Sections 47(3)(a) and 48 of the RTI Act. Schedule 3 to the RTI Act identifies the types of exempt information.

²² Schedule 3, section 10(1)(f) of the RTI Act.

²³ *B and Brisbane North Regional Health Authority* [1994] QICmr 1 at [154]-[160] and *Williams and Queensland Police Service* [2017] QICmr 28 (4 August 2017) at [22]. Other jurisdictions have similarly interpreted the phrase '*as distinct from something that is irrational, absurd or ridiculous*': See *Smolenski v Commissioner of Police, NSW Police* [2015] NSWCATAD 21 at [34], citing *Commissioner of Police, NSW Police Force v Camilleri* (GD) [2012] NSWADTAP 19 at [28], *McKinnon v Secretary, Department of Treasury* [2006] HCA 45 at [61] and *Attorney-General's Department v Cockcroft* (1986) 10 FCR 180 at [190].

²⁴ In particular, I am satisfied that this information does not consist of matter revealing that a law enforcement investigation has exceeded imposed legal limits (schedule 3, section 10(2)(a) of the RTI Act).

²⁵ By virtue of section 121(3) of the IP Act.

²⁶ As noted in previous decisions of the Information Commissioner, QPRIME activity reports generally reveal the amount of activity and the number of occasions on which QPS officers have accessed QPRIME in relation to an individual, the badge

24. In *Commissioner of the Police Service v Shelton & Anor*,²⁷ the Court of Appeal noted²⁸ that QPRIME had been described as a database kept by QPS:

... of the information obtained by the QPS in its law enforcement functions. It is a dynamic and constantly updated central record for the QPS. The QPS would describe it is (sic) as an intelligence tool, which allows police to record information about criminal activity, the circumstances in which criminal activity is likely to occur or has occurred, the identity of those involved or suspected to be involved in criminal activities and the identities of their associates. But it also records information obtained by police officers in the course of their investigations and records criminal intelligence which has been obtained. The QPRIME system also maintains activity reports, whereby a record is kept of the access to particular QPRIME records by, amongst others, serving police officers.^{footnote omitted}

25. I am satisfied that the QPRIME database, and its use by QPS officers, forms an integral part of QPS' lawful methods and procedures for preventing, detecting, investigating or dealing with contraventions, or possible contraventions, of the law. I am also satisfied that disclosing a QPRIME activity report (including the Report), which shows when and how often QPS officers have accessed the QPRIME database in relation to an individual, could reasonably be expected to prejudice these QPS methods and procedures, because it would enable an individual (including, in this case, the applicant) to deduce the level of surveillance or investigation they may, or may not, be under.
26. It is QPS' position that schedule 3, section 10(2) of the RTI Act does not apply to the Report. Having carefully examined the content of the Report and considered the submissions received from the parties, I am satisfied that none of the circumstances listed in schedule 3, section 10(2) of the RTI Act apply to the Report. In particular, I do not consider that the Report consists of matter revealing that the scope of a law enforcement investigation has exceeded imposed legal limits.²⁹
27. For these reasons, I consider QPS has met its review onus in respect of the 12 Pages and the Report, and I find that access may be refused to this information, as it is comprised of exempt information.³⁰
28. Given my above findings, to the extent the applicant's submissions have raised public interest arguments in support of information disclosure, I am unable to consider them in respect of the 12 Pages and the Report. This is because where information meets the requirements of an exemption (as is the case here), it is not necessary to then proceed to also consider the public interest balancing steps set out in section 49 of the RTI Act.³¹

Third Party Information

29. Access may also be refused to information where its disclosure would, on balance, be contrary to the public interest.³²

number of the inquiring officer, and includes a technical log of interactions within the database. Refer, for example, to *Kyriakou and Queensland Police Service* [2017] QICmr 30 (9 August 2017) at [30].

²⁷ [2020] QCA 96 (*Shelton*).

²⁸ At [5].

²⁹ Schedule 3, section 10(2)(a) of the RTI Act.

³⁰ Section 67(1) of the IP Act and sections 47(3)(a) and 48 and schedule 3, section 10(1)(f) of the RTI Act.

³¹ This was confirmed by the Queensland Civil and Administrative Tribunal in *Dawson-Wells v Office of the Information Commissioner & Anor* [2020] QCATA 60 at [10] and *Mokbel v Queensland Police Service* [2023] QCATA 158 at [30].

³² Sections 47(3)(b) and 49 of the RTI Act. The term 'public interest' refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens. This means that, in general, a public interest consideration is one which is common to all members of, or a substantial segment of the community, as distinct from matters

30. In deciding where the balance of the public interest lies, the RTI Act requires a decision maker to identify factors for and against disclosure, disregard irrelevant factors³³ and decide, on balance, whether disclosure would be contrary to the public interest.³⁴
31. The remaining Information in Issue (**Third Party Information**) comprises 7 pages, parts of 154 pages and 12 recordings. As explained above, I am unable to describe this information in any detail.³⁵ However, I can confirm that:
- it includes the names and identifying details of public sector and non public sector officers
 - the recordings include those which the applicant had previously provided to QPS and recordings of conversations QPS had with individuals other than the applicant when investigating the applicant's complaints; and
 - there is a significant level of duplication within the Third Party Information.

Irrelevant factors

32. I have not taken any irrelevant factors into account in reaching my decision.³⁶

Factors favouring disclosure

33. A public interest factor favouring disclosure will arise where information is an applicant's personal information.³⁷ Some of the Third Party Information relates to the applicant and comprises his personal information. I afford significant weight to the factor favouring disclosure of the applicant's personal information within the Third Party Information. However, I note that where this information about the applicant appears, it is intertwined with other individuals' personal information, meaning that it cannot be disclosed without also disclosing the personal information of others (giving rise to the nondisclosure factors discussed below).
34. The applicant contests that his personal information appears intertwined with the personal information of others and submitted that, even if it is, the public interest favours disclosure³⁸—as noted in paragraph 30 above, the RTI Act requires a decision maker to identify factors for and against disclosure and, accordingly, the significant weight I have afforded to the factor in schedule 4, part 2, item 7 of the RTI Act in respect of the applicant's personal information is not, of itself, determinative of the public interest for the Third Party Information.
35. The RTI Act recognises that factors favouring disclosure, which concern government accountability and transparency, will arise where disclosing information could reasonably be expected to:
- promote open discussion of public affairs and enhance the Government's accountability³⁹

that concern purely private or personal interests. However, there are some recognised public interest considerations that may apply for the benefit of an individual.

³³ Including those at schedule 4, part 1 of the RTI Act.

³⁴ Section 49(3) of the RTI Act.

³⁵ By virtue of section 121(3) of the IP Act.

³⁶ Schedule 4, part 1 of the RTI Act.

³⁷ Schedule 4, part 2, item 7 of the RTI Act.

³⁸ The applicant's email submission dated 11 July 2024.

³⁹ Schedule 4, part 2, item 1 of the RTI Act.

- inform the community of the Government's operations, including, in particular, the policies, guidelines and codes of conduct followed by the Government in its dealings with members of the community;⁴⁰ and
 - reveal the reason for a government decision and any background or contextual information that informed the decision.⁴¹
36. I consider the information which QPS has disclosed to the applicant has substantially advanced these factors, by enabling further scrutiny of how QPS dealt with the applicant's complaints and providing some contextual information about QPS' complaint responses.⁴² Given the nature of the Third Party Information, I consider its disclosure will, to varying degrees, further advance the government's accountability and transparency, as set out below.
37. The Third Party Information includes the personal information of individuals who are not public sector officers (such as their names, images, voices and other identifying information, residential addresses, email and telephone contact details, dates of birth, signatures, personal circumstances, recollections and opinions). This information was received, or obtained, by QPS in the context of police investigations of the applicant's various complaints. Noting that the applicant has been advised of the outcomes of his complaints, I do not consider disclosing this component of the Third Party Information would, given its nature, further advance government accountability and transparency in any meaningful way. On this basis, I afford these factors no weight in respect of this component of the Third Party Information.
38. The remaining Third Party Information comprises direct contact details (email and telephone) of public sector officers (or parts of them), signatures of public sector officers and parts of the names of certain public sector officers (where the officer's first and last name has been disclosed).⁴³ While these types of information may comprise routine personal work information, I note that QPS has, for the most part, disclosed to the applicant the names of officers who were involved in dealing with the applicant's complaints. Taking the limited nature of this information into account, I afford these accountability and transparency factors low weight.
39. Given the nature of the Third Party Information, I can identify no other public interest factors which apply to favour its disclosure.⁴⁴

Factors favouring nondisclosure

40. The RTI Act recognises that there is a public interest harm⁴⁵ in disclosing an individual's personal information to someone else and that disclosing information which could reasonably be expected to prejudice the protection of an individual's right to

⁴⁰ Schedule 4, part 2, item 3 of the RTI Act.

⁴¹ Schedule 4, part 2, item 11 of the RTI Act.

⁴² In this regard, I also note that the disclosed information indicates that QPS notified the applicant that it had insufficient information to continue with a criminal investigation of one of the applicant's complaints.

⁴³ However, I note that the names of Policelink employees were refused on pages 2, 12, 31 and 32 and officer names were refused on pages 98 and 125 (noting that, on page 125, the officer's position and registration number have been disclosed).

⁴⁴ For example, there is nothing before me which indicates that its disclosure could reasonably be expected to contribute to positive and informed debate on important issues or matters of serious interest (schedule 4, part 2, item 2 of the RTI Act); ensure effective oversight of expenditure of public funds (schedule 4, part 2, item 4 of the RTI Act); to allow or assist inquiry into agency conduct or administration deficiencies or reveal or substantiate misconduct or negligent, improper or unlawful conduct (schedule 4, part 2, items 5 and 6 of the RTI Act); advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies (schedule 4, part 2, item 10 of the RTI Act); reveal that the information is incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant (schedule 4, part 2, item 12 of the RTI Act); or contribute to the administration of justice generally including procedural fairness, or for a person (schedule 4, part 2, items 16 and 17 of the RTI Act).

⁴⁵ Schedule 4, part 4, section 6 of the RTI Act.

privacy gives rise to a public interest factor favouring nondisclosure.⁴⁶ The concept of 'privacy' is not defined in the IP Act or the RTI Act. It can, however, essentially be viewed as the right of an individual to preserve their 'personal sphere' free from the interference of others.⁴⁷ I consider these personal information and privacy considerations apply to the Third Party Information.

41. To the extent the Third Party Information relates to individual/s who are not public sector officers, I note this information appears in a complaint context. Taking this into account, I consider its disclosure would represent a significant intrusion into the privacy of these individual/s and a high level of harm could be expected to arise from disclosure of their personal information. For these reasons, I afford significant weight to the factors favouring nondisclosure of this component of the Third Party Information. Although some of the Third Party Information appears in documents sent, or received, by the applicant,⁴⁸ I do not consider this negates the right to privacy or the harm disclosure of this personal information would cause (noting there can be no restriction on the use, dissemination or republication of information disclosed under the IP Act).
42. The remaining Third Party Information relates to public sector officers and I consider a lower level of harm and prejudice could be expected to arise from its disclosure. Generally, information created in the course of a person's employment is considered to be their routine personal work information and, as such, does not attract a high privacy interest and the harm arising from disclosure is considered to be low.⁴⁹ Where an officer's position and registration number has been disclosed, I afford only low weight to these nondisclosure factors in respect of the corresponding officer name within the Third Party Information. In respect of the remainder of this component of the Third Party Information (which includes the signatures of certain officers),⁵⁰ I afford these nondisclosure factors moderate weight, taking into account there is no restriction placed upon the use or publication of information disclosed in response to an access application.⁵¹

Balancing the public interest

43. I acknowledge the pro-disclosure bias in deciding access to documents under the IP Act.⁵² I afford significant weight to the factor favouring disclosure of the applicant's personal information within the Third Party Information, noting that where this information about the applicant appears, it is intertwined with other individuals' personal information. Taking into account the nature of the Third Party Information, for the public interest factors relating to QPS' transparency and accountability, I afford low and no weight in respect of the two broad components of the Third Party Information.⁵³
44. On the other hand, for the reasons addressed above, I afford significant, moderate and low weight to the nondisclosure factors relating to personal information and privacy⁵⁴ for various components of the Third Party Information.

⁴⁶ Schedule 4, part 3, item 3 of the RTI Act.

⁴⁷ Paraphrasing the Australian Law Reform Commission's definition of the concept in 'For your information: Australian Privacy Law and Practice' Australian Law Reform Commission Report No. 108, Vol 1, released 12 August 2008, at paragraph 1.56.

⁴⁸ And, as a result, the applicant may have some awareness of the Third Party Information.

⁴⁹ Routine personal work information can include, for example, a work email address, a work phone number or an opinion given in a professional capacity.

⁵⁰ It also includes some officer names. Given the circumstances in which these refused officer names appear (as outlined in footnote 45 above), I consider a moderate level of prejudice and harm would arise from their disclosure under the IP Act.

⁵¹ I again note that, while the applicant may have some awareness of this Third Party Information, I do not consider this negates the right to privacy or the harm that disclosure could reasonably be expected to cause.

⁵² Section 64 of the IP Act.

⁵³ Schedule 4, part 2, items 1, 3 and 11 of the RTI Act.

⁵⁴ Schedule 4, part 3, item 3 and schedule 4, part 4, section 6 of the RTI Act.

45. On balance, I am satisfied that the public interest factors favouring nondisclosure outweigh the factors favouring disclosure. Accordingly, I find that disclosure of the Third Party Information would, on balance, be contrary to the public interest and access may be refused on that basis.⁵⁵

Nonexistent or unlocatable documents

46. Where a document is nonexistent or unlocatable, access to it may be refused.⁵⁶
47. To be satisfied that documents are nonexistent, a decision-maker must rely on their particular knowledge and experience and have regard to a number of key factors.⁵⁷ If searches are relied on to justify a decision that the documents do not exist, all reasonable steps must be taken to locate the documents. What constitutes reasonable steps will vary from case to case, depending on which of the key factors are most relevant in the circumstances.
48. For a document to be unlocatable, a decision-maker must consider whether there are reasonable grounds for the agency to be satisfied that the requested document has been or should be in the agency's possession and whether the agency has taken all reasonable steps to find the document. In answering these questions, a decision-maker must consider the circumstances of the case and the key factors.⁵⁸
49. On an external review, the agency or Minister who made the decision under review has the onus of establishing that the decision was justified or that the Information Commissioner should give a decision adverse to the applicant.⁵⁹ However, where the issue of missing documents is raised, the applicant bears a practical onus of demonstrating that the agency has not discharged its obligation to locate all relevant documents.⁶⁰
50. As noted in paragraph 14 above, the applicant generally submitted that more information should have been provided by QPS.⁶¹ I asked the applicant to identify, more specifically, the further documents he considered QPS should have provided as being relevant to his access application.⁶² In response, the applicant submitted that '*Further information exists such as audio and video recordings, texts, social media messages and computer query information*'.⁶³
51. After receiving this submission, I asked QPS to conduct further searches for information responsive to the access application and, as noted above, QPS located the Report and 13 audio recordings.

⁵⁵ Under section 67(1) of the IP Act and section 47(3)(b) and 49 of the RTI Act.

⁵⁶ Sections 47(3)(e) and 52 of the RTI Act.

⁵⁷ These factors are identified in *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) (*Pryor*) at [19] as including the administrative arrangements of government; the agency structure; the agency's functions and responsibilities (particularly with respect to the legislation for which it has administrative responsibility and the other legal obligations that fall to it); the agency's practices and procedures (including but not exclusive to its information management approach); and other factors reasonably inferred from information supplied by the applicant including the nature and age of the requested document/s and the nature of the government activity to which the request relates. These factors were more recently considered in *Van Veendendaal and Queensland Police Service* [2017] QICmr 36 (28 August 2017) at [23] and *J27 and Queensland Police Service* [2021] QICmr 19 (6 May 2021) at [17].

⁵⁸ *Pryor* at [21].

⁵⁹ Section 100 of the IP Act.

⁶⁰ See *Mewburn and Department of Local Government, Community Recovery and Resilience* [2014] QICmr 43 (31 October 2014) at [13].

⁶¹ External Review Application.

⁶² By letter dated 11 July 2024.

⁶³ The applicant's email submission dated 11 July 2024.

52. QPS provided details of the searches and inquiries it had conducted.⁶⁴ In summary, the received information confirms that searches for responsive documents were conducted of:
- the following QPS record keeping systems, using the applicant's name as the search term:
 - QPRIME, which is the database used to capture and maintain information obtained by QPS in its law enforcement functions; and
 - Evidence.com⁶⁵ and ITAS⁶⁶
 - records held by the police station nominated in the access application.
53. Having reviewed the applicant's submissions, the search information provided by QPS and all the documents located by QPS' searches, I conveyed a preliminary view to the applicant⁶⁷ that QPS had conducted appropriately targeted searches of the locations where it was reasonable to expect that documents relevant to the access application would be stored and, on that basis, access may be refused to any further relevant documents.
54. The applicant did not directly contest my preliminary view and instead '*adopted all of the initial Submissions*' he had made.
55. Having reviewed the terms of the access application and the submissions received from the applicant and QPS, I consider that QPS has conducted appropriately targeted searches of locations where it would be reasonable to expect the information requested in the access application would be stored within QPS' record keeping systems.
56. Accordingly, I am satisfied that:
- QPS has taken all reasonable steps to locate documents relevant to the access application; and
 - access to any further documents relevant to the access application may be refused on the basis they do not exist.⁶⁸

DECISION

57. For the reasons set out above, I vary QPS' decision and find that:
- one located document does not contain the applicant's personal information and is therefore outside the scope of the IP Act application
 - access may be refused to the 12 Pages and the Report, as it comprises exempt information
 - disclosure of the Third Party Information would, on balance, be contrary to the public interest and access to it may be refused on that basis; and
 - access may be refused to any further documents relevant to the access application on the ground they are nonexistent.⁶⁹
58. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

⁶⁴ QPS submission dated 29 July 2024 and search certifications (received on 6 August 2024).

⁶⁵ This is QPS' electronic database where body worn camera footage is downloaded and saved by officers.

⁶⁶ Which is a computer application, developed by QPS, integrating resourcing, rostering, tasking and reporting of enforcement activities, including traffic enforcement.

⁶⁷ On 20 September 2024.

⁶⁸ Under section 67(1) of the IP Act and sections 47(3)(e) and 52 of the RTI Act.

⁶⁹ Under section 67(1) of the IP Act and sections 47(3)(e) and 52 of the RTI Act.

T Lake
Principal Review Officer

Date: 18 October 2024

APPENDIX

Significant procedural steps

Date	Event
8 June 2024	OIC received the external review application.
12 June 2024	OIC received the applicant's email notification that he wished to proceed with the external review application.
21 June 2024	OIC notified the applicant and QPS that the application for external review had been accepted and requested information from QPS.
10 July 2024	OIC received the requested information from QPS.
11 July 2024	<p>OIC conveyed a preliminary view to the applicant about the information to which QPS refused access; invited the applicant to provide a submission if he wished to contest that view and asked the applicant to provide further details supporting his submission that further responsive documents were missing.</p> <p>OIC received the applicant's email submission, contesting the preliminary view and providing further details about the documents he considered to be missing.</p>
12 July 2024	OIC asked QPS to conduct further searches for documents responsive to the access application and provide information about its conducted searches.
6 August 2024	OIC received QPS' submission, search certifications and a copy of the located additional documents.
20 September 2024	OIC conveyed a preliminary view to the applicant about refusal of access and QPS' searches and invited the applicant to provide a submission if he wished to contest that view.
28 September 2024	OIC received the applicant's email response that he wished to adopt all of the initial submissions he had made.
30 September 2024	OIC wrote to the applicant to confirm that a decision would be issued to finalise the external review.