



Decision and Reasons for Decision

Citation: *E39 and Queensland Police Service* [2025] QICmr 87 (24 November 2025)

Application Number: 318280

Applicant: E39

Respondent: Queensland Police Service

Decision Date: 24 November 2025

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENTS NONEXISTENT OR UNLOCATABLE - audio recording of police executing search warrant - applicant submits part of recording is missing - whether agency has taken reasonable steps to locate information - section 52(1)(a) of the *Right to Information Act 2009* (Qld) - whether access to further documents may be refused under section 67(1) of the *Information Privacy Act 2009* (Qld) and section 47(3)(e) of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - audio recording of police executing search warrant - information about other individuals - personal information and privacy - whether access to information may be refused under section 67(1) of the *Information Privacy Act 2009* (Qld) and section 47(3)(b) of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - LAW ENFORCEMENT - METHOD OR PROCEDURE - audio recording of police executing search warrant - whether information is exempt under schedule 3, section 10(1)(f) of the *Right to Information Act 2009* (Qld) - prejudice to investigative methods and procedures - whether access may be refused under section 67(1) of the *Information Privacy Act 2009* (Qld) and section 47(3)(a) of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - IRRELEVANT INFORMATION - information recorded by a police radio of unrelated matters - whether information may be deleted as not relevant to the terms of the access application - section 88 of the *Information Privacy Act 2009* (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to Queensland Police Service (**QPS**) under the *Information Privacy Act 2009* (Qld) (**IP Act**)² for access to ‘*video and audio recordings of the execution of the search warrant at [his] property*’ in connection with a Queensland Court of Appeal matter.
2. QPS was unable to locate any video or audio recording responsive to the terms of the access application through searches and enquiries with the relevant districts. QPS decided³ to refuse access to the video recording under section 67(1) of the IP Act and sections 47(3)(e) and 52(1)(a) on the basis that it did not exist, because the ‘*search warrant predates the use of body worn cameras*’. QPS decided to refuse access to the audio recording on the basis that it was unlocatable, as while a recording was taken during the execution of the search warrant,⁴ searches conducted by the relevant district were unable to locate the recording.
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of QPS’s decision⁵ to refuse access to the audio recording (**Recording**), submitting that QPS should have located the Recording.⁶
4. On external review, QPS located the Recording responsive to the applicant’s application and agreed to release a copy, subject to information that was contrary to the public interest to release, exempt and irrelevant.
5. Throughout the review, the applicant raised concerns that a ‘*critical portion*’ of the Recording had been redacted or was missing, and pointed to additional enquiries the OIC should make to QPS. The applicant also submitted that he should have access to the unredacted recording and that there was ‘*no private third-party information*’ disclosed in his interaction with QPS.
6. The issues for determination in this review are whether:
 - access to further information may be refused on the basis that it is nonexistent, including whether QPS has taken all reasonable steps to locate all relevant audio recordings
 - the disclosure of information would, on balance, be contrary to the public interest
 - information is exempt from disclosure; and
 - information is irrelevant to the terms of the applicant’s access application.

¹ Access application dated 29 July 2024. The applicant agreed to narrow the scope of his application on 23 September 2024.

² On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting significant changes to the IP Act and *Right to Information Act 2009* (Qld). References in this decision to the IP Act and RTI Acts, however, are to those Acts as in force prior to 1 July 2025. This is in accordance with Chapter 8 Part 3 of the IP Act and Chapter 7 Part 9 of the RTI Act, comprising transitional provisions requiring that access applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted.

³ Decision dated 18 October 2024. This is the reviewable decision for the purpose of this external review.

⁴ As the index to the brief of evidence refers to an audio recording.

⁵ Application received by email on 21 October 2024.

⁶ On external review the applicant did not seek review of QPS’s decision to refuse access to the video recording. On this basis, I have not considered this as part of this decision.

7. In reaching my decision, I have taken into account evidence, submissions, legislation and other material as referred to in these reasons (including footnotes).⁷
8. For the reasons below, I vary⁸ QPS's decision and find that:
 - access to further recordings responding to the terms of the application may be refused on the basis that they are nonexistent under sections 47(3)(e) and 52(1)(a) of the *Right to Information Act 2009* (Qld) (**RTI Act**).
 - disclosure of certain information, would, on balance, be contrary to the public interest and access to it may be refused under section 47(3)(b) of the RTI Act
 - certain information is exempt under schedule 3, section 10(1)(f) of the RTI Act and access to it may be refused under section 47(3)(a) of the RTI Act.
 - certain information is irrelevant to the terms of the application and can be deleted under section 88 of the IP Act.

Information in Issue

9. The Recording contains the following types of information:
 - a. a specific exchange between the applicant and QPS that the applicant considers should be located in the Recording (**Unlocated Segment**)
 - b. personal details and identifying information of other individuals primarily provided by the applicant (**Third Party Information**)
 - c. conversations between QPS officers discussing the allegations against the applicant and the items located during the search warrant (**Search Warrant Information**); and
 - d. communication over QPS radio about incidents unrelated to the applicant (**Irrelevant Information**).

Relevant law

10. Under the IP Act a person has a right to be given access to documents of an agency to the extent they contain the individual's personal information.⁹ However, this right of access is subject to certain limitations, including grounds upon which access to information may be refused.¹⁰ The legislation requires the grounds for refusing access to be interpreted narrowly, and decisions on access to be made with regard to the pro-disclosure bias.¹¹ For the purpose of this decision, the relevant grounds of refusal are:
 - nonexistent or unlocatable documents¹²
 - contrary to public interest information; and¹³

⁷ Generally, it is necessary that decision makers have regard to the *Human Rights Act 2019* (Qld) (**HR Act**). However, given section 11(1) of the HR Act provides that '[a]ll individuals *in Queensland* have human rights' (my emphasis), and given the applicant resides in a State other than Queensland, I have not had direct regard to the HR Act in this review. I have, of course, observed and respected the law prescribed in the IP and RTI Acts in making this decision. Where the HR Act applies, doing so is construed as '*respecting and acting compatibly with*' the rights prescribed in the HR Act (*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]). Accordingly, had it been necessary for me to have regard to the HR Act in this review, the requirements of section 58(1) of that Act would be satisfied, and the following observations of Bell J about the interaction between the Victorian analogues of Queensland's IP and RTI Acts and HR Act would apply: '*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*' (*XYZ* at [573]).

⁸ Under section 123(1)(b) of the IP Act.

⁹ Section 40 of the IP Act.

¹⁰ Section 47(3) of the RTI Act. Section 67 of the IP Act provides that access to information may be refused on the same grounds as set out in section 47(3) of the RTI Act.

¹¹ Section 64 of the IP Act.

¹² Section 47(3)(e) of the RTI Act.

¹³ Section 47(3)(b) of the RTI Act.

- exempt information.¹⁴

11. In addition, while not a ground for refusing access, section 88 of the IP Act provides a mechanism to allow an agency to delete information from documents where it is not relevant to the terms of the application.

Unlocatable or nonexistent information

12. Access to a document may be refused if it is nonexistent or unlocatable.¹⁵ A document will be nonexistent if there are reasonable grounds to be satisfied it does not exist.¹⁶ A document will be unlocatable if it has been or should be in the agency's possession and all reasonable steps have been taken to find the document, but it cannot be found.¹⁷

13. To be satisfied that a document does not exist, the Information Commissioner has previously identified a number of key factors to consider, including the agency's structure, its recordkeeping practices and procedures and the nature and age of requested documents.¹⁸ After considering relevant factors, a decision-maker may conclude that a particular document was not created because, for example the agency's processes do not require creation of that specific document. In such instances, it is not necessary for the agency to search for the document, but sufficient that the circumstances to account for the nonexistence are adequately explained by the agency. 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.¹⁹ What constitutes reasonable steps will vary from case to case, depending on which of the key factors are most relevant in the circumstances.

14. The Information Commissioner's external review functions include investigating and reviewing whether agencies have taken reasonable steps (as opposed to all possible steps)²⁰ to identify and locate documents applied for by applicants.²¹ 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.²² 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.²³ Suspicion and mere assertion will not satisfy this onus.²⁴

¹⁴ Section 47(3)(a) of the RTI Act.

¹⁵ Sections 47(3)(e) and 52(1)(a) of the RTI Act.

¹⁶ Section 52(1)(a) of the RTI Act.

¹⁷ Section 52(1)(b) of the RTI Act.

¹⁸ These factors are identified in *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) at [19], which adopted the Information Commissioner's comments in *PDE and the University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) at [37]-[38]. These factors were more recently considered in *B50 and Department of Justice and Attorney-General* [2024] QICmr 33 (7 August 2024) at [15], *T12 and Queensland Police Service* [2024] QICmr 8 (20 February 2024) at [12], and *G43 and Office of the Director of Public Prosecutions* [2023] QICmr 50 (12 September 2023) at [19].

¹⁹ In *Webb v Information Commissioner* [2021] QCATA 116 (*Webb*) at [6], McGill J observed that this does not extend to all 'possible' steps.

²⁰ *S55 and Queensland Police Service* [2023] QICmr 3 (30 January 2023) at [23], cited with approval in *W55 and Brisbane City Council* [2024] QICmr 13 (17 April 2024) at [19].

²¹ Section 137(2) of the IP Act. The Information Commissioner also has power under section 115 of the IP Act to require additional searches to be conducted during an external review. The Queensland Civil and Administrative Tribunal confirmed in *Webb* at [6] that the RTI Act 'does not contemplate that [the Information Commissioner] will in some way check an agency's records for relevant documents' and that, ultimately, the Information Commissioner is dependent on the agency's officers to do the actual searching for relevant documents.

²² Section 87(1) of the RTI Act.

²³ See *Mewburn and Department Local Government, Community Recovery Resilience* [2014] QICmr 43 (31 October 2014) at [13].

²⁴ *Parnell and Queensland Police Service* [2017] QICmr 8 (7 March 2017) at [23]; *Dubois and Rockhampton Regional Council* [2017] QICmr 49 (6 October 2017) at [36]; *Y44 and T99 and Office of the Public Guardian* [2019] QICmr 62 (20 December 2019) at [38].

Contrary to the public interest information

15. Access to information may be refused where its disclosure would, on balance, be contrary to the public interest.²⁵ 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 that concern purely private or personal interests. There are, however, some recognised public interest considerations that may apply for the benefit of an individual.
16. The RTI Act explains the steps that the decision-maker must take in deciding the public interest.²⁶ It also identifies a non-exhaustive list of factors in Schedule 4 that may be relevant to deciding the balance of the public interest. I have considered all these factors, together with other relevant information in reaching my decision, and discuss relevant factors below.

Exempt information

17. Schedule 3 of the RTI Act sets out the types of information which Parliament has decided would, on balance, be contrary to the public interest to disclose. Exempt information includes various types of law enforcement and public safety information, including where disclosure could reasonably be expected to:²⁷

...prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law.

18. For this exemption to apply, the following criteria must be satisfied:
 - a. there must exist a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law
 - b. disclosure of the information would create a reasonably based expectation²⁸ of prejudice to the law method or procedure; and
 - c. the information must not be a type of information described in schedule 3, section 10(2) of the RTI Act.

Irrelevant information

19. Section 88 of the IP Act provides that access may be given to a document subject to the deletion of information reasonably considered not relevant to an application. This is a mechanism to allow irrelevant information to be deleted from documents which are identified for release to an applicant. In deciding whether information is irrelevant, it is necessary to consider whether the information has any bearing upon, or is pertinent to, the terms of the applicant's access application.²⁹

²⁵ Sections 47(3)(b) and 49 of the RTI Act.

²⁶ Section 49(3) of the RTI Act.

²⁷ Schedule 3, section 10(1)(f) of the RTI Act.

²⁸ A reasonable expectation is one that is reasonably based, and not irrational, absurd or ridiculous: *Sheridan and South Burnett Regional Council and Others* (Unreported, Queensland Information Commissioner, 9 April 2009) at [189] – [193], referring to *Attorney-General v Cockcroft* (1986) 64 ALR 97 (**Cockcroft**). This test requires a decision-maker to distinguish '*between what is merely possible ... and expectations that are reasonably based*' and for which '*real and substantial grounds exist*'. *B and Brisbane North Regional Health Authority* [1994] QICmr 1, a decision of the Information Commissioner analysing the equivalent exemption in the repealed *Freedom of Information Act 1992 (Qld)*, at [154]-[160]. Other jurisdictions have similarly interpreted the phrase 'as distinct from something that is irrational, absurd or ridiculous': *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 *Cockcroft* at [190].

²⁹ *O80PCE and Department of Education and Training* (Unreported, Queensland Information Commissioner, 15 February 2010) at [52] which was a decision made under the equivalent provision in the repealed *Freedom of Information Act 1992 (Qld)*.

Submissions

Applicant's submissions

20. The applicant provided detailed submissions to OIC throughout his review, particularly in relation to his concerns about a redacted or missing segment of the recording. The applicant submitted that the redacted or missing segment of the recording *'contains a materially relevant exchange between myself and several officers who were present with me'*³⁰ during the execution of the search warrant. In particular, the applicant noted that:³¹

Specifically, the redacted or missing portion includes a significant exchange in which I engaged with the attending officers after becoming aware of the nature and scope of the search warrant. During this interaction, I cooperated with police by identifying the [specific evidence], which I indicated to the officers present with me at the time. One of those officers then communicated this information to the female officer before she proceeded. This interaction is crucial, as it directly relates to the sequence of events, the lawfulness of police conduct, and the evidentiary foundation upon which this matter rests.

...

Its absence from both the disclosed audio and the material presented to the court compromises the integrity of the evidentiary record and gives rise to a reasonable concern that probative information has been withheld without lawful justification and should be reinstated in full or properly accounted for under the relevant legislative framework.

21. The applicant also raised concerns with the personal information of third parties that was redacted, noting that *'no private third-party information was disclosed in this interaction, and no names of individuals outside QPS were mentioned'*.
22. The OIC drew the applicant's attention to a portion of the recording which appeared to contain the information he was seeking.³² In response, the applicant submitted that while this part of the recording was as he described, it did not capture the initial exchange of this information between him and QPS. The applicant submitted that:³³

...my voice is not heard in the earlier and more critical exchange, when I first identified [specific evidence to] police after they explained the scope of the search warrant. That initial identification is missing from the provided audio. The only point where my voice appears on this issue is during the subsequent confirmation question asked by police, which effectively places my confirmation as a response rather than showing that I had already, independently, identified [specific evidence].

...

This distinction is important. The absence of my initial statement creates a misleading impression of events, particularly given the relevance of who first indicated the location of [specific evidence]. I therefore maintain my position that a critical portion of audio is missing and respectfully request access to the unredacted recording.

23. During the review, I confirmed with the applicant that the segment of the recording he was seeking was not contained in the information that had been redacted by QPS. I also provided the applicant with a copy of the type of redactions made by QPS at approximate time stamps.³⁴ In response, the applicant queried whether there was a technical reason that the specific segment he was seeking did not appear in the recording. He also queried

³⁰ Applicant's submissions dated 30 July 2025.

³¹ Applicant's submissions dated 30 July 2025. The applicant also raised these concerns in his submissions dated 17 September 2025 and 17 October 2025.

³² I.e. the segment appearing at 20:00mins – 26:00mins. The applicant was notified of this in our preliminary view to him dated 3 September 2025.

³³ Applicant's submissions dated 17 September 2025.

³⁴ Preliminary view to the applicant dated 16 October 2025.

whether there were any other recordings of the event which were made.³⁵ He noted that:³⁶

My purpose in seeking access [to the specific segment] is not to challenge police conduct but to ensure that the factual record of that interaction is complete, accurate, and transparent. The absence of this portion creates a significant gap in understanding the full context of the recording.

...

I acknowledge and appreciate OIC's explanation regarding the technical limitations of audio recordings. However, I find it difficult to reconcile that the recording contains both the moments immediately before and after [the relevant] exchange, yet this one specific portion is entirely absent.

...

I respectfully request that OIC independently verify that none of the redacted portions, particularly those proximate to the 20:00–26:00 time range, inadvertently contain the audio exchange I have described.

Even a brief or partial fragment of that dialogue, if present, would materially clarify the sequence of events and satisfy the objective of ensuring complete access to my personal information.

[emphasis omitted]

QPS's submissions and searches

24. During the external review, QPS provided a table outlining the redactions it made to the recording and corresponding approximate time stamps.³⁷ QPS initially advised³⁸ OIC that the recording comprised information that was contrary to the public interest to release (third-party personal information) and irrelevant information (QPS radio conversation that was not relevant to the applicant's matter).

25. QPS later confirmed that in the recording released to the applicant:³⁹

...some additional information had been redacted such as irrelevant QPS radio which related to other matter[s], conversations between the officers who were discussing the allegations and items obtained during the search warrant and ... a few additional places where names of third parties were mentioned which was not originally identified.

26. In relation the exempt information that was redacted in the recording, QPS advised that:

this information relates to conversations between officers who were in attendance at the address during the execution of the warrant. The conversations depict lawful methods and procedures used by police when executing a search warrant to investigate and deal with a contravention of the law.

While I acknowledge that the applicant was present during the searches and that he would be aware of the locations searched by police [he was] not present during these discussions.

The officers are attempting to be discreet to prevent the applicant from hearing their conversations, as they describe the methods and considerations used by QPS when determining which items to take and the forensic value of such items. This information would not be known to the applicant, and QPS has concerns that should it be provided, it could allow them to alter their behaviour in the future.

³⁵ Applicant's submissions dated 17 October 2025.

³⁶ Applicant's submissions dated 17 October 2025.

³⁷ Provided by QPS on 12 December 2024 and updated by QPS on 29 August 2025 and 2 September 2025.

³⁸ QPS's submissions dated 12 December 2024.

³⁹ QPS's submissions dated 29 August 2025.

27. QPS also advised⁴⁰ that not all of the irrelevant radio communication in the recording was removed. QPS left some irrelevant radio communication in the recording as:

these communications did not appear to identify personal information of third parties requiring police assistance occurring at the time. Every attempt was made to avoid redacting the radio communication when the applicant was talking to police that did not relate to other third parties.

28. In response to the applicant's submission that information he was seeking was not captured in the recording, QPS confirmed that no additional recordings relevant to the applicant's scope existed. In particular, QPS advised⁴¹ that '[t]his matter was investigated prior to the introduction of QPS-issued bodyworn camera devices, and the audio recording located appears to capture the entirety of the search warrant execution'. QPS also confirmed that there 'is no information available to [the RTI Unit] that would indicate further audiovisual material should exist'.⁴²

Findings

Unlocated Segment

29. Throughout the review, the applicant raised concerns that a critical segment of the recording was missing or had been redacted. In response, OIC examined the recording and confirmed that the segment did not appear in the information redacted by QPS (which is discussed below). OIC however did identify and draw the applicant's attention to an unredacted part of the recording which appeared to contain the information the applicant was seeking, given his description of the exchange.⁴³ In response, the applicant submitted that while the identified portion of the Recording contained an exchange similar to what he was seeking to access, it was the second exchange of this information – not the initial exchange. The applicant continued to seek the initial exchange where, as he describes, he identified evidence to QPS without being prompted.⁴⁴
30. As explained above, where an applicant raises the issue of missing documents (in this case, a missing segment of the Recording), the practical onus of demonstrating that the agency has not discharged its obligation to locate all relevant documents is on the applicant.⁴⁵ Suspicion and mere assertion will not satisfy this onus.⁴⁶ OIC is also required to consider whether the agency has taken all steps to locate the information.
31. In support of this missing segment, the applicant submitted that:
- *'its absence from both the disclosed audio and the material presented to the court ...gives rise to a reasonable concern that probative information has been withheld without lawful justification...'.⁴⁷*
 - *his 'voice is not heard in the earlier⁴⁸ and more critical exchange...that initial identification is missing from the provided audio...the only point where my voice appears on this issue is during the subsequent confirmation question asked by*

⁴⁰ QPS's submissions dated 2 September 2025.

⁴¹ QPS's submissions dated 7 October 2025.

⁴² QPS's submissions dated 7 October 2025.

⁴³ I.e. between 20:00mins – 26:00mins.

⁴⁴ Applicant's submissions 17 September 2025.

⁴⁵ See *Mewburn and Department Local Government, Community Recovery Resilience* [2014] QICmr 43 (31 October 2014) at [13].

⁴⁶ *Parnell and Queensland Police Service* [2017] QICmr 8 (7 March 2017) at [23]; *Dubois and Rockhampton Regional Council* [2017] QICmr 49 (6 October 2017) at [36]; *Y44 and T99 and Office of the Public Guardian* [2019] QICmr 62 (20 December 2019) at [38].

⁴⁷ Applicant's submissions dated 30 July 2025.

⁴⁸ I.e. before the portion of audio starting at 20:00mins.

*police, which effectively places my confirmation as a response rather than showing that I had already, independently, identified [the specific evidence].*⁴⁹

- he finds it ‘difficult to reconcile that the recording contains both the moments immediately before and after [the relevant exchange], yet this one specific portion is entirely absent’.⁵⁰
- ‘the advent of this portion creates a significant gap in understanding the full context of the recording’.⁵¹

32. The applicant also requested, based on the ‘inconsistencies’ he identified, that OIC: ⁵²

Confirm with QPS whether any technical audit of the recording device(s) was conducted to ensure the file is complete and no segment was corrupted or lost.

Confirm whether any secondary or backup recordings were made by other officers during the execution of the warrant.

Re-examine redacted sections in proximity to the missing time range to ensure the relevant conversation does not appear within those areas.

[emphasis omitted]

33. In response to requests for further information from OIC, QPS affirmed that the ‘audio recording located appears to capture the entirety of the search warrant execution’. QPS also confirmed that ‘there is no information available to this office that would indicate further audiovisual material should exist’.⁵³

34. While I appreciate that this segment of audio is important to the applicant, on review on the information before me in this external review, I am satisfied that QPS have undertaken all reasonable searches for recordings capturing the search warrant being executed. As the relevant investigation was undertaken prior to the implementation of body worn cameras, the only recording that was made is the audio recording. QPS have also confirmed that the recording captures the whole of the search warrant execution and that there are no further recordings that were made.

35. The applicant’s submissions set out why he believes QPS should have located the Unlocated Segment. It is clear that he recalls the exchange occurring.⁵⁴ However, based on the information available to me, I am not satisfied that he has discharged the practical onus of demonstrating that QPS failed to take reasonable steps to locate any other relevant information in this case. In my view, the applicant’s concern that the recordings contain both the moments before and after the relevant exchange, is not sufficient alone to demonstrate that there is a missing part of the recording. On review of the Recording,⁵⁵ it appears to capture the ‘entirety of the search warrant execution’ and it does not appear any information has been ‘corrupted or lost’. In this instance, I am satisfied that the specific audio he is seeking was not captured by the recording made by the QPS officer during the search warrant. Unfortunately, this is a limitation of audio recordings of this nature in that not all communications during an incident are audible, or captured, due to the location of the recording device and distance from the people speaking.

36. The applicant requested that QPS confirm whether backup recordings etc were made, and whether any technical audit of the recording devices were conducted. In this

⁴⁹ Applicant’s submissions dated 17 September 2025.

⁵⁰ Applicant’s submissions dated 17 October 2025.

⁵¹ Applicant’s submissions dated 17 October 2025.

⁵² Applicant’s submissions dated 17 October 2025.

⁵³ QPS’s submissions dated 7 October 2025.

⁵⁴ At approximately 19.46min of the Recording an officer appears to indicate that the applicant had earlier identified the specific evidence.

⁵⁵ In particular, around 20:00mins – 26:00mins.

instance, as I am satisfied that no other relevant recordings exist I do not consider that it is reasonable for QPS to undertake searches of its backup systems⁵⁶ or to review whether a technical audit was undertaken. Further, the Information Commissioner does not have jurisdiction to investigate why no further recordings (or why the segment the applicant was seeking) does not exist. Rather, OIC can only determine whether QPS has taken all reasonable steps (as opposed to all possible steps) to locate the requested information. For my reasons above, I consider that all reasonable steps to search for recordings responsive to the applicant's scope have been undertaken.

37. In the circumstances of this case, taking into account the terms of the application, the located recording, and QPS's submissions, I am satisfied that the specific segment of audio sought by the applicant was not captured by the recording made by the QPS officer of the event. I am also satisfied that QPS has taken all reasonable steps to locate recordings responding to the application.
38. On this basis, I am satisfied that QPS can refuse access to Unlocated Segment on the basis that it does not exist.⁵⁷

Third Party Information

39. The applicant submitted that no third party personal information was contained in the Recording. However, on review of the Recording, I confirm that it contains names and identifying information of people other than the applicant, primarily provided by the applicant to QPS during the execution of the search warrant.⁵⁸
40. I accept that there is a public interest in disclosing information which demonstrates how QPS discharges its law enforcement obligations. On this basis there are a number of public interest factors concerned with enhancing the accountability and transparency, which I consider are relevant in this case.⁵⁹ I also accept that disclosing the Third Party Information will provide the applicant with access to all of the evidence that he provided to QPS during the search warrant. In affording weight to these factors, I have taken into account the amount of the recording that has been disclosed to the applicant by QPS and the event that the recordings capture i.e. a search warrant being executed on the applicant's property. In my view, the released information outlines, subject to redaction of the Third Party Information, the Irrelevant Information and the Search Warrant Information (see below), the process followed by QPS in the execution of the search warrant on the applicant's property and the majority of evidence the applicant provided to QPS. I am satisfied that disclosure of the bulk of the recording has served to discharge the transparency and accountability factors to a significant degree and I therefore afford these factors low weight only.
41. As noted above, the Third Party Information primarily comprises of the names and other personal information of people other than the applicant. I accept that because the applicant provided it to QPS during the execution of a search warrant he is aware of its content, however, it is not his personal information as it not *about* him, it is about and identifies other individuals.⁶⁰ For these reasons, I consider that other individuals' right to privacy would be prejudiced through disclosure of the Third Party Information.⁶¹ In my view, disclosing this category of information, which appears in a recording made by QPS

⁵⁶ Therefore, the requirement under section 52(2) of the RTI Act is not enlivened.

⁵⁷ Section 47(3)(e) and 52(1)(a) of the RTI Act. I am also satisfied that section 52(2) of the RTI Act is not enlivened and that therefore, backup searches are not required in this case.

⁵⁸ There are also some names of third parties that are noted by QPS.

⁵⁹ Schedule 4, part 2, items 1, 3 and 11 of the RTI Act. I have not taken into account any irrelevant factors in deciding where the balance of the public interest lies with respect to disclosure of this category of information.

⁶⁰ As such, the factor favouring disclosure at schedule 4, part 2, item 7 of the RTI Act does not apply.

⁶¹ Schedule 4, part 3, item 3 of the RTI Act.

in the sensitive context of a search warrant/investigation and in circumstances where the third parties are not present at the time, would constitute a significant intrusion into the private sphere of the other individuals. I also consider the extent of the harm that could be expected to arise from its disclosure under the RTI Act would be significant. While this information was provided to QPS by the applicant and is therefore known to him, I do not consider this reduces the weight of the privacy and personal information nondisclosure factors, particularly as there can be no restriction on the use, dissemination or republication of information disclosed under the RTI Act.⁶²

42. Considering the pro-disclosure bias⁶³ and the factors favouring disclosure outlined above, I afford low weight to enhancing QPS's accountability and transparency. On the other hand, I give the public interest factors in protecting the personal information and privacy of other individuals significant and determinative weight, so as to favour nondisclosure of the Third Party Information.
43. On balance, I am satisfied that the nondisclosure factors outweigh the disclosure factors and therefore, the Third Party Information would, on balance, be contrary to the public interest to disclose, and access to it may therefore be refused under section 47(3)(b) of the RTI Act.⁶⁴

Search Warrant Information

44. Throughout the recording QPS decided to refuse access to the Search Warrant information that could, if disclosed, 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.⁶⁵
45. Given this refusal ground, I am limited the extent to which I can describe the Search Warrant information as QPS considers it comprises exempt information.⁶⁶ QPS have described this information as *'conversations between officers who were in attendance at the address during the execution of the warrant',⁶⁷ discussing 'the allegations and items obtained during the search warrant'.⁶⁸*
46. Upon close examination of the Search Warrant information, I am satisfied that it is concerned with the methods and procedures used by QPS in the execution of a search warrant and an investigation more broadly. I am also satisfied that the disclosure of the Search Warrant information could reasonably be expected to prejudice the effectiveness of the methods and procedures that QPS uses when executing a search warrant as it would reveal what QPS has assessed or identified as important to the specific type of investigation and its search warrant activities. I am also satisfied that the release of this information may also enable *'offenders to modify their behaviour to avoid police detection'.⁶⁹*
47. Further, I am satisfied that the exception to this exemption⁷⁰ does not apply in this circumstance as, for example, the release of the exempt information would not reveal that the scope of a law enforcement investigation has exceeded the limits imposed by

⁶² *FLK v Information Commissioner* [2021] QCATA 46 at [17].

⁶³ Section 64 of the IP Act.

⁶⁴ In conjunction with section 67(1) of the IP Act.

⁶⁵ Schedule 3, section 10(1)(f) of the RTI Act.

⁶⁶ Section 121(1)(a) of IP Act.

⁶⁷ QPS's submissions dated 7 October 2025.

⁶⁸ QPS's submissions dated 29 August 2025.

⁶⁹ QPS's submissions dated 7 October 2025.

⁷⁰ At schedule 3, section 10(2) of the RTI Act.

law. As such, in my view QPS is entitled to refuse access to the Search Warrant information on the basis that it is exempt.

Irrelevant information

48. This category of information includes communication over the QPS radio about incidents/events unrelated to the applicant. As noted at [2727] above, QPS have not redacted all of the irrelevant information throughout the recording as some of it occurs while the applicant or QPS are speaking. I am satisfied that the redacted radio recording is not relevant to the applicant, or the search warrant being executed. As such, I am satisfied that it is irrelevant to the scope of the application, and QPS was entitled to delete the information under section 88 of the IP Act.

DECISION

49. For the reasons set out above, I vary the reviewable decision⁷¹ and find that:

- access to the Unlocated Segment and further documents responding to the terms of the application may be refused on the basis that they are nonexistent under sections 47(3)(e) and 52(1)(a) of the RTI Act
- disclosure of the Third Party Information, would, on balance, be contrary to the public interest and access to it may be refused under section 47(3)(b) of the RTI Act
- the Search Warrant Information is exempt under schedule 3, section 10(1)(f) of the RTI Act and access to it may be refused under section 47(3)(a) of the RTI Act; and
- certain information is irrelevant to the terms of the application and can be deleted under section 88 of the IP Act.

50. I have made this decision as a delegate of the Information Commissioner.⁷²



Katie Shepherd
Assistant Information Commissioner

Date: 24 November 2025

⁷¹ Under section 123(1)(b) of the IP Act.

⁷² Section 139 of the IP Act.