



Decision and Reasons for Decision

Citation:	<i>E29 and Queensland Police Service [2026] QICmr 47 (24 March 2026)</i>
Application Number:	318596
Applicant:	E29
Respondent:	Queensland Police Service
Decision Date:	24 March 2026
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENTS NONEXISTENT OR UNLOCATABLE - SUFFICIENCY OF SEARCH - whether agency has taken all reasonable steps to locate requested documents - whether access to further documents may be refused on the basis that they are nonexistent or unlocatable - sections 47(3)(e) and 52(1) of the <i>Right to Information Act 2009</i> (Qld) ADMINISTRATIVE LAW - RIGHT TO INFORMATION - applicant contended scope of access application should be interpreted to include additional documents - construction of scope of access application made under section 24 of the <i>Right to Information Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant lodged an access application with Queensland Police Service (**QPS**) on 7 February 2025, purportedly under the *Information Privacy Act 2009* (Qld) (**IP Act**),¹ for the following documents:

I am seeking information regarding a mobile speed detection device. I am seeking [sic] a certificate of calibration and I am also seeking data captured by this device. The data I am seeking is date, time and speed recorded over a set period of time.

[Type of documents]: Data, certificate

[Time period]: January 17th 2025, 14:40 to 14:55

2. Following payment of the application fee,² the application became compliant under the RTI Act.

¹ On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting changes to the *Right to Information Act 2009* (Qld) (**RTI Act**) and IP Act. As the applicant's application was made before this change, the RTI Act and IP Act **as in force prior to 1 July 2025** remain applicable to it. This is in accordance with transitional provisions in Chapter 7, Part 9 of the RTI Act, which require that applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted. Accordingly, references to the RTI Act and IP Act in this decision are to those Acts **as in force prior to 1 July 2025**. These may be accessed at <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013> and <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-014> respectively.

² On 26 February 2025.

3. QPS located one document in response to this access application, which it decided to release in part.³
4. The applicant applied for internal review of QPS's decision.⁴ On internal review, QPS was deemed to affirm its original decision.⁵
5. The applicant applied⁶ to the Office of the Information Commissioner (**OIC**) for external review of QPS' deemed internal review decision. On external review, the applicant raised concerns that QPS had not located all the documents relevant to his access application.
6. During the review, QPS released some further information to the applicant.⁷
7. For the reasons set out below, I vary the reviewable decision⁸ and find that:
 - access to video footage or any further images of the applicant's vehicle and further data captured by the speed device can be refused on the basis that it is non-existent;⁹ and
 - other documents not already released fall outside the scope of the access application.

Background

8. During the review, OIC conveyed its preliminary view¹⁰ to the applicant that QPS was entitled to redact certain information from documents released to him. The applicant has confirmed he does not wish for OIC to further consider the redacted information in this review.¹¹ For that reason, I have not addressed the redacted information in this decision.
9. The applicant submits he had conveyed to QPS in correspondence around the time of his application that he also wanted to access video footage for the mobile speed detection device.¹² QPS contested this view.¹³
10. QPS confirmed during the review that the relevant speed camera did not capture video, but rather, still images.¹⁴ While QPS submitted that these still images were outside the scope of the application,¹⁵ QPS nonetheless agreed during this review to release to the applicant three images of his vehicle captured by the speed device.¹⁶
11. OIC conveyed a preliminary view to the applicant that the scope of his application did not include any additional documents.¹⁷
12. The applicant did not accept OIC's view with respect to the scope of his application and submits that QPS should have located additional information.

³ On 27 March 2025.

⁴ On 27 March 2025.

⁵ On 30 April 2025.

⁶ On 30 April 2025.

⁷ On 20 August 2025 and 29 January 2026.

⁸ Under section 110(1)(b) of the RTI Act.

⁹ Sections 47(3)(e) and 52(1)(a) of the RTI Act.

¹⁰ On 19 August 2025.

¹¹ Email dated 5 March 2026.

¹² Submission dated 5 June 2025.

¹³ Submission dated 20 August 2025

¹⁴ Information provided to OIC on 6 June 2025.

¹⁵ Submissions dated 20 August 2025 and 27 January 2026.

¹⁶ Documents released to the applicant on 29 January 2026.

¹⁷ On 28 January and 3 February 2026.

Reviewable decision

13. The reviewable decision is QPS' deemed internal review decision issued on 30 April 2025.

Evidence considered

14. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes).
15. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to recognition and equality before the law and the right to seek and receive information.¹⁸ I consider a decision-maker will be '*respecting and acting compatibly with*' that right and others prescribed in the HR Act, when applying the law prescribed in the IP Act and the RTI Act.¹⁹ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act. I also note the observations made by Bell J on the interaction between equivalent pieces of Victorian legislation:²⁰ '*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.*'

Issues for determination

16. The issues for determination are:
 - whether access to video footage, additional images of the applicant's vehicle and additional data captured by the speed device can be refused on the basis that it is non-existent; and
 - whether the scope of the access application includes the additional documents the applicant seeks.

Relevant law

17. The RTI Act provides a general right of access to documents of an agency,²¹ however this right is subject to limitations, including grounds for refusal of access.²² Relevantly, the RTI Act permits an agency to refuse access to requested information where it is non-existent.²³
18. A document is non-existent if there are reasonable grounds to be satisfied it does not exist.²⁴ To be satisfied that a document does not exist, the Information Commissioner has previously had regard to various key factors, including an agency's practices and procedures (including, but not limited to, its information management approaches).²⁵

¹⁸ Sections 15 and 21 of the HR Act.

¹⁹ *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]. OIC's approach to the HR Act set out in this paragraph has been considered and endorsed by QCAT Judicial Member McGill in *Lawrence v Queensland Police Service* [2022] QCATA 134 (26 September 2022) at [23], noting that he saw '*no reason to differ*' from OIC's position.

²⁰ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

²¹ Section 23(1)(a) of the RTI Act.

²² The grounds on which an agency may refuse access are set out in section 47 of the RTI Act.

²³ Sections 47(3)(e) and 52(1) of the RTI Act.

²⁴ Section 52(1)(a) of the RTI Act.

²⁵ *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) (**PDE**) at [37]-[38]. Refer also to *Van Veendendaal and Queensland Police Service* [2017] QICmr 36 (28 August 2017) and *Y20 and Department of Education* [2021] QICmr 20 (11 May 2020) at [45].

19. The Information Commissioner may also take into account the searches and inquiries conducted by an agency in determining whether a document is non-existent. The key question then is whether those searches and inquiries amount to '*all reasonable steps*'.²⁶ What constitutes reasonable steps will vary from case to case, as the search and inquiry process an agency will be required to undertake will depend on which of the key factors are most relevant in the circumstances.
20. The agency that 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.²⁷ However, where an external review involves the issue of missing documents, the applicant bears a practical onus to establish reasonable grounds which demonstrate that the agency has not discharged its obligation to take all reasonable steps to locate the requested documents. Suspicion and mere assertion will not satisfy this onus.²⁸
21. The general rule is that the scope of an access application should not be interpreted narrowly or with the same degree of precision as a piece of legislation.²⁹ However, the RTI Act requires that an access application '*give sufficient information concerning the document to enable a responsible officer of the agency... to identify the document*'.³⁰
22. There are sound practical reasons for requiring the documents sought in an access application to be clearly and unambiguously identified, including that the terms of the access application set the parameters for an agency's response and the direction of an agency's search efforts.³¹ For these reasons, an applicant cannot unilaterally expand the scope of an access application.³²
23. When an applicant seeks information under the IP Act which, on its face, should be sought under the RTI Act, section 54(2) of the IP Act requires the agency to make reasonable efforts to contact the applicant and inform the applicant that they may consult with the agency with a view to:
 - making the application under the IP Act by changing the application; or
 - having the application dealt with under the RTI Act by paying the application fee.³³
24. If the application fee is paid, the applicant is taken to have made the application under the RTI Act on the date of payment.³⁴

Submissions and relevant correspondence

25. The information before me shows that, before submitting his request on 7 February 2025 (**the Original Request**), the applicant emailed QPS' RTI unit to say:³⁵

²⁶ As set out in *PDE* at [49].

²⁷ Section 87(1) of the RTI Act.

²⁸ *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].

²⁹ *Fennelly and Redland City Council* (Unreported, Queensland Information Commissioner, 21 August 2012) (**Fennelly**) at [21] and *O80PCE and Department of Education and Training* (Unreported, Queensland Information Commissioner, 15 February 2010) (**O80PCE**) at [35]; cited in *Mewburn and Department of Natural Resources and Mines* [2016] QICmr 31 (19 August 2016) at [22].

³⁰ Section 24(2)(b) of the RTI Act.

³¹ *Cannon and Australian Quality Egg Farms Ltd* (1994) 1 QAR 491 (**Cannon**) at [8] considering equivalent provisions in the now repealed *Freedom of Information Act 1992* (Qld); *O80PCE* at [33].

³² *Fennelly* at [15]; cited in *Lonsdale and James Cook University* [2015] QICmr 34 (15 December 2015) (**Lonsdale**) at [9] and *G20 and Queensland Police Service* [2026] QICmr 11 (28 January 2026) at [23].

³³ Section 54(2)(c) of the IP Act.

³⁴ Section 54(4) of the IP Act.

³⁵ Email from applicant to QPS dated 6 February 2025.

I am looking at obtaining information from a specific mobile speed camera. The information I am seeking would be recorded speeds from a specific time period, all I would request is data with the date, time and speed recorded. I would not be looking for photos or any information relating to a specific vehicle. Is this obtainable?

26. The applicant submits that he had a conversation with QPS' RTI unit around this time:³⁶

On 6 February 2025, I contacted the RTI Unit to seek clarification on whether certain information I intended to request—specifically, all information related to a particular offence, including relevant video footage—was accessible under the RTI Act. During this exchange, an officer from the RTI Unit verbally advised me that such information would be available under the Act.

27. On 12 February 2025, QPS wrote to the applicant³⁷ to say that his application was noncompliant, as it needed to be made under the RTI Act and not the IP Act. QPS invited the applicant to either limit the application to his personal information or pay an application fee and have the application processed under the RTI Act. QPS stated that the due date for the applicant's response was 26 February 2025.

28. The applicant replied to QPS³⁸ stating:

I appreciate your time in reviewing my application. I understand my application is not seeking IP and a fee will be applicable. However, I contacted your department to gain an understanding if the information I am after can be made available. I was instructed to select this category as I would be assigned case manager and could discuss with them prior to paying the fee. Can you please confirm if the information I am seeking can be made available?

29. QPS responded confirming the requested information was accessible under the RTI Act and providing a link for payment of the application processing fee. QPS also stated in this email '*Also, if you are seeking specific footage about your own vehicle, please advise the make, model and registration number of the vehicle as this will assist us with our searches*'.³⁹

30. The applicant replied on 24 February 2025, stating, '*Yes I would like to proceed. All additional information would be awesome! Thank you.*' He provided his vehicle details.

31. Two days later, the applicant paid the application fee.⁴⁰

32. The applicant submits his correspondence with QPS up until payment of the application fee should be considered as part of the scope of his application, with the effect that the request is broader than the scope set out the Original Request.⁴¹ In particular, the applicant submits the statement in his 24 February 2025 email '*[a]ll additional information would be awesome!*' has expanded the scope of his application to include '*all material held and relied upon in relation to the matter*'⁴² and, specifically:⁴³

- *Any video footage or still images captured contemporaneously with the alleged offence that relate to the detection event, including footage in which my vehicle appears in context (whether alone or alongside other vehicles);*
- *Any system-generated data, metadata, or logs associated with the capture, review, processing, or assessment of that footage or imagery;*

³⁶ Submission dated 10 February 2026.

³⁷ As required by section 54(2) of the IP Act.

³⁸ On 12 February 2025.

³⁹ On 13 February 2025.

⁴⁰ On 26 February 2025.

⁴¹ Submissions dated 5 June 2025, 14, 22 and 29 January and 10 February 2026.

⁴² Submission dated 29 January 2026.

⁴³ Submission dated 10 February 2026.

- *Any material relied upon, or capable of being relied upon, to form the basis of the infringement decision beyond the single image released.*

Findings

33. The application under review is the Original Request, which is taken to have been made under the RTI Act on 26 February 2025.⁴⁴
34. The Original Request is clear and unambiguous. It requests:
 - a certificate of calibration; and
 - data captured by the mobile speed detection device, being date, time and speed recorded within the specified time period.
35. QPS has disclosed the certificate of calibration and a log file of data captured by the speed detection device to the applicant, subject to redactions.⁴⁵
36. The applicant submits that QPS has not taken all reasonable steps to locate documents within the scope of his access application.⁴⁶
37. First, I have considered whether QPS can refuse access to video footage of the applicant's vehicle or any additional data or images captured by the device with respect to the detection event.
38. The applicant says that, *'while my request for video footage from the mobile speed detection device was not formally included in the original RTI application, it was communicated clearly to QPS via email correspondence during the valid processing period'*.⁴⁷ QPS did conduct searches for video footage.⁴⁸
39. QPS submit that its searches to locate relevant information consisted of:⁴⁹
 - targeted enquiries with its Road Policing and Regional Support Command and Road Safety Camera Office
 - searches of QPS's evidence file server for camera-detected offences, which is the repository for all camera-detected offences
 - searches of QPS' Integrated Image Processing System – which is the infringement notice application containing details of all camera-issued infringements; and
 - searches of the Sharepoint page used by QPS as a repository for copies of calibration/test reports.
40. QPS submits the extent of the data generated by the speed device at the time of detecting the applicant's infringement event was the data contained in the log file and the three images disclosed to the applicant.⁵⁰ QPS says *'[t]here are no new or additional images to provide'*.⁵¹

⁴⁴ On the date of payment of the application fee, pursuant to section 54(4) of the IP Act.

⁴⁵ On 27 March and 20 August 2025.

⁴⁶ ER Application and submission dated 10 February 2026.

⁴⁷ Submission dated 5 June 2025.

⁴⁸ Submission dated 27 January 2026.

⁴⁹ Search information provided to OIC on 6 June 2025 and submission dated 18 February 2026.

⁵⁰ QPS disclosed these documents to the applicant on 20 August 2025 and 29 January 2026.

⁵¹ Submission dated 18 February 2026.

41. QPS also provided OIC with copies of their internal inquiries regarding video footage. In response to an inquiry by QPS' RTI unit, QPS' Road Safety Camera Office confirmed:⁵²

...There are 3 x images per detection. One that shows the plate, one that shows a cropped/zoomed version of the plate, and a final overexposed shot used for adjudication purposes. A detection does not always lead to an infringement notice. Each detection is adjudicated by the Qld Revenue Office on its merits and if appropriate an infringement notice may be issued. Reasons for rejection can include – nil plate, false plate, cloned plate, stolen vehicle, obscured vehicle or adjudication rules not met.

*...
This system only captures still images – does not record any video.*

42. The applicant submits:⁵³

...Additionally, modern speed enforcement cameras are capable of capturing short video clips, no material has been provided explaining the technical operation of the relevant device, including whether it is capable of capturing video or multiple frames, and if so, how such data is stored, retained, or discarded.

43. The RTI Act provides that the Information Commissioner is not bound by the rules of evidence and may inform herself on any matter in any way she deems appropriate.⁵⁴ There is nothing before me which calls into question the accuracy of QPS' submissions to OIC about the data captured by the device, including that it did not capture video footage. I therefore accept QPS' submission in relation to its searches.

44. I consider QPS has provided an adequate explanation to account for the non-existence of video footage and any further data or images. I am satisfied that access to video footage and any further data or images associated with the capture of the infringement incident, other than the data and images already released, can be refused on the basis that it is non-existent.⁵⁵ In making this finding, I have had regard to the fact that QPS have disclosed to the applicant all of the documents listed in the Original Request (subject to redactions), as well as the three images of his vehicle captured by the speed device.

45. The second issue I have considered, is whether access to additional documents not already released are within the scope of the access application, including the following specific documents mentioned by the applicant:

- *'system-generated data, metadata or logs associated with the... review, processing or assessment of' the footage or images; or*
- *'material relied upon, or capable of being relied upon, to form the basis of the infringement decision'.*

46. QPS submit their correspondence with the applicant prior to the applicant paying the application fee did not expand the scope of the applicant's request beyond the Original Request and video footage.⁵⁶

47. The applicant submits that the onus was on QPS to seek clarification or refinement if it considered this request was ambiguous or overly broad.⁵⁷ He considers QPS' decision

⁵² On 2 June 2025.

⁵³ Submission dated 10 February 2026.

⁵⁴ Section 95(1)(c) of the RTI Act.

⁵⁵ Section 47(3)(e) and 52 of the RTI Act.

⁵⁶ Submission dated 27 January 2026.

⁵⁷ Submissions dated 29 January and 10 February 2026.

retrospectively narrowed the scope of his request *'after engagement on a broader basis'*.⁵⁸

48. I do not agree with the applicant's assertion that his 24 February 2025 email expanded the scope of his request to include *'all material held and relied upon in relation to the matter'*. I do not consider a reasonable person would interpret the statement *'[a]ll additional information would be awesome!'*, in the context in which it occurred, as seeking to expand the scope of the applicant's request to include additional documents, other than video footage. The statement occurs in the context of the applicant responding to a specific suggestion by QPS that he provide his vehicle details if he wanted to access specific footage of his own vehicle. I have also had regard to the clear and unambiguous wording of the Original Request which, given the way the applicant defined 'data', did not include video footage.⁵⁹ In those circumstances, I consider the most reasonable interpretation of this response is that it:
- acknowledges video footage was not included in the Original Request, and requests this footage; and
 - conveys the applicant's willingness to receive other documents he had not requested, but that QPS might choose to also release to him.
49. I acknowledge that the applicant says he believed he and QPS were still negotiating the scope of his access application at that stage, and that he expected QPS to continue discussing the scope of his request.⁶⁰ The applicant submits QPS has *'an obligation to take steps to ensure that discussions between themselves and the public are that of clear and complete understanding, anything short of this must be considered a fault of the QPS'*.⁶¹
50. I can see that some confusion may have been avoided had QPS responded to the applicant's 24 February 2025 email to confirm it would proceed to process the application as originally made, with the addition of video footage of his vehicle. However, for the reasons discussed,⁶² in the circumstances it was reasonable for QPS to conclude that the request was not for further documents other than to include footage of his vehicle. The Information Commissioner has previously found that, where there is no ambiguity in the scope of an access application, it is unnecessary for an agency to seek clarification about scope.⁶³
51. The scope of the access application does not include documents relating to the review, processing, assessment or infringement decision, other than the documents already disclosed. To the extent the applicant claims the scope includes documents other than video footage and the documents already disclosed, I find that these documents are outside the scope of his access application.
52. Given these findings, it is unnecessary for me to consider whether QPS has taken all reasonable steps to search for further documents.⁶⁴
53. OIC has informed the applicant that it is open to him to make a fresh access application for additional documents.⁶⁵ The RTI Act does not impose any time limit in which an

⁵⁸ Submission dated 10 February 2026.

⁵⁹ The applicant appears to have acknowledged this in his submissions dated 5 June 2025, as set out in paragraph [38] of this decision.

⁶⁰ Submissions dated 14 and 22 January 2026.

⁶¹ Submission dated 22 January 2026.

⁶² At paragraph [48].

⁶³ *Robbins and Brisbane North Regional Health Authority* (1994) 2 QAR 30 at [16]; cited in *Lonsdale* at [11].

⁶⁴ See *Cannon* at [16].

⁶⁵ On 3 December 2025.

applicant must bring an access application and, as such, a fresh application for further documents would be processed in the usual way.

54. The applicant also submits that:⁶⁶

- QPS acted unfairly and misled him by representing that video footage existed, and *'additional information would be supplied, through implied acceptance'*
- relying on QPS's representation, he paid the application fee
- he believes *'QPS has acted administratively and procedurally unfairly by later denying information existed or would be supplied'*; and
- *'If OIC accepts QPS's position without addressing that conduct, OIC would be accepting a decision-making process affected by procedural unfairness, including the retrospective narrowing of scope after engagement on a broader basis, and a failure to properly assess whether QPS took all reasonable steps to locate documents within scope.'*⁶⁷

55. There is nothing before me, aside from the applicant's assertions, to indicate that QPS told the applicant that video footage of his vehicle did, in fact, exist and would be supplied. I note in this respect that QPS' email to the applicant on 13 February 2025 requested his vehicle details to assist with their searches. This indicates QPS had not at that stage made the necessary enquiries to determine whether any such video footage did, in fact, exist.

56. To the extent the applicant has raised concerns about OIC *'accepting a decision-making process affected by procedural unfairness'*, I note that external review by the Information Commissioner is merits review—i.e. an administrative reconsideration of a case which can be described as stepping into the shoes of the original decision-maker to determine what is the correct and preferable decision. The Information Commissioner has the power to decide any matter in relation to the application that could have been decided by the agency, under the RTI Act.⁶⁸ In making this decision, I have made my own findings having considered all the material before me, including information and submissions provided by both review participants.

57. Some of the applicant's submissions have raised concerns about the conduct of QPS in processing his application. For completeness, I note that under section 113 of the RTI Act if the Information Commissioner is of the opinion that there is evidence on review of disciplinary matters, she must notify the principal officer. There is nothing before me on this review that enlivens this obligation.

DECISION

58. For the reasons set out above, I vary the reviewable decision⁶⁹ and find that:

- access to video footage or any further images of the applicant's vehicle and further data captured by the speed device can be refused on the basis that it is non-existent;⁷⁰ and
- other documents not already released fall outside the scope of the access application.

⁶⁶ Submissions dated 22 January and 10 February 2026.

⁶⁷ Submission dated 10 February 2026.

⁶⁸ Section 105(1)(b) of the RTI Act.

⁶⁹ Under section 110(1)(b) of the RTI Act.

⁷⁰ Sections 47(3)(e) and 52(1)(a) of the RTI Act.

59. I have made this decision under section 110 of the RTI Act as a delegate of the Information Commissioner, under section 145 of the RTI Act.



Stephanie Davis
Assistant Information Commissioner

Date: 24 March 2026