



Decision and Reasons for Decision

Citation:	<i>T62 and Queensland Police Service [2026] QICmr 77 (18 May 2026)</i>
Application Number:	318645
Applicant:	T62
Respondent:	Queensland Police Service
Decision Date:	18 May 2026
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - documents relating to investigation of applicant - subsequent investigation by Ethical Standards Command - exempt information - schedule 3, section 10(4) of the <i>Right to Information Act 2009 (Qld)</i> - section 67(1) of the <i>Information Privacy Act 2009 (Qld)</i> and section 47(3)(a) of the <i>Right to Information Act 2009 (Qld)</i>

DECISION

1. I set aside¹ the reviewable decision of the Queensland Police Service (**QPS**) and in substitution I find that:
 - a. the Remaining Documents² comprise exempt information under section 48 and schedule 3, section 10(4) of the *Right to Information Act 2009 (Qld)* (**RTI Act**) and are not subject to the exception in schedule 3, section 10(6) of the RTI Act; and
 - b. access to the Remaining Documents may therefore, be refused under section 67(1) of the *Information Privacy Act 2009 (Qld)* (**IP Act**) and section 47(3)(a) of the RTI Act.
2. This means that no further information is to be released to the applicant.
3. My reasons for the decision follow.



Katie Shepherd
Assistant Information Commissioner

Date: 18 May 2026

¹ Under section 123(1)(c) of the *Information Privacy Act 2009 (Qld)* (**IP Act**), as a delegate of the Information Commissioner under section 139 of the IP Act. On 1 July 2025 the *Information Privacy and Other Legislation Amendment Act 2023 (Qld)* amended the IP Act and *Right to Information Act 2009 (Qld)* (**RTI Act**). As the application was made before those amendments, the IP Act and RTI Act as in force prior to 1 July 2025 remain applicable in this review, in accordance with transitional provisions in chapter 8, part 3 of the IP Act and chapter 7, part 9 of the RTI Act. Accordingly, references to the IP Act and RTI Act in this decision and reasons for decision are to those Acts, which may be accessed at <<https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-014>> and <<https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013>> respectively.

² As defined in paragraph 8 of the reasons below.

REASONS FOR DECISION

Background

4. The applicant applied to QPS under the IP Act for access to various documents regarding an investigation in which he was identified as a suspect or person of interest, and which subsequently led to his arrest.³ QPS decided to refuse to deal with the application under section 59 of the IP Act and schedule 3, section 10(1)(d) of the RTI Act on the basis that all of the documents sought comprised exempt information the disclosure of which could reasonably be expected to result in a person being subjected to a serious act of harassment or intimidation.⁴
5. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of QPS's decision.⁵ OIC conveyed⁶ a preliminary view to the applicant that QPS was entitled to refuse to deal with his application. In response, the applicant did not accept the view, but clarified he was not seeking access to *'information about the complainant'* and was only seeking access to *'redacted procedural information that relates to myself'*.⁷ The review therefore, proceeded on the basis that the applicant had narrowed the scope of his application to procedural information relating to him personally.
6. OIC independently examined all documents located by QPS⁸ and identified 24 pages and one body worn camera (**BWC**) recording falling within the narrowed scope (**Procedural Documents**).⁹ QPS agreed to disclose the Procedural Documents to the applicant, subject to the redaction of certain information.¹⁰ OIC conveyed a view to the applicant that access to some information in the Procedural Documents could be refused as it comprised exempt or contrary to public interest information, or was irrelevant to the terms of his application.¹¹ The applicant submitted that further information should be disclosed and raised concerns that further BWC recordings should exist.¹²
7. At OIC's request, QPS conducted further searches and located two additional BWC recordings.¹³ QPS submitted its Ethical Standards Command (**ESC**) had *'advised that the Crime and Corruption Commission (CCC) had received a complaint from the applicant and forwarded it to ESC for investigation [and that] all documents subject of this application are being considered as part of the CCC/ESC investigation of the complaint'* and therefore, submitted that all remaining documents, including the two additional BWC recordings, comprise exempt information under schedule 3, section 10(4) of the RTI Act (**Prescribed Crime Body Exemption**).¹⁴
8. OIC conveyed¹⁵ a view to the applicant that the Prescribed Crime Body Exemption applied to the Procedural Documents and the two additional BWC recordings

³ Access application dated 5 April 2025.

⁴ Decision dated 21 May 2025. This is the *reviewable decision* for the purpose of the external review.

⁵ Application for external review dated 21 May 2025.

⁶ Letter to applicant dated 8 October 2026.

⁷ Submission dated 20 November 2025.

⁸ A copy of which were provided to OIC on 18 June 2025 following OIC's request dated 5 June 2026.

⁹ The Procedural Documents include documents relating to the search warrant and application, case diary log, occurrence report, notebook entries and a BWC recording of an interaction with the applicant.

¹⁰ Submissions dated 19 December 2025 and 13 February 2026. As a result of QPS's agreement to disclose certain information within the Procedural Documents, the review proceeded on the basis of determining the issue of access under section 67(1) of the IP Act instead of determining the refusal to deal issue under section 59 of the IP Act.

¹¹ Letter to applicant dated 16 February 2026.

¹² Submission dated 16 March 2026.

¹³ Email to QPS dated 19 March 2026. QPS provided the two BWC recordings to OIC on 10 April 2026.

¹⁴ Submission dated 10 April 2026.

¹⁵ Letter dated 21 April 2026.

(Remaining Documents), however, the applicant maintained his position that access should be granted.¹⁶

9. The issue for determination in this review is whether access may be refused to the Remaining Documents on the basis that the Prescribed Crime Body Exemption applies to the Remaining Documents, including whether the exception to the exemption, in schedule 3, section 10(6) of the RTI Act, applies to any of the information.
10. In making this decision, I have taken into account evidence, submissions, legislation and other material as set out in these reasons (including footnotes). I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information¹⁷ and have acted in accordance with section 58(1) of the HR Act.¹⁸

Relevant law

11. Under the IP Act, an individual has the right to access their personal information¹⁹ subject to certain limitations, including grounds for refusing access, which are set out in the IP Act and RTI Act.²⁰ It is Parliament's intention that the RTI Act is to be administered with a pro-disclosure bias²¹ and that those grounds for refusing access to information are to be interpreted narrowly.²²
12. Relevantly, access may be refused to exempt information.²³ Schedule 3 of the RTI Act sets out the categories of exempt information, the disclosure of which Parliament has determined would be contrary to the public interest²⁴ including the Prescribed Crime Body Exemption which provides:

10 Law enforcement or public safety information

...

(4) Also, information is exempt information if it consists of information obtained, used or prepared for an investigation by a prescribed crime body, or another agency, in the performance of the prescribed functions of the prescribed crime body.

...

(6) However, information is not exempt information under subsection (4) or (5) in relation to a particular applicant if—

- (a) it consists of information about the applicant; and*
- (b) the investigation has been finalised.*

...

*(9) In this section—
corruption functions see the Crime and Corruption Act 2001, section 33.*

...

*prescribed crime body means—
(a) the Crime and Corruption Commission; or*

...

*prescribed functions means—
(a) in relation to the Crime and Corruption Commission—the crime function, the intelligence functions and the corruption functions...*

¹⁶ Submission dated 24 April 2026.

¹⁷ Section 21 of the HR Act.

¹⁸ OIC's approach to the HR Act set out in this paragraph has been considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23].

¹⁹ Section 43 of the IP Act.

²⁰ Section 67(1) of the IP Act and section 47 of the RTI Act.

²¹ Section 44 of the RTI Act.

²² Section 47(2)(a) of the RTI Act.

²³ Section 47(3)(a) of the RTI Act.

²⁴ Section 48(2) of the RTI Act.

13. The scope of the Prescribed Crime Body Exemption is well-settled.²⁵ Information will be subject to the Prescribed Crime Body Exemption if:
- the information was obtained, used or prepared for an investigation
 - the investigation was conducted by a prescribed crime body, or another agency, in the performance of the prescribed functions of the prescribed crime body; and
 - the exception to the exemption does not apply.
14. The exception to the Prescribed Crime Body Exemption has two requirements:
- a. The information must be about the applicant; and
 - b. The investigation must be finalised.
15. The first limb of the exception has consistently been found to apply to information ‘*about*’ the subject officer of a finalised investigation, as distinguished from information pertaining to a complainant.²⁶
16. The exemptions in schedule 3 to the RTI Act – including the Prescribed Crime Body Exemption – do not require or allow consideration of public interest factors. This is because Parliament has determined that disclosure of these categories of information would be contrary to the public interest.²⁷ Accordingly, if information falls within one of the categories of exempt information in schedule 3, a conclusive presumption exists that its disclosure would be contrary to the public interest, and no further consideration is permitted.²⁸
17. External review by the Information Commissioner is merits review.²⁹ This process involves an administrative reconsideration of a case which can be described as ‘*stepping into the shoes*’ of the primary decision maker to determine the correct and preferable decision³⁰ based on the information that is available, at the time, to the Information Commissioner.³¹ In conducting merits review, the Information Commissioner has the power to review any decision that has been made by an agency in relation to the access application concerned, and can decide any matter that could have been decided by the agency.³²

Submissions

18. In summary, the applicant submits:³³
- the Procedural Documents disclosed to him indicate that the warrant was sworn four days after the search took place
 - he considers there is ‘*an overwhelming public interest in disclosing documents that prove a citizen was convicted of non-compliance with a legally non-existent warrant*’

²⁵ *Springborg and Crime and Misconduct Commission; RZ (Third Party), BX (Fourth Party), Director-General of the Department of Justice and Attorney-General (Fifth Party)* (2006) 7 QAR 77 (**Springborg**) at [44]. *Springborg* analysed provisions in the repealed *Freedom of Information Act 1992* (Qld) which are the material equivalents of those contained in the *Crime and Corruption Act 2001* (Qld) (**CC Act**).

²⁶ *G8KPL2 and Department of Health* (Unreported, Queensland Information Commissioner, 31 January 2011) at [25]-[33]; *Darlington and Queensland Police Service* [2014] QICmr 14 (11 April 2014) at [18]-[22] and *W52 and Crime and Corruption Commission* [2021] QICmr 57 (28 October 2021) at [44]-[48].

²⁷ Section 48(2) of the RTI Act.

²⁸ *Dawson-Wells v Office of the Information Commissioner & Anor* [2020] QCATA 60 at [17].

²⁹ *O'Connor v Department of Child Safety, Seniors and Disability Services* [2024] QCATA 34 at [2].

³⁰ *M39 and Queensland Police Service* [2023] QICmr 66 (8 December 2023) at [12].

³¹ *Palmer and Townsville City Council* [2019] QICmr 43 at [21].

³² Section 118(1) of the IP Act.

³³ Submission dated 24 April 2026.

- during the search, the Detective Senior Constable made a statement regarding a private matter which he considers *'is evidence of prior surveillance or unauthorized access to private information before any legal warrant was active'*
- the exemption *'should not be used to suppress evidence of a wrongful conviction or an illegal search'*; and
- the *'public interest in the integrity of the justice system and the lawfulness of police entry into private homes outweighs the QPS's desire for administrative secrecy.'*

19. QPS submitted:³⁴

... on 27 March 2026 ... an officer from QPS Ethical Standards Command (ESC) ... advised that the Crime and Corruption Commission (CCC) had received a complaint from the applicant and forwarded it to ESC for investigation... The officer confirmed that all documents subject of this application are being considered as part of the CCC/ESC investigation of the complaint.

20. On 15 May 2026, QPS's RTI Officer confirmed that ESC *'has advised today that complaint [reference number] is still open and investigations are still currently being undertaken'* and that they were *'unable to predict a finalisation date however the applicant/complainant will receive an outcome letter once the matter has been finalised.'*³⁵

Findings

21. Based on the information that has been provided by QPS, as outlined in paragraph 18 above, I accept that:

- a. the Crime and Corruption Commission referred the applicant's complaint to the QPS ESU to deal with
- b. the QPS ESU in undertaking the investigation is acting in accordance with the principle of devolution under the CC Act in performing its corruption function, which includes investigating alleged police misconduct; and
- c. the QPS ESU has obtained a copy of the Remaining Documents for the purpose of conducting its investigation.

22. Accordingly, I am satisfied that the requirements of the Prescribed Crime Body Exemption are met.

23. For the exception in schedule 3, section 10(6) of the RTI Act to apply, the investigation must be finalised and the information must be about the applicant. Both requirements must be satisfied in order for the exception to be enlivened. In this case, QPS has confirmed that the investigation is ongoing.³⁶ As the investigation is not yet finalised, I am satisfied the exception to the exemption cannot apply. Accordingly, I do not consider it is necessary for me to make a finding on the other limb of the exception, i.e., whether the Remaining Documents are about the applicant.³⁷

24. The applicant's submissions raise concerns about the validity of the warrant and comments made during that search. Those are not matters which are relevant to consider in applying the Prescribed Crime Body Exemption nor the exception to that exemption. The applicant also made submissions about the accountability of QPS and

³⁴ Submission dated 10 April 2026.

³⁵ Submission dated 15 May 2026.

³⁶ See paragraphs 19-20 of these reasons.

³⁷ I observe however, that the applicant may consider reapplying to QPS for access to the Remaining Documents once the investigation is finalised. However, any fresh application would be subject to the provisions in the RTI Act, including grounds for refusing access to information.

the integrity of the justice system. While I acknowledge those issues are of significance to the applicant in the context of his dealings with QPS, I am unable to take public interest factors into account in applying the Prescribed Crime Body Exemption for the reasons set out in paragraph 16 above.

25. In conclusion, I find that access to the Remaining Documents may be refused under section 67(1) of the IP Act and section 47(3)(a) of the RTI Act on the basis that they comprise Exempt Information under the Prescribed Crime Body Exemption.
26. Paragraphs [4] to [25] above are the reasons for my decision set out at paragraph [1].