



## Decision and Reasons for Decision

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**Citation:** *Wolfe and Queensland Police Service* [2016] QICmr 27 (30 June 2016)

**Application Number:** 312308

**Applicant:** Wolfe

**Respondent:** Queensland Police Service

**Decision Date:** 30 June 2016

**Catchwords:** ADMINISTRATIVE LAW - INFORMATION PRIVACY ACT - REFUSAL OF ACCESS - EXEMPT INFORMATION - information relating to law enforcement methodology - whether the information comprises exempt information - whether disclosure of the information would prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law - schedule 3, section 10(1)(f) of the *Right to Information Act 2009* (Qld) - whether access may be refused under sections 47(3)(a) and 48 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - INFORMATION PRIVACY ACT - REFUSAL OF ACCESS - EXEMPT INFORMATION - witness information relating to a warrant being issued - whether the information comprises exempt information - whether disclosure of the information would prejudice the effectiveness of a system or procedure for the protection of persons - schedule 3, section 10(1)(i) of the *Right to Information Act 2009* (Qld) - whether access may be refused under sections 47(3)(a) and 48 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - INFORMATION PRIVACY ACT - REFUSAL OF ACCESS - EXEMPT INFORMATION - transcripts of interviews relating to a police disciplinary investigation - whether the information comprises exempt information - whether the information was given in the course of an investigation of a contravention or possible contravention of the law and under compulsion under an Act that abrogated the privilege against self-incrimination - schedule 3, section 10(3) of the *Right to Information Act 2009* (Qld) - whether access may be refused under sections 47(3)(a) and 48 of the *Right to Information Act 2009* (Qld)

**ADMINISTRATIVE LAW - INFORMATION PRIVACY ACT - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - report of QPS investigation of allegations and complaints made by applicant - personal information of applicant - personal information of individuals other than applicant - whether disclosure would, on balance, be contrary to the public interest - sections 47(3)(b) and 49 and schedule 4 of the *Right to Information Act 2009* (Qld)**

**ADMINISTRATIVE LAW - INFORMATION PRIVACY ACT - REFUSAL OF ACCESS - UNLOCATABLE AND NONEXISTENT DOCUMENTS - whether the agency has taken all reasonable steps to locate the documents but the documents cannot be located or do not exist - sections 47(3)(e) and 52 of the *Right to Information Act 2009* (Qld)**

**ADMINISTRATIVE LAW - INFORMATION PRIVACY ACT - REFUSAL OF ACCESS - OTHER ACCESS AVAILABLE - access refused to documents available in a public library and online - whether the applicant can reasonably access the documents in a public library - whether access may be refused under sections 47(3)(f) and 53(b) of the *Right to Information Act 2009* (Qld)**

## REASONS FOR DECISION

### Summary

1. The applicant applied to the Queensland Police Service (**QPS**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) for documents that would show details regarding the use of the applicant's name to access QPRIME records<sup>1</sup> and a particular QPS Ethical Standards Command Report.
2. QPS<sup>2</sup> located 684 pages of responsive information and decided to:
  - grant access to 107 pages in full and 447 pages in part; and
  - refuse access to the remainder of the 447 pages and 130 pages in full.
3. The decision was affirmed on internal review.
4. The applicant applied to the Office of the Information Commissioner (**OIC**) for an external review.
5. On external review, some of the information considered in QPS's decisions was released, and some additional information located following searches requested by OIC was also released. For the reasons set out below, I vary QPS's decision and find that access to the remaining information in issue may be refused.<sup>3</sup>

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<sup>1</sup> QPRIME stands for Queensland Police Records and Information Management Exchange and is the database used to capture and maintain records for all police incidents in Queensland.

<sup>2</sup> Through the Public Safety Business Agency (**PSBA**), which provides corporate and business services on behalf of QPS.

<sup>3</sup> Section 67(1) of the IP Act and section 47(3)(a), (b), (e) and (f) of the *Right to Information Act 2009* (Qld) (**RTI Act**).

## Background

6. Significant procedural steps relating to the external review are set out in the Appendix to this decision.

## Reviewable decision

7. The decision under review is QPS's internal review decision dated 28 November 2014.

## Evidence considered

8. The evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including footnotes and Appendix).
9. The applicant provided numerous submissions to OIC.<sup>4</sup> OIC explained to the applicant during the review that certain concerns raised are beyond OIC's external review jurisdiction under the IP Act and did not substantively address issues relevant to the review.<sup>5</sup> In particular, the applicant provided submissions relating to QPS's handling of the applicant's complaints.
10. I have carefully considered all of the applicant's submissions. In this decision, I am only able to examine the applicant's submissions to the extent they are relevant to the issues for determination on external review.

## Information in issue

11. The applicant sought access to documents in the following terms:

*QPRIME*

*Particulars of all occasions when **QPRIME** was accessed for any record **IN MY NAME** ... between 31 January 2009 and 31 February 2014*

*Ethical Standards Command*

*I request a copy of the Qld Police Service Ethical Standards Command Investigation/Report carried out on my behalf **IN MY NAME** between 2000 and 2001*

12. A substantial amount of information has released to the applicant, both pursuant to QPS's decisions and during the external review.<sup>6</sup>
13. The information remaining in issue can be broadly categorised as a report (and the various materials considered in and annexed to the report) provided to QPS Ethical Standards Command, responding to several ongoing complaints raised by the applicant (collectively referred to as the **Remaining Information**). The Remaining Information comprises information either supplied to QPS or obtained by it in the course of its investigations. In general terms, it comprises:
  - correspondence, file notes and reports prepared by the applicant, QPS and other parties considered as part of investigations into complaints

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<sup>4</sup> By email to OIC on 23 May 2015, 10 June 2015, 20 September 2015, 3 October 2015, 4 May 2016, 7 June 2016 and 23 June 2016.

<sup>5</sup> For example, the applicant raised concerns about the condition of copies of documents released during the external review process, and that personal information in documents released during the external review is incorrect and misleading.

<sup>6</sup> Of the 684 pages considered in QPS's decisions, 107 pages in full and 447 pages in part were released to the applicant. On external review, QPS released most of a 208 page QPRIME report on 27 May 2015 and a further 229 full and 57 part pages on 21 January 2016.

- transcripts of interviews and statements
- medical references and documents relating to a warrant to apprehend and remove
- criminal offence reports; and
- Senate Hansard reports.

### Issues for determination

14. The issues remaining for determination in this review are whether access to the Remaining Information can be refused on the basis that:
- it comprises exempt information
  - its disclosure would, on balance, be contrary to the public interest
  - other access is available; or
  - there is a reasonable basis to be satisfied that additional documents the applicant contends exist are nonexistent.
15. I will deal with each of these matters in turn.

### Relevant law

16. Under the IP Act, an individual has a right to be given access to documents of an agency to the extent the documents contain the individual's personal information. However, this right is subject to limitations, including grounds for refusal of access.<sup>7</sup>
17. Access may be refused to exempt information<sup>8</sup> and contrary to public interest information.<sup>9</sup> These grounds for refusal are examined below.

### Exempt information - Prejudice lawful method information

#### Relevant law

18. Schedule 3, section 10(1)(f) of the RTI Act provides that information is exempt information if 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.

#### Findings

19. The Remaining Information includes references<sup>10</sup> to a QPS officer providing details of an internal unit's operations with respect to criminal history checks against individuals.
20. I am satisfied that this information concerns the way in which QPS conducts its investigations including intelligence gathering techniques. I consider disclosure of

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<sup>7</sup> Section 67(1) of the IP Act provides that an agency may refuse access to a document in the same way and to the same extent it could refuse access to the document under section 47 of the *Right to Information Act 2009* (Qld) (RTI Act) were the document to be the subject of an access application under the RTI Act.

<sup>8</sup> Sections 47(3)(a) and 48 and schedule 3 of the RTI Act.

<sup>9</sup> Sections 47(3)(b) and 49 and schedule 4 of the RTI Act.

<sup>10</sup> For sake of brevity, this decision does not set out which pages of the Remaining Information contain or comprise information subject to this ground of refusal or the subsequent grounds of refusal considered in this decision. However, these details have been provided, on a page by page basis, to both the applicant and QPS in the preliminary views issued by OIC to them during the external review.

this type of information would reveal law enforcement methodology<sup>11</sup> used by QPS during the course of its investigations. I have reviewed the exceptions to this exemption,<sup>12</sup> and do not consider that they apply. Given these considerations, I am satisfied that access to this information can be refused on the basis that it is exempt information of this nature.

## Exempt information – system or procedure for the protection of persons

### Relevant law

21. Information is exempt if it is reasonable to expect that disclosing the information could prejudice a system or procedure for the protection of persons, property or the environment.<sup>13</sup> This exemption applies if the following requirements are met:

- there exists an identifiable system or procedure
- the system or procedure is for the protection of persons, property or environment; and
- disclosure of the information could reasonably be expected to prejudice that system or procedure.

### Findings

22. Certain pages in the Remaining Information contain evidence witnesses provided in relation to a warrant of apprehension that was issued pursuant to the now repealed *Mental Health Act 1974* (Qld).

23. The Information Commissioner has previously acknowledged that the issuing of similar orders under the current *Mental Health Act 2000* (Qld) involves a system or procedure for the protection of persons.<sup>14</sup> While the system for the protection of persons under the current Act<sup>15</sup> is, to a degree, different to that under the 1974 Act,<sup>16</sup> I consider that disclosing informant details and witness information provided pursuant to the previous scheme could, nevertheless, reasonably be expected to prejudice the effectiveness of subsequent schemes, including the current scheme,<sup>17</sup> on the basis that future informants and witnesses may be reluctant to come forward to give information, for fear of it being released at some future time.

24. In this case, the warrant was issued pursuant to an identifiable system and I am satisfied that the procedure for the issuing of the warrant was both an essential and necessary component designed to protect persons experiencing mental health issues or be unwell or a danger to themselves or others.

25. I consider that any divergence from such a system would place undue stress and constraint on a system that relies, to a significant degree, on the ability of the community and professionals to provide information in an uninhibited and proactive manner without fear that such information would be routinely disclosed. Given these

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<sup>11</sup> *Gold Coast Bulletin and Queensland Police Service* (Unreported, Queensland Information Commissioner, 23 December 2010) found that police rosters comprised a 'method or procedure' as rosters provide specific and detailed knowledge of policing resources and tactical and operational activities, not readily available through other means. Here, I am satisfied that the same analysis can be applied to parts of the Remaining Information, given disclosure of this information would reveal QPS strategies in conducting its investigations, and this information is not readily available.

<sup>12</sup> Schedule 3, section 10(2) of the RTI Act.

<sup>13</sup> Schedule 3, section 10(1)(i) of the RTI Act.

<sup>14</sup> *ROSK and Brisbane North Regional Health Authority; Others (Third Parties)* (Unreported, Queensland Information Commissioner, 18 November 1996).

<sup>15</sup> The *Mental Health Act 2000* (Qld).

<sup>16</sup> And also that under the *Mental Health Act 2016* (Qld), which is yet to commence.

<sup>17</sup> Schedule 3, section 10(1)(i) of the RTI Act.

considerations, I find that access to this witness information can be refused on the ground that it is exempt information of this type.

### Exempt information – privilege against self-incrimination

#### Relevant law

26. Under schedule 3, section 10(3) of the RTI Act, information given in the course of an investigation of a contravention or possible contravention of the law and under compulsion under an Act that abrogated the privilege against self-incrimination will be exempt from disclosure.<sup>18</sup>

#### Findings

27. The relevant information is a transcript of an interview with a QPS officer in the course of a police disciplinary investigation regarding a complaint by the applicant about the officer's conduct (**Transcript**).
28. In Australia, there exists a rule of law which, simply put, states that a person does not have to answer a question put to them in an investigation, if to do so would incriminate the person. This rule is known as the privilege against self-incrimination and is part of the common law.
29. There are some occasions where Parliament considers that it is necessary to override the common law privilege against self-incrimination, and compel a person to answer questions. On those occasions, Parliament will include specific powers in an Act to override the privilege. When information is gathered as a result of such power, the RTI Act acknowledges that the person has been compelled to answer questions, and allows for that information to be considered exempt information, and therefore refused.
30. In the case of QPS officers who are interviewed as a result of a complaint about their conduct, the Supreme Court of Queensland has ruled<sup>19</sup> that, by operation of the *Police Service Administration Act 1990* (Qld) (**PSA Act**), the *Police Service (Discipline) Regulations 1990* (Qld) (**PS Regulation**) and QPS Policy and Directions,<sup>20</sup> where a QPS officer is directed to answer questions under these instruments, the privilege against self-incrimination is overridden and officers must answer questions put to them. Thus, information given in such circumstances is exempt under the RTI Act.
31. The Transcript contains reference to the officer being given a direction to answer questions put to him. I am satisfied that this information is exempt, as a direction was given to the officer<sup>21</sup> to answer questions and therefore the information was given under compulsion in abrogation of the privilege against self-incrimination.

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<sup>18</sup> Schedule 3, section 10(3) of the RTI Act.

<sup>19</sup> *Nugent v Ian Stewart (Commissioner of Police) & Anor* [2015] QSC 338.

<sup>20</sup> Under section 4.9 of the PSA Act and 18.2.3 of the *QPS Human Resource Management Manual* and section 9(1)(c) of the PS Regulation.

<sup>21</sup> Under section 4.9 of the PSA Act and 18.2.3 of the *QPS Human Resource Management Manual*, and the officer was reminded that he was bound to comply with the Direction. The officer was also informed that refusal to comply with the Direction would mean that he was committing a breach of section 9(1)(c) of the PS Regulation and such a breach provides grounds for disciplinary action. The officer indicated understanding of the Direction and accordingly, would not answer questions voluntarily, but would answer under protest and duress.

### Other access available

32. Sections 47(3)(f) and 53(a) of the RTI Act allow an agency to refuse access to a document that is reasonably available under another Act or administrative arrangement, whether or not the access is subject to a fee or charge.
33. I am satisfied that access to documents which comprise Senate Hansard reports from 1997 and 1999 is reasonably available by means other than an access application under the IP Act,<sup>22</sup> for example in public libraries and online.<sup>23</sup> Consequently, I find that access to these reports can be refused in full on the basis that other access is available.

### Contrary to public interest information

#### Relevant law

34. In deciding the public interest, the RTI Act requires<sup>24</sup> these steps to be followed:
- identify any irrelevant factors and disregard them
  - identify relevant public interest factors favouring disclosure and nondisclosure
  - balance the relevant factors favouring disclosure and nondisclosure; and
  - decide whether disclosing the information would, on balance, be contrary to the public interest.

#### Findings

35. No irrelevant factors arise in the circumstances of this case.
36. I will now consider the relevant factors favouring disclosure and nondisclosure of the remainder of the Remaining Information.<sup>25</sup>

#### Factors favouring disclosure

##### *Applicant's own personal information*

37. Some of the Remaining Information comprises the applicant's personal information, giving rise to a factor favouring disclosure.<sup>26</sup> I recognise the importance of providing individuals with access to their personal information held by government, and afford this factor moderate weight. I also note that the applicant has been provided with a significant amount of information.
38. However, where the personal information about the applicant is inextricably linked with the personal information of others, it is not possible to release certain information about the applicant without releasing information about others. Accordingly, while there is a public interest in releasing the applicant's personal information, I consider that protection of the personal information and privacy of others carries significantly more weight in relation to this information and must be balanced accordingly.

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<sup>22</sup> Pursuant to section 53 of the RTI Act which states: *For section 47(3)(f), other access if available to a document if – (b) the document is reasonable available for public inspection under the Public Records Act 2002 or in a public library.*

<sup>23</sup> At <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query%3DId%3A%22chamber/hansards/1997-06-25/0000%22>; and <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query%3DId%3A%22chamber/hansards/1999-03-11/0000%22>.

<sup>24</sup> Section 49(3) of the RTI Act.

<sup>25</sup> That is, the Remaining Information other than that which I have found constitutes exempt information or information to which other access is available, as set out above.

<sup>26</sup> Schedule 4, part 2, item 7 of the RTI Act.

### **Transparency and accountability**

39. I acknowledge a general public interest in promoting access to government-held information. I also acknowledge that by revealing information about QPS's investigation, disclosure could advance the public interest in enhancing the transparency of QPS's investigation processes, its accountability for the outcomes of those processes,<sup>27</sup> and provide the applicant with background or contextual information informing same.<sup>28</sup>
40. QPS has, however, released to the applicant the majority of the documents except for primarily the names and personal details of other persons, and therefore the need for government transparency, accountability and the provision of background information has been substantially satisfied. In these circumstances, I consider that release of this information would not further advance these public interest factors to any significant degree, and accordingly I give these factors in favour of disclosure low weight.

### **Factors favouring nondisclosure**

#### **Personal information and privacy**

41. If disclosing information could reasonably be expected to prejudice the protection of an individual's right to privacy, it will be relevant to consider this public interest factor favouring nondisclosure.<sup>29</sup> The RTI Act also provides that if disclosing information will disclose the personal information of another person, disclosure could reasonably be expected to cause a public interest harm.<sup>30</sup> I note that generally, the balance of the Remaining Information includes:
- names, titles and signatures of police officers, government officers and private citizens
  - opinions and statements of government employees and private citizens; and
  - criminal histories of other persons.
42. Names, signatures and opinions can generally be classified as personal information. Ordinarily, this type of personal information of government officers may be disclosed, if it is considered to be routine work information.<sup>31</sup> However, there will be circumstances where such information is not routine work information. In this case, although names and personal details appear in a workplace context, they are not related wholly to routine day-to-day work activities. In this case, for example, information appears in a context comprising allegations about the conduct of certain police officers who were the subject of disciplinary action but were not charged in relation to any criminal offence. In my view, this is not routine personal work information but rather personal information.
43. I have also taken into account the fact that some of the Remaining Information that I consider to be the personal information of others may be generally known to the applicant. I accept that this reduces the weight of these factors favouring nondisclosure to some degree. However, I consider private citizens and government officers alike have a legitimate expectation that assisting police with an investigation

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<sup>27</sup> Schedule 4, part 2, item 1 of the RTI Act.

<sup>28</sup> Schedule 4, part 2, item 11 of the RTI Act.

<sup>29</sup> Schedule 4, part 3, item 3 of the RTI Act.

<sup>30</sup> Schedule 4, part 4, section 6 of the RTI Act.

<sup>31</sup> *Underwood and Department of Housing and Public Works* (Unreported, Queensland Information Commissioner, 18 May 2012) at [60].



will not of itself dilute privacy considerations. I am satisfied that disclosing personal information of the nature and kind in issue would constitute an unwarranted intrusion into the privacy of others. Consequently, I consider that the personal information and privacy of others warrants significant protection and I afford these factors in favour of nondisclosure considerable weight.

44. I also acknowledge that with respect to the opinions and criminal history of persons other than the applicant, there is a clear public interest in ensuring that the government protects privacy and treats with respect the personal information it collects from members of the community. I consider that if this information were to be disclosed, it would reveal information about the relevant individuals' personal spheres and therefore, could reasonably be expected to prejudice their right to privacy.<sup>32</sup> In the circumstances, I afford these factors significant weight in favour of nondisclosure.

### ***Flow of information***

45. Certain documents within the Remaining Information contain information:
- about the conduct of QPS officers who were the subject of disciplinary action
  - provided by witnesses in the course of a disciplinary investigation; and
  - associated with an application for a warrant under the MH Act.
46. I am satisfied that individuals who have supplied information in a workplace investigation into disciplinary matters do so on the understanding that such information will only be used for that particular purpose. I am of the view that if information of this nature was to be routinely released, individuals and witnesses would be less inclined to provide a detailed account of their experiences and observations, and would be reluctant to fully participate in investigations of this character in the future. I also note that the information in question contains serious unsubstantiated allegations about various individuals.
47. I consider that disclosing information provided by individuals who participated in an investigation could reasonably be expected to erode confidence in the process and prejudice the flow of information from individuals who would otherwise provide relevant information. This is particularly so given that there is no requirement for QPS to disclose the information to the applicant in accordance with other statutory disclosure provisions.
48. Given the sensitivity of the information provided and the public interest in such information being provided freely in the future, I am satisfied that this nondisclosure factor is deserving of considerable weight in this case.

### **Balancing the relevant factors favouring disclosure and nondisclosure**

49. I have considered factors in favour of disclosure and whether disclosing the Remaining Information in question could reasonably be expected to enhance QPS's accountability and inform the community of its operations and investigative practices.<sup>33</sup> In considering factors relating to transparency, I have taken into account the serious and sensitive nature of the information provided by persons other than the applicant and whether disclosure could reasonably be expected to prejudice the protection of individuals' personal information and privacy.<sup>34</sup> I am also mindful that a

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<sup>32</sup> Schedule 4, part 3, item 3 and part 4, item 6 of the RTI Act.

<sup>33</sup> Schedule 4, part 2, items 1, 7 and 11 of the RTI Act.

<sup>34</sup> Schedule 4, part 3, item 3 and part 4, item 6 of the RTI Act.

considerable amount of additional information has been disclosed to the applicant during this review.

50. I consider that the public interest in protecting the privacy of individuals, including distinguishing between personal information and non-routine work information of government employees, is greater than the public interest in enhancing QPS's accountability. I consider that disclosing statements and opinions could detrimentally inhibit the flow of information to QPS. I also consider that disclosing information relating to unsubstantiated allegations would be detrimental to both the individuals involved and QPS's practices more broadly.
51. For these reasons, I find that disclosure of the remainder of the Remaining Information would, on balance, be contrary to the public interest.<sup>35</sup>

## Nonexistent documents

### *Relevant law*

52. Access to a document may be refused if the document is nonexistent.<sup>36</sup> A document is nonexistent if there are reasonable grounds to be satisfied the document does not exist.<sup>37</sup>
53. To be satisfied that documents are nonexistent, an agency must rely on their particular knowledge and experience and have regard to a number of key factors.<sup>38</sup> When proper consideration is given to relevant factors, it may not be necessary for searches to be conducted. However, if searches are relied on by an agency 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, as the search and enquiry process an agency will be required to undertake will depend on which of the key factors are most relevant in the particular circumstances.

### *Findings*

54. In the application for external review,<sup>39</sup> the applicant submitted:

*I simply cannot believe Qprime was not accessed by anyone for records bearing the name [the applicant's name] between 31/1/09 and 31/2/14, given the Verdict and Judgement of the case finalised on 18 February 2014 when costs were awarded (to) me.*

55. In response to the applicant's concerns that further documents relating to the accessing of QPRIME should exist, but had not been located by QPS, OIC requested QPS undertake further searches of QPRIME to cover the period 31 January 2009 to 28 February 2014.

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<sup>35</sup> Sections 47(3)(b) and 49 of the RTI Act.

<sup>36</sup> Section 67(1) of the IP Act and sections 47(3)(e) and 52(1)(a) of the RTI Act.

<sup>37</sup> Section 52(1)(a) of the RTI Act.

<sup>38</sup> *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) [2009] regarding section 28A of the repealed *Freedom of Information Act 1992* (Qld), given the requirements of that section are replicated in section 52 of the RTI Act. The key factors include: 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.

<sup>39</sup> Dated 17 December 2014.

56. As a result of that search, QPS provided OIC with a copy of a 208 page document called a QPRIME Activity Report (**Report**) together with the following explanation of how searches of QPRIME are undertaken to determine whether a particular individual's records have been accessed during a specified period of time:

*...the searches of QPrime are conducted by extracting records specifically relating to the RTI Applicant from QPrime, including addresses, drivers licence number, vehicle registration numbers, contact numbers, names (including aliases), and Niche Identifying Numbers. These extracted details are then entered into an internal Queensland Police Service program called 'Eyeball' which compares that data to audit records that are stored in relation to QPrime user activity. The subsequent results returned are then exported to the QPrime Activity Report.*

57. A copy of the Report was sent to the applicant by QPS, subject to the removal of information about another individual concerning unrelated QPS matters<sup>40</sup> and personal information about individuals other than the applicant.
58. The Report shows an audit history of access to information in QPRIME which concerns the applicant. I am satisfied that the parameters entered by QPS to produce the Report are appropriately targeted and capture the information sought by the applicant. I am also satisfied that, in creating the Report, all reasonable steps available to QPS to locate documents responsive to this aspect of the applicant's application were taken. In these circumstances, I consider that creation of the Report satisfies this aspect of the applicant's application, and that no further documents responsive to this aspect of the applicant's request exist.
59. Accordingly, in relation to any further documents relating to accessing QPRIME, having reviewed all of the material before me, and in view of the nature of the searches undertaken on external review, I find that:
- QPS has taken all reasonable steps to locate relevant documents
  - there is a reasonable basis to be satisfied that no further documents exist; and
  - access to further documents may therefore be refused under sections 47(3)(e) and 52(1)(a) of the RTI Act.

## DECISION

60. For the reasons set out above, I vary QPS's decision and find that access to the Remaining Information may be refused.<sup>41</sup>
61. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

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**A Rickard**  
**Acting Assistant Information Commissioner**

**Date: 30 June 2016**

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<sup>40</sup> Under section 88 of the IP Act, information that is irrelevant to the terms of an application may be deleted prior to disclosure. The applicant did not raise the deletion of this information in any of the applicant's subsequent submissions to OIC.

<sup>41</sup> Under section 67(1) of the IP Act and section 47(3)(a), (b), (e) and (f) of the RTI Act.

**APPENDIX****Significant procedural steps**

<b>Date</b>	<b>Event</b>
21 August 2014	QPS received the applicant's valid access application.
30 October 2014	QPS issued its decision to the applicant.
10 November 2014	QPS received the applicant's application for internal review.
28 November 2014	QPS issued its internal review decision to the applicant.
<b>17 December 2014</b>	<b>OIC received the application for external review of QPS's decision.</b>
19 December 2014	OIC notified QPS that the external review application had been received and requested it provide relevant procedural documents by 8 January 2015.
22 December 2014	OIC received the requested procedural documents from QPS.
22 January 2015	OIC notified the applicant and QPS that it had accepted the external review application. OIC requested QPS provide a copy of the information considered in its internal review decision by 5 February 2015.
3 February 2015	OIC received the requested information from QPS.
1 May 2015	OIC requested that QPS undertake a further search for information and provide OIC with a copy of its search record by 15 May 2015 to enable OIC to assess the issue of sufficiency of search.  OIC also requested that QPS advise whether it was prepared to give the applicant access to any information located as a result of the search by 15 May 2015.
21 May 2015	QPS advised OIC it had undertaken the further searches requested and had located the QPRIME Report which it agreed to partially release to the applicant.
23 May 2015	The applicant provided submissions.
27 May 2015	QPS advised OIC it had partially released the located documents to the applicant.
10 June 2015	The applicant provided submissions.
20 September 2015	The applicant provided submissions.
3 October 2015	The applicant provided submissions.
25 November 2015	OIC conveyed its preliminary view to QPS regarding the information in issue and asked that QPS advise whether it accepted OIC's preliminary view by 9 December 2015.
8 December 2015	In response to a request from QPS, OIC granted QPS an extension to respond to the preliminary view by 5 January 2016.
23 December 2015	QPS advised OIC it agreed with OIC's preliminary view, with the exception of 26 pages of the information.

15 January 2016	QPS provided the applicant with additional documents that it agreed to release in accordance with OIC's preliminary view.
21 January 2016	The applicant advised receipt of the documents released by QPS.
23 February 2016	OIC conveyed its further preliminary view to QPS in response to its submissions regarding the 26 pages. OIC asked that QPS advise by 8 March 2016 whether it accepted OIC's preliminary view.
25 February 2016	QPS advised OIC it accepted OIC's preliminary view regarding 26 pages.
22 April 2016	OIC requested QPS partially release one page to the applicant by 29 April 2016.
29 April 2016	QPS partially released one page to the applicant.
4 May 2016	OIC conveyed its preliminary view to the applicant regarding the Remaining Information and addressed a number of the applicant's concerns to the extent possible, given OIC's jurisdiction under the IP Act.
4 May 2016	The applicant wrote to OIC raising further issues.
2 June 2016	OIC requested that the applicant contact OIC to discuss the external review.
7 June 2016	The applicant wrote to OIC raising further issues.
10 June 2016	OIC confirmed its preliminary view regarding the Remaining Information to the applicant and addressed a number of the applicant's concerns to the extent possible, given OIC's jurisdiction under the IP Act.
23 June 2016	The applicant wrote to OIC raising further issues.