



## Decision and Reasons for Decision

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<b>Citation:</b>	<b><i>Queensland Newspapers Pty Ltd and Queensland Police Service [2014] QICmr 5 (20 February 2014)</i></b>
<b>Application Number:</b>	<b>311394</b>
<b>Applicant:</b>	<b>Queensland Newspapers Pty Ltd</b>
<b>Respondent:</b>	<b>Queensland Police Service</b>
<b>Decision Date:</b>	<b>20 February 2014</b>
<b>Catchwords:</b>	<b>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO THE PUBLIC INTEREST - report relating to the trial of cameras on Tasers - accountability, matter of serious interest and reasons for government decision - prejudice to deliberative process - third party business affairs - whether disclosure would, on balance, be contrary to the public interest - sections 47(3)(b) and 49 of the <i>Right to Information Act 2009 (Qld)</i></b>

### REASONS FOR DECISION

#### Summary

1. The applicant applied to Queensland Police Service (**QPS**), under the *Right to Information Act 2009 (Qld)* (**RTI Act**), for access to documents relating to a trial of cameras on Tasers conducted by QPS.
2. QPS refused access to the report prepared at the conclusion of the trial (**Report**) and other documents on the basis that disclosure would prejudice QPS's (i) law enforcement methods and procedures<sup>1</sup> and (ii) deliberative processes.<sup>2</sup>
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of QPS's decision on the basis that it did not provide enough information to establish the exemptions and did not give due consideration to public interest factors favouring disclosure.
4. During the external review, QPS agreed to informally release further information<sup>3</sup> to the applicant, and the applicant accepted OIC's view that access to certain information could be refused.<sup>4</sup> While QPS accepted OIC's view that the Report does not comprise

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<sup>1</sup> Relying on sections 47(3)(a), 48 and schedule 3, sections 10(1)(f), (g) and (i) of the RTI Act.

<sup>2</sup> Sections 47(3)(b), 49 and schedule 4, part 3, item 20 and schedule 4, part 4, item 4(1) of the RTI Act.

<sup>3</sup> Pages 68-77 (meeting minutes and emails).

<sup>4</sup> The remaining information on pages 68-77 and a small amount of information in the main report. As a result, this information does not form part of the information in issue in this review - see the appendix for further details.

exempt information, QPS maintained its view that disclosure of the Report would, on balance, be contrary to the public interest, primarily on the basis it would prejudice QPS's ongoing deliberative processes.

5. For the reasons set out below, I set aside QPS's decision and find that disclosure of the Report would not, on balance, be contrary to the public interest.

### **Background**

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

### **Reviewable decision**

7. The decision under review is QPS's decision dated 5 February 2013 refusing access to the documents sought by the applicant, including the Report.

### **Evidence considered**

8. The evidence, submissions, legislation and other material considered in reaching this decision are disclosed in these reasons (including footnotes and appendix).

### **Information in Issue**

9. The information in issue in this review is the Report titled '*Review of Taser Cam: Testing and Evaluation*'.<sup>5</sup>
10. I am limited in the extent to which I can discuss the content of the Report in these reasons for decision.<sup>6</sup> However, as the title of the Report indicates, it comprises a review of the testing and evaluation of recording devices on Tasers, including the methodology, results, critical analysis, findings and recommendations.

### **Issue for determination**

11. The issue in this review is whether access to the Report may be refused on the basis that its disclosure would, on balance, be contrary to the public interest.<sup>7</sup>

### **Relevant law**

12. Under the RTI Act, a person has a right to be given access to documents of an agency and access should be given unless disclosure would, on balance, be contrary to the public interest.<sup>8</sup> This is referred to as the 'pro-disclosure bias'. The right of access is, however, subject to a number of exclusions and limitations, including grounds for refusal of access in section 47 of the RTI Act. Relevantly, access may be refused to information the disclosure of which would, on balance, be contrary to the public interest under section 49 of the RTI Act.<sup>9</sup>
13. 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

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<sup>5</sup> Sections of pages 4, 8, 49-51 and 63-65 of the Report are no longer in issue because the applicant accepted OIC's view that access to these sections may be refused under the RTI Act.

<sup>6</sup> Section 108(3) of the RTI Act provides that the Information Commissioner must not, in a decision, or in reasons for a decision, on an external review, include information that is claimed to be contrary to public interest information.

<sup>7</sup> Sections 47(3)(b) and 49 of the RTI Act.

<sup>8</sup> Sections 23 and 44 of the RTI Act.

<sup>9</sup> Section 47(3)(b) of the RTI Act.

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. However, there are some recognised public interest considerations that may apply for the benefit of an individual.

14. The RTI Act identifies many factors that may be relevant to deciding the balance of the public interest<sup>10</sup> and explains the steps that a decision-maker must take in deciding the public interest as follows:<sup>11</sup>
- 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 disclosure of the information in issue would, on balance, be contrary to the public interest.

## Findings

### ***Would disclosure of the Report, on balance, be contrary to the public interest?***

15. No, for the reasons that follow.

#### **Irrelevant factors**

16. No irrelevant factors arise in the circumstances of this case.

#### **Factors favouring disclosure**

17. The applicant submits:

*The matter is of public interest after several high profile cases, including multiple Taser incidents of individuals and the resulting attention such cases have received, along with other incidents throwing into question the effectiveness of the weapons as a use of force option.*<sup>12</sup>

18. The public interest favours disclosure of information which could reasonably be expected to:

- promote open discussion of public affairs and enhance the Government's accountability<sup>13</sup>
- contribute to positive and informed debate on important issues or matters of serious interest,<sup>14</sup> and/or
- reveal the reason for a government decision and any background or contextual information that informed the decision.<sup>15</sup>

19. QPS prepared the Report after conducting a trial of Taser cameras in response to a recommendation, jointly made by the Crime and Misconduct Commission (CMC) and QPS, as part of a review of Taser policy, training and monitoring and review

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<sup>10</sup> Schedule 4 of the RTI Act.

<sup>11</sup> Section 49(3) of the RTI Act.

<sup>12</sup> External review application dated 24 February 2013.

<sup>13</sup> Schedule 4, part 2, item 1 of the RTI Act.

<sup>14</sup> Schedule 4, part 2, item 2 of the RTI Act.

<sup>15</sup> Schedule 4, part 2, item 11 of the RTI Act.

practices.<sup>16</sup> I am satisfied that disclosing the Report could reasonably be expected to enhance QPS's accountability as it would demonstrate how QPS responded to the recommendation.

20. I also find that disclosure of the type of information contained in the Report, as described in paragraph 10 above, will reveal background and contextual information about QPS's decisions relating to the use of recording devices to monitor Taser deployment.
21. In a recent coronial inquest, the Deputy State Coroner indicated support for QPS 'investigating options to acquire safer and more technologically advanced weapons', including consideration of camera recording devices.<sup>17</sup> The Queensland Police Union<sup>18</sup> and Australian Council for Civil Liberties<sup>19</sup> have also expressed support for the use of recording devices to monitor Taser deployment. The issue has also received significant media attention.<sup>20</sup> For these reasons, I am satisfied that disclosing information which reports on, and critically assesses the devices under consideration, could reasonably be expected to promote open discussion of public affairs and contribute to positive and informed debate on a matter of serious interest.
22. The above indicates that there is a high level of interest in the use of recording devices to monitor Taser deployment, from within QPS, broader government and the community. Taking this into account, and considering the limited information which QPS has published in relation to the Taser camera trial to date, I am satisfied that the public interest factors listed at paragraph 18 above, should be afforded significant weight in favour of disclosure.

## Factors favouring nondisclosure

### *Deliberative process*

23. QPS has confirmed that the trial of Taser cameras is complete, but that trials of other devices to record Taser deployment are ongoing. For this reason, QPS submits that the Report forms part of a wider deliberative process in terms of how QPS will ultimately respond to the CMC and Coroner's recommendations.<sup>21</sup> QPS submits that until all recording device alternatives are evaluated and final decisions are made, it would be premature to release the Report.
24. The public interest favours nondisclosure of information where disclosure could reasonably be expected to:

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<sup>16</sup> See CMC April 2011 report 'Evaluating taser reforms: a review of Queensland Police Service policy and practice' available online at <[www.cmc.qld.gov.au/topics/police-and-the-cmc/police-powers-and-practice/use-of-force/taser-use](http://www.cmc.qld.gov.au/topics/police-and-the-cmc/police-powers-and-practice/use-of-force/taser-use)> at pages v and 87.

<sup>17</sup> Queensland, Office of the State Coroner, *Inquest into the death of Antonio Carmelo Galeano – Findings of Inquest* [www.courts.qld.gov.au/courts/coroners-court/findings](http://www.courts.qld.gov.au/courts/coroners-court/findings) (pp 100-101, 14 November 2012).

<sup>18</sup> Queensland Police Union, *Cameras attached to Tasers would remove any doubt* (25 June 2009) [www.qpu.asn.au/news/union/2009/cameras-attached-to-tasers-would-remove-any-doubt](http://www.qpu.asn.au/news/union/2009/cameras-attached-to-tasers-would-remove-any-doubt).

<sup>19</sup> Fairfax Media, *Qld police get new Taser policy* (4 September 2009), The Sydney Morning Herald <<http://news.smh.com.au/breaking-news-national/qld-police-get-new-taser-policy-20090904-fad9.html>>.

<sup>20</sup> Australian Broadcasting Corporation, *Police to trial cameras on Tasers* (24 November 2009) ABC News <[www.abc.net.au/news/2009-11-24/police-to-trial-cameras-on-tasers/1153988](http://www.abc.net.au/news/2009-11-24/police-to-trial-cameras-on-tasers/1153988)>, Queensland Newspapers Pty Ltd, *Trial for Taser guns fitted with cameras to begin in January* (23 November 2009) Courier Mail <[www.couriermail.com.au/news/queensland/trial-for-taser-guns-fitted-with-cameras-to-begin-in-january/story-e6freeof-1225802717754](http://www.couriermail.com.au/news/queensland/trial-for-taser-guns-fitted-with-cameras-to-begin-in-january/story-e6freeof-1225802717754)>, Australian Broadcasting Corporation, *Police union urges immediate Taser camera roll-out* (25 November 2009) ABC News <[www.abc.net.au/news/2009-11-24/police-union-urges-immediate-taser-camera-roll-out/1154352](http://www.abc.net.au/news/2009-11-24/police-union-urges-immediate-taser-camera-roll-out/1154352)> and Fairfax Media, *Tasers should be fitted with cameras: Coroner* (14 November 2012) Brisbane Times <<http://www.brisbanetimes.com.au/queensland/tasers-should-be-fitted-with-cameras-coroner-20121114-29c5p.html>>.

<sup>21</sup> Above note 17.

- prejudice a deliberative process of government (**Prejudice Factor**),<sup>22</sup> and/or
  - cause a public interest harm through disclosure of an opinion, advice or recommendation that has been obtained, prepared or recorded or a consultation or deliberation that has taken place, in the course of, or for, the deliberative processes involved in the functions of government (**Harm Factor**).<sup>23</sup>
25. Deliberative processes involved in the functions of government have been defined as '*...thinking processes – the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action*'.<sup>24</sup>
26. The Report was prepared by the Taser Review Implementation Group to inform QPS's Senior Executive in their decision making processes relating to the use of devices to record Taser deployment. I am satisfied that the Report, excluding those parts which contain factual or statistical information,<sup>25</sup> contains information which is subject to the Harm Factor. QPS has submitted that the factual and statistical information should not be viewed in isolation as it is '*directly relevant to the deliberative process being undertaken*'. I acknowledge that the entire Report has been prepared to inform QPS's deliberative processes relating to recording devices on Tasers. Accordingly, in considering any potential prejudice to those processes, it is relevant to consider the entire contents of the Report. However, for the purpose of applying the Harm Factor, the factual and statistical information is expressly excluded.
27. As I have found that the Harm Factor applies to most information in the Report, the next step is to consider the extent of the harm which could reasonably be expected to occur to the relevant deliberative processes through disclosure.<sup>26</sup>
28. QPS considers that releasing the Report will cause harm to and/or prejudice its broader deliberative processes relating to the use of Taser recording devices as QPS is still considering other options and the Senior Executive is yet to make a final decision.<sup>27</sup>
29. The Information Commissioner has previously recognised that prejudice to a deliberative process can arise where releasing a document would cause disruptive public debate, reallocation of resources to deal with the disruption (resources which would otherwise be involved in finalising the deliberative process) and interference with the ability of an agency to objectively consider its options and reach a decision.<sup>28</sup> The level of anticipated disruption must usually be significant for this factor to arise.<sup>29</sup>
30. As explained above, the Report sets out the results of the trial of Taser cameras, and includes recommendations as to the suitability of the devices for use within QPS. Taking into account the content of the Report, the type of recommendations and the

<sup>22</sup> Schedule 4, part 3, item 20 of the RTI Act.

<sup>23</sup> Schedule 4, part 4, item 4 of the RTI Act.

<sup>24</sup> *Eccleston and Department of Family Services and Aboriginal and Islander Affairs* (1993) 1 QAR 60 (**Eccleston**) at [28-30] citing with approval the definition given in *Re Waterford and Department of Treasury (No.2)* (1984) 5 ALD 588 at 606.

<sup>25</sup> For example, pages 11, 20, 34 and 54. This information is expressly excluded from the Harm Factor due to schedule 4, part 4, section 4(3)(b) of the RTI Act.

<sup>26</sup> In *Trustees of the De La Salle Brothers and Queensland Corrective Services Commission* (1996) 3 QAR 206 at [34] the Information Commissioner considered, in the context of the equivalent *Freedom of Information Act 1992* (Qld) (**FOI Act**) exemption, that '*specific and tangible harm to an identifiable public interest would result from disclosure*'. I consider that this is a relevant consideration when applying the Harm Factor under the RTI Act.

<sup>27</sup> QPS relied on *Prisoners' Legal Service and Queensland Corrective Services Commission* (1997) 3 QAR 503 to support its submission. That case applied section 41(1) of the repealed FOI Act which created an exemption for deliberative process information. Given the significant difference between the information in issue in that case (recommendations about disciplinary action) and relevant prejudice considerations (to officers' reputations), I consider that case can be distinguished on its facts from this review, and therefore, I have not considered it any further.

<sup>28</sup> *Pallara Action Group Inc and Brisbane City Council* (Unreported, Queensland Information Commissioner, 21 September 2012) at [42-43] and *Johnston and Brisbane City Council* (Unreported, Queensland Information Commissioner, 6 December 2013) at [39] and [42].

<sup>29</sup> *Eccleston* at [179].

nature of the ongoing deliberative process, I do not consider that disclosing the Report would interfere with QPS's ability to objectively consider the outstanding options and reach a final decision on Taser recording devices. While I recognise that the issue of using recording devices to monitor Taser deployment is an issue of significant interest to various stakeholders, I am satisfied that the nature of the information in issue is such that its disclosure could not reasonably be expected to lead to disruptive public debate.

31. The trial on which the Report is based has been the subject of comment in several public documents.<sup>30</sup> For example, QPS has been quoted as identifying 'some operational limitations and difficulties involved with the use of the Taser Cam'.<sup>31</sup> While the publicly available information is not extensive, it does tend to indicate that the outcomes of the trial are not of such a highly sensitive nature so as to require them to be kept confidential until the broader deliberative process has been finalised.
32. On the basis of the above, I find that:
- the Harm Factor applies, but there is no specific or tangible harm to the relevant deliberative processes that could reasonably be expected to be caused by disclosure and therefore, this factor carries only low weight in favour of nondisclosure; and
  - the Prejudice Factor does not apply as disclosure of the Report could not reasonably be expected to prejudice QPS's deliberative processes.

#### **Prejudice to business affairs**

33. The RTI Act recognises that the public interest will favour nondisclosure of information where disclosure could reasonably be expected to:
- prejudice the private, business, professional, commercial or financial affairs of entities<sup>32</sup>
  - prejudice business affairs of a person,<sup>33</sup> and/or
  - cause a public interest harm because disclosure of the information would disclose information concerning the business, professional, commercial or financial affairs of a person and could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of information of this type to government.<sup>34</sup>
34. QPS submits that the Report's critical analysis of certain recording devices could reasonably be expected to prejudice the business affairs of the entities which own these devices, particularly because they are considered in isolation from analysis of other similar devices.<sup>35</sup> Given QPS's concerns, OIC contacted these entities to seek their views on disclosure of the Report. Neither of these entities responded to OIC's invitation to participate in the review.<sup>36</sup>
35. Generally speaking, I accept that a product's sales may decrease following public criticism of the product and that in turn, this may negatively impact the owner's

<sup>30</sup> Above note 17 at page 100, and Western Australia Police, *Post Implementation Review of Taser* (May 2010) <<http://www.police.wa.gov.au/LinkClick.aspx?fileticket=qHmOdYYIvNc%3D&tabid=1068>> at page 91.

<sup>31</sup> Above note 16 at page 100.

<sup>32</sup> Schedule 4, part 3, item 2 of the RTI Act.

<sup>33</sup> Schedule 4, part 3, item 15 of the RTI Act; section 32D(1) of the *Acts Interpretation Act 1954* (Qld) provides that 'a reference to a person generally includes a reference to a corporation as well as an individual'.

<sup>34</sup> Schedule 4, part 4, item 7(1)(c) of the RTI Act.

<sup>35</sup> Submission dated 4 July 2013.

<sup>36</sup> OIC put these entities on notice that if no response was received, we would take this to mean they do not object to release of the Report. See the Appendix for further information.

business affairs in terms of reduced profit. In considering whether disclosure of the Report would prejudice, or have an adverse effect on, the business affairs of the relevant entities (eg. through reduction in sales), I have taken into account the following:

- critical product reviews on the devices are publicly available<sup>37</sup>
- the Report's assessment of the devices applies to a very specific operational context; and
- the Report contains some positive commentary about the devices.

36. On the basis of the above, and taking into account the fact that neither entity responded to OIC's invitation to raise objections to disclosure, I am satisfied that disclosure of the Report could not reasonably be expected to prejudice, or have an adverse effect on, the business affairs of the relevant entities. I therefore find that the nondisclosure factors set out at paragraph 33 are not established in this case.

### ***Prejudice to flow of information and intergovernmental relations***

37. The RTI Act recognises that the public interest will favour nondisclosure of information where disclosure could reasonably be expected to prejudice (i) an agency's ability to obtain confidential information;<sup>38</sup> (ii) the flow of information to the police;<sup>39</sup> and/or (iii) intergovernmental relations.<sup>40</sup> A public interest harm will also arise if disclosure could cause damage to relations between the State and another government or divulge information of a confidential nature that was communicated in confidence by or for another government.<sup>41</sup>

38. QPS raised concerns about disclosure of certain information in the Report which has been provided by, or relates to, law enforcement agencies in other States of Australia and international jurisdictions. The applicant accepted that certain detailed information provided by one law enforcement agency would, on balance, be contrary to the public interest to release. The remaining information is of a very general nature and otherwise publicly available.<sup>42</sup> Accordingly, I am not satisfied that it is of a confidential nature nor could disclosure reasonably be expected to result in law enforcement agencies being hesitant to provide information to QPS in future. On this basis, I do not consider any of the nondisclosure factors at paragraph 37 are established.

### ***Personal information***

39. As the Report contains the personal information (ie. names)<sup>43</sup> of officers involved in the trial, the RTI Act recognises that disclosure could reasonably be expected to cause a public interest harm.<sup>44</sup> The level of harm and relative weight to be afforded to this factor will depend on the nature of the information and circumstances of the case.

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<sup>37</sup> Due to the operation of section 108(3) of the RTI Act, I am not able to directly refer to the evidence I relied on in reaching the following findings.

<sup>38</sup> Schedule 4, part 3, item 16 of the RTI Act.

<sup>39</sup> Schedule 4, part 3, item 13 of the RTI Act.

<sup>40</sup> Schedule 4, part 3, item 14 of the RTI Act.

<sup>41</sup> Schedule 4, part 4, item 1 of the RTI Act.

<sup>42</sup> Due to the operation of section 108(3) of the RTI Act, I am not able to directly refer to the evidence I relied on in reaching the following findings.

<sup>43</sup> 'Personal information' is defined in section 12 of the *Information Privacy Act 2009* (Qld) as 'information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion'.

<sup>44</sup> Schedule 4, part 4, item 6(1) of the RTI Act.

40. Another factor favouring nondisclosure will arise if disclosure of the information could reasonably be expected to prejudice the protection of an individual's right to privacy.<sup>45</sup> The concept of 'privacy' is not defined in the RTI Act. It can, however, be viewed as the right of an individual to preserve their personal sphere free from interference from others.<sup>46</sup> I do not consider that a person's participation in a trial as part of their public sector employment falls within their 'personal sphere'. This kind of personal information is commonly referred to as 'routine personal work information' (ie. related to the routine day to day work duties and responsibilities of a public sector employee) and is not generally regarded as 'private'.<sup>47</sup> On this basis, I am not satisfied that disclosure of the Report could reasonably be expected to result in an interference with the relevant officers' right to privacy and therefore, I find that this factor does not apply.
41. The Information Commissioner has previously recognised that disclosure of such routine personal work information causes minimal or no harm because:
- *public service officers are employed in the business of government which delivers services to the public and the public is generally entitled to know the identity of the service deliverers, advice givers and decision makers; and*
  - *a reasonable public service officer would expect that information that is solely their routine personal work information would be made available to the public.*<sup>48</sup>
42. On the basis of the above, I am satisfied that very little harm would result through disclosure of the names of QPS officers involved in the Taser camera trial and therefore, I attribute low weight to this factor in favour of nondisclosure.

### **Balancing the public interest**

43. The use of recording devices to monitor Taser deployment is an issue which has attracted a high level of interest from within government, the media and the general community. In response to recommendations, QPS conducted trials of various devices and subsequently prepared the Report detailing its assessment and findings. I am satisfied that disclosing the Report could reasonably be expected to enhance QPS's accountability as it would demonstrate QPS's response to the recommendations and would reveal background and contextual information relating to the trials and QPS's decision making. I am also satisfied that disclosure would promote open discussion of public affairs and contribute to positive and informed debate on matters of serious interest. In the circumstances of the case, I afford these factors significant weight in favour of disclosure.
44. QPS is concerned about prejudice to the ongoing deliberative processes of the Senior Executive in terms of reaching a final decision on Taser recording devices in response to the CMC and Coroner's recommendations. Given the Report's particular content and the nature of the recommendations, I am not satisfied that disclosure could reasonably be expected to result in any interference with these deliberative process, particularly in view of the fact that certain key outcomes of the trials have already been referred to in publicly available documents. On this basis, I am satisfied that the harm which could reasonably be expected to result from disclosure of the Report is low. I afford a similarly low weight to the harm arising from disclosure of the names of officers

<sup>45</sup> Schedule 4, part 3, item 3 of the RTI Act.

<sup>46</sup> *Matthews and Gold Coast City Council* (Unreported, Queensland Information Commissioner, 23 June 2011) at [22], paraphrasing the Australian Law Reform Commission's definition of the concept in "For your information: Australian Privacy Law and Practice" *Australian Law Reform Commission Report No. 108* released 11 August 2008, at [1.56].

<sup>47</sup> Queensland Information Commissioner, *Routine personal work information of public sector employees*, 2 July 2009.

<sup>48</sup> *The Amanda Flynn Charity Pty Ltd and the Crime and Misconduct Commission* (Unreported, Queensland Information Commissioner, 19 October 2011) at [22].



who were involved in the trials as these appear in the context of the officers' routine work duties.

45. On balance, I find that the factors favouring disclosure outweigh the factors favouring nondisclosure in this case. Accordingly, I find that disclosure of the Report would not, on balance, be contrary to the public interest.

## **DECISION**

46. I set aside QPS's decision to refuse access to the Report and in substitution find that access to the Report may be granted, on the basis that disclosure would not, on balance, be contrary to the public interest.
47. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.

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**K Shepherd**  
**Assistant Information Commissioner**

**Date: 20 February 2014**

## APPENDIX

### Significant procedural steps

Date	Event
23 October 2012	QPS received the access application.
30 December 2012	The applicant elected to proceed with only 77 of the 237 pages located.
5 February 2013	QPS made its decision as set out at paragraph 2 of the Reasons for Decision.
24 February 2013	OIC received the application for external review of QPS's decision.
8 March 2013	OIC informed QPS and the applicant that the application had been accepted for external review.
25 March 2013	OIC received a copy of the information in issue from QPS.
3 May 2013	OIC asked QPS to provide additional information regarding the status of the Report and its recommendations.
13 May 2013	QPS provided additional information regarding the status of the Report and its recommendations.
31 May 2013	OIC conveyed a view to QPS that it had not discharged the onus, under section 87(1) of the RTI Act, of establishing that a decision refusing access to information should be made.
4 July 2013	<p>OIC received QPS's submission in response to the preliminary view. QPS agreed that information on pages 68 to 77 could be released, aside from:</p> <ul style="list-style-type: none"> <li>mobile phone numbers on pages 74 to 77; and</li> <li>information which is outside the scope of the access application on pages 68 to 73.</li> </ul> <p>QPS advised OIC that it did not wish to further advance any claim that the information in issue is exempt but objected to release of the balance of the Report on the basis that it would, on balance, be contrary to the public interest to disclose because of prejudice to an ongoing deliberative process and prejudice that could reasonably be expected to occur to the business reputation of a third party.</p>
23 August 2013	<p>OIC requested that QPS release documents to the applicant and conveyed a second view to QPS that:</p> <ul style="list-style-type: none"> <li>it is entitled to refuse access to mobile phone numbers, irrelevant information and some information provided by other law enforcement agencies; however</li> <li>disclosure of the Report could not reasonably be expected to prejudice its deliberative processes or the business affairs of other entities and therefore, disclosure would not, on balance, be contrary to the public interest.</li> </ul>
30 September 2013	QPS confirmed that it did not accept OIC's view, for the reasons set out in its submission made to OIC in July.
22 October 2013	OIC conveyed an oral view to the applicant that access to certain information (mobile phone numbers, irrelevant information and information provided in confidence by another law enforcement agency on pages 4, 8, 49-51, 63-65, 69-73, 75 and 77) may be refused under the RTI Act. The applicant accepted this view.
25 October 2013	OIC conveyed a view to two third parties that disclosure of the Report would not, on balance, be contrary to the public interest. A response was requested by 6 December 2013.
29 October 2013	OIC received confirmation that the letter to one third party had been delivered.

	No response was subsequently received from this third party.
31 October 2013	OIC received confirmation that the letter to the second third party had been delivered. No response was subsequently received from this third party.
16 December 2013	OIC advised QPS that no response had been received from the third parties and asked QPS to consider informal release of the Report. QPS elected for the review to be finalised by a written decision.