



Decision and Reasons for Decision

Application Number: 310929

Applicant: Nash

Respondent: Queensland Police Service

Decision Date: 18 September 2012

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - NONEXISTENT DOCUMENTS - whether there are reasonable grounds for agency to be satisfied that further documents do not exist - whether access to documents can be refused under section 47(3)(e) of the Right to Information Act 2009 (Qld) on the ground set out in section 52(1)(a) of the Right to Information Act 2009 (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - NONEXISTENT DOCUMENTS - whether agency has taken all reasonable steps to find the document but the document can not be found - whether access to documents can be refused under section 47(3)(e) of the Right to Information Act 2009 (Qld) on the ground set out in section 52(1)(b) of the Right to Information Act 2009 (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - application for access to various police documents relating to applicant - access refused to personal information of other individuals - whether information is routine personal work information of public servants - whether public interest in applicant obtaining personal information of witnesses and complainants involved in police investigations - whether access to information may be refused under section 47(3)(b) of the Right to Information Act 2009 (Qld) on the basis that disclosure would, on balance, be contrary to the public interest

REASONS FOR DECISION

Summary

1. On 24 October 2011 the applicant and her son made a joint access application to the Queensland Police Service (**QPS**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to 17 categories of documents.¹
2. The documents sought by the applicant relate to a number of incidents during which she and her son were arrested or subsequently investigated and, according to the applicant, assaulted by QPS.² The applicant states that she has a particular interest in obtaining access to video footage of these incidents, which she believes is held by QPS and is being withheld.³ The applicant and her son also sought access to their 'police files'.
3. QPS conducted searches, located 113 documents (112 pages and one compact disc containing audio recordings) and made a decision on access to these documents on 18 January 2012. QPS refused access to 33 documents in their entirety and 23 documents in part. The remainder of documents were released in full, subject to the deletion of some irrelevant information relating to other QPS matters under section 73(2) of the RTI Act. QPS refused access to several⁴ of the categories of documents requested by the applicant under section 47(3)(e) of the RTI Act, on the basis that documents responsive to those categories were nonexistent.
4. The applicant sought external review of this decision on 30 January 2012.
5. OIC sought submissions from QPS on the searches it conducted and its reasons for deciding that no further documents were existent or locatable.
6. OIC conveyed a preliminary view to the applicant that QPS's searches were sufficient, and provided her with copies of QPS's submissions.⁵ The applicant was invited to make submissions, but chose not to.
7. It is the decision of this Office that QPS's searches were sufficient. QPS is entitled to refuse access to documents responsive to categories 1, 3, 4, 5, 6, 7, 9, 12, 13, 14 and 15, on the basis that they do not exist for the reasons stated at paragraphs [17]-[58] below.
8. OIC reviewed the documents that QPS decided not to disclose, and conveyed a preliminary view to QPS that information that merely disclosed the identity of public officials should not be withheld, on the basis that it is not 'routine personal work information'. QPS agreed to release some additional information within 9 documents. That information is no longer in issue. OIC conveyed a preliminary view on the remaining information in issue to the applicant and invited her to provide submissions,⁶ but she chose not to.
9. It is the decision of this Office that QPS is entitled to refuse access to the remaining information in issue, on the basis that disclosure would be contrary to the public interest, for the reasons stated at paragraphs [59]-[76] below.

¹ The list of documents requested is reproduced at Appendix A.

² Telephone submission to OIC on 2 February 2012.

³ Telephone submission to OIC on 2 February 2012.

⁴ Numbered 1, 3, 4, 5, 6, 7, 9, 12, 13, 14 and 15 in the access application.

⁵ By letter dated 26 June 2012.

⁶ By letter dated 27 August 2012.

Background

10. Significant procedural steps relating to the application are set out in Appendix B.

Reviewable decision

11. The decision under review is QPS's decision of 18 January 2012.

Evidence considered

12. The evidence, submissions, legislation and other material I have considered in reaching my decision are disclosed in these reasons (including footnotes and appendices).

Refusal of access to nonexistent documents

Relevant law

13. The RTI Act provides that access to a document may be refused if the document is nonexistent or unlocatable.⁷ A document is nonexistent if there are reasonable grounds for the agency or Minister dealing with the access application to be satisfied that the document does not exist.⁸

14. The RTI Act is silent on how an agency or Minister can be satisfied that a document does not exist. In *PDE and the University of Queensland*⁹ (*PDE*), the Information Commissioner explained that, to be satisfied that a document does not exist, an agency must rely on its particular knowledge and experience, having regard to various key factors including:

- 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 the request relates to.

15. When these factors are properly considered and the decision maker is satisfied on reasonable grounds that the document does not exist, then it is unnecessary for searches to be conducted.

16. Alternatively, the decision maker may rely on searches to justify a decision that the document sought does not exist. If an agency relies on searches, all reasonable steps must be taken to locate the requested document. In determining whether all reasonable steps have been taken, regard should be had to the factors listed in *PDE*.

⁷ Sections 47(3)(e) and 52 of the RTI Act.

⁸ Section 52(1)(a) of the RTI Act.

⁹ (Unreported, Queensland Information Commissioner, 9 February 2009). Although *PDE* concerned the application of section 28A of the now repealed *Freedom of Information Act 1992* (Qld), the requirements of that section are replicated in section 52 of the RTI Act.

Is QPS entitled to refuse access on the basis that documents are nonexistent?

17. QPS refused access to document categories 1, 3, 4, 5, 6, 7, 9, 12, 13, 14 and 15 (as numbered in the applicant's access application) under section 47(3)(e) of the RTI Act, on the basis that documents responsive to those categories were nonexistent.
18. QPS provided submissions on 12 March 2012 that detailed its search for documents. Following further enquiries from OIC, QPS provided further submissions on 15 May 2012.
19. On 26 June 2012 the applicant was provided with access to QPS's submissions on the nonexistence of these categories of documents, and OIC's preliminary view that QPS's searches were sufficient. The applicant was invited to provide submissions in response, such as her reasons for believing that the requested documents are held by QPS or where she believed they might be located, but declined to do so.
20. I address each of the categories of information that QPS refused access to under section 47(3)(e) below.

Category 1

21. The applicant sought access to all CCTV footage held by QPS relating to an incident in which she and her son were arrested in the Queensland Parliamentary precinct on 25 November 2010.
22. In particular, her request referred to '*footage from inside the police van*', footage '*showing [her son] being searched and arrested at parliament*', '*footage from the public gallery, outside public gallery doors, staircase*' and from '*cameras in the front courtyard during the incident that day*'.
23. In relation to the applicant's request for footage from inside the police van, QPS has provided OIC with a memo submitting that the police vehicle in question is not fitted with CCTV equipment.¹⁰ Although I note that QPS has installed CCTV cameras in some police vehicles,¹¹ I have no reason to doubt the accuracy of this submission in relation to the particular police vehicle in question.
24. Given that there are no CCTV cameras installed in the police vehicle in question, I am satisfied that there are reasonable grounds to conclude that no footage was captured inside the police van, and that no such footage exists.
25. In relation to the applicant's request for footage captured at Parliament, QPS provided a memo submitting that QPS '*has no CCTV equipment at Parliament House*.'¹² The three pieces of footage that the applicant was previously provided with, and which she referred to in her access application, were given to QPS by parliamentary services in the course of QPS's investigations. Even if parliamentary services holds further footage of the incident (and I have no information before me suggesting that it does) QPS is only obliged under the RTI Act to provide access to documents that it holds; not documents in the possession of other agencies.

¹⁰ Memo from Detective Superintendent, State Security Operations Group dated 7 March 2012.

¹¹ QPS, *QPS launches In-Car Camera trial* (Media release, 13 November 2009), available online at <http://www.police.qld.gov.au/News+and+Alerts/Media+Releases/2009/11/QPS+launches+In-Car+Camera+trial.htm>.

¹² Memo from Officer in Charge, Brisbane City Station dated 27 February 2012.

26. In general, if a person applies to an agency for access to a document that is held by another agency, the agency in receipt of the application can transfer part or all of it to the other agency.¹³ However, that option was not open to QPS in this matter, as parliamentary services is not subject to the RTI Act.¹⁴
27. Because QPS does not have control of any cameras in the parliamentary precinct, and because all footage that it received from parliamentary services has been located and released to the applicant, I am satisfied that there are reasonable grounds to conclude that QPS does not hold any further CCTV footage¹⁵ and that such footage does not exist.

Category 3

28. The applicant requested copies of any arrest warrants relating to her. Information from QPS shows that QPS searched its information system, QPRIME, and conducted physical searches of the Police Information Centre, which QPS states hold hard copy warrants. No warrants were identified.
29. During the course of this external review the applicant was invited to provide information about what type of arrest warrant or warrants QPS held for her in order to assist QPS's searches. She declined to do so.
30. I am satisfied on the basis of the information before me that QPRIME and the Police Information Centre are the appropriate places for QPS to have searched for information of the type sought by the applicant.
31. In the absence of further information about the warrant the applicant believes is held by QPS, I am satisfied that QPS has taken all reasonable steps to locate any relevant warrants and that no such warrants exist.

Category 4

32. The applicant requested access to video footage and audio recordings of the incident referred to in category 1, above.
33. In relation to video footage, for the reasons outlined in category 1, I am satisfied that no relevant footage exists (except that to which the applicant has already been provided access).
34. In relation to audio recordings, a QPS officer present on the day provided submissions stating '*no audio or video footage was taken by Queensland Police at Parliament House or during the transport of [the applicant and her son]*'.¹⁶ I have no reason to doubt the accuracy of this submission. I am satisfied that the submissions of this officer, in the absence of any information that suggests that audio recordings or video footage should exist, provide reasonable grounds for concluding that no relevant audio or footage exists.

¹³ Section 38 of the RTI Act.

¹⁴ As it is an entity listed in schedule 2, part 1 of the RTI Act.

¹⁵ Other than the three videos, identified in her access application, that were provided to her previously.

¹⁶ Memo from Detective Superintendent, State Security Operations Group dated 7 March 2012.

Category 5

35. The applicant sought access to CCTV footage captured by QPS subsequent to her son's transportation to a police station on 25 November 2010 including any electronic record of interview (**EROI**) involving the applicant or her son.
36. In relation to the EROI, QPS provided OIC with records from QPRIME that indicated that the applicant's son had refused to participate in an interview on that day. QPS also conducted a search of its central tapes facility to confirm that no EROI was held. No relevant records were found.
37. I am satisfied on the basis of the information before me that QPRIME and the central tapes facility are the appropriate places for QPS to have searched for this information. I am satisfied that QPS has taken all reasonable steps to locate any EROI that was created on 25 November 2010 involving the applicant or her son, and that no such document exists.
38. In relation to CCTV footage captured at the station, QPS submits that station CCTV footage is periodically taped over unless there is some requirement for it to be retained.¹⁷ QPS provided specific submissions about the period that tape is routinely retained for.¹⁸ Given the significant passage of time between 25 November 2010 and the date on which the applicant made her access application, I accept QPS's submission that any footage captured would have been taped over.¹⁹
39. Having regard to QPS's practices and procedures with respect to the retention of CCTV footage, I am satisfied that there are reasonable grounds to conclude that no relevant footage is held by QPS.

Category 6

40. The applicant sought access to footage of '*the arrest of [the applicant's son] and detention of [the applicant] by police at Toowoomba on 13 March 2011*'.²⁰
41. In relation to the applicant's request for footage, an EROI was located during the course of this external review and provided to the applicant.²¹ QPS provided a statement from the officer who arrested the applicant's son certifying that no footage (other than the EROI) was captured by QPS during the arrest or detention of the applicant's son.²²
42. I am satisfied that the submissions of this officer, in the absence of any information that suggests that video footage should exist, provide reasonable grounds for concluding that no relevant footage exists. I am satisfied that there are reasonable grounds to conclude that no relevant footage, other than that already provided to the applicant, is held by QPS.

¹⁷ Memo from Officer in Charge, Brisbane City Station dated 27 February 2012.

¹⁸ Memo from Officer in Charge, Brisbane City Station dated 27 February 2012.

¹⁹ Memo from Officer in Charge, Brisbane City Station dated 27 February 2012.

²⁰ This category also included a request for a list of names. That part of this category is discussed separately below.

²¹ The applicant's son had already been provided with a copy of this EROI previously outside the RTI Act.

²² Memo from Detective Senior Constable, Security Intelligence Branch dated 5 March 2012; Memo from Detective Superintendent, State Security Operations Group dated 7 March 2012.

Category 7

43. The applicant sought access to footage of her removal from Parliament on 23 April 2009.²³
44. QPS has submitted that it has no record of any investigations or prosecution following the applicant's removal.²⁴ QPS submits that it would obtain footage from Parliament for the purpose of an investigation or prosecution, but that no investigation or prosecution occurred in relation to the incident on 23 April 2009.²⁵ As noted in relation to category 1, above, QPS does not operate CCTV cameras at Parliament.
45. On this basis, I am satisfied that there are reasonable grounds to conclude that no relevant footage is held by QPS.

Category 9

46. The applicant sought access to '*CCTV, video and audio footage from Browns Plains police station in relation to the arrest of [the applicant] on 5 March 2011.*'²⁶
47. The Officer in Charge of Browns Plains Station conducted a search for relevant documents. This search is recorded in a memo provided to OIC by QPS.²⁷ No documents were located. The Officer in Charge also noted that it is standard procedure for CCTV footage to be periodically taped over.²⁸
48. I am satisfied that QPS has taken all reasonable steps to locate any responsive documents. I am satisfied that no such documents exist.

Category 12

49. The applicant sought access to footage of a '*law and order forum at parliament on 14 September 2011*'.
50. The QPS RTI unit has provided OIC with a file note dated 12 December 2011 which sets out a conversation between an officer of the RTI unit and a QPS media officer who attended the forum. The media officer advised that he was the only QPS employee to attend the forum (other than Deputy Commissioner Barnett, who was speaking), and that he did not capture any footage of the forum. There is nothing before me that makes me doubt the accuracy of this information.
51. On the basis of the information of the QPS media officer that no footage was captured by QPS at the forum, and in the absence of any information that suggests that such footage should exist, I am satisfied that there are reasonable grounds to conclude that no relevant footage is held by QPS.

Requests for lists of names – categories 6, 7, 9, 13, 14 and 15

52. The applicant requested lists of individuals present at the various incidents alluded to in her access application (in categories 6, 7, 9, 13, 14 and 15).

²³ This category also included a request for a list of names. That part of this category is discussed separately below.

²⁴ Letter from Superintendent, Right to Information and Privacy Unit, dated 15 May 2012.

²⁵ Letter from Superintendent, Right to Information and Privacy Unit, dated 15 May 2012.

²⁶ This category also included a request for a list of names. That part of this category is discussed separately below.

²⁷ Memo from Officer in Charge, Browns Plains Station, dated 2 March 2012.

²⁸ Memo from Officer in Charge, Browns Plains Station, dated 2 March 2012.

53. QPS refused access to each of these categories on the basis that no responsive documents exist.
54. I note that some documents that partially satisfy the applicant's request for names were located. Category 8 of the applicant's request sought access to '*All internal and external emails, memos and correspondence in relation to the incident on 23 April 2009 and 25 November 2010 in parliament and 13 March 2011 at Toowoomba involving [the applicant] and [the applicant's son].*' Numerous documents were located in response to category 8 that disclose the identity of police officers and some other individuals present at the incidents referred to in the access application. These documents partially satisfy the applicant's request for lists of names, even if they are not in a form as convenient or comprehensive as she would like QPS to provide.
55. The RTI Act creates an obligation to provide access to documents in existence, not to create documents or to answer questions.²⁹ Accordingly, QPS is not obliged to compile a list of individuals who were present at the incidents. However, if it held such lists, it would be obliged to disclose them.
56. Although QPS has not provided specific submissions about searches that it conducted for the requested lists, I am satisfied that its other searches were sufficient to locate such lists should they exist.
57. QPS conducted searches in its Security Intelligence Branch,³⁰ Brisbane City Station,³¹ Logan Police District,³² Palm Beach Police Station,³³ and Browns Plain Police Station.³⁴ I understand that these are the areas in QPS that have interacted with the applicant and her son in relation to the incidents to which her access application refers. I am satisfied that these are the appropriate locations for QPS to have searched.
58. I am satisfied that QPS has taken all reasonable steps to locate the lists of names requested by the applicant, and is entitled to refuse access to the lists on the basis that they do not exist.

QPS decision to refuse access to particular located documents and information

59. I will now consider whether QPS is entitled to refuse access to the documents that it located but did not disclose to the applicant.

Information in issue

60. OIC obtained copies of the documents that QPS refused to release. OIC issued a preliminary view to QPS that some of the information should be disclosed. QPS accepted OIC's preliminary view in relation to some additional information that in its initial decision it had initially claimed would be contrary to the public interest to release³⁵ and some information that it had initially claimed was irrelevant.³⁶ That information is no longer in issue in this review.

²⁹ *Pearce and Legal Services Commissioner; Various Landholders (Third Parties)* (1999) 5 QAR 242 [6]-[9] and *McLean and Central Queensland University* (Unreported, 18 March 2009, Queensland Information Commissioner) [51]-[59]. Although these decisions relate to the *Freedom of Information Act 1992* (Qld), the relevant statutory framework is equivalent to that in the RTI Act: sections 28 and 30 of the FOI Act correspond with sections 52 and 60 of the RTI Act respectively.

³⁰ Memo from Detective Senior Constable, Security Intelligence Branch, enclosing document search declaration, dated 14 December 2011.

³¹ Memo from Assistant Commissioner, Metropolitan North Region, dated 23 December 2011.

³² Memo from District Officer, Logan District, dated 3 January 2012.

³³ Memo from Officer in Charge, Palm Beach Division, dated 29 December 2011.

³⁴ Memo from Officer in Charge, Browns Plains Station, dated 2 March 2012.

³⁵ Parts of pages 3, 4, 7, 8, 12, 13, 76, 100 and 103.

³⁶ Parts of pages 111 and 112.

61. The remaining documents that QPS had located but refused to disclose comprise the information in issue, which can be divided into the following categories:
- (a) the names, contact details, and some photographs of individuals who participated in police investigations of the applicant and her son, and signatures and dates of birth of various individuals (**identifying information**)³⁷
 - (b) witness statements provided to QPS in the course of its investigations (**witness statements**),³⁸ and
 - (c) information concerning police investigations that were unrelated to the applicant or her son (**irrelevant information**).³⁹
62. This information is contained in a variety of documents created and gathered by QPS.
63. The identifying information was deleted by QPS under section 75 of the RTI Act. The witness statements were withheld in full by QPS under section 47(3)(b) and section 49 of the RTI Act. The irrelevant information was deleted by QPS under section 73 of the RTI Act.

Is QPS entitled to refuse access to the identifying information and the witness statements?

64. Yes, for the reasons stated below.

Relevant law

65. Under the RTI Act, a person has a right to be given access to documents held by an agency.⁴⁰ However, this right is subject to limitations including grounds on which access may be refused.⁴¹ One ground for refusing access is where disclosure would, on balance, be contrary to the public interest.⁴²
66. The RTI Act lists factors which may be relevant to deciding the balance of the public interest and sets out the following steps to decide where the public interest lies in relation to the disclosure of information:⁴³
- 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 would, on balance, be contrary to the public interest.

Irrelevant factors

67. I have considered the irrelevant factors listed in schedule 4, part 1 of the RTI Act, and consider that none arise in this matter.

³⁷ Pages 3, 4, 8, 12, 13, 76, 79-81, 83-84, 100, 101 and 103-110.

³⁸ Pages 14-31 and 85-99. The witness statements that QPS refused access to were statements of third parties. QPS disclosed all witness statements made by police officers in full (except for signatures and date of birth, which were deleted).

³⁹ Pages 59, 61, 63-65, 111 and 112.

⁴⁰ Section 23 of the RTI Act.

⁴¹ As set out in section 47 of the RTI Act.

⁴² Sections 47(3)(b) and 49 of the RTI Act

⁴³ In section 49(3) of the RTI Act.

Factors favouring disclosure and nondisclosure

68. The RTI Act provides that a factor in favour of disclosure arises where disclosure of the information could reasonably be expected to promote open discussion of public affairs and enhance the Government's accountability. I consider that release of the information in issue would to a small degree promote open discussion and enhance the accountability of QPS. For example, disclosure of the information in issue would reveal to the applicant which witnesses QPS obtained information from, which would go to the question of whether or not QPS conducted an appropriate investigation.
69. The applicant made submissions alleging that her son had been 'tortured' by QPS officers, and that QPS is 'conspiring' to cover up an abuse of power. Having carefully considered the information in issue, I am satisfied that there is nothing within the information that supports these allegations. If there were, then factors favouring disclosure regarding the proper conduct of public administration⁴⁴ and the disclosure of negligent, improper or unlawful conduct⁴⁵ might arise. However, because the information in issue does not support the applicant's allegations, I am satisfied that these factors do not arise.
70. Although the information in issue would to a small degree promote open discussion and enhance the accountability of QPS, it does not disclose any inappropriate conduct on the part of QPS. I afford the factors in favour of disclosure only a small weight.
71. On the other hand, the identifying information and witness statements⁴⁶ meet the definition of personal information in the *Information Privacy Act 2009* (Qld).⁴⁷ Therefore, a factor favouring non-disclosure because of public interest harm arises under schedule 4, part 4, item 6 of the RTI Act.
72. I also consider that the release of this information could reasonably be expected to prejudice the protection of an individual's right to privacy.⁴⁸ Disclosing this information would reveal the identity of witnesses and complainants who provided information to QPS during the course of its investigations.
73. While I consider that, in general, individuals who make complaints or provide witness statements to QPS would expect that their statements might be disclosed to the person to whom it relates through appropriate prosecution and investigation processes, they would not have an expectation that it would be disclosed in other circumstances (such as in response to an RTI application).
74. In assessing the weight to attach to these factors weighing against disclosure, I have considered whether this information is the routine personal work information of public servants.⁴⁹ Although some of the individuals identified are public servants, their interactions with police in these circumstances are, in my opinion, outside the course of their ordinary duties. Public officials who make a complaint to police or act as police witnesses outside the course of their ordinary duties have the same legitimate privacy interest in their identity being protected as any ordinary citizen. In contrast, if a public

⁴⁴ Schedule 4, part 2, item 5 of the RTI Act.

⁴⁵ Schedule 4, part 2, item 6 of the RTI Act.

⁴⁶ Identified at [61] above.

⁴⁷ Being 'information or an opinion ... about an individual whose identity is apparent, or can reasonably be ascertained, from the information in question' – section 12 of the *Information Privacy Act 2009* (Qld).

⁴⁸ Schedule 4, part 3, item 3.

⁴⁹ Such information is 'information that is solely and wholly related to the routine day to day work duties and responsibilities of a public sector employee'. The public interest harm which would be caused by the disclosure of routine personal work information of a public servant would usually be minimal or none. For further information, see the OIC Guideline: Routine personal work information of public sector employees, available at <http://www.oic.qld.gov.au/information-and-resources/guidelines-ip/routine-personal-work-information-public-sector-employees>.

servant produced a witness statement as part of their core duties (this would often be the case, for example, for police officers) the fact that they produced such a statement would be routine personal work information to which only a minimal privacy interest would attach.

75. Because of the legitimate privacy interest that complainants and witnesses have in having their identity protected by QPS, I attach a moderate weight to these factors favouring nondisclosure.

Balancing the relevant factors

76. I consider that the factors weighing against disclosure of the identifying information outweigh those in favour of disclosure. QPS is therefore entitled to refuse access to the witness statements and the identifying information.

Is QPS entitled to refuse access to the irrelevant information?

77. If giving access to a document will disclose information that an agency 'reasonably considers' is not relevant to the access application, then the agency may delete that information before releasing the document to the applicant.⁵⁰
78. I have considered the information deleted by QPS on this basis. I consider that this information is irrelevant to the access application as it relates to other police matters that do not involve the applicant, her son, or the incidents alluded to in the access application.
79. This information was therefore correctly deleted under section 73 of the RTI Act.

DECISION

80. I vary the decision of QPS and find:
- access is refused to the categories of documents numbered 1, 3, 4, 5, 6, 7, 9, 12, 13, 14 and 15 in the access application under section 47(3)(e) of the RTI Act
 - access is refused to the identifying information (as described in paragraph 61) under section 47(3)(b) of the RTI Act
 - access is refused to the witness statements (as described in paragraph 61) under section 47(3)(b) of the RTI Act; and
 - access is to be given to documents containing irrelevant information (described at paragraph 60) with the irrelevant information deleted under section 73 of the RTI Act.
81. I have made this decision as a delegate of the Information Commissioner under section 145 of the *Right to Information Act 2009* (Qld).

Assistant Information Commissioner V Corby

Date: 18 September 2012

⁵⁰ Section 73 of the RTI Act.

APPENDIX A

Categories of information requested in the access application

For the date range 23 April 2009 to 24 October 2011:

1. CCTV footage from inside the police van showing [the applicant's son] being searched and arrested at parliament on 25.11.2010, ALL CCTV footage from the public gallery, outside public gallery doors, staircase and footage from ALL the CCTV cameras in the front court yard during the incident that day. We received the following DVDs but require everything:

25-11-10 STAIRS 11 (16.5 MB), 25-11-10 QUT (204 MB), 25-11-10 chamber (34.7 MB)

2. Copies of all arrest warrants against [the applicant's son] between 17 November 2010 and 29 October 2011.

3. Copies of all arrest warrants against [the applicant] between 17 November 2010 and 29 October 2011.

4. All audio and video recordings involving [the applicant's son] and [the applicant] taken by Queensland Police on 25.11.2010 at Queensland Parliament and in transit to the police station.

5. All CCTV footage, all video and audio recordings of [the applicant] and [the applicant's son] from Charlotte Street Police Station on 25 November 2010 including the EROI.

6. DVD copy of the arrest of [the applicant's son] and detention of [the applicant] by police at Toowoomba on 13 March 2011, including all audio/video and CCTV footage including from inside the unmarked police car taking [the applicant's son] to the Toowoomba watch house. Including names of all witnesses involved in that operation, including those who helped handcuff and take [the applicant's son] to the unmarked police car.

7. DVD copy of [the applicant] being evicted from parliament on 23 April 2009, including all audio/video and CCTV footage, including the name of police, who ejected her and forced her downstairs and witnesses present.

8. All internal and external emails, memos and correspondence in relation to the incident on 23 April 2009 and 25 November 2010 in parliament and 13 March 2011 at Toowoomba involving [the applicant] and [the applicant's son].

9. All CCTV, video and audio footage from Browns Plains police station in relation to the arrest of [the applicant] on 5 March 2011. And names of all police involved in the arrest and pat down search of [the applicant] at the station.

10. All internal and external memos, emails and correspondence in relation to the arrest of [the applicant] at Browns Plains on 5 March 2011.

11. Copies of the special authority forcing [the applicant] and [the applicant's son] to give a DNA sample.

12. DVD copy of the law and order forum at parliament on 14 September 2011, where [the applicant's son] addressed Deputy Police Commissioner Ross Barnett.

13. List of all staff and their position present when [the applicant's son] and [the applicant] were ejected from the public gallery. Including staff, who were present outside the public gallery door, on the internal staircase and later outside in the court yard.

14. Name and position of the man to whom DSC Adam Hankinson is speaking to approx 1- seconds before he begins searching [the applicant's son] and arresting him for no reason near the park bench, front court yard of parliament on 25.11.2010.

15. Names of staff, who helped in the pat down search of [the applicant's son], who handcuffed him, took him to the rear of the police van and locked him in the police cage. Names of staff who held down [the applicant] at that time on 25.11.2010.

16. Copy of [the applicant's son]'s police file.

17. Copy of [the applicant]'s police file.

APPENDIX B**Significant procedural steps**

Date	Event
24 October 2011	The applicant made an access application under the RTI Act to QPS for the documents listed in Appendix A.
18 January 2012	QPS issued their access decision granting access to the majority of documents located, but refusing access to some documents on the basis that their disclosure would be contrary to the public interest. Access to categories of documents for which nothing was located were refused on the basis that the documents were nonexistent or unlocatable.
30 January 2012	The applicant applied to OIC for external review of QPS's decision.
2 February 2012	The applicant provided verbal submissions to OIC.
15 February 2012	QPS provided copies of the documents in issue to OIC.
5 March 2012	Following a large amount of correspondence from the applicant, OIC wrote to the applicant directing her under section 95(2) of the RTI Act not to send any correspondence to OIC unless requested to do so.
12 March 2012	QPS wrote to OIC providing submissions on the sufficiency of search issues in the review.
16 April 2012	OIC wrote to QPS requesting further submissions.
15 May 2012	QPS wrote to OIC providing further submissions on sufficiency of search issues in the review.
5 June 2012	QPS wrote to OIC providing further submissions on sufficiency of search issues in the review.
26 June 2012	OIC wrote to the applicant conveying a preliminary view on the issues in the review.
5 July 2012	The applicant stated that she did not accept the preliminary view.
24 July 2012	OIC wrote to QPS conveying a preliminary view on the issues in the review.
6 August 2012	QPS indicated to OIC that it accepted the preliminary view in part, and disagreed with it in part.
23 August 2012	QPS made further submissions to OIC.
27 August 2012	OIC conveyed a revised preliminary view to the applicant.
28 August 2012	The applicant stated that she did not accept the revised preliminary view.