

## Notice of Decision and Reasons for Decision

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Applicant:	'AT8'
Agency:	Victoria Police
Decision Date:	28 November 2019
Exemptions considered:	Sections 27(2)(b), 31(1)(d), 33(1), 35(1)(b)
Citation:	'AT8' and Victoria Police ( <i>Freedom of Information</i> ) [2019] VICmr 180 (29 November 2019)

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FREEDOM OF INFORMATION – neither confirm nor deny the existence of documents – law enforcement documents – police surveillance – personal affairs information – information obtained in confidence

All references to legislation in this document are to the *Freedom of Information Act 1982* (Vic) (**FOI Act**) unless otherwise stated.

### Notice of Decision

I have conducted a review under section 49F of the Agency's decision to refuse access to documents requested by the Applicant under the FOI Act.

My decision on the Applicant's request differs from the Agency's decision in that I have decided to release additional information in the documents.

The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

My reasons for decision follow.

**Joanne Kummrow**  
Public Access Deputy Commissioner  
28 November 2019

## Reasons for Decision

### Background to review

1. The Applicant made a request to the Agency for access to certain documents, including court transcripts and police matters which occurred over 20 years ago. The Applicant also requested the names of certain police members.
  2. In its correspondence dated 22 May 2019, the Agency advised the Applicant it had interpreted the request to be for the following documents:
    - Parts 1 and 2: Complete [specified type of] registry file in the name of [Applicant] (yourself)
    - Part 3: All documents relating to this incident including attending officer's notes.
    - Part 4: Handwritten notes of [named Police member] and all other documents relating to this charge
    - Part 5: Same documents as parts 1 and 2 of your request.
    - Part 6: Handwritten notes of [named member] and any attending members as well as other documents relating to this matter
    - Part 7: Handwritten notes of [named member] and any attending members as well as other documents relating to this matter
    - Part 8: Brief of Evidence (detailed in request as "Prosecution file") as well as the Police informants handwritten notes
    - Part 9: All attending officers handwritten notes and any documents relating to an investigation into this matter
    - Part 10: Any documents regarding [the Applicant] (yourself) being the subject of surveillance by Victoria Police.
    - Part 11: Handwritten notes of attending officers and any electronically held documents relating to this matter.
    - Part 12: A list of [the Applicant's] LEAP involvements – This report shows an individual's information as being held by Victoria Police, as well as listing their involvements (being all interactions that person has had with Victoria Police that have been recorded in the LEAP database).
    - Part 13: Attending Members statements and handwritten notes
    - Part 14: Attending Members statements and handwritten notes
  3. The Agency also informed the Applicant of the following matters:
    - (a) The role of the Agency's Freedom of Information Officer is to receive and process requests made under the Act on behalf of the Chief Commissioner, and to provide responses to those requests in terms of the provision of documents. This does not extend to the provision of information or the answering of questions. However, this information may be included in the documents relevant to the request.
    - (b) Court transcripts are not created by the Agency. Requests for transcripts can be made by contacting the Victorian Government Reporting Service.
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(c) The Agency is required under the *Public Records Act 1973* (Vic) to follow standards produced by the Public Record Office Victoria in relation to the storage and destruction of public records. Until 2010, briefs of evidence held by the Agency had to be kept for a minimum of seven years, after which they could be destroyed. As more than 20 years have passed since some of the matters in the Applicant's request, some of the documents would have been destroyed.

4. In its decision dated 20 July 2019, the Agency:

(a) identified 15 documents falling within the terms of the Applicant's request. It decided to grant access to 14 documents in part and refuse access to one document in full;

(b) advised no documents exist with respect to parts 1, 2, 5 and 8 of the request;

(c) advised the document requested in part 9 of the request is not held by the Agency;

(d) advised pursuant to section 27(2)(b), it can neither confirm nor deny the existence of any documents matching part 10 of the request, as to do so would disclose documents – should they exist – that would be exempt under section 31(1)(d); and

(e) advised the document requested in part 13 was unable to be located after consultation with the relevant Police Station.

## Review

5. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.

6. I have examined copies of the documents which were released to the Applicant in part.

7. I have been briefed by OVIC staff who inspected the documents claimed to be exempt in full or in part under section 31(1).<sup>1</sup>

8. The Agency's reliance on section 27(2)(b) obviates the need for the Agency to provide me with a copy of any documents, should they exist, that would fall within the terms of the Applicant's request.

9. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.

10. I have considered all communications and submissions received from the parties, including:

(a) the Agency's decision on the FOI request; and

(b) information provided with the Applicant's review application.

11. In undertaking my review, I have had regard to the object of the FOI Act, which is to create a general right of access to information in the possession of the Government or other public bodies, limited only by exceptions and exemptions necessary to protect essential public interests, privacy and business affairs.

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<sup>1</sup> Section 63D provides such documents may only be inspected at an agency's premises and the Information Commissioner is not entitled to take possession of them.

## Review of exemptions

12. The Agency relied on the exemptions under sections 27(2)(b), 31(1)(d), 33(1) and 35(1)(b). The Agency's decision letter sets out the reasons for its decision.

### **Section 27(2)(b) – Neither confirm nor deny the existence of any document**

13. Section 27(2)(b) provides:

(2) In a notice under subsection (1), an agency or Minister—

...

(b) if the decision relates to a request for access to a document that is an exempt document under section 28, 29A, 31 or 31A or that, if it existed, would be an exempt document under section 28, 29A, 31 or 31A, may state the decision in terms which neither confirm nor deny the existence of any document.

14. Section 27(2)(b) requires me to consider whether, hypothetically, documents requested by an applicant:

(a) would fall within the scope of section 31(1)(d), and

(b) whether information as to the existence or non-existence of such documents would, in and of itself, be exempt documents under section 31(1)(d).

15. Section 31(1)(d) provides:

#### **31 Law enforcement documents**

(1) Subject to this section, a document is an exempt document if its disclosure under this Act would, or would be reasonably likely to—

...

(d) disclose methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures

16. 'Reasonably likely' means there is a real chance of an event occurring; it is not fanciful or remote.<sup>2</sup>

17. 'Prejudice' means to hinder, impair or undermine and includes actual prejudice as well as impending prejudice.<sup>3</sup>

18. Part 10 of the Applicant's request relates to any surveillance of the Applicant by the Agency. Surveillance is a method used to detect and investigate suspected criminal offences. If documents relating to surveillance exist, this would directly reveal the Agency (or another law enforcement agency) had undertaken surveillance on the Applicant.

19. The exemption in section 31(1)(d) does not apply to methods and procedures that are widespread and well known.<sup>4</sup>

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<sup>2</sup> *Bergman v Department of Justice Freedom of Information Officer* [2012] VCAT 363 at [65], quoting *Binnie v Department of Agriculture and Rural Affairs* [1989] VR 836.

<sup>3</sup> *Ibid*, *Bergman* at [66], referring to *Sobs v Police Force of Victoria* [1994] VicRp 2; [1994] 1 VR 41 (Nathan J) at [55].

<sup>4</sup> *XYZ v Victoria Police* [2010] VCAT 255 (16 March 2010) at [177].

20. I acknowledge it is well known that in certain circumstances, law enforcement agencies such as the Agency, carry out surveillance as part of an investigation. Where an individual is charged with an offence on the basis of evidence gathered from surveillance, details of the circumstances and manner in which surveillance was conducted will be apparent to that individual from information disclosed to them throughout a relevant court process. However, what is not well known are the circumstances in which an agency determines such surveillance is warranted, or in what manner surveillance is carried out in a situation where an individual has not yet been, or may never be, charged or made aware of any surveillance.
21. If information confirming surveillance of individuals were to be released to them prior to them being charged, it would allow individuals to anticipate when and how surveillance would be implemented and make efforts to evade it. I am satisfied this would prejudice the effectiveness of surveillance as a method in the circumstances of a particular law enforcement investigation.
22. I am satisfied should any documents exist, they would be exempt from release in accordance with section 31(1)(d). Accordingly, in accordance with section 27(2)(b), I am satisfied disclosure of the existence or non-existence of any documents falling within the scope of the Applicant's request, should they exist, would in and of itself constitute the disclosure of exempt documents under section 31(1)(d).
23. In reaching this conclusion, I reiterate that I am neither confirming or denying the existence of any documents that would fall within the terms of the Applicant's request.

***Section 31(1)(d) – Law enforcement documents***

24. The Agency applied section 31(1)(d) to two entries in Document 12.
25. I have considered the other entries recorded in Document 12 which have been released to the Applicant by the Agency.
26. I am not satisfied disclosure of either of the two entries would or would be reasonably likely to result in disclosure of any of the matters set out in section 31(1)(d), such that disclosure would or would be reasonably likely to prejudice the effectiveness of those methods or procedures.

***Section 33(1) – Documents containing personal affairs information***

27. A document is exempt under section 33(1) if two conditions are satisfied:
  - (a) disclosure of the document under the FOI Act would 'involve' the disclosure of information relating to the 'personal affairs' of a person other than the Applicant;<sup>5</sup> and
  - (b) such disclosure would be 'unreasonable'.

*Do the documents contain personal affairs information?*

28. Information relates to the 'personal affairs' of a person if it is reasonably capable of identifying them, or of disclosing their address or location.<sup>6</sup>
29. It has also been held information relates to an individual's personal affairs if it 'concerns or affects that person as an individual'.<sup>7</sup>

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<sup>5</sup> Sections 33(1) and (2).

<sup>6</sup> Section 33(9).

<sup>7</sup> *Hanson v Department of Education & Training* [2007] VCAT 123 at [9].

30. As the nature of disclosure under the FOI Act is unrestricted and unconditional, this is to be interpreted by the capacity of any member of the public to identify a third party.<sup>8</sup>
31. The Documents contain the following personal affairs information:
- (a) names;
  - (b) position titles/ranks;
  - (c) registered numbers;
  - (d) signatures;
  - (e) relationship descriptors;
  - (f) residential addresses;
  - (g) licence numbers;
  - (h) telephone numbers; and
  - (i) other contextual information which is reasonably capable of identifying third parties.
32. Accordingly, I am satisfied the Documents contain the personal affairs information of individuals other than the Applicant.

*Would release of the personal affairs information be unreasonable?*

33. The concept of 'unreasonable disclosure' involves determining whether the public interest in disclosure of official information is outweighed by the personal interest in privacy.
34. I adopt the view of the Supreme Court of Victoria Court of Appeal in *Victoria Police v Marke*<sup>9</sup> in which it was held there is 'no absolute bar to providing access to documents which relate to the personal affairs of others', and the exemption under section 33(1) 'arises only in cases of unreasonable disclosure' and '[w]hat amounts to an unreasonable disclosure of someone's personal affairs will necessarily vary from case to case'.
35. The Supreme Court also stated in *Victoria Police v Marke*, '[t]he protection of privacy, which lies at the heart of section 33(1), is an important right that the FOI Act properly protects. However, an individual's privacy can be invaded to a lesser or greater degree'.<sup>10</sup>
36. The proper application of section 33(1) involves consideration of 'all matters relevant, logical and probative to the existence of conditions upon which the section is made to depend'.<sup>11</sup>
37. In determining whether disclosure of the personal information in the document would be unreasonable, I have considered the following factors:

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<sup>8</sup> *O'Sullivan v Department of Health and Community Services (No 2)* [1995] 9 VAR 1 at [14]; *Beauchamp v Department of Education* [2006] VCAT 1653 at [42].

<sup>9</sup> [2008] VSCA 218 at [76].

<sup>10</sup> [2008] VSCA 218 at [79].

<sup>11</sup> [2008] VSCA 218 at [104].

(a) The nature of the personal affairs information and the circumstances in which the information was obtained

The nature of the personal affairs information is outlined above, at paragraph 31. The information was obtained by the Agency in the context of undertaking an investigation into allegations of criminal behaviour made against the Applicant.

*Individuals acting in their official capacity –*

The Agency exempted the personal affairs information of Agency officers, the name of the Applicant's defence counsel, and the name of the Magistrate, who determined the Applicant's criminal matter.

On the information before me, I do not consider it would be unreasonable to release the personal affairs information of Agency officers, the Applicant's defence counsel or the name of the Magistrate in the context of these individuals carrying out their official duties.<sup>12</sup> This factor weighs in favour of disclosure.

*Other third parties –*

The Agency exempted the personal affairs information of other third parties, such as witnesses and other individuals relevant to the Agency's investigation.

I acknowledge the Applicant may already know some of the third party individuals named in the documents. However, even where an applicant claims to know the identity of a third party, disclosure of that person's personal affairs information may still be unreasonable in the circumstances.<sup>13</sup> This factor weighs against disclosure.

(b) The Applicant's interest in the information, and whether their purpose for seeking the information is likely to be achieved

The FOI Act provides a general right of access that can be exercised by any person, regardless of their motive or purpose for seeking access to a document. However, the reasons why an applicant seeks access a document is a relevant consideration in determining whether disclosure would be unreasonable.<sup>14</sup>

The terms of the Applicant's initial request indicate they seek access to the documents because they are 'accusing police of corruption and acting unlawfully towards me'.

I consider the Applicant's purpose for seeking the information may be achieved by granting access to the personal affairs information of third parties acting within their professional or official capacity, as the information may enable the Applicant to accurately identify any individuals they consider may have acted unlawfully. This factor weighs in favour of disclosure.

(c) Whether any public interest would be promoted by release of the information

I acknowledge the Applicant's personal interest in seeking access to the information.

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<sup>12</sup> *Milthorpe v Mt Alexander Shire Council* (1997) 12.

<sup>13</sup> *AB v Department of Education and Early Childhood Development* [2011] VCAT 1263 at [58]; *Akers v Victoria Police* [2003] VCAT 397.

<sup>14</sup> *Victoria Police v Marke* [2008] VSCA 218 at [104].

Public sector employees are required to conduct themselves with integrity, impartiality, accountability and respect. Individuals can raise concerns of suspected wrongdoing by public sector employees by making a report to the relevant agency or authority.

I consider the public interest would be promoted by the release of the personal affairs information of third parties acting in their professional or official capacity, as the information may enable the Applicant to identify any individuals they consider may have acted unlawfully, and provide those details to the relevant agency or authority. This factor weighs in favour of disclosure.

(d) Whether the individuals to whom the information relates object, or would be likely to object, to the release of the information

I do not have any information before me as to the views of any persons to whom the information relates. The Agency submits consultation was deemed impracticable as:

- (a) certain Agency officers were identified as being on indefinite leave or no longer employed by the Agency;
- (b) the lapse of time since the creation of some of the documents; and
- (c) the sensitive nature of some of the information in the documents.

Having considered the nature of the information and the circumstances in which it was obtained, I am of the view some of the individuals, whose personal affairs information is in the documents, would be reasonably likely to object to the release of that information. This factor weighs against disclosure.

(e) Whether release of the information could lead the persons to whom it relates suffering stress and anxiety

Having considered the nature of some the information and the circumstances in which it was obtained, I consider disclosure of certain documents would be reasonably likely to lead to some of the individuals to which information relates suffering stress and anxiety. This factor weighs against disclosure.

(f) Whether the disclosure of the information would, or would be reasonably likely to endanger the life or physical safety of any person<sup>15</sup>

Finally, I must consider section 33(2A) in determining if release of the personal affairs information of third parties would be unreasonable. This provision requires that I consider whether disclosure of information in the documents would, or would be reasonably likely, to endanger the life or physical safety of any person.

Having reviewed the documents, I am of the view there are reasonable grounds to consider concerns exist in relation to the effect of disclosure of this information to the Applicant on the safety of certain third parties.

38. Having weighed up the above factors, on balance, I am satisfied disclosure of certain personal affairs information in the documents would be unreasonable in the circumstances.

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<sup>15</sup> Section 33(2A).



39. The Schedule of Documents in **Annexure 1** contains a summary of my decision with respect to section 33(1).

***Section 35(1)(b) – Documents containing material obtained in confidence***

40. A document is exempt under section 35(1)(b) if two conditions are satisfied:
- (a) disclosure would divulge information or matter communicated in confidence by or on behalf of a person or a government to an agency or a Minister; and
  - (b) disclosure would be contrary to the public interest as it would be reasonably likely to impair the ability of an agency or a Minister to obtain similar information in the future.

*Was the information or matter communicated in confidence?*

41. When determining whether the information was communicated in confidence, it is necessary to consider the position from the perspective of the communicator, noting confidentiality can be expressed or implied from the circumstances of a matter.<sup>16</sup>
42. Document 14 is the handwritten notes of Agency officers in relation to their communications with an individual other than the Applicant. The information contained in the document was obtained during the Agency's investigation into criminal offences.
43. There is nothing on the face of the information to indicate the information was communicated in confidence. However, a document need not be marked 'confidential' for the content to be considered information communicated in confidence.<sup>17</sup>
44. I have carefully considered the contents of Document 14 and the potential views of the relevant third party.
45. Based on the nature and context of the information recorded, I am satisfied the third party communicated the information to the Agency in circumstances in which confidentiality can reasonably be implied.
46. I consider the information was communicated with the expectation it would only be used for the Agency's investigation and any subsequent court process. I consider it unlikely the third party would have expected the information be disclosed to the Applicant under the FOI Act.
47. Accordingly, I am satisfied disclosure of the document would divulge information communicated to the Agency in confidence.

*Would disclosure be contrary to the public interest?*

48. Section 35(1)(b) also requires consideration of whether the Agency would be impaired from obtaining similar information in the future if the documents were to be disclosed under the FOI Act.
49. This means I must be satisfied that, if the information were to be disclosed, others in the position of the communicator would be reasonably likely not to provide similar information to the Agency in the future.
50. Given the nature of the information in Document 14 and the context in which the information was provided, I am satisfied the public interest lies in the Agency preserving the confidentiality of third parties. It would be contrary to the public interest if third parties did not communicate openly and

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<sup>16</sup> *XYZ v Victoria Police* [2010] VCAT 255 at [265].

<sup>17</sup> *Williams v Victoria Police* [2007] VCAT 1194 at [75].

transparently with Agency officers out of concern their communications would be disclosed under the FOI Act.

51. Having reviewed the document, I am satisfied disclosure of certain information contained in Document 14 would be contrary to the public interest on grounds it would be reasonably likely to impair the ability of the Agency to obtain similar information in the future. Accordingly, I am satisfied Document 14 is exempt under section 35(1)(b).
52. The Schedule of Documents in **Annexure 1** contains a summary of my decision with respect to section 35(1)(b).

### ***Deletion of exempt or irrelevant information***

53. Section 25 requires an agency to grant access to an edited copy of a document when it is practicable for the agency or Minister to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.
54. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'<sup>18</sup> and the effectiveness of the deletions. Where deletions would render the document meaningless they are not 'practicable' and release of the document is not required under section 25.<sup>19</sup>
55. I have considered the information the Agency deleted from the documents as irrelevant. I agree it falls outside the scope of the Applicant's request as it relates to matters or people other than those specified in the Applicant's request.
56. I have considered the effect of deleting exempt and irrelevant information from the documents. I am satisfied it is practicable to provide an edited copy of certain documents with exempt and irrelevant information deleted in accordance with section 25 as to do so would not require substantial time and effort, and the edited documents would retain meaning.

### ***Conclusion***

57. In accordance with section 27(2)(b), I neither confirm nor deny the existence of any documents falling within the scope of point 10 of the Applicant's request, as to do so would disclose documents, should they exist, that would otherwise be exempt under section 31(1)(d).
58. On the information before me, I am satisfied the exemptions in sections 33(1) and 35(1)(b) apply to certain documents. I have decided to grant access to five documents in full, and 10 documents in part.
59. The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

### ***Review rights***

60. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.<sup>20</sup>

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<sup>18</sup> *Mickelborough v Victoria Police (General)* [2009] VCAT 2786 at [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967 at [82].

<sup>19</sup> *Honeywood v Department of Human Services* [2006] VCAT 2048 at [26]; *RFJ v Victoria Police FOI Division (Review and Regulation)* [2013] VCAT 1267 at [140] and [155].

<sup>20</sup> The Applicant in section 50(1)(b) and the Agency in section 50(3D).

61. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.<sup>21</sup>
62. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.<sup>22</sup>
63. Information about how to apply to VCAT is available online at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au). Alternatively, VCAT may be contacted by email at [admin@vcat.vic.gov.au](mailto:admin@vcat.vic.gov.au) or by telephone on 1300 018 228.
64. The Agency is required to notify the Information Commissioner in writing as soon as practicable if either party applies to VCAT for a review of my decision.<sup>23</sup>

### ***Third party VCAT review rights***

65. Section 49P(5) states if I decide to disclose a document claimed to be exempt under section 33(1) I must, if practicable, notify any person who has a right to apply to VCAT for a review of my decision of their right to do so.
66. In considering the meaning of 'practicable' in relation to other sections of the FOI Act, VCAT has stated the following:

The use of the word 'practicable' in the legislation to my mind connotes a legislative intention to apply common sense principles. 'Practicable' is not a term of art or a term of precise meaning.

... The use of the word indicates there should be imported into the process the exercise of judgment by the agency concerned. It does not allow for the conclusion that because a task is possible, it must, ergo, be undertaken.<sup>24</sup>

67. The possibility of an unnecessary intrusion into the lives of third parties is relevant when assessing the practicability of notifying them.<sup>25</sup>
68. I have decided notifying the relevant third parties would be an unnecessary intrusion for the following reasons:
  - (a) the nature of the information;
  - (b) the context in which the information was provided;
  - (c) I consider notification of certain individuals would be reasonably likely to lead to those persons suffering stress and anxiety; and
  - (d) the passage of time since many of the documents were created.
69. In the circumstances, I am not satisfied it is practicable to notify those individuals of their VCAT review rights.

### ***When this decision takes effect***

70. My decision does not take effect until the relevant review period (stated above) expires, or if either party applies to VCAT for a review, until the VCAT proceeding is concluded.

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<sup>21</sup> Section 52(5).

<sup>22</sup> Section 52(9).

<sup>23</sup> Sections 50(3F) and (3FA).

<sup>24</sup> *Re Schubert and Department of Premier and Cabinet* (2001) 19 VAR 35 at [45].

<sup>25</sup> *Coulston v Office of Public Prosecutions Victoria* [2010] VCAT 1234 at [42].

Annexure 1 –Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
1.	[Date]	Summary and Result of Charge	1	Release in part Section 33(1), 25	Release in part Sections 33(1), 25  The following information is not exempt and is to be released:  <ul style="list-style-type: none"> <li>• the Informant's name, rank and registered number;</li> <li>• the Magistrate's name;</li> <li>• Defence Counsel's name; and</li> <li>• Prosecutor's name and registered number.</li> </ul> The information deleted by the Agency in the 'Summary of Offence' is exempt under section 33(1).	Section 33(1): I am satisfied disclosure of certain personal affairs information in the document would be unreasonable in the circumstances. Accordingly, I am satisfied this information is exempt under section 33(1).  Section 25: I am satisfied it is practicable to provide the Applicant with an edited copy of the document with exempt information deleted in accordance with section 25.
2.	[Date]	Letter	1	Release in part Section 33(1)	Release in full	Section 33(1): I am not satisfied disclosure personal affairs information in the document would be unreasonable in the circumstances. Accordingly, I am not satisfied this information is exempt under section 33(1).
3.	[Date]	Antecedent Report	1	Release in part Section 33(1)	Release in part Sections 33(1), 25	Sections 33(1) and 25: See comments regarding Document 1.

Annexure 1 –Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>The following information is not exempt and is to be released:</p> <ul style="list-style-type: none"> <li>the Informant's name, rank and registered number; and</li> <li>under 'Additional Particulars', the two words following '[gender pronoun] is now living with'.</li> </ul> <p>The remaining information deleted by the Agency is exempt under section 33(1).</p>	
4.	[Date]	Report	2	Release in part Section 33(1)	<p>Release in part Sections 33(1), 25</p> <p>The following information is not exempt and is to be released:</p> <ul style="list-style-type: none"> <li>the name, registered number and signature of the author.</li> </ul> <p>The remaining information deleted by the Agency is exempt under section 33(1), as well as the entirety of the sixth line of text following the logo directly preceding the heading 'Circumstances'. I note the sixth line of text had been inadvertently disclosed by the Agency.</p>	Sections 33(1) and 25: See comments regarding Document 1.

Annexure 1 –Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
5.	Unable to be determined	Forensic Physician Report	2	Refuse in full Section 33(1)	Release in full	This Document is largely illegible. The final paragraph on the second page is clearly legible. The Agency has advised a clearer copy of the document does not exist.  Section 33(1): See comments regarding Document 2.
6.	[Date]	Antecedent Report	1	Release in part Section 33(1)	Release in part Sections 33(1), 25  The following information is not exempt and is to be released:  <ul style="list-style-type: none"> <li>the name, registered number and signature of the Informant.</li> </ul> The remaining information deleted by the Agency is exempt under section 33(1).	Sections 33(1), 25: See comments regarding Document 1.
7.	Various	Record of Charge	1	Release in part Section 33(1)	Release in full	Section 33(1): See comments regarding Document 2.
8.	[Date]	LEAP Report	2	Release in part Section 33(1)	Release in part Sections 33(1), 25	Sections 33(1): See comments regarding Document 1.

Annexure 1 –Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>The following information is not exempt under section 33(1) and is to be released:</p> <p>Page 1:</p> <ul style="list-style-type: none"> <li>the name and registered number of the reporting member.</li> </ul> <p>Page 2:</p> <ul style="list-style-type: none"> <li>the name and registered number of the Investigator; and</li> <li>the number following the words 'report by'.</li> </ul> <p>The remaining information deleted by the Agency is exempt under section 33(1).</p>	<p><b>Section 25:</b> See comments regarding Document 1.</p> <p>In addition, I agree information deleted by the Agency is irrelevant as it is the staff number of the Agency officer who conducted the administrative task of retrieving this document in response to the Applicant's FOI request.</p>
9.	[Date]	LEAP Report	2	<p>Release in part</p> <p>Section 33(1)</p>	<p>Release in part</p> <p>Sections 33(1), 25</p> <p>The following information is not exempt and is to be released:</p> <p>Page 1:</p> <ul style="list-style-type: none"> <li>the name and registered number of the reporting member.</li> </ul>	<p><b>Sections 33(1) and 25:</b> See comments regarding Document 8.</p>

Annexure 1 –Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>Page 2:</p> <ul style="list-style-type: none"> <li>• the name and registered number of the Investigator;</li> <li>• the number following the words 'report by member';</li> <li>• the number following the words 'supp report by'; and</li> <li>• the number following the words 'information contact'.</li> </ul> <p>The remaining information deleted by the Agency is exempt under section 33(1).</p>	
10.	[Date]	[Descriptor] Unit Incident Report	3	<p>Release in part Section 33(1)</p>	<p>Release in part Sections 33(1), 25</p> <p>The following information is not exempt and is to be released:</p> <ul style="list-style-type: none"> <li>• the names and registered numbers of all [Descriptor] Officers and Police members; and</li> <li>• the sentence following the heading 'Injuries/Damage'.</li> </ul>	<p>Sections 33(1) and 25: See comments regarding Document 1.</p>



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					The remaining information deleted by the Agency is exempt under section 33(1).	
11.	[Date]	Electronic Patrol Duty Return (ePDR)	5	Release in part  Sections 25, 33(1)	Release in part  Section 25  The following information is not exempt and is to be released:  <ul style="list-style-type: none"> <li>the names and registered numbers of all Police members and [Descriptor] Officers.</li> </ul>	Section 33(1): See comments regarding Document 1.  Section 25: See comments regarding Document 1.  In addition, I agree information deleted by the Agency is irrelevant, as it comprises:  <ul style="list-style-type: none"> <li>the staff number of the Agency officer who conducted the administrative task of retrieving this document in response to the Applicant's FOI request; and</li> <li>information relating to matters or people other than those referred to in the Applicant's request.</li> </ul>
12.	Various	LEAP Involvement List	6	Release in part  Sections 31(1)(d), 25	Release in full	Section 31(1)(d): I am not satisfied disclosure of this document would or would be reasonably likely to disclose methods or procedures for preventing, detecting, investigating, or dealing with matters arising out

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						of, breaches or evasions of the law the disclosure of which would, or that disclosure would be reasonably likely to prejudice the effectiveness of those methods or procedures.
13.	[Date]	Handwritten Member Notes	2	Release in part Section 33(1), 25	Release in part Sections 33(1), 25	Sections 33(1) and 25: See comments regarding Document 1.
14.	Various	Informant Notes	2	Release in part Sections 33(1), 35(1)(b), 25	Release in part Sections 33(1), 35(1)(b), 25	Sections 33(1) and 25: See comments regarding Document 1.  Section 35(1)(b): I am satisfied disclosure of certain information in this document would divulge information or matter communicated in confidence by a person to the Agency. I am satisfied disclosure would be contrary to the public interest because it would be reasonably likely to impair the ability of the Agency to obtain similar information in future. Accordingly, this information is exempt under section 35(1)(b).
15.	[Date]	Attending Member Notes	2	Release in part	Release in full	Section 33(1): See comments regarding Document 2.

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				Section 33(1)		