

Notice of Decision and Reasons for Decision

Applicant: 'BB2'

Agency: Victoria Police

Decision date: 30 January 2020

Exemptions considered: Sections 30(1), 33(1) and 35(1)(b)

Citation: 'BB2' and Victoria Police (*Freedom of Information*) [2020] VICmr 15
(30 January 2020)

FREEDOM OF INFORMATION – workplace complaint – internal investigation – Professional Standards Command – interpose file – emails – witness statements – memoranda – investigation reports

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 apply a different exemption to certain information exempted by the Agency and 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
30 January 2020

Reasons for Decision

Background to review

1. The Applicant made a request to the Agency for access to the following documents:

All documents held by [the Agency], relating to files between [the Applicant] and [Complainant 1] and [Complainant 2] of [Complainants' address]. Inclusive of Professional Standards Command file [file reference number] Statements, Personal Safety Order application, Day Book, emails and Diary entries, video or other evidence supplied, notes from prosecutions [police station name], [Agency officer's name] and notes from all investigators currently held by [Agency Officer names x 2], and prosecutions, recordings, photographs and all evidence produced by [Complainant 1] and [Complainant 2], cover sheets and recommendations made by all members in contact with this file.

2. In its decision, the Agency identified 18 documents falling within the terms of the Applicant's request. It granted access to certain documents in full, in part and refused access to four documents in full.

Review

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. During the review, the Applicant advised they seek access to all documents exempted by the Agency. Accordingly, this review relates to the four documents to which the Agency refused access in full and the 13 documents refused in part.
5. I have examined copies of the documents subject to review.
6. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
7. I have considered all communications received from the parties, including:
 - (a) the Agency's decision on the FOI request, dated[date];
 - (b) the Applicant's submission, dated [date] and information provided with the Applicant's review application; and
 - (c) communications between OVIC staff, the Applicant and the Agency.
8. 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.

Review of exemptions

9. The Agency relies on the exemptions in sections 30(1), 33(1) and 35(1)(b) to refuse access to information in the 13 documents refused in part and sections 33(1) and 35(1)(b) to refuse access to the four documents refused in full. The Agency's decision letter sets out the reasons for its decision.

Section 30(1)

10. The Agency refused access to information in Documents 1, 3 and 10 under section 30(1).
11. Having conducted my review, while the Agency relies upon section 33(1) and 35(1)(b) to refuse access to pages 1-2 in Document 17, I consider certain information in this document is exempt under section 30(1).
12. Section 30(1) has three requirements:
 - (a) the document must disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister, or consultation or deliberation that has taken place between officers, Ministers or an officer and a Minister; and
 - (a) such matter must be made in the course of, or for the purpose of, the deliberative processes involved in the functions of an agency or Minister or of the government; and
 - (b) disclosure of the matter would be contrary to the public interest.
13. The term 'officer of an Agency' is defined in section 5(1). It includes a member of the agency, a member of the agency's staff, and any person employed by or for the agency, whether that person is one to whom the provisions of the *Public Administration Act 2004* (Vic) apply or not. In this case, the term extends to Agency staff employed within its Professional Standards Command.
14. The exemption does not apply to purely factual material in a document.¹

Do the documents contain information in the nature of opinion, advice, recommendation, consultation or deliberation?

15. Information exempted in Document 1 comprises an investigation plan (as noted on page 2) and the view of an Agency officer. I consider this information constitutes nature of opinion, advice or recommendations and accept it was prepared by an Agency officer.
16. I also consider the information exempted in Documents 3 and 10 constitutes opinion, advice and recommendations and accept it was prepared by the Agency officer who authored the document.
17. I also accept the first and third emails within Document 17 record consultation between Agency officers.

Was the information prepared in the course of, or for the purposes of, the Agency's deliberative processes?

18. The term 'deliberative process' has been interpreted widely and includes deliberation or consideration involved in the functions of an agency, Minister or government.²
19. I am satisfied the information was prepared in the course of the Agency's deliberative processes and relates to its complaint investigation processes, both at a local level and within Professional Standards Command.

¹ Section 30(3).

² *Brog v Department of Premier and Cabinet* (1989) 3 VAR 201 at [208].

Would disclosure of the information be contrary to the public interest?

20. In determining if release of information would be contrary to public interest, I must consider all relevant facts and circumstances remaining mindful the object of the FOI Act is to facilitate and promote the disclosure of information. This requires a 'process of weighing against each other conflicting merits and demerits'.³ In doing so, I have given weight to the following relevant factors:⁴
- (a) the right of every person to gain access to documents under the FOI Act;
 - (b) the degree of sensitivity of the issues discussed in the documents and the broader context giving rise to the creation of the documents;
 - (c) the stage of a decision or status of policy development or a process being undertaken at the time the communications were made;
 - (d) whether disclosure of the documents would be likely to inhibit communications between agency officers, essential for the agency to make an informed and well-considered decision or participate fully and properly in a process in accordance with the agency's functions and other statutory obligations;
 - (e) whether disclosure of the documents would give merely a part explanation, rather than a complete explanation for the taking of a particular decision or the outcome of a process, which the agency would not otherwise be able to explain upon disclosure of the documents;
 - (f) the impact of disclosing documents in draft form, including disclosure not clearly or accurately representing a final position or decision reached by the agency at the conclusion of a decision or process; and
 - (g) the public interest in the community being better informed about the way in which the agency carries out its functions, including its deliberative, consultative and decision making processes and whether the underlying issues require greater public scrutiny.
21. The deliberative material is a record of the Agency officer's opinion, advice, recommendations and observations with respect to a workplace investigation.
22. Document 10 is the final workplace investigation report. I note the Applicant was provided with the nature of the allegation made against them, the investigation findings and recommendations made. In considering the investigating officer's recommendations regarding the potential direction of the investigation, I am of the view this information is exempt. I consider it was prepared in the course of the Agency's workplace investigation, is sensitive in nature and was created by the Agency officer as part of their professional duty to progress complaints lodged by individuals who report concerns about police members. This factor weighs against disclosure.
23. As stated above, the documents contain an Agency officer's observations and options for the future course of the investigation. In view, release of these recommendations may provide only a part explanation, which the Agency may not be able to fully explain should the document be disclosed. Investigations are responsive to information uncovered and have the potential to take a variety of pathways prior to reaching an outcome. This factor weighs against disclosure.

³ *Sinclair v Maryborough Mining Warden* [1975] HCA 17; (1975) 132 CLR 473 at 485, adopted in *Department of Premier and Cabinet v Hulls* [1999] VSCA 117 at [30].

⁴ *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483.

24. In its decision letter, the Agency stated its officers must be able to freely communicate their professional opinions and thought processes to ensure allegations are thoroughly considered and any decisions made are subject to careful and thorough deliberation. In my view, release of the officer's deliberations could inhibit other Agency officers from making proper and detailed records of their opinions and observations in future investigations. This factor weighs against disclosure.
25. In balancing the above factors, I have determined the release of the deliberative information in Documents 1, 3, 10 and 17 would be contrary to the public interest.
26. Accordingly, I am satisfied information exempted by the Agency under section 30(1) is exempt. However, I have determined certain information exempted by the Agency in Document 17 is also exempt under section 30(1).
27. The Schedule of Documents in **Annexure 1** outlines my decision in relation to section 30(1).

Section 33(1)

28. The Agency refused access to certain information in Documents 1 to 14 (inclusive) under section 33(1). The Agency also refused access to Documents 15 to 18 in full under section 33(1).
29. 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;⁵ and
 - (a) such disclosure would be 'unreasonable'.

Do the documents contain information relating to the 'personal affairs' of persons other than the Applicant?

30. Information relating to a person's 'personal affairs' includes information that identifies any person or discloses their address or location. It also includes any information from which this may be reasonably determined.⁶
31. A third party's opinion or observations about another person's conduct can constitute information related to the third party's personal affairs.⁷
32. 'Personal affairs information' is interpreted broadly to include matters related to the health, private behaviour, home life or personal or family relationships of individuals.⁸
33. Exempt information includes the names, addresses, relationship descriptors and contact details of third parties. It also includes the opinions, observations and narratives of third parties which would reveal information relating to their home life and private behaviour. I accept the information exempted by the Agency constitutes the personal affairs information of individuals other than the Applicant.
34. The third page of Document 17 is a marked-up screenshot of a social media post. The image does not reveal the name of the person who made the post, nor the time and date of publication. However, I consider there is a reasonable possibility someone with a greater awareness of the matters at hand could ascertain personal affairs information from the post, such as its author, the time and date the post was made and the private movements of individuals involved in the matter.

⁵ Sections 33(1) and (2).

⁶ Section 33(9).

⁷ *Richardson v Business Licensing Authority* [2003] VCAT 1053, cited in *Davis v Victoria Police (General)* [2008] VCAT 1343 at [43], *Pritchard v Victoria Police (General)* [2008] VCAT 913 at [24], *Mrs R v Ballarat Health Services (General)* [2007] VCAT 2397 at [13].

⁸ *Re F and Health Department* (1988) 2 VAR 458 as quoted in *RFJ v Victoria Police FOI Division* [2013] VCAT 1267 at [103].

Would disclosure of the personal affairs information be unreasonable?

35. The concept of 'unreasonable disclosure' involves balancing the public interest in the disclosure of official information with the interest in protecting a third party individual's right to privacy in the circumstances.
36. In deciding whether disclosure of a document would involve the unreasonable disclosure of a third party's personal affairs information, an agency must notify that person an FOI request has been received for documents containing their personal information and seek their view as to whether disclosure of the document should occur.⁹ However, this obligation does not arise in certain circumstances.¹⁰
37. The Agency advised it would be unreasonable to consult with third parties and I accept, from the circumstances of this matter, consultation would not have been practicable in some cases and may reasonably have caused distress to third parties in other cases.
38. In considering whether the disclosure of the personal affairs information would be unreasonable in the circumstances, I have had regard to the factors set out below.

(a) The nature of the personal affairs information

As stated above, the personal affairs information discloses the address and location of third parties, including information from which the movements of those persons could be reasonably ascertained. The information also includes the opinions and observations of the third parties and information regarding the health, private behaviour and home life of the individuals. I consider this information is inherently sensitive in nature. This factor weighs against disclosure.

(b) The Applicant's reasons and motives for seeking the information

The Applicant submitted they seek the exempt information to proceed with civil litigation against the complainants and the investigating Agency officer. I acknowledge the matter to which the documents relate is personal and of importance to the Applicant and their professional integrity. However, it is necessary to balance the Applicant's purpose against the privacy rights of individuals who report concerns about police members.

Individuals reasonably communicate such information in confidence and should be able to speak openly with members of Professional Standards Command. This factor weighs against disclosure.

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

The Applicant advised they seek access to the information to pursue civil action against the complainants and the Agency's investigating officer. I consider this demonstrates a private, rather than a public interest.

Rather, I consider there is a broader public interest in protecting the confidentiality of the investigation process, which is undertaken when a person reports concerns about a police officer to Professional Standards Command. This factor weighs against disclosure.

⁹ Section 33(2B).

¹⁰ Section 33(2C).

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

Whilst I do not have information before me regarding the views of the third parties, given the circumstances and sensitivities surrounding this matter, I consider the third parties would more than likely object to release of their personal affairs information. This factor weighs against disclosure.

39. As a general principle, it is unlikely to be reasonable for details of complaints made and information provided to the Agency by a member of the public in relation to the conduct of a police officer to be released to that officer under the FOI Act. This is despite the fact in the Applicant's FOI request and submission, they named third parties who they claimed made complaints against them. The Applicant's awareness of a complainant is a relevant consideration, however, even in circumstances where an individual is known to an applicant, it may still be unreasonable to release such information under the FOI Act.¹¹
40. In the matter of *Marke v Victoria Police*,¹² the Victorian Civil and Administrative Tribunal (**VCAT**) considered disclosure of police conduct investigation documents in which the applicant advised he knew the identity of a complainant named in the documents:

The applicant submitted that as he believes that he knows the identity of the complainant as a result of other documents which have been released to him, it would not be unreasonable to release these documents (1 to 7) to him. He also states that he has an interest in this information because he wants a finding against him in relation to the ESD [Ethical Standards Division] inquiry "exonerated" and a finding in relation to the reports against the complainant of "false report" which he says is a crime.¹³

41. As part of conducting the balancing exercise in determining if disclosure would be unreasonable, the Tribunal stated:

Looking at the privacy issue in this light, in my view, it would be unreasonable to release these documents. I take that view after having balanced the applicant's right to know and the importance of transparency, as against protecting personal information of the person or persons mentioned in the document. In doing that exercise, I have come to the conclusion that it would be unreasonable to release these documents...¹⁴

42. Finally, section 33(2A) requires, in determining whether the disclosure of a document would involve the unreasonable disclosure of information relating to the personal affairs of any person, I must take into account whether the disclosure of the information would, or would be reasonably likely to, endanger the life or physical safety of any person.
43. I note the Applicant previously had a Personal Safety Intervention Order served upon them. Further, I understand certain documents subject to review relate to conflict associated with that Order. Therefore, I consider there was conflict between the Applicant and third parties that was sufficiently concerning such that an Order was sought in April 2018.
44. Given the Applicant now seeks these documents through the freedom of information process, in particular seeking personal affairs information concerning complainants and information provided in confidence to the Agency, I consider it is reasonably likely there is ongoing conflict between the Applicant and third parties. I have given significant weight to this factor and, on balance, have

¹¹ *AB v Department of Education and Early Childhood Development* [2011] VCAT 1263 at [58]; *Akers v Victoria Police* [2003] VCAT 397.

¹² *(General)* [2007] VCAT 747.

¹³ *Ibid* at [23].

¹⁴ *Ibid* at [26].

concluded it would be unreasonable to release personal affairs information of third parties which appears in the documents.

45. Accordingly, I am satisfied personal affairs information in the documents is exempt under section 33(1). However, the only exception to this is certain information in Document 14, which includes documents provided to Professional Standards Command by the Applicant. These documents comprise a photo of the Complainant, the Applicant's notes and a letter addressed to the Applicant.
46. In the circumstances, I am not satisfied it would be unreasonable to disclose an unedited version of the Applicant's notes or letter provided to the Agency. However I consider it would be unreasonable to release the photograph provided by the Applicant to the Agency despite noting the Applicant appears to have taken the image. My reason for doing so is regardless of who took the photograph, it constitutes the personal affairs of a third party and, consistent with my reasons above, I consider its disclosure under FOI would be unreasonable in the circumstances.
47. The Schedule of Documents in **Annexure 1** outlines my decision in relation to section 33(1).

Section 35(1)(b)

48. The Agency refused access to Documents 16 and 17 in full under section 35(1)(b).
49. 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.
50. When determining whether information was communicated in confidence, it is necessary to consider the position from the perspective of the communicator.¹⁵ Further, confidentiality can be expressed or implied from the circumstances of the matter.¹⁶
51. The Agency advised it determined it was unreasonable to consult with third parties. On the information before me, I accept it is reasonably likely consultation would cause undue distress to the third parties.

Was the information or matter communicated in confidence?

52. Document 16 is a witness statement provided by a third party during the Professional Standards Command investigation.
53. I acknowledge the Applicant likely has knowledge of the identity of some of witnesses and details of the allegations which were the subject of the investigation. However, section 35(1)(b) can still apply if I am satisfied the information was communicated in circumstances that gave rise to an expectation of confidentiality and disclosure would be contrary to the public interest.
54. As previously noted, it is unlikely to be reasonable complaints made about and information provided to the Agency by a member of the public in relation to the conduct of a police officer would be released under the FOI Act. I am satisfied statements made to Professional Standards Command were provided in circumstances in which confidentiality can reasonably be implied. Therefore, I am satisfied disclosure of this document would divulge information communicated in confidence to the Agency.

¹⁵ XYZ v Victoria Police [2010] VCAT 255 at [265].

¹⁶ Ibid.

55. In *Re Landsberger v Victoria Police*,¹⁷ the Administrative Appeals Tribunal held, in the context of a police investigation, the truth or untruth of information was immaterial to the establishment of the exemption under section 35(1)(b).

56. VCAT has also held the exemption in section 35(1)(b) does not distinguish between reliable information and misinformation. This view was affirmed in *Marke v Victoria Police*:¹⁸

... Parliament in balancing the competing interests of the public and providers of information found it necessary to include the exemption in the legislation without any requirement that it be truthful or accurate.

57. Accordingly, I am satisfied information in the statement was communicated to the Agency in confidence, regardless of whether the information is accurate or not.

58. Document 17 is described in the Agency's decision letter as 'emails and attachment' from an Agency officer. On the first page, I note there is an email received by the Applicant from a third party and forwarded to the Agency officer named in the decision letter. Whilst this information may have been forwarded in confidence, I consider it is the Applicant's information and disclosure would not be contrary to the public interest.

59. I consider other emails in Document 17 are internal working documents and, therefore, considered them under section 30(1), as set above.

Would disclosure be contrary to the public interest as it would be reasonably likely to impair the ability of the Agency to obtain similar information in the future?

60. On the information before me, I am not satisfied the public interest would be served by release of the information to the Applicant. Rather, I am of the view the public interest weighs in favour of preserving the Agency's ability to receive complaints made regarding misconduct, or possible misconduct, by police officers. In this regard, I note the finding of Justice Bell in *XYZ v Victoria Police*, which concerned an FOI request by a police officer seeking access to investigation documents created and received by the Agency's former Ethical Standards Department:¹⁹

The public interest grounds against disclosure are very strong. In particular, there is a powerful public interest in maintaining the integrity of the processes for investigating alleged police misconduct and corruption.

61. I accept if third parties, who provide information voluntarily to the Agency about the alleged conduct of police officers, were aware information they provide would be routinely disclosed under the FOI Act, complainants would be less likely to communicate similar information in the future. As a result, the future reporting of alleged misconduct would be impaired and have a detrimental impact on the integrity and ability of the Agency to carry out its law enforcement functions. Such an outcome would be contrary to the public interest given the fundamental importance of police integrity.

62. Further, records indicate details of the complaint were provided to the Applicant as part of the Agency's investigation and in affording the Applicant an opportunity to respond to the complaint.

63. Accordingly, I am satisfied Document 16 is exempt in full under section 35(1)(b). As already noted, I have assessed Document 17 under section 30(1), as discussed above.

64. The Schedule of Documents in **Annexure 1** outlines my decision in relation to section 35(1)(b).

¹⁷ (1989) 3 VAR 100 at [102].

¹⁸ [2006] VCAT 1364 at [56].

¹⁹ (General) [2010] VCAT 255.

Deletion of exempt or irrelevant information

65. Section 25 requires an agency to grant access to an edited copy of a document when it is practicable for the agency to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.
66. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'²⁰ 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 25.²¹
67. I note the Agency has already provided the Applicant with edited copies of documents exempt in part. I have considered the effect of deleting exempt information from Document 17 and am satisfied it is practicable to delete exempt information in the second email in the email thread.
68. With respect to other documents, I am of the view it is not practicable to edit these documents as doing so would render them meaningless.

Conclusion

69. On the information before me, I am satisfied certain information in the documents is exempt under sections 30(1), 33(1) and 35(1)(b).
70. With the exception of Document 17, which I am satisfied may be release in part in accordance with section 25, I have determined to exempt all other documents in full.

Review rights

71. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.²²
72. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.²³
73. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.²⁴
74. Information about how to apply to VCAT is available online at www.vcat.vic.gov.au. Alternatively, VCAT may be contacted by email at admin@vcat.vic.gov.au or by telephone on 1300 018 228.
75. 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.²⁵

²⁰ *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].

²¹ *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].

²² The Applicant in section 50(1)(b) and the Agency in section 50(3D).

²³ Section 52(5).

²⁴ Section 52(9).

²⁵ Sections 50(3F) and (3FA).

Other matters

76. 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.

77. 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.²⁶

78. VCAT also considers the possibility of an unnecessary intrusion into the lives of third parties is relevant when assessing the practicability of notifying them.²⁷

79. 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 information was an email sent directly to or from the Applicant;
- (c) the passage of time since the documents were created; and
- (d) the likelihood that notification would cause undue stress and anxiety to the parties involved.

80. On balance, given the unnecessary intrusion into the lives of the individuals whose personal information appears in the document, I am not satisfied it is practicable to notify those individuals of their right of review.

When this decision takes effect

81. My decision does not take effect until the relevant review period (stated above) expires. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

²⁶ *Re Schubert and Department of Premier and Cabinet* (2001) 19 VAR 35 at [45].

²⁷ *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]	Interpose File [number]	7	Released in part Sections 30(1), 33	Release in part Sections 30(1), 33(1), 25 Information exempted by the Agency is to remain deleted.	Section 30(1): I am satisfied information exempt by the Agency is matter in the nature of the opinion, advice and recommendations prepared Agency officers as part of the deliberative processes associated with a Professional Standards Command investigation. I am also satisfied release of this information would be contrary to the public interest. Section 33(1): I am satisfied information exempted by the Agency constitutes the personal affairs information of individuals other than the Applicant. I am satisfied it would be unreasonable to release such information in the circumstances of this matter, as outlined in the Notice of Decision above. Section 25: I am satisfied it is practicable to delete exempt information from the document in accordance with section 25.
2.	[date]	Complaint Assessment Process	2	Released in part Section 33(1)	Release in part Section 33(1), 25 Information exempted by the Agency is to remain deleted.	Sections 33(1) and 25: See comments for Document 1.

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
3.	[date]	Email from [Agency staff description]	2	Released in part Sections 30(1), 33	Release in part Sections 25, 30(1), 33(1) Information deleted by the Agency is to remain deleted.	Section 25: I am satisfied irrelevant information deleted by the Agency in accordance with section 25 relates to the processing of the Applicant's FOI request and falls outside the scope of the request. I am also satisfied it is practicable to delete exempt information from the document in accordance with section 25. Section 30(1): I am satisfied information exempted by the Agency contains matter in the nature of the opinion, advice and recommendations prepared by Agency officers as part of the deliberative processes associated with a Professional Standards Command investigation. I am also satisfied release of this information would be contrary to the public interest, as outlined in the Notice of Decision above. Section 33(1): See comments for Document 1.
4.	[date]	Email from [Agency staff description]	1	Released in part Section 25	Release in part with irrelevant information deleted Section 25 Information deleted by the Agency is to remain deleted.	Section 25: I am satisfied irrelevant information deleted by the Agency in accordance with section 25 relates to the processing of the Applicant's FOI request and falls outside the scope of the request. I am also satisfied it is practicable to delete this information from the document in accordance with section 25.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
5.	[date]	VP Form [number]	4	Released in part Section 33(1)	Release in part Sections 33(1), 25 Information exempted by the Agency is to remain deleted except for the personal affairs information inadvertently disclosed by the Agency.	Section 33(1): See comments for Document 1. I note the Agency inadvertently disclosed personal affairs information of a third party in this document. Regardless, Accordingly, I am satisfied this information is exempt and should not be released. Section 25: I am satisfied it is practicable to delete exempt information from the document in accordance with section 25.
6.	[date]	Summary Report [number]	20	Released in part Section 33(1)	Release in part Sections 33(1), 25 Information exempted by the Agency is to remain deleted.	Sections 33(1) and 25: See comments for Document 1.
7.	[date]	Memo from [Agency staff description]	3	Released in Full	Not subject to review	
8.	[date]	Memo from [Agency staff description]	1	Released in part Section 33(1)	Release in part Sections 33(1), 25 Information exempted	Section 33(1): See comments for Document 1. Section 25: I am also satisfied it is practicable to delete exempt information from the document in

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					by the Agency is to remain deleted.	accordance with section 25.
9.	[date]	Conflict of Interest Disclosure	1	Released in Full	Not subject to review	By email dated 10 October 2019, the Agency confirmed this document was released in full to the Applicant.
10.	[date]	Final Investigation Report	6	Released in part Sections 30(1), 33(1)	Release in part Sections 30(1), 33(1), 25 Information exempted by the Agency is to remain deleted except for the personal affairs information inadvertently disclosed by the Agency.	Section 30(1): See comments for Document 1. Section 33(1): See comments for Documents 1 and 5. I note the Agency inadvertently disclosed personal affairs information of a third party in this document. Regardless, Accordingly, I am satisfied this information is exempt and should not be released. Section 25: I am satisfied it is practicable to delete exempt information from the document in accordance with section 25.
11.	[date]	Issue Cover Sheet [number]	2	Released in part Section 33(1)	Release in part Sections 33(1), 25 Information exempted by the Agency is to remain deleted except for the personal affairs information	Section 33(1): See comments for Documents 1 and 5. I note the Agency inadvertently disclosed personal affairs information of a third party in this document. Regardless, Accordingly, I am satisfied this information is exempt and should not be released.

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					inadvertently disclosed by the Agency.	Section 25: I am satisfied it is practicable to delete exempt information from the document in accordance with section 25.
12.	[date]	E-mail from [Agency staff description]	3	Released in part Section 33(1)	Release in part Sections 33(1), 25 Information exempted by the Agency is to remain deleted.	Sections 33(1) and 25: See comments for Document 1.
13.	[date]	Incident Fact Sheet [number]	2	Released in part Section 33(1)	Release in part Sections 33(1), 25 Information exempted by the Agency is to remain deleted.	Sections 33(1) and 25: See comments for Document 1.
14.	[date]	Supplementary Final Investigation Report	5	Released in part Section 33(1)	Release in part Sections 33(1), 25 Information exempted by the Agency is to remain deleted, except for the Applicant's notes on pages four and five,	Section 33: I am satisfied information exempted by the Agency is the personal affairs information of individuals other than the Applicant. For the first three pages of the document, I am satisfied it would be unreasonable to release this information in the circumstances of this matter. However, with respect to the Applicant's own notes on pages four and five, I am of the view it is reasonable to release this information in the

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					which are to be released in full.	documents to the Applicant.
Un-numbered	[date]	Letter to Applicant	1	Released in part Section 33(1)	Release in full	<p>By email dated 10 October 2019, the Agency advised this document was not listed in its decision letter, and the Applicant would have a copy in their possession. The Agency advised, '... in these cases, we tend to release the document outside of the Act'.</p> <p>Section 33(1): Although I am satisfied the information exempted by the Agency is the personal affairs information of an individual other than the Applicant, given the nature of the document, I consider it is reasonable to release the personal affairs information of the third party in the circumstances.</p>
15.	Undated	Maps	2	Refused in full Section 33(1)	Refuse in full Section 33(1)	<p>Section 33(1): See comments for Document 1.</p> <p>Section 25: I am satisfied it is not practicable to delete exempt information from the document in accordance with section 25.</p>
16.	[date]	Witness Statement	3	Refused in full Sections 33(1), 35(1)(b)	Refuse in full Sections 33(1), 35(1)(b)	Section 35(1)(b): I am satisfied the witness statement was provided to the Agency in confidence and its release would be contrary to public interest as it would impair the Agency's ability to obtain similar information in the future.

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>Section 33(1): See comments for Document 1.</p> <p>Section 25: I am satisfied it is not practicable to delete exempt information from the document in accordance with section 25.</p>
17.	[date]	Emails and attachment from [Agency staff description]	3	Refused in full Sections 33(1), 35(1)(b)	<p>Release in part</p> <p>Sections 25, 30(1)</p> <p>Information in the document is exempt, except from the second email in the email thread, forwarded by the Applicant at [time] (dated [date]), which is to be released.</p>	<p>Section 25: I am satisfied it is practicable to delete exempt information from the document in accordance with section 25.</p> <p>Section 30(1): Although the emails contain the personal affairs information of third parties and information that may have been provided in confidence, I consider this document is an internal working document detailing the opinions and recommendations prepared by Agency officers in the course of the Agency's deliberative processes.</p> <p>I am satisfied its disclosure would be contrary to the public interest for the reasons outlined in this Notice of Decision.</p>
18.	[date]	Letter to Complainant	2	Refused in full	<p>Refuse in full</p> <p>Section 33(1)</p>	<p>Section 33(1): See comments for Document 1.</p>