

12 March 2024

'FP4'

[redacted]

Dear 'FP4'

Notice of Decision under section 49P of the *Freedom of Information Act 1982* (Vic)

Agency:	Victoria Police
Agency decision:	Refuse access under section 25A(5)
OVIC decision:	Refuse access under section 25A(5)
Documents requested:	Body-worn camera footage
Headnote:	FREEDOM OF INFORMATION – section 25A(5) – body-worn camera footage – secrecy provision – Surveillance Devices Act 1999 (Vic) – short-form decision letter
Citation:	'FP4' and Victoria Police (<i>Freedom of Information</i>) [2024] VICmr 26 (12 March 2024)

Thank you for your request for review of a decision to refuse you access to information you requested under the *Freedom of Information Act 1982* (Vic) (the **FOI Act**).

Initial view

My office provided you with an initial view that it is likely section 38 and 25A(5) applied to your request.

You were provided with a similar OVIC decision made on a request for body-worn camera footage, setting out the reasons why such footage is exempt from release under the FOI Act.

The decision is available here: ['EJ3' and Victoria Police \(Freedom of Information\) \[2022\] VICmr 112 \(1 April 2022\)](#).

You were invited to withdraw your review application given the likelihood the decision in your matter would be the same as the decision provided to you. Alternatively, you were invited to provide further information to support your review application.

In making my decision, I have considered information provided in your review application and during the review, in addition to the Agency's reasons for decision and previous similar decisions of this office in relation to requests for body-worn camera footage.

Reasons for decision

I have conducted a review of the decision made by Victoria Police (the **Agency**) and made a fresh decision under section 49P.

Relevant legislation

Section 25A(5) provides that FOI requests may be refused where it is apparent from the request that all documents sought would be exempt documents.

Section 38 applies where there is a secrecy provision in other legislation that prohibits the release of a document under the FOI Act.

Section 30E(1) of the *Surveillance Devices Act 1999* (Vic) (the **Surveillance Devices Act**) prohibits the disclosure of body-worn camera footage, including under the FOI Act. A person who breaches section 30E(1) of the Surveillance Devices Act may be subject to a financial penalty, which indicates the seriousness of the prohibition on disclosure.

What this means

I am satisfied the body-worn camera footage you requested is exempt from release under section 38 of the FOI Act in conjunction with section 30E(1) of the Surveillance Devices Act.

Further, there are no exceptions to the prohibition on disclosure under the Surveillance Devices Act that apply in this instance. While I note you consider the exception in section 30F(d) of the Surveillance Devices Act applies, this is not a factor I can consider in my decision, as section 30F of the Surveillance Devices Act concerns circumstances where disclosure is permitted for purposes unrelated to disclosure under the FOI Act. My decision is under the FOI Act and section 30F(d) of the Surveillance Devices Act does not permit disclosure of the requested body-worn cameras footage under the FOI Act.

As I am satisfied all the documents you have requested would be exempt under section 38, the Agency is therefore not required to process your request due to section 25A(5).

Review rights

If you are not satisfied with my decision, you are entitled to apply to the Victorian Civil and Administrative Tribunal (**VCAT**) for it to be reviewed.

You may apply to VCAT for a review up to 60 days from the date you are given this Notice of Decision.

Information about how to apply to VCAT is available online at www.vcat.vic.gov.au. Alternatively, you may contact VCAT by email at admin@vcat.vic.gov.au or by telephone on 1300 018 228.

Yours sincerely

Sean Morrison

Information Commissioner