21 August 2019

4WD Queensland Association
Miles Brennan
P.O. Box 174
BRISBANE MARKETS QLD 4106

Dear Mr Brennan

Re: Application under the Right to Information Act 2009

I refer to your application for access to documents under the Right to Information Act 2009 (Qld) (RTIA) received by the Right to Information and Privacy Unit, Queensland Police Service (QPS) on 3 May 2019, in which you seek access to the following information:

- SOPs etc for just the current instructions contained in the QPS OPMs and Traffic Manual or to those issue by the QPS Road Policing Command

From the terms of your request, I am satisfied that the documents to which access is sought does not concern your personal information. Accordingly, your application will be dealt with under the RTIA.

FEES AND CHARGES

Application Fee

I acknowledge receipt of the non-refundable application fee of $49.70. No further fees or charges are payable.

SEARCHES

Following receipt of your application, searches were conducted for documents relevant to your request. As a result of those searches, 3780 documents were located and a determination made concerning them.

DECISION

As a delegated officer under section 30 of the RTIA, I have made a decision on your application.

I have determined to refuse access to 3780 documents considered exempt pursuant to the provisions of sections 47(3)(b), 48 and Schedule 4, Part 4, section 3(a) and (b) of the RTIA.
REASONS FOR DECISION

Section 47(3)(b) - Grounds on which access may be refused

Section 47(3)(b) of the RTIA provides that access to a document may be refused to the extent to which the document contains information the disclosure of which would, on balance, be contrary to the public interest under section 49.

Section 49 – Contrary to public interest

Disclosure under the RTIA is subject to exemptions and public interest factors. In this case, I have determined that disclosure of some of the matter in issue would be contrary to the public interest pursuant to section 49 of the RTIA.

Section 49(1) of the RTIA states:

If an access application is made to an agency or Minister for a document, the agency or Minister must decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.

Section 49(1) creates a presumption in favour of disclosure; that is, information must be disclosed unless disclosure would be contrary to the public interest. Section 49(2) of the RTIA sets out the steps, and, in schedule 4, the factors, Parliament considers appropriate for deciding whether disclosure of the information in question would, on balance, be contrary to the public interest.

Section 49(3)(a) – Irrelevant factors

In accordance with section 49(3)(a) of the RTIA, I have rejected all of the factors outlined in Schedule 4, Part 1 as being irrelevant to my determination.

Section 49(3)(b) – Relevant factors in favour of disclosure

In accordance with section 49(3)(b) of the RTIA, I have taken into account relevant factors favouring disclosure outlined in Schedule 4, Part 2, including particularly:

(2) Disclosure of the information could reasonably be expected to contribute to positive and informed debate on important issues or matters of serious interest.

Section 49(3)(c) – Relevant factors favouring non-disclosure

In accordance with section 49(3)(c) of the RTIA, I have taken into account relevant factors favouring non-disclosure outlined in Schedule 4, Part 3 and 4, including particularly:

Schedule 4, Part 3 provides:

(2) Disclosure of the information could reasonably be expected to prejudice the private, business, professional, commercial or financial affairs of entities.
(7) Disclosure of the information could reasonably be expected to prejudice security, law enforcement or public safety.
(15) Disclosure of the information could reasonably be expected to prejudice trade secrets, business affairs or research of an agency or person.
(17) Disclosure of the information could reasonably be expected to prejudice the competitive commercial activities of an agency.
(19) Disclosure of the information could reasonably be expected to prejudice the management function of an agency or the conduct of industrial relations by an agency.

(20) Disclosure of the information could reasonably be expected to prejudice a deliberative process of government.

(21) Disclosure of the information could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.

Schedule 4, Part 4, section 3 provides:

Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could—

(a) prejudice the effectiveness of a method or procedure for the conduct of tests, examinations or audits by an agency; or

(b) prejudice achieving the objects of a test, examination or audit conducted by an agency...

Balancing factors for and against disclosure

I have weighed the public interest factors in favour of disclosure and non-disclosure, including taking into account the matters identified within sections 49(3)(d),(e),(f) and (g) of the RTIA. I note that section 49(1) of the RTIA creates a presumption in favour of disclosure. However, in this instance, I consider that the public interest considerations favouring disclosure outweigh the public interest considerations in favour of non-disclosure.

Section 75 of the RTIA permits this Unit to release the located documents to you subject to the deletion of information the release of which would be contrary to the public interest. Accordingly, all documents located are are contrary to the public interest.

It should also be noted that release of documentation under the RTI & IP Acts is essentially release to the world at large, in that there is no provision for disclosure subject to any condition, republication of the accessed documents or dissemination of the information contained in the documents. Once this unit releases material there can be no limitation to further disclosure by the applicant. This is not to suggest that you would indiscriminately disclose documents of this nature; however the prospect of unauthorised or accidental disclosure by the applicant is also a public interest factor that I must consider.

REVIEW

Your attention is drawn to the enclosed sheet which details your right of review.

Should you have any further inquiries concerning this matter, please contact T Lemuelu on [redacted] quoting reference number [redacted]

Yours sincerely

T Lemuelu
Information Rights Officer
Right to Information & Privacy
Reviewing a Decision

If you are dissatisfied or aggrieved with a decision made by the Queensland Police Service under the Right to Information Act or Information Privacy Act you have the right to have the matter reviewed. You may choose to either have the review conducted by the Queensland Police Service (QPS) by Internal Review, or alternatively apply to the Office of the Information Commissioner (OIC) to conduct an External Review.

The OIC is the independent statutory authority responsible for overseeing the administration of the Right to Information Act and the Information Privacy Act in Queensland.

Important: Applications for Internal Review or External Review must be made within twenty (20) business days from the date of the written notice of the decision.

Internal Review:
To apply for an internal review of a decision, you can choose one of the following options:

(a) Post: The Inspector
   Right to Information & Privacy
   GPO Box 1440, BRISBANE QLD 4001
(b) Fax: 07 3364 4675
(c) Apply online: https://www.smartservice.qld.gov.au/services/information-requests/review.action

Your internal review application will then be referred to a senior officer for a decision.

External Review:
To apply for an external review of a decision, the application must:

- be in writing
- provide an address
- give details of the decision for review and
- be lodged with the Office of the Information Commissioner by one of the following methods:

You can choose one of the following options:

(a) In person: Level 7, 133 Mary St, Brisbane
(b) Post: PO Box 10143, Adelaide Street, Brisbane Qld, 4000
(c) Email: administration@oic.qld.gov.au
(d) Apply online: www.oic.qld.gov.au

Your application for an external review application will then be dealt with by the OIC (see http://www.oic.qld.gov.au for further information).