

Decision D0162005 - Published in note form only

Re Totino and Police Force of Western Australia [2005] WAICmr 16

Date of Decision: 27 September 2005

Freedom of Information Act 1992: Section 26

The complainant applied to the Police Force of Western Australia ('the agency') for access under the *Freedom of Information Act 1992* ('the FOI Act') to documents relating to certain incidents. The agency gave the complainant access in edited form to five documents and advised that in its view, pursuant to section 26 of the FOI Act, no other documents existed or could be found. The agency confirmed its decision on internal review and the complainant applied to the A/Information Commissioner ('the A/Commissioner') seeking an external review of the agency's decision.

Based on information provided by the complainant, the A/Commissioner required the agency to make further searches and inquiries for relevant documents both in its files, including those held at individual police stations, and on its computer database. The agency made additional searches and inquiries but advised that it could locate no other documents within the scope of the complainant's application. The agency gave the A/Commissioner details of the searches and inquiries it had made. In light of that, the A/Commissioner wrote to the parties setting out her preliminary view of the complaint, which was that, on the information before her, and in light of the additional searches and inquiries made, the agency had taken all reasonable steps to find the requested documents but that they could not be found or did not exist.

In response to the A/Commissioner's preliminary view, the complainant provided further information in relation to a relevant date and the agency was asked to make additional searches at a particular police station in relation to that date. That search resulted in one other relevant document being identified. The agency gave the complainant access in edited form to that document, deleting only material that was outside the scope of the complainant's application. However, in view of the nature of the incidents, the complainant was not satisfied that all relevant documents had been identified

In light of the searches and inquiries which the agency had made, and there being no suggestion as to additional searches which could be made or evidence to show that any further documents exist or should exist, the A/Commissioner confirmed the agency's decision to refuse access to the requested documents under section 26 of the FOI Act on the ground that the agency had taken all reasonable steps to find the requested documents but that they cannot be found or do not exist.