

Decision D0292003 - Published in note form only

Re Guyatt and Police Force of Western Australia [2003] WAICmr 29

Date of Decision: 21 October 2003

Freedom of Information Act 1992, Schedule 1, clause 5(1)(b)

On 14 February 2003, the complainant made a complaint to the Parliamentary Commissioner for Administrative Investigations ('the Ombudsman') about a police officer who had charged him by summons with a traffic offence, which charge was later dismissed. The Ombudsman investigated that complaint.

In June 2003, the complainant made application to the agency for access, under the FOI Act, to documents relating to the alleged traffic offence, including a photograph taken of him by the police officer, and to documents relating to the Ombudsman's investigation. The agency gave the complainant a copy of the photograph but refused access to the requested documents on the ground that they were exempt under clause 5(1)(b) of Schedule 1 to the FOI Act.

The Information Commissioner obtained the requested documents from the agency and examined them. Subsequently, the agency gave the complainant access to the documents relating to the alleged traffic offence but refused access to the documents concerning the complaint made to the Ombudsman ('the disputed documents'), on the ground that those documents are exempt under clause 5(1)(b).

The Information Commissioner was satisfied that the disputed documents related to an investigation into the contravention or possible contravention of the *Police Force Regulations 1979*, a relevant law for the purpose of clause 5(1)(b). The Information Commissioner was also satisfied that disclosure of the disputed documents could reasonably be expected to reveal something about the content of that investigation, including the identities of the people being investigated and the subject matter of that investigation and, therefore, those documents fell within the terms of the exemption in clause 5(1)(b). Further, regardless of how much the complainant knew about that particular investigation, the exemption clause still applied.

The Information Commissioner found the disputed documents exempt under clause 5(1)(b) and confirmed the agency's decision to refuse access to them.