



Our ref: 43934/12:BH

VICTORIA POLICE

**Business Services Department**  
*Freedom of Information*

Victoria Police Centre  
637 Flinders Street  
Docklands Vic 3008  
Australia  
DX 210096

**Office Hours: 8.30am – 4pm**

Telephone [61 3] 9247 6801  
Facsimile [61 3] 9247 5736

Dear Mr Nowicki

**FREEDOM OF INFORMATION REQUEST**

I refer to your letter received 2 July 2012 in which, under the provisions of the *Freedom of Information Act* 1982 (the Act), you have requested:

*"1. June 1995 – June 1996  
Det. Sgt. Winternoon –  
Police investigation re – Australian Worker(s) Union Victorian Branch..."*

I further refer to:

- Your letter received 17 July 2012, in which you provided further information, as requested in my letter to you dated 3 July 2012;
- The telephone conversation between Nicole of this office and yourself on 25 July 2012 in which you advised that you were seeking all documents relating to the investigation of allegations of fraud involving the Australian Workers Union and two named persons, occurring in 1995-1996;
- The telephone conversation on 28 August 2012, in which we discussed your request; and your advice that you were not seeking to access the official diary of retired Detective Sergeant Glenn Turnley 20778.

Victoria Police's Fraud and Extortion Squad (formerly known as Major Fraud Group) was identified as the relevant department within Victoria Police to search for information regarding your request.

In response to your request 25 documents, comprising 69 pages of material were identified as falling within the terms of your request. This material comprises:

- |  |         |
|--|---------|
| • Briefing paper authored by Detective Sergeant Turnley 20778 ('Det. Sgt Turnley') | 1 page  |
| • Matters for consideration re statement from companies                            | 1 page  |
| • A.W.U members welfare association no.1 account                                   | 1 page  |
| • Locations for extra territorial warrants in N.S.W.                               | 1 page  |
| • Locations for extra territorial warrants in QLD.                                 | 1 page  |
| • Document detailing interstate flights taken by informant during investigation    | 1 page  |
| • Matters of inclusion re statement of...  | 2 pages |
| • Chamber consulting service – details of payments to A.W.U.                       | 1 page  |
| • Locations of extra territorial warrants in W.A.                                  | 1 page  |
| • Matters still requiring attention re ECR 956-034                                 | 1 page  |
| • Major fraud group travel request/approval form interstate investigations         | 3 pages |
| • Notes for statement from ...   | 1 page  |
| • Possible extra territorial warrants in Perth                                     | 1 page  |
| • A.W.U members welfare association no.1 account                                   | 2 pages |

For further information please refer to [www.foi.vic.gov.au](http://www.foi.vic.gov.au) or [www.police.vic.gov.au](http://www.police.vic.gov.au)

• List of persons to interview in Perth. ECR 956/034	1 page
• Log of investigation – ECR 956/034	9 pages
• Recommendation of no further police action. ECR 956/034 (draft)	11 pages
• Recommendation of no further police action. ECR 956/034 (final)	11 pages
• Letter to Thiess Contractors	1 page
• Statement 1	2 pages
• Statement 2	3 pages
• Statement 3	3 pages
• Statement 4	2 pages
• Statement 5	3 pages
• Statement 6	5 pages

### Assessment of Material

I have assessed this material in accordance with the provisions of the Act and have decided to release 6 documents to you in full, deny access in part to 11 documents, and deny access to the remaining 8 documents in full.

### Documents Released in Full

The 6 documents **released in full** comprise:

- Briefing paper authored by 'Det. Sgt Turnley
- Matters for consideration re statement from companies
- A.W.U members welfare association no.1 account
- Locations for extra territorial warrants in N.S.W.
- Locations for extra territorial warrants in QLD.
- Document detailing interstate flights taken by informant during investigation

### Documents Denied in Part

The 11 documents **denied in part** comprise:

- Matters of inclusion re statement of...
- Chamber consulting service – details of payments to A.W.U.
- Locations of extra territorial warrants in W.A.
- Matters still requiring attention re ECR 956-034
- Major fraud group travel request/approval form interstate investigations
- Notes for statement from ...
- Possible extra territorial warrants in Perth
- A.W.U members welfare association no.1 account
- List of persons to interview in Perth. ECR 956/034
- Log of investigation – ECR 956/034
- Recommendation of no further police action. ECR 956/034 (final)

In making these deletions I rely upon section 25(b) of the Act which allows for certain exempt material to be deleted from documents in order to make those documents available for release.

### Documents Denied in Full

The 8 documents **denied in full** comprise:

- Letter to Thiess Contractors
- Statement 1
- Statement 2

- Statement 3
- Statement 4
- Statement 5
- Statement 6
- Recommendation of no further police action. ECR 956/034 (draft)

In reaching my decision I have taken into consideration the provisions of section 25(b) of the Act which allows for exempt material to be deleted in order to make documents available for release. In the circumstances however I am satisfied that any attempt to edit the denied document would render the remaining text as meaningless and devoid of any context.

## Exemptions

### **Section 30(1) Internal working documents**

Section 30(1) states:

*"(1) Subject to this section, a document is an exempt document if it is a document the disclosure of which under this Act-*

*(a) would 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, 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) would be contrary to the public interest."*

Section 30(1) of the Act provides for the exemption of material which discloses matters in the nature of advice, opinion or recommendation, or consultation or deliberation that has taken place between officers of an agency, which has been prepared to assist in the deliberative processes involved in the functions of an agency, and where such disclosure would be contrary to the public interest.

The exempt information is contained in internal reports including an early draft of a document, the final version of which has been assessed and released to you in part.

The denied information, is comprised of opinion, advice and recommendation.

In my view the release of this type of information would hinder members from providing advice, and expressing their free and frank opinions and recommendations in the future. Such a result would clearly be contrary to the public interest in that these types of matters and decisions would not be appropriately deliberated, considered, commented on and discussed.

### **Section 33 Documents affecting personal privacy**

Section 33 of the Act exempts from access documents which involve the unreasonable disclosure of the personal affairs of any persons. Specifically, section 33 of the Act states:

*"(1) a document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of information relating to the personal affairs of any person (including a deceased person).*

*...*

*(9) information relating to the personal affairs of any person" includes information -*

*(a) that identifies any person or discloses their address or location; or*

(b) from which any person's identity, address or location can reasonably be determined."

Part of the denied information contains names, addresses, titles and other personal details of third parties gathered by or provided to police during the course of the investigation. It also comprises statements made by a number of persons.

I consider that this information constitutes 'personal information' within the meaning of section 33 of the Act. In addition, I am satisfied that disclosure of the personal information would be unreasonable in the circumstances, pursuant to section 33(1) of the Act.

In reaching my decision that release of the denied material is unreasonable, I have taken into account factors including, but not limited to:

- Circumstances in which the information was obtained - the denied information was largely provided to police during the course of the investigation. I consider that persons who have provided information to police have done so without the expectation that this information would be released to a third party under freedom of information. I believe that these persons would reasonably expect Victoria Police would protect their personal affairs
- Whether the information is already in the public domain – while I acknowledge that some of the allegations leveled against some persons are in the public domain, I consider that the release of any information which may be used to lend credence to the unproved allegations would be unreasonable and misleading.
- Likelihood that disclosure would cause stress, anxiety or embarrassment
- Whether the public interest would be promoted by releasing the information – I consider while the public may be interested in the denied material, this does not equate to the release of the information being in the public interest. In forming this view I have considered:
  - As mentioned previously, none of the allegations were substantiated – there is no wrong to be righted
  - The denied information will not lead to greater accountability and transparency in public life
  - The release of the information will not reveal information affecting public well-being and safety
- Likelihood that you will disseminate or disclose the information – I consider it highly likely the denied information, if released to you, will be widely disseminated.
- The current relevance of the information – This investigation occurred over 15 years ago, with investigations by Victoria Police being unable to find any evidence to substantiate the allegations made.

#### Access Charges

Pursuant to section 22 of the Act, and in conjunction with the provisions of the *Freedom of Information (Access Charges) Regulations 2004*, an agency is entitled to seek from you charges. The charges for this request have been set at:

Search Fees:	8 hours @ \$20.00 per hour or part thereof	\$160.00
Photocopying:	39 pages @ 20c per black and white page	\$ 7.80
<b>Total</b>		<b>\$167.80</b>

In this instance, due to the delay in processing your request, I have waived these fees and enclose a copy of the documents.

If you have any queries regarding my response, please contact this office on 9247 6801.

Review Rights

In conclusion, I draw your attention to section 51(1) of the Act which states:

*"Where a decision has been made, in relation to a request to an agency ... the applicant may, within 28 days ... after the day on which notice of the decision was given to the applicant in accordance with section 27, apply to the principal officer of the agency for a review of the decision."*

Any request for a review should quote the file reference number **43934/12** and be addressed to the Chief Commissioner of Police, care of:

**Director Legal Services  
Victoria Police Centre  
637 Flinders Street  
DOCKLANDS VIC 3008**

Yours sincerely

A handwritten signature in black ink, appearing to read 'Robin Davey', with a horizontal line extending to the right.

**Robin Davey**  
Manager  
Freedom of Information Division

Date: 9/10/2012