

**Decision D0022007 - Published in note form only**

***Re A and Police Force of Western Australia [2007] WAICmr 2***

**Date of Decision: 31 January 2007**

***Freedom of Information Act 1992: Section 26***

The complainant applied to the Police Force of Western Australia ('the agency') under the *Freedom of Information Act 1992* ('the FOI Act') for access to certain documents relating to, as he alleged: the agency's failure to investigate his allegation that a doctor had attempted to murder him in 1976 following his admission to hospital; directions from ASIO to the agency to detain him in psychiatric institutions between 1997 and 2001; and his detention "by police" in psychiatric institutions between 1997 and 2001.

The agency gave the complainant access to a large number of documents both under and outside the FOI Act, including access to edited documents. Most of those related to the complainant's complaints about the agency's alleged refusal to investigate his attempted murder allegation and some related to his complaints about his detention in psychiatric institutions. The agency refused to deal with that part of his access application concerning alleged directions from ASIO on the basis that any such documents, if they existed, would be exempt under clause 5(3). The agency also determined that some documents it had located were outside the ambit of the complainant's application and that the material deleted from the edited documents released to him was exempt under clause 3(1) (personal information about other people).

The complainant applied to the Information Commissioner for external review of the agency's decision. The complainant confirmed that his complaint was about the agency's failure to identify documents revealing, firstly, its reasons for not investigating his claim that a doctor had attempted to murder him whilst he was in hospital in 1976 and, secondly, its reasons for detaining him in certain Western Australian psychiatric institutions between 1997 and 2001. The complainant advised that he required the documents because the Supreme Court had declared him a vexatious litigant and would not allow him to take further court action unless supported by new evidence.

Inquiries were made with the agency and the agency undertook further searches. The complainant was provided with a letter in December 2006 setting out those searches and inquiries and advising that, on the information before the A/Commissioner, documents explaining the reasons why police had not investigated the complainant's allegation against the doctor did exist and the complainant had been given access to them. In addition, it appeared that from that information, that, although the complainant had made a number of complaints over the years to the agency, he had never made a complaint alleging that a doctor had attempted to murder him nor asked the agency to investigate it, although he had referred to that allegation in complaints concerning other matters. However, it appeared that, following his complaint about the agency refusing to investigate, the agency attempted to investigate the allegation but the complainant refused to meet with the investigating officer. Subsequently, the complainant was advised that there was insufficient evidence to take the matter further.

The A/Commissioner was satisfied that the agency had identified all the documents relevant to the complainant's detention in psychiatric institutions and that they had either been given to the complainant or had already been destroyed in accordance with the agency's approved retention and disposal authority under the *State Records Act 2000*. Further, the complainant had requested a particular document relating to "*a decision by [the agency] detaining me in Western Australian psychiatric institutions as part of the conspiracy to defeat justice ...*", and the A/Commissioner found that it was not reasonable to suppose that such a document exists and did not require the agency to undertake further searches for it.

The A/Commissioner confirmed the agency's deemed decision to refuse access to any documents, other than those to which the complainant had been given access, in accordance with section 26 of the FOI Act, on the ground that the agency had taken all reasonable steps to find the additional requested documents but that they do not exist.