

**Decision D0052007 - Published in note form only**

***Re Richardson and Police Force of Western Australia [2007] WAICmr 5***

**Date of Decision: 16 March 2007**

***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 an incident that he alleged occurred at his residence in 1999. He claimed that his house had been illegally entered and a poisonous gas released into it and that the agency should have some records relating to the incident.

An officer at the local police station conducted a manual search and a computer search of the station's Offence Reports for documents relating to the alleged incident. The officer also conducted a search of the agency's Country Dispatch System for any record of police attendance at the complainant's residence relating to the alleged incident. No documents were located as a result of those searches. An officer in the agency's Information Release Centre also conducted a search of the agency's central computer databases for the requested documents, without success.

The agency refused the complainant access to the requested documents, pursuant to s.26 of the FOI Act, on the ground that all reasonable steps had been taken to locate the requested documents but that they could not be found or did not exist. The agency subsequently confirmed its decision on internal review and the complainant applied to the A/Information Commissioner ('the A/Commissioner') for an external review of the agency's decision.

Following receipt of the complaint, one of the A/Commissioner's officers sought further information from the agency about its searches and attended the agency's Information Release Centre for a demonstration of the manner in which searches were conducted of the agency's central computer databases. No documents of the requested kind were located.

In response to a preliminary view that the agency's decision was justified, the complainant maintained his claim that the alleged incident occurred at his residence and that the requested documents should exist at the agency. However, the complainant did not provide any information to substantiate that claim.

In the absence of any independent evidence that the alleged incident took place; that, if it did, the police had any involvement in it at all; or that it was reported to the agency, the A/Commissioner was not satisfied that it was reasonable to expect that the requested documents exist or should exist in the agency. The A/Commissioner was also satisfied, in any event, in light of the searches and inquiries undertaken by the agency, that the agency had taken all reasonable steps to locate the documents but they either cannot be located or do not exist, more probably the latter. The A/Commissioner confirmed the agency's decision to refuse access to the requested documents under s.26 of the FOI Act.