

Decision D0042002 – Published in note form only

***Re McGovern and Police Force of Western Australia* [2002] WAICmr 4**

Date of Decision: 9 January 2002

Freedom of Information Act 1992: section 23(2); Schedule 1, clause 5(1)(b)

On 14 May 2001, the complainant made an application to the agency for access under the FOI Act to a document, which he described as being a report of an investigation conducted by the Internal Investigations Unit of the agency into a complaint concerning the actions of certain police officers.

Without identifying any document and without specifying the reason why matter in any particular document is claimed to be exempt, the agency refused access under section 23(2) of the FOI Act on the ground that it was apparent, from the nature of the document described in the access application, that it would be exempt under clause 5(1)(b) of Schedule 1 to the FOI Act and that it was under no obligation to give access to an edited copy of that document.

The complainant lodged a complaint with the Information Commissioner. The Information Commissioner considered the nature of the document described in the access application and made certain inquiries with the agency. The Information Commissioner decided that the disclosure of a report of an investigation conducted by the agency could reasonably be expected to reveal the investigation of any contravention or possible contravention of the law. The Information Commissioner followed the decision of the Supreme Court of Western Australia in *Police Force of Western Australia v Kelly and Another* (1996) 17 WAR 9 and considered that the disclosure of such a document would reveal the fact of a particular investigation of a particular incident involving certain people and decided that such a document would be covered by the terms of the exemption in clause 5(1)(b).

The Information Commissioner confirmed the decision of the agency to refuse access to the requested document under section 23(2) of the FOI Act.