

Decision D0452001 – Published in note form only

Re Nield and Police Force of Western Australia [2001] WAICmr 45

Date of Decision: 26 November 2001

Freedom of Information Act 1992; Section 23(2); Schedule 1 clauses 3(1) and 5(1)(b)

In July 2000, the complainant complained to the police that he had been assaulted. The alleged assailant brought a counter-claim of assault against him. Police investigated the matter and proceedings are on foot in the District Court of Western Australia. In March 2001, the complainant had a discussion with a police officer about another incident, which involved an alleged assault and breach of a restraining order. In April 2001, the complainant was involved in another incident and he made a complaint to the police about that matter also.

In June 2001, the complainant made an application to the agency for access under the FOI Act to various documents relating to the incidents in July 2000 and April 2001 and to the discussion in March 2001. The requested documents included witness statements, police reports of the investigation, and Action Reports submitted by police officers.

Without identifying any particular document, the agency refused access under s.23(2) of the FOI Act on the ground that the documents described in the access application would all be exempt under clause 5(1)(b). However, the agency gave the complainant access to 1 document from which the signature of an officer had been deleted as exempt matter under clause 3(1).

The Information Commissioner made inquiries into the complaint and was satisfied that disclosure of documents of the kind described in the access application would reveal the investigations conducted by the police into the complaints of assault, including the content of the investigation and the identity of the person being investigated. The Information Commissioner decided that documents of the kind described in the access application would be exempt under clause 5(1)(b) and that the agency was under no obligation to give access to edited copies of any of the documents.

The Information Commissioner also decided that the deleted matter, the signature, was exempt under clause 3(1) because it was personal information.

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