NSW Police Force

Mr Anthony Smith
UNIT 801 281-283 ELIZABETH ST,
SYDNEY NSW 2000

Our Ref: GIPAA-2022-0169903
Your Ref: n/a

**By email:** [redacted]

17/05/2022

Dear Mr Smith

***Government Information (Public Access) Act 2009* (NSW)**
**Notice of Decision: Released in part**

## 1. Summary of access application

I refer to your access application made under the *Government Information (Public Access) Act 2009* (NSW), (GIPA Act) received on 16/04/2022 and refined on 20/04/2022.

The terms of your refined request were;

> *Event report created for the 'computer hacking' incident reported to Day Street PS on 16/04/2021 and the Event report created in January 2022 regarding a person contacting the employer*

## 2. Searches for Information

Under the GIPA Act, NSWPF must conduct reasonable searches to locate the government information you seek. A search of NSWPF records has been undertaken to identify all government information falling within the scope of your application. Searches were conducted on the NSWPF Computerised Operational Policing System (COPS) for the requested information.

The searches located Event report E 83652754 dated 05/09/2021, relating to the above incidents. No other such reports were located in the searches.

## 3. Decision

I am authorised by the New South Wales Commissioner of Police to determine applications made under Section 9(3) of the GIPA Act.

I have decided, under s 58(1)(d) of the GIPA Act, to provide access to the information you seek,

except where there is an overriding public interest against disclosure.

## 4. Reason for decision

Under section 9(1) of the GIPA Act, you have a legally enforceable right to access the information you seek, unless there is an overriding public interest against its disclosure.

Under section 13 of the GIPA Act, the Public Interest Test is applied to all applications to identify considerations both in favour of and against disclosure of information to determine where the balance lies between them.

### Public Interest considerations in favour of disclosure

In accordance with section 12 of the GIPA Act, I have taken into account the following public interest considerations in favour of disclosure of the information:

- The statutory presumption in favour of the disclosure of government information.
- The general right of the public to have access to government information held by the agencies.
- The information requested includes your personal information
- The documents reviewed contains the information requested on your application.

### Public Interest considerations against disclosure

When applying the public interest test, the only public interest considerations against disclosure that I can take into account are those set out in the table to Section 14, and Schedule 1 of the GIPA Act.

**Clause 3(a)** of the section 14 Table provides that there is a public interest consideration against the disclosure of information that would *reveal an individual's personal information*.

The information withheld under this clause contains another individual whose identity is apparent or can be reasonably ascertained from it. It includes names, date of birth, address and contact details of other persons.

There is nothing in this agency's records to indicate that the information has been publicly disclosed ie "revealed" (see definition of "reveal" in clause 1 of Schedule 4). Disclosure would therefore reveal the information and breach the rights of the people concerned, to have their information protected.

Most of the information recorded on the Event report contains personal information of another person. Disclosure of this information would reveal personal sensitive information of another person. Whilst I acknowledge it is likely some of the information is already known to you, an agency may not impose conditions or otherwise control how information released in response to an access request is used and give a high weight to this consideration.

I am satisfied there is a public interest consideration against disclosure of information under Clause 3(a).

**Clause 3(b**) of the Table provides that there is a public interest consideration against the disclosure of information that would *contravene an information protection principle under the Privacy and Personal Information Protection Act 1998 (PPIPA).*

The information protection principle relevant to this application is that contained in Section 18 of the PPIPA, which only allows for disclosure of personal information in certain prescribed circumstances.

Section 18 provides as follows:

***"18 Limits on disclosure of personal information***
*(1) A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:*
*(a) the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or*
*(b) the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or*
*(c) the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person."*

The personal information withheld was recorded by police for law enforcement purposes. Disclosure of the personal information in response to an access application under the GIPA Act would not be a disclosure directly related to the purpose for which the information was collected.

There is no basis for a reasonable belief that the persons would be aware that their personal information, could be disclosed in response to an application under the GIPA Act and disclosure is not necessary to prevent or lessen a serious and imminent threat to the life or health of an individual concerned or another person

Disclosure of personal information in response to your access application would not therefore fall within the scope of any of the disclosures permitted under the terms of Section 18.

I am satisfied there is a public interest consideration against disclosure of information under Clause 3(b).

With regards to factors in favour of disclosure I give some weight, considering the personal factors of your request.

With regards to public interest considerations against disclosure, as indicated above I have given a much higher weight. Individuals involved in the above incidents do not expect government agencies to reveal their personal information to the wider public without their authority. Disclosure of personal information could possibly contravene section 18 of the PPIPA legislation and also given a high weight.

On balance, I decided that these factors outweigh the section 12 factors and there is an overriding public interest against disclosure of the redacted/withheld information.

I have also considered section 74 of the GIPA Act, which allows an agency to redact (delete) information from a record if the deleted information is irrelevant to the application, or is not within the scope, or an agency has decided to refuse access to the information.

## 5. Review rights

If you are not satisfied with any of the decisions in this notice that are reviewable, you may exercise your review rights under Part 5 of the GIPA Act by requesting:

- an internal review of the decision which must be lodged within 20 working days of the date of this notice, or

- an external review of the decision by the Information Commissioner or the NSW Civil and Administrative Tribunal (NCAT) which must be lodged within 40 working days from the date of this notice.

For further information on your review rights, please visit: https://www.ipc.nsw.gov.au/

If you have any enquiries in relation to this decision, please contact me on (02) 8835 6888. In any return correspondence, please quote the InfoLink reference number stated at the top of this notice.

Yours sincerely



Samanthi A.
Review Officer
InfoLink

**SCHEDULE OF DOCUMENTS**

| InfoLink Page No. | Document Description | Format of Record | Location of record in agency | Released or refused | Relevant Public Interest consideration(s) against disclosure: T = Section 14 Table |
|---|---|---|---|---|---|
| 1-10 | Event report E 83652754 dated 05/09/2021 | Document | COPS database | Release in part | T3(a), T3(b) |

Event Ref No : E 83652754

Event Reference No : E 83652754Event Reference No : E 83652754Event Referer

Event Summary DetailsEvent Summary DetailsEvent Summary Details
Date/Time Reported : 05/09/2021 19:30 Event Status : VERIFIED
Created By : SLY, ROBERT THOMAS - KINGS CROSS
Updated By : MEWBURN, JOEL - KINGS CROSS

Event Involved Party DetailsEvent Involved Party DetailsEvent Involved Party Deta
PERSON REPORTING T3(a), T3(b)

Incident DetailsIncident DetailsIncident Details
Incident Type : ACTUAL OFFENCE AGAINST THE PERS OTHER
Further Class. : BULLYING/HARASSMENT OR INTIMIDATION
Incident Date/Time : 05/09/2021 19:29 to 05/09/2021 19:29
Incident Class. : ACCEPTED
Location : CHALLIS LODGE, 21-23 CHALLIS AVE, POTTS POINT, NSW
Beat : 05 NHW : 02

MO Type : BULLY/HARASS METHOD USED Desc : EMAIL
TEXT MESSAGE
Involved Party DetailsInvolved Party DetailsInvolved Party Details
VICTIM T3(a), T3(b)

PERSON NAMED
PERSON NAMED SMITH, ANTHONY - [redacted]

Incident DetailsIncident DetailsIncident Details
Incident Type : ACTUAL SEXUAL OFFENCE - OTHER
Further Class. : VOYEURISM/FILM PERSON
Incident Date/Time : 21/01/2021 06:00 to 21/01/2021 07:00
Incident Class. : ACCEPTED
Location : 801, 281 ELIZABETH ST, SYDNEY, NSW, 2000
Beat : NA NHW : NA

MO Type : PEEP & PRY/WATCH & BESET ETC Desc : FILM PERSON - CAMERA
Involved Party DetailsInvolved Party DetailsInvolved Party Details
VICTIM T3(a), T3(b)

PERSON OF INTEREST SMITH, ANTHONY - [redacted] - CAN

Incident DetailsIncident DetailsIncident Details
Incident Type : ACTUAL SEXUAL OFFENCE - OTHER
Further Class. : VOYEURISM/FILM PERSON
Incident Date/Time : 16/04/2021 16:00 to 16/04/2021 17:00
Incident Class. : ACCEPTED
Location : 801, 281 ELIZABETH ST, SYDNEY, NSW, 2000
Beat : NA NHW : NA

MO Type : SEXUAL ACT METHOD Desc : OTHER

Event Ref No : E 83652754

Involved Party DetailsInvolved Party DetailsInvolved Party Details
VICTIM T3(a), T3(b) [redacted]

PERSON OF INTEREST SMITH, ANTHONY - [redacted] - CAN

Incident DetailsIncident DetailsIncident Details
Incident Type : ACTUAL SEXUAL OFFENCE - OTHER
Further Class. : VOYEURISM/FILM PERSON
Incident Date/Time : 16/04/2021 16:00 to 16/04/2021 17:00
Incident Class. : ACCEPTED
Location : 801, 281 ELIZABETH ST, SYDNEY, NSW, 2000
Beat : NA NHW : NA

MO Type : SEXUAL ACT METHOD Desc : OTHER
Involved Party DetailsInvolved Party DetailsInvolved Party Details
VICTIM T3(a), T3(b) [redacted]

PERSON OF INTEREST SMITH, ANTHONY - [redacted] - CAN

Incident DetailsIncident DetailsIncident Details
Incident Type : ACTUAL SEXUAL OFFENCE - OTHER
Further Class. : VOYEURISM/FILM PERSON
Incident Date/Time : 16/04/2021 19:00 to 16/04/2021 19:00
Incident Class. : ACCEPTED
Location : 801, 281 ELIZABETH ST, SYDNEY, NSW, 2000
Beat : NA NHW : NA

MO Type : SEXUAL ACT METHOD Desc : OTHER
Involved Party DetailsInvolved Party DetailsInvolved Party Details
VICTIM T3(a), T3(b) [redacted]

PERSON OF INTEREST SMITH, ANTHONY - [redacted] - CAN

Incident DetailsIncident DetailsIncident Details
Incident Type : ACTUAL SEXUAL OFFENCE - OTHER
Further Class. : VOYEURISM/FILM PERSON
Incident Date/Time : 22/12/2021 00:01 to 22/12/2021 23:59
Incident Class. : ACCEPTED
Location : 801, 281 ELIZABETH ST, SYDNEY, NSW, 2000
Beat : NA NHW : NA

MO Type : SEXUAL ACT METHOD Desc : OTHER
Involved Party DetailsInvolved Party DetailsInvolved Party Details
VICTIM T3(a), T3(b) [redacted]

Event Ref No : E 83652754

T3(a), T3(b)

PERSON OF INTEREST SMITH, ANTHONY - [redacted] - CAN

Incident DetailsIncident DetailsIncident Details
Incident Type : ACTUAL SEXUAL OFFENCE - OTHER
Further Class. : VOYEURISM/FILM PERSON
Incident Date/Time : 07/01/2022 00:01 to 07/01/2022 23:59
Incident Class. : ACCEPTED
Location : 801, 281 ELIZABETH ST, SYDNEY, NSW, 2000
Beat : NA NHW : NA

MO Type : SEXUAL ACT METHOD Desc : OTHER
Involved Party DetailsInvolved Party DetailsInvolved Party Details
VICTIM

T3(a), T3(b)

PERSON OF INTEREST SMITH, ANTHONY - [redacted] - CAN

Event Ref No : E 83652754

NarrativeNarrativeNarrative
Date/Time Created : 06/09/2021 05:28
Created By : CON ROBERT SLY - KINGS CROSS
T/D: 7:30pm Sunday 5th September 2021
LOC: Challis Avenue, Potts Point

VIC: T3(a), T3(b)
DOB:
PH:

POI: Anthony Smith
DOB: [redacted]
PH: 0433813180

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T3(a), T3(b)

T3(a), T3(b)

T3(a), the POI contacted Kings Cross Police Station and informed them the VIC had been harassing him with counter accusations stating he continues to message him.

T3(a), T3(b)

Event Ref No : E 83652754

T3(a), T3(b)

The VIC and POI continue to make claims of harassment, however they do not make any attempt to cease contact with each other. T3(a), T3(b)
T3(a), T3(b) .

Police found no evidence of any physical threats made towards the VIC or any offence committed by the POI.

KX18 - SLY/WAGNER
KX81 - GRAHAM

Event Ref No : E 83652754

Date/Time Created : 01/01/2022 16:37
Created By : PROCON CONNOR ROTHWELL - KINGS CROSS
SUMMARY NARRATIVE COMBINING
E83652754 - 5 September 2021
E309007498 - 1 July 2021
E82194482 - 14 May 2021

Regarding:

1 January 2022 Bully/ Intimidation

7 January 2022 - 91P Crimes Act - Record intimate images without consent 91Q Crimes Act distribute intimate images with another person without consent

-- -- -- -- -- -- -- -- -- -- -- --
Victim: T3(a), T3(b)
Dob: T3(a), T3(b)
Add: T3(a), T3(b)
Mob: T3(a), T3(b)
CNI:T3(a), T3(b)
-- -- -- -- -- -- -- -- -- -- -- --
POI: Anthony SMITH
CNI POI: 825065626
Mob:0433813180
Add: 801,281 Elizabeth Street Sydney
-- -- -- -- -- -- -- -- -- -- -- --

E82194482: 08:00am 14 May 2021 - Summary -
The victim and POI met on the dating application "Grindr" one week prior. The POI allowed the victim to stay with him in his unit with him, as he had nowhere else to go. About 7:00am Friday 14th May 2021, the POI asked the victim to engage in sexual intercourse with him, to which the victim declined. This resulted in a verbal argument.

T3(a), T3(b)

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E309007498: 7:10pm 1 July 2021 - Summary -

T3(a), T3(b)

Event Ref No : E 83652754

T3(a), T3(b)

T3(a), T3(b)

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E83652754 - 7:30pm 5 September 2021
(Narrative 1) - Summary -

T3(a), T3(b)

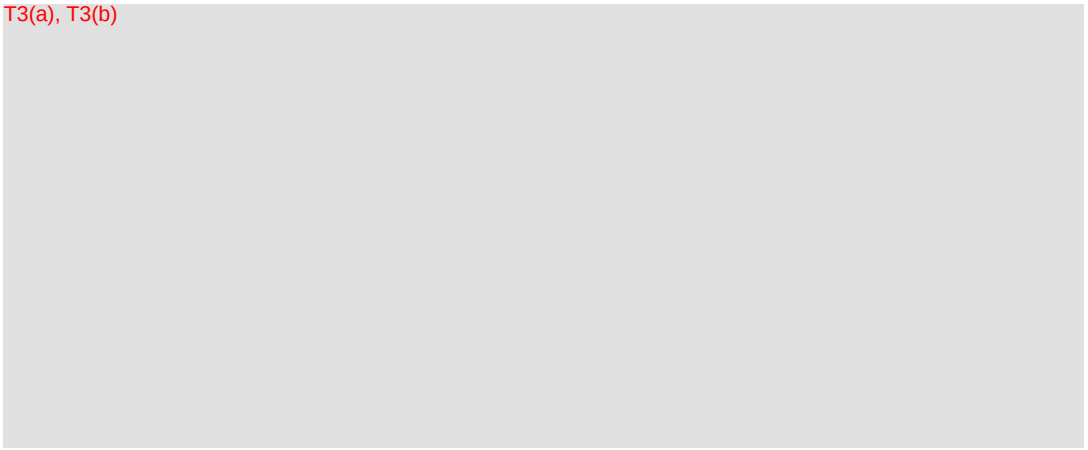
-- -- -- -- -- -- -- -- -- -- -- --

Narrative 2 for - E83652754 4:00pm 1 January 2022,

T3(a), T3(b)

Event Ref No : E 83652754

T3(a), T3(b)



KX81 - Rothwell

Event Ref No : E 83652754

Date/Time Created : 24/01/2022 16:38
Created By : DET JOEL MEWBURN - KINGS CROSS
Fact Sheet Anthony SMITH

OFFENCES:
91P Crimes Act 1900 Record intimate image without consent x 5
91Q Crimes Act 1900 Distribute intimate image without consent x 2

The Accused in this matter is Anthony SMITH, born [redacted]

The victim is T3(a), T3(b)

The Accused and victim were previously in a domestic relationship, during early 2021 the victim resided with the Accused, at the Accused's address at 801/281 Elizabeth Street, Sydney.

During this period the victim became aware of cameras situated within the Accused apartment. The victim communicated to the Accused that he was uncomfortable with the cameras and that he did not want to be recorded.

This relationship ended in 2021 and the victim moved out of the Accused's home. The victim subsequently blocekd all incoming calls and text messages from the Accused.

On the 5 January 2022 the victim checked his blocked text messages and saw he had received two messages and photograph on 22 December 2022 from mobile service 0433 813 180. The message read:

"How was your birthday get together?"
"Hi Ike. I've got a video of you taking an item from my room. As well as using drugs at the dining room table, Unfortunately you did this naked. Do you object to it's use to demonstrate what was happening in my absence. I plan on using these later today. Tony."

The photograph received with these messages was a naked image of the victim, taken inside the Accused's apartment. The victim was unaware of this image being taken and did not consent to it being taken or distributed.

Checks on mobile phone 0433 813 180 revealed that the Accused is the account holder for this service.

Event Ref No : E 83652754

T3(a), T3(b)

On the 24 January 2022 the Accused attended Kings Cross Police Station where he was arrest....interview etc

NEED AVO NO CONTACT AT ALL.

* * * END OF LIST * * *