



Ombudsman Tasmania

**Report into Investigation under section 21 of the *Personal Information Protection Act*
2004**

June 2017

**Mr A and Department of Police, Fire and Emergency Management –
Tasmania Police**

File Reference: 01611-069

Complaint

I received a complaint from Mr A concerning Tasmania Police's refusal to amend his personal information pursuant to a request he made to it in October 2016 per section 17A of the *Personal Information and Protection Act 2004* (PIP Act). Mr A was not satisfied with the response he received from Tasmania Police to each of his requested amendments and complained to my office in accordance with section 18 (2) of the PIP Act.

The Facts

Mr A applied to join Tasmania Police through an Expression of Interest (EOI) process in September 2014. I do not have full details of that, however, his EOI did not progress and Mr A was advised of this in writing by e-mail dated 25 September 2014.

Apparently unhappy with this outcome, Mr A accessed some of the information relating to his application through the Right to Information (RTI) legislation. The information accessed included the Recruitment Expression of Interest Summary, e-mails between Tasmania Police Legal Services and Senior Officers and a Tasmania Police Briefing Note.

Based upon some of the details in the information that he accessed, Mr A wrote to Tasmania Police on 5 October 2016 requesting the amendment of his personal information pursuant to 17A of the PIP Act. There were eight separate amendments sought by Mr A, alleging mainly that certain parts of the information are incorrect, incomplete and misleading.

Tasmania Police replied to him with a written response and reasons, addressing each of the requested amendments, by letter dated 11 November 2016. Tasmania Police agreed to a notation to reflect two of the requested amendments however, it has denied his request for the remaining amendments.

Mr A complained to my office on 9 November 2016. After making preliminary inquiries I determined to deal with the complaint under 21 of the PIP Act. An investigation has been conducted in accordance with Division 3 of Part III of the *Ombudsman Act 1978* as required by section 21(1) of the PIP Act.

Relevant legislation

The relevant legislation in Tasmania is the *Personal information Protection Act 2004* (PIP Act).

Section 17A of the Act provides:

If information of a person is held or used by a personal information custodian, the person can request the amendment of any part of that information if it is incorrect, incomplete, out of date or misleading.

The making of complaints is covered by Section 18 which states that 'a complaint may be made by a person in relation to the alleged contravention by a personal information custodian or a personal information protection principle that applies to the person.'

The relevant Personal Information Protection Principles (PIPP) can be found in Schedule 1 of the PIP Act as follows:

3. Data quality

A personal information custodian must take reasonable steps to ensure that, having regard to the purpose for which the personal information is to be used, the personal information it collects, uses, holds or discloses is accurate, up to date and relevant to its functions or activities

Interpretation of the PIP Act based upon legislation and cases in other jurisdictions

There is scant case law on the PIP Act in Tasmania but there is some guidance provided by legislation and decisions in other jurisdictions.

The Office of the Information Commission (Queensland) has considered the *Information Privacy Act 2009* (Qld) which contains provisions concerning the amendment of personal information. In particular section 72 provides; 'the agency or Minister may refuse to amend the document because the agency or Minister is not satisfied the personal information is inaccurate, incomplete, out of date or misleading'. Also the *Freedom of Information Act 1992* (Qld) contains a request for amendment provision at section 53 whereby a person is entitled to apply to the agency or Minister for correction or amendment of any part of the information if it is inaccurate, incomplete, out-of-date or misleading.

In Victoria the *Freedom of Information Act 1982* provides for a request to amend records at section 39 as follows; 'Where a document containing information relating to the personal affairs of a person (including a deceased person) is released to the person who is the subject of that information (or in the case of a deceased person, that person's next-of-kin) that person shall be entitled to request the correction or amendment of any part of that information where it is inaccurate, incomplete, out of date, or where it would give a misleading impression.' This provision has been considered in decisions of the Victorian Civil and Administrative Tribunal detailed below.

The Office of the Information Commissioner Queensland considered the *Freedom of Information Act 1992* (Qld) in the decision of *Doelle and Legal Aid Office*¹. The decision by Information Commissioner F N Albietz, referred the reason for the enactment of the Act being that 'Parliament recognises that, in a free and democratic society members of the community should have access to information held by government in relation to their personal affairs and should be given the ways to ensure that information of that kind is accurate, complete, up-to-date and not misleading'. The right to amendment of information is not unfettered, however. The decision referenced *Re Gordon and Department of Social Security*² in which the applicant applied to amend certain medical records held on files of the department. In considering the applicant's request the Commonwealth AAT made reference to a prior decision in *Re Wiseman and Department of Transport*³ where the tribunal held at 709-710:

...the alteration of a record in a file changes what has become a historical record...Activity as extensive as that described by Orwell cannot have been contemplated by Parliament in the enactment of Pt V. What was written is what was written, and that fact may have its own significance. The Tribunal notes in Re Leverett and Australian Telecommunications Commission (1985) 8 ALN N135 the comment that, in consequence of an amendment pursuant to s.48 which had been made by the respondent prior to the hearing "it will be seen that there is a degree of artificiality in the record, in that Mr Bates' report as amended...contains words which are not those of Mr Bates. In our view, this kind of artificiality is to be avoided. Further, the wholesale amendment and updating of records of information relating to personal affairs would impose enormous and unthinkable burdens on those whose duty it is to maintain those records. The amendment of government records is a serious matter, which Parliament cannot have intended to be lightly undertaken. The addition of a notation, on the other hand, does not give rise to these difficulties, and may well be, in most cases, the appropriate way of giving effect to the interest of the individual in accuracy of records

In *Kyriazis v Victoria Police*⁴ Senior Member Billings of the Victorian Civil and Administrative Tribunal considered the cases of *Stephens v Victoria Police*⁵ and *RR v Department of Army*⁶. The decision of Judge Gesell in *RR v Department of Army* noted the importance of the "accuracy of government recorded personal information...in our complex bureaucratically interrelated society, where an individual's rights and benefits may well be influenced or determined by what some government agency has to say about him".

The Tribunal in *Stephens* derived from the decision of Judge Gesell four useful categories to consider in deciding whether there should be amendment of information in the nature of opinion. They were-

- i. the facts underlying such opinion have been thoroughly discredited or have been demonstrated to be totally inadequate;

¹ (1993) Decision No.93005

² (1991) 25 ALD 327

³ (1984) 12 ALD 707

⁴ (2011) VCAT Reference G473/2010

⁵ (1989) 2 VAR 236 at 238

⁶ 482 F Supp 770 (1980)

- ii. the person forming such opinion was tainted by bias or ill will, incompetence or lack [of] balance, or necessary experience;
- iii. the factual substratum underlying the opinion is so trivial as to render the opinion formed dangerous to rely upon and likely to result in error; and
- iv. the facts upon which the opinion was based were misrepresented.

In *Re Traynor and Melbourne and Metropolitan Board of Works*⁷ the AAT (as it was then) refused to make amendments which would result in the mere substitution of the applicant's opinions for those of the author of the document and where the amendments would cause the document to be illogical, disjointed, ungrammatical and confusing to the reader. The AAT said that it is not a purpose of s.39 to re-write a document in words other than the author's, save to effect avoidance of inaccuracy or inadequacy to the extent contemplated by the latter part of the section.

In *A4STL6K v Queensland Health*⁸ the applicant applied under the *Information Privacy Act 2009* (QLD) to amend part of a letter from Queensland Health (QH). QH refused to amend the letter under section 72 of the IP Act as it was not satisfied the information was inaccurate, incomplete, out of date or misleading. In his summary of reasons Mr Jim Forbes, Acting Assistant Information Commissioner of the Office of the Information Commission (Queensland) found that the part of the letter the applicant sought to amend was generally consistent with the relevant content of an investigation report, and there was no objective evidence to suggest it did not accurately reflect the author's interpretation of that latter document. Accordingly, the information was not inaccurate, incomplete, out of date or misleading.

In *Connell and Department of Justice*⁹, Senior Member Megay considered the amendment provision in the *Freedom of Information Act 1982* (Vic) and held that the onus was on the applicant to establish a prima facie case for alteration. The case also referred to the analysis of the four categories established by Gesell J in *RR v Department of Army* referred to above. The Senior Tribunal Member commented: 'there is no evidence that would give rise to the application of any of the four tenets described by his Honour. Mr Connell's evidence was not supported in such a way (indeed not at all) so as to enable me to conclude that the face of the record was either inaccurate or misleading, that bias was present, that incompetence had occurred or that the information was totally discredited...all the Tribunal has here is the unsubstantiated evidence of the applicant which he says is to be preferred to the face of the record...the burden falls on the applicant and he has not made out his case'.

In turning my mind to the issues at hand, I can apply the approach taken from the above decisions, which is that:

- individual rights may be influenced or determined by information held by government agencies and therefore the right to request amendment has been enshrined in legislation;

⁷ (1987) 2 VAR 186 at 189 -190

⁸ (2013) Office of the Information Commissioner Queensland Application No 311438

⁹ (VCAT) G95/2005

- the amendment of government records is a serious matter, not to be undertaken lightly; and
- an applicant needs to demonstrate prima facie evidence in support of the request to amend.

Main Issues and Analysis

The investigation of a complaint is ultimately concerned with whether, in my opinion, the personal information custodian has contravened a PIPP. In the context of Mr A's complaint, the investigation concerned whether or not Tasmania Police has complied with its obligations under the PIP Act and taken reasonable steps to ensure that the information in question is accurate, complete and up to date, relevant to its functions and not misleading.

It is noted that the terms 'accurate', 'up-to-date', 'complete', 'relevant' and 'not misleading' are not defined in the PIP Act. Again, some guidance can be found on the website of the Office of the Australian Information Commissioner which has an almost identical privacy principle. Analysis of each term draws on their ordinary dictionary meaning, as well as case law concerning the meaning of those terms in the Privacy Act, FOI Act and other legislation. The analysis indicates there is considerable overlap in the meaning of the terms. It is also noted that it is necessary to have regard to the purpose for which the personal information is to be used.

Mr A has sought eight amendments to his personal information. The details of each of Mr A's requests to amend and the responses from Tasmania Police to both Mr A and my Office are included in Annexure I to this report. I will deal with each requested amendment separately.

Amendment I

This is a request to amend based upon information being incomplete and misleading.

The wording (which appears in the Tasmania Police Recruitment Expression of Interest summary) objected to is: 'applicant subject to 2 restraint orders in 2012'. It is unclear who the author of the information is.

The wording appears in the following sentence in the Recruitment Expression of Interest "Applicant cannot advance. Police officer 2001-2011. Applicant subject to 2 restraint orders in 2012".

Analysis:

The statement on its own is correct but not up to date and is arguably misleading as the restraint order proceedings did result in an appeal against conviction and sentence, which was allowed. Mr A provided Tasmania Police with a copy of the County Court Result of Appeal extract dated 24 September 2013 which states "Appeal against conviction and sentence allowed. Charge(s) dismissed."

In its letter to me Tasmania Police stated that it is a matter of public record that Mr A was subject to two restraint orders in 2012. It included a copy of the relevant Australian Criminal Intelligence Commission (ACIC) records. Tasmania Police acknowledged that the order made on 24 September 2013 set aside the order made on 26 September 2012.

Guidance from the ordinary meaning of "up to date" implies that personal information is out of date if it contains facts, opinions or other information that is no longer current.

In having regard to the purpose for which information in the Recruitment Expression of Interest summary was to be used, possibly as part of the decision making as to whether Mr A's expression of interest was to progress, it is important that the Tasmania Police has complied with its obligations under the PIP Act to ensure that the information is accurate, complete and up to date, and not misleading. Mr A provided clear evidence that the restraint orders had been set aside, this is the most up to date and accurate information on the issue.

Finding:

Whilst it may not be reasonable to expect Tasmania Police to check on the current status of restraint orders in relation to each and every applicant under the expression of interest process, in this case Mr A provided prima facie evidence that the information held by Tasmania Police is not the most current. Therefore, the information is not up to date, arguably misleading and in contravention of the PIPP regarding data quality.

Recommendation:

It is my recommendation that Tasmania Police should add the following notation after the words "Applicant subject to 2 restraint orders in 2012" in the Recruitment Expression of Interest document:

'The Applicant appealed the orders made by the Magistrates Court of Victoria to the County Court of Victoria and the two restraint orders were set aside on 24 September 2013'.

Amendment 2

This is a request to amend based upon information being incorrect and misleading.

The wording objected to is contained in an email dated 14 November 2014 from the Sergeant to the Inspector:

[Redacted] is reported in various news sources on the internet as the stealing suspect that Mr A and his partner took into custody for stealing (shoplifting alcohol) in September 2006 at Surry Hills.

Analysis:

The statement in the e-mail is factually correct and is in the context of various news stories that Tasmania Police accessed during the course of its inquiries into Mr A. One of the articles states "after arresting Mr C, 26, for suspected theft and assault they (named in second paragraph of the article as New South Wales police officers Mr A and Mr B) looked up information about his girlfriend...". See Annexure 2 for details of the news stories.

The purpose for which information was to be used was communication between two police officers summarising the enquiries that the Sergeant had made regarding Mr A. The enquiries were made as a result of a letter from Mr A's lawyer, presumably because his expression of interest did not progress and he had made a RTI application.

The wording objected to is referenced as coming from various news sources. It is correct that Mr A was reported as one of two police officers involved in the arrest of the suspect. The statement in the Sergeant's e-mail is accurately reporting the result of her inquiries. There is no evidence in the Sergeant's summary that bias or incompetence were present.

Mr A seeks to rely on the contents of an affidavit sworn by Constable B in January 2010 to refute that part of the news sources that reported him as one of the officers who arrested Mr C. The veracity of the contents of the affidavit are not able to be tested or verified to assess the credibility of the information presented, which normally would occur during cross-examination or via any additional evidence given orally by the deponent.

It does not follow, nor is it reasonable, that Mr A seeks to rely on the contents of an affidavit, sworn by someone else, to establish the truth of the matter. It is my assessment that the contents of the affidavit, which was sworn for the purpose of a criminal trial on other matters, is not prima facie evidence and cannot be relied upon by Mr A in the context of the request for amendment.

Finding:

Tasmania Police has taken reasonable steps to ensure that the information contained in the news stories is accurate, complete and up to date and not misleading. I concur with the decision of Tasmania Police not to accede to this request.

Amendment 3

This is a request to amend based upon information contained in an e-mail dated 14 November 2014 from the Sergeant to the Inspector allegedly being incorrect and misleading.

The wording in the e-mail objected to is... "this is reported to be as a result of Mr A disclosing to him that (section 36 RTI exemption) had undergone gender re assignment surgery". The sentence was written in the context of the preceding sentence which reads..."it is further reported (meaning in various news sources) that upon being bailed in the early hours of the following morning, he attended the home of his girlfriend, where he assaulted her."

Extracts from copies of news stories supplied by Tasmania Police are detailed at Annexure 2 to this report.

Mr A objects on the basis that he disputes that it was him who made the disclosure to Mr C. In support of his request to amend he refers to paragraph 39 of Constable B's affidavit.

Analysis:

I refer to and repeat the comments contained in the analysis of Amendment 2.

Finding:

As to whether Tasmania Police took 'reasonable steps to ensure that, having regard to the purpose for which the personal information is to be used, the personal information it collects, uses, holds or discloses is accurate, up to date and relevant to its functions or activities', it is apparent that the Sergeant checked CrimTrac to confirm Mr C (the stealing suspect) had been charged at Surry Hills with larceny on 24 September 2006 and on 25 September 2006 had been charged with Aggravated Break & Enter with intent to inflict Grievous Bodily Harm. It is my assessment that Tasmania Police took reasonable steps to confirm that the information reported in the news sources was true.

I therefore, concur with the decision of Tasmania Police not to accede to this request.

Amendment 4

This is a request to amend based upon information contained in an e-mail dated 14 November 2014 from the Sergeant to the Inspector being incorrect and misleading.

The wording in the e-mail objected to is "Mr A did not dispute that he sourced information relating to (Ms D) from NSW Police systems to show (Mr C)"

The information objected to has to be taken in the context of the immediately preceding sentence which reads "Mr A's appeal against his conviction for Public official unlawfully disclose information, was upheld on the basis that the information was not of a personal nature and that the showing of [s.36] police record to [s.36] "did not have anything to do with their lawful functions". This information is taken directly from *R v Mr A; R v Mr B (2010) NSWDC 160* which can be accessed at www.lawlink.nsw.gov.au. Mr A did not dispute that he sourced information relation to [s.36] from NSW Police systems to show [s.36]".

A perusal of that judgment reveals that it consistently refers to the appellants (Mr B and Mr A) jointly, see paragraphs 4, 57, 58 and 59. There is nothing in the judgment that indicates Mr A disputed that he sourced the information and disclosed it to Mr C.

Analysis:

The statement in the e-mail is factually correct and is in the context of the reported judgement *R v Mr A; R v Mr B (2010) NSWDC 160* that Tasmania Police accessed during the course of its inquiries into Mr A.

I have already made comment in relation to the purpose for which the information was to be used under Analysis for Amendment 2.

In any event, Tasmania Police has agreed to a notation which acknowledges that Mr A disputes that he sourced the information from police databases. Accordingly, it is not necessary to consider this amendment further.

Finding:

Tasmania Police has agreed to the above notation which in my assessment amounts to reasonable steps to ensure that, having regard to the purpose for which the personal information is to be used, the personal information it collects, uses, holds or discloses is accurate, up to date and relevant to its functions or activities.

I therefore, concur with the decision of Tasmania Police to add a notation to Mr A's personal information.

Amendment 5

This is a request to amend based upon information being incorrect and misleading.

The wording objected to is:

This article details how the applicant and another police officer disclosed to a stealing suspect that his girlfriend was a man and had undergone gender reassignment surgery. This was to the extent that the applicant printed a police report and photograph depicting the girlfriend before the surgery and showed it to the suspect

The information has been provided to Mr A as part of a RTI disclosure. The statement appears in an email dated 14 October 2014 from the Constable to Recruiting (DPEM) – (the document says 'following are the notes that have been added to the TRIM record of Mr A's expression of interest (A14/114928) since his first RTI').

The wording is contained in an e-mail dated 14 October 2014 from the Constable which states:

Contact from RTI who have googled applicant and found numerous news reports including the following:

<http://www.dailytelegraph.com> – that aint no way to treat a lady story

This article details how applicant and another police officer disclosed to a stealing suspect that his girlfriend was a man and had undergone gender reassignment surgery. This was to the extent that the applicant printed a police report and photograph depicting the girlfriend before the surgery and showed it to the suspect”

Analysis:

The statement taken in the context of what appears in the article is correct.

The extracts from the article ‘That aint no way to treat a lady’ are as follows:

The District Court this month overturned the convictions of police constables Mr A and Mr B for breaching privacy laws by telling Ms D’s unsuspecting then boyfriend Mr C that he was, in fact, in a relationship with a man.

“You’re rooting a bloke” Constable Mr A told Mr C.

Mr C has been going out with Ms D for three weeks when Constable A told him his girlfriend was a man.

The officers downloaded Ms D’s police report and a photograph and showed it to Mr C. “See, he’s a guy”, Mr A told him.

I have already made comment in relation to the purpose for which the information was to be used in my analysis of Amendment 2.

Mr A again seeks to rely on the contents of Constable B’s affidavit to refute that part of the news sources that reported him as one of the officers who printed a police report and photograph depicting Ms D before the surgery and showed it to the Mr C. As previously noted, the veracity of the contents of the affidavit are not able to be tested or verified to assess the credibility of the information presented and it is not reasonable for Mr A to seek to rely on its contents.

It is my assessment that the contents of the affidavit cannot be relied upon by Mr A in the context of the request for amendment.

Finding:

As to whether Tasmania Police made ‘reasonable steps to ensure that, having regard to the purpose for which the personal information is to be used, the personal information it collects, uses, holds or discloses is accurate, up to date and relevant to its functions or activities’ it is apparent that the Sergeant was summarising the enquiries she had made by referencing news stories regarding Mr A.

Therefore, I concur with the decision of Tasmania Police not to accede to this request.

Amendment 6

This is a request to amend based upon information being incorrect and misleading.

The wording objected to is:

This was to the extent that the applicant printed a police report and photograph depicting the girlfriend before the surgery and showed it to the suspect.

The statement appears in an email dated 14 October 2014 from the Constable to Recruiting (DPEM). Again this is in reference to the article in the Daily Telegraph which states "the officers downloaded Ms D's police report and a photograph and showed it to Mr C...see, he's a guy" Mr A told him".

Analysis:

I refer to and repeat the comments contained in the analysis of Amendment 2.

Finding:

Again, it is apparent that the Sergeant was summarising the enquiries she had made by referencing news stories regarding Mr A.

Therefore, I concur with the decision of Tasmania Police not to accede to this request.

Amendment 7

This is a request to amend based upon information being incorrect and misleading.

The wording objected to is:

The details of this charge are as follows: Whilst a police officer with NSW police, Mr A disclosed to a suspect that the suspect's girlfriend had undergone gender reassignment surgery. He also showed the suspect a photograph of his girlfriend pre-surgery taken whilst she was in custody

The statement is contained in a briefing note dated 10 November 2014., which was prepared by the Sergeant and addressed to Assistant Commissioner, Planning and Development. The briefing note refers to general checks made by recruiting services on the internet on 1 October 2014, when it was found that Mr A had been proceeded against in 2006 for "Public official, unlawfully disclose information". It is noted that "he was originally found guilty but upon appeal, the conviction was quashed".

Analysis:

The purpose for which the information was to be used was as a briefing note to a senior police officer regarding Mr A's request for review of his application of appointment. Mr A made an RTI application for all records relating to his EOI and the result. Having received the RTI request, Recruiting Services conducted further general checks on the internet on 1 October 2014. There is no evidence of the presence of bias or incompetence present in the preparation of the briefing note.

For reasons explained under analysis for Amendment 2 it is my assessment that the contents of the affidavit cannot be relied upon by Mr A in the context of the request for amendment.

Finding:

The wording, as a summary of the details of the charge, is correct. It is not misleading as it is a direct reference to the R v Mr A case as reported.

Therefore, I concur with the decision of Tasmania Police not to accede to this request.

Amendment 8

This is a request to amend based upon information being incorrect and misleading.

The, wording objected to appears under the heading Current Situation in a Briefing Note:

M Lawyers have supplied a copy of the "Result of Appeal" (included in Annexure A) relating to the restraint orders which were set aside on 24/09/2013. Please note, this information is NOT reflected in CrimTrac. M Lawyers state in the letter to Recruiting Services that the restraint orders were brought maliciously/in bad faith. He has provided documents (included in Annexure A) that are supportive of this assertion.

The statement is also contained in the briefing note dated 10/11/2014.

Analysis:

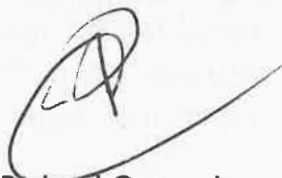
I refer to and repeat the comments contained in the analysis of Amendment 7.

Finding:

Tasmania Police has agreed to a notation which acknowledges that the orders made in 2012 were set aside in 2013. Again, this amounts to taking a reasonable step to ensure that, having regard to the purpose for which the personal information is to be used, the personal information it collects, uses, holds or discloses is accurate, up to date and relevant to its functions or activities. Accordingly, I do not believe it is necessary to consider this amendment further.

Therefore, I concur with the decision of Tasmania Police to add a notation to Mr A's personal information.

Dated: 30 June 2017

A handwritten signature in black ink, consisting of a stylized 'R' and 'C' followed by a long horizontal stroke.

Richard Connock
OMBUDSMAN

ANNEXURE I – details of Mr A's request to amend and the response from Tasmania Police.**Amendment 1**

Mr A in his request to amend says:

The 2 restraint orders comprise an interim and final Personal Safety Intervention Orders in the Melbourne Magistrates Court at which I did not personally attend, brought by a Mr R. The attached Result of Appeal confirms that these orders were quashed on appeal to the County Court of Victoria on 24 September 2013. Mr A provided to Tasmania Police a copy of the County Court Result of Appeal extract dated 24 September 2013 "Appeal against conviction and sentence allowed. Charge(s) dismissed."

Tasmania Police in its letter to Mr A dated 11/11/16 wrote:

Tasmania Police will not accede to this request. The statement that you were subject to 2 restraint orders in 2012 is factually correct. The information is not incorrect, incomplete, out of date or misleading.

Tasmania Police in its letter to my Office dated 23/12/16 wrote:

It is a matter of public record that Mr A was subject to two restraint orders in 2012.

Amendment 2

Mr A in his request to amend states:

The attached affidavit of Constable (now Sergeant B confirms at paragraph 10 and 11 therein that he and Constable J (not me) arrested Mr C for offences, including larceny, in September 2006 in Surry Hills.

Tasmania Police in its letter to Mr A dated 11/11/16 wrote:

The statement that various news sources on the internet reported that you and your partner took the stealing suspect into custody is factually correct. The information is not incorrect, incomplete, out of date or misleading.

Tasmania Police in its letter to my Office dated 23/12/16 wrote:

News sources on the internet reported that Mr A and his partner took the stealing suspect the subject of his disclosure charge into custody. I forward herewith a copy of one such article, an ABC online report dated 21/01/14.

Amendment 3

Mr A in his request to amend states:

At all times, I disputed that I disclosed information to Mr C. The attached affidavit of Mr B confirms at paragraph 39 therein that he (not me) made an inadvertent disclosure to Mr C about the transgender nature of his girlfriend.

Tasmania Police in its letter to Mr A dated 11/11/16 wrote:

The statement that the assault by the stealing suspect was reported to be as a result of you disclosing that his girlfriend had undergone gender reassignment surgery is factually correct. The information is not incorrect, incomplete, out of date or misleading.

In its letter to my Office, Tasmania Police detail:

Various news articles reported that the aforementioned suspect assaulted his girlfriend after being told by Mr A and his partner that she had undergone transgender reassignment surgery.

Amendment 4

Mr A says in his request to amend states:

At all times I disputed that I sourced information relating to Ms D from NSW Police systems. The attached affidavit of Mr B confirms at paragraphs 46-49 therein that he (not me) accessed information relating to Ms D from the COPS database."

Tasmania Police in its letter to Mr A dated 11/11/16 wrote:

the statement in the e-mail that you did not dispute that you sourced the information...was based on observations in the judgement referred to in the email. Given the statement is expressed as a statement of fact, Tasmania Police will add the following notation after it:

'Subsequent to the date of this email Mr A has made it clear to Tasmania Police that he did dispute having sourced information relating to the girlfriend of the suspect from NSW police systems to show to him

Amendment 5

Mr A in his request to amend states:

At all times I disputed that I disclosed information to Mr C. The attached affidavit of Mr B confirms at paragraph 39 therein that he (not me) made an inadvertent disclosure to Mr C about the transgender nature of his girlfriend.

Tasmania Police in its letter to Mr A dated 11/11/16 wrote:

Tasmania Police will not accede to this request. The statement that the article referred to in the email detailed how you and another police officer had disclosed to a stealing suspect that his girlfriend was a man who had undergone gender reassignment surgery is factually correct. The information is not incorrect, incomplete, out of date or misleading.

Amendment 6

Mr A in his request to amend states:

At all times I disputed that I printed a police report and photograph of Ms D and showed it to Mr C. The attached affidavit of Mr B confirms at paragraphs 48 to 50 and 58 therein that he (not me) printed a photograph of Ms D and showed it to Mr C.

Tasmania Police in its letter to Mr A dated 11/11/16 wrote:

Tasmania Police will not accede to this request. The statement that the article referred to in the email stated that you printed a police report and photograph depicting the girlfriend before surgery and showed it to the suspect is factually correct. The information is not incorrect, incomplete, out of date or misleading.

Amendment 7

Mr A in his request to amend states:

At all times, I disputed that I disclosed information to Mr C. The attached affidavit of Mr B confirms at paragraph 39 therein that he (not me) made an inadvertent disclosure to Mr C about the transgender nature of his girlfriend.

Tasmania Police in its letter to Mr A dated 11/11/16 wrote:

Tasmania Police will not accede to this request. The statement in the briefing note you seek to have amended is a summary of the allegations relation to the charge laid against you. The summary is accurate. It does not suggest that the allegations were true. The information is not incorrect, incomplete, out of date or misleading.

Tasmania Police in its letter to my Office dated 23/12/16 wrote:

The statement was a summary of the allegations relating to the charge laid against him which was the subject of the decision *R v Mr A, R v Mr B*. It is apparent from that decision that the summary is accurate.

The following is an extract from *R v Mr A; R v Mr B [2010] NSWDC 160 (30 July 2010)*:

... the appellants, after accessing a police computer containing "personal information", revealed that personal information to a Mr C. The information revealed was that the gender of Mr C's then girlfriend Ms D was male. This was done by printing out a document from the iCOPS police computer system and showing that form to Mr C. That document included a reference to the true gender of Ms D.

Amendment 8

Mr A in his request to amend states:

The attached extract from the National Police Reference System (NPRS), which I received via the attached email on 2 September 2014, confirms that the information about the orders being quashed or set aside on appeal to the Country Court of Victoria on 24 September 2013 was in fact reflected in CrimTrac systems at the time the Briefing Note was authored.

Tasmania Police in its letter to Mr A dated 11/11/16 wrote:

Tasmania Police is making further inquiries in relation to the CrimTrac records. Further consideration will be given to this requested amendment once those inquiries have been completed.

Tasmania Police in its letter to my Office dated 23/12/16 wrote:

It is apparent from the ACIC records forwarded herewith that when the briefing note dated 10/11/14 was drafted the CrimTrac records indicated that the orders made in the Melbourne Magistrates Court on 26 September 2012 had been set aside. I forward herewith a copy of my letter of 22 December 2016 to Mr A concerning this issue.

The additional response from Tasmania Police to Mr A 22/12/26 details:

Further to my letter 11/11/16 I advise that Tasmania Police accepts that when the briefing note dated 10/11/14 was drafted CrimTrac records indicated that the orders made in the Melbourne Magistrates Court on 26/09/12 had been set aside. Tasmania Police will add the following notation to the briefing note after the sentence "Please note, this information is NOT reflected in CrimTrac":

"This statement is incorrect. As at 10 November 2014 CrimTrac records indicated that the orders made against Mr A in the Melbourne Magistrates Court on 26 September 2012 were set aside on 24 September 2013."

ANNEXURE 2 – Details of news reports referenced by Tasmania Police during its investigations.

The Daily Telegraph 21 August 2010

"Mr C had been going with Ms D for three weeks when Constable A told him his girlfriend was a man. Mr C later said that he was 'disgusted, disturbed, distressed and felt deceived' at the revelation. The officers downloaded Ms D's police report and a photograph and showed it to Mr C. 'See, he's a guy' Mr A told him...But Mr C went to her house, woke her up and bashed her. She spent several days in hospital."

ABC 3 April 2009 (updated 21 January 2014)

"They looked up information about his girlfriend, Ms D, discovered she used to be a man who had a sex change and told him...Ms D had tried to keep the information a secret and when her boyfriend was released he went to her house and attacked her."

Sydney Morning Herald 7 February 2008

"Mr C, 26, was in custody at Surry Hills police station on September 24, 2006 when two police officers allegedly told him his girlfriend, Ms D, had undergone a sex change operation...Mr C has already pleaded guilty to charges that, in the early hours of the morning after his detention, he went to Ms D's apartment and assaulted her".