

# Freedom of Information

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## Comment

At this time of year I am made acutely aware of the often awesome chasm between the policy and practice of FoI as I have to give two 50-minute lectures and set an assessment task on this topic to a group of young students and a few veterans of the public service or private enterprise — a rare event in any Australian university. The students are confused by the requirements and ambitions of the legislation and the actual availability of information. They find it difficult to reconcile the stories that appear in *The Australian's* FoI website (see side bar at <<http://www.theaustralian.news.com.au>>) with the basic operating requirement of a vibrant, liberal democracy, namely, the timely access to high quality and reliable information.

The engagement of News Ltd journalists with FoI, led by Michael McKinnon and supported by many others like Paul Whittaker, has been a feature of the last 12 months. This has been a much needed fillip for the practice of FoI. Yet it has been both costly and frustrating for those involved. In a recent successful AAT decision involving access to a series of Department of Foreign Affairs cables, the release of which would be 'absolutely inconsequential', according to a former Deputy Secretary of the Department of Prime Minister and Cabinet and High Commissioner to Canada from 1997 to 2001 who authored one of the cables (Paul Whittaker, 'Secrecy scarcely diplomatic' *The Australian*, 9 September 2004). Yet the attempt to access these documents cost News Ltd \$20,000 in legal fees and has now been appealed by the Commonwealth Government in the Federal Court.

Why wouldn't young Australian citizens be cynical about both the promise and delivery of open government in Australia?

Meanwhile Victorian State Ombudsman George Brouwer has announced that he will examine Victoria Police's handling of FoI requests as part of an investigation into the administration of the *Freedom of Information Act* in Victoria.

The investigation will focus on the timeliness and adequacy of the Government's responses to FoI requests, as well as the FoI policies and practices adopted by various government departments.

'I also intend to investigate the policies, practices and procedures of Victoria Police ... in responding to FoI requests,' Mr Brouwer wrote.

The investigation comes after the Ombudsman's office had received numerous complaints about the Government's handling of FoI requests, with some requests being processed more than 100 days after the statutory 45-day response period had expired.

Mr Brouwer has also begun an investigation into the Government's claim that no documents could be found to show correspondence between the offices of Police Minister Andre Haermeyer and Victoria Police Chief Commissioner Christine Nixon regarding gangland killings or police corruption. [Richard Baker, 'Ombudsman to Examine the FoI Process', *The Age*, 3 September 2004]

The experience of the last ten years of FoI law reform and reviews in Australia has lowered my expectations. Will this be just one more outstanding report which clearly targets what needs to be done to make FoI work — in the way our young citizens expect — but which is destined to be neglected?

**Rick Snell**