

To: Timothy.Pilgrim@privacy.gov.au
From: Roger Clarke <Roger.Clarke@xamax.com.au>
Subject: The Current Vic Police Matter
Cc: Karen.Curtis@privacy.gov.au
Bcc: apfboard@privacy.org.au

Mr T. Pilgrim
Deputy Privacy Commissioner
Office of the Privacy Commissioner

Dear Timothy

Re: Victorian Police MoUs

I refer to my letter of yesterday, 8 December 2009, addressed to Karen Curtis.

Knowing that Karen is away this week, I'm taking the liberty of approaching you on a particular aspect of the matter.

ABC PM on Tuesday 8 December reported that:

<http://www.abc.net.au/pm/content/2009/s2761455.htm>

"A spokesman for the federal privacy commissioner says the federal regulator has no intention to investigate because the deal is in the state jurisdiction".

As far as we're aware, no-one has yet been able to assemble a complete list of the organisations with which Vic Police have MoUs.

Several organisations have been mentioned, some of which are public-private partnerships, or are performing a State government function under contract.

(Even in respect of these, however, some uncertainties exist. I note that your Office has still not clarified what the situation is with toll-road operators. Last heard, the Victorian, NSW and Australian Privacy Commissioners are still all pointing at one another, saying it's someone else's problem to regulate them).

The APF's questions are as follows:

1. Does your Office have evidence that no organisation that is subject to the private sector provisions of the Privacy Act (Cth) has an MoU with Victoria Police?

2(a) If so, would you please advise the source of the information, and, if possible, provide us with a copy.

2(b) If not, would you please advise how your Office could be quoted as having washed its hands of the matter?

3. In either case, would you please advise why it was not appropriate for your Office to take the opportunity to warn corporations that receiving personal data under an MoU with a government agency may not be sufficient to relieve the corporation of its responsibilities under the Act?

Regards

Roger Clarke
Chair, for the Board of the Australian Privacy Foundation

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Roger Clarke

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