

THE RIGHT TO INFORMATION COMMISSION

ACCRA

31ST MAY, 2023

AFR NO: RTIC/AFR/46/2022

COMMONWEALTH HUMAN RIGHTS

INITIATIVE (CHRI), AFRICA

APPLICANT

ACCRA

AND

GHANA POLICE SERVICE

RESPONDENT

ACCRA



**DECISION BY THE RIGHT TO INFORMATION COMMISSION IN RESPECT OF
THE APPLICATION FOR REVIEW FILED BY THE COMMONWEALTH HUMAN
RIGHTS INITIATIVE (CHRI) AGAINST REFUSAL TO RELEASE INFORMATION
REQUESTED BY THE COMMONWEALTH HUMAN RIGHTS INITIATIVE (CHRI)**

In this case, the Applicant's request for information was twofold. The first request for information (identified herein as Exhibit A) pertained to unlawful killing by police officers while the second request (referred to as Exhibit B) sought information regarding brutality meted out to various individuals by police officers. The Applicant herein is the Commonwealth Human Rights Initiative, Africa Office, Accra while the Respondent is the Ghana Police Service.

The Applicant's requests for information regarding both the unlawful killing and police brutality were dated 27th June 2022 and were addressed to the Inspector-General of Police, the Head of the



Respondent institution. The requests did not receive any response from the Respondent and the Applicant deemed same as denied. The Applicant, on 27th September 2022, sent a follow-up letter to the Respondent regarding its initial application on the police brutality. This follow-up letter is identified as Exhibit C. The Applicant, again, did not receive any response from the Respondent institution, hence the instant application to the Right to Information Commission (The Commission). The application for review made to the Commission by the Applicant was dated 28th October 2022 and it is identified as Exhibit D. The Commission wrote to the Respondent in a letter dated 14th November 2022 asking for its reasons for denying the Applicant's request for information. As of the date of this determination by the Commission, the Respondent has failed, refused and/or neglected to respond to the Commission's request.

The following pieces of information were requested by the Applicant from the Respondent in the first letter dated 27th June 2022 (Exhibit A):

“An official document providing updates on the outcome of the investigations concerning the unlawful killing by police officers in respect of;

- a) Norman Addo which occurred at Atasemanso on January 21 2012
- b) Abdul Rashid which occurred at Amakrom-Gorro, Asawase on October 9 2013
- c) Kwaku Oppong which occurred at Asenua close to Suame on March 2015
- d) Osei Tawiah which occurred at Nana Fodoo- Krofom on May 26 2016
- e) Mary Aboagye which occurred at Ankaful Junction on January 10 2019
- f) Musa Seidu aka Baba Kande which occurred at Ayirebikrom-Manso on July 17 2018
- g) Mohammed Bashir Musah which occurred at Ayirebikrom-Manso on July 17 2018
- h) Mohammed Kamal which occurred at Ayirebikrom-Manso on July 17 2018
- i) Razak Suke aka Frenchman which occurred at Ayirebikrom-Manso on July 17 2018
- j) Oliver Konlan which occurred at Ayirebikrom-Manso on July 17 2018
- k) Abdul Hannan Bashir which occurred at Ayirebikrom-Manso on July 17 2018

Pertaining to the second letter dated 27th June, 2022 (Exhibit B), the following pieces of information were requested by the Applicant from the Respondent:



“1. An official document on updates and outcomes of the investigations of each of the under listed cases concerning police brutality meted out to the under listed persons.

2. With reference to the cases where investigations have not been conducted, kindly provide the reason why investigations were not conducted.

- a) Stephen Arthur at Kasoa-Accra in 2011**
- b) Erastus Asare Donkor at Zongo Police Station – Kumasi in 2013**
- c) Judtice Adzakumah in Accra in 2015**
- d) Ama Agyemang at Nana Fodoo-Krofom, Ashanti Region in 2016**
- e) Abdul Ganiu at Dalu- Northern Region in 2017**
- f) Kwabena Danso at Anyaa-Market Junction Accra**
- g) Latif Iddrisu at CID Headquarters in 2018**
- h) Patience Osafo at Shiashie – Accra in 2018**
- i) Ellias Ojoo Adjetey Anum at Abokobi – Akporman, Accra in 2018**
- j) Dorothy Appiah at Moree Toll Booth in 2018**
- k) Adelaid Quarshie and Ernest Mensah at Wuropong in Volta Region**
- l) Cecilia Mensah at Ankaful Junction in 2019**
- m) Stephen Nsiah at Offoase, Atwima Kwanwoma – Ashanti Region in 2018**
- n) Ama Anane at Offoase, Atwima Kwanwoma – Ashanti Region in 2018**
- o) Afra Darko at Offoase, Atwima Kwanwoma – Ashanti Region in 2018**
- p) Aaron Yeboah at Offoase, Atwima Kwanwoma – Ashanti Region in 2018**
- q) Antwi Francis-30 yrs at Offoase, Atwima Kwanwoma – Ashanti Region in 2018**
- r) Rashid at Offoase, Atwima Kwanwoma – Ashanti Region in 2018**
- s) Micheal Kofi Gyamfi at Offoase, Atwima Kwanwoma – Ashanti Region in 2018**
- t) Charles Kofi Gyamfi at Offoase, Atwima Kwanwoma – Ashanti Region in 2018**

Since the Respondent chose not to respond to the Commission’s letter, the Commission is inclined to apply the relevant provisions of the Right to Information Act, 2019 (Act 989) to determine whether the requested pieces of information, as outlined above, are exempted from disclosure or should be disclosed. The Respondent’s lack of response to the Commission’s letter shall be addressed later in this determination.



One point worthy of drawing attention to is the fact that the Applicant addressed its request for information to the Inspector-General of Police, the head of the Respondent institution instead of addressing same to the Information Officer. The Commission deems this to be a mere irregularity which cannot be fatal to the application for information. The Commission opined in its earlier decision in the case titled Occupy Ghana v. Lands Commission (Case No. RTIC/AFR/39/2022) that, technically speaking, there is no part of Act 989 which mandates that an application for information should only be addressed to an information officer. However, reading Act 989 in totality, there is a clear understanding that such an application should be, appropriately, addressed to an information officer instead of being addressed to the head of an institution. That preserves the internal review mechanism created under the law, which jurisdiction is to be exercised by the head of a public institution upon denial of an application for information by the information officer. This notwithstanding, if an application for information is addressed to any officer within the publication other than the information officer, the application cannot be declined on that basis. Once the application is received by an officer of the institution, it is deemed received by the institution and should be directed to the information officer for processing and action, as mandated under sections 19 and 23 of Act 989.

As shown above, no response was received by the Applicant for its requests for information from the Respondent. This, to all intents and purposes, amounted to a denial of the application for information. The Applicant, therefore, rightly applied to the Commission for redress.

According to section 27 of Act 989, a public institution may only refuse access to information on one of two grounds, namely, first, that the application is clearly frivolous or vexatious; or, second, that the information requested is an exempt information. The Commission finds that, looking at the substance of the pieces of information being sought by the Applicant, same cannot be described as frivolous or vexatious. These are very pertinent pieces of information that should help gauge the level of risk police officers are exposed to in the course of their duties as security personnel and the level of human rights infringement perpetrated by police officers. The Commission holds that these are issues that border on policy redirection to forestall future occurrences.

What, then, is left to determine is whether the pieces of information being requested are exempt information.



ISSUE FOR DETERMINATION

Whether or not the pieces of information requested by the Applicant can be said to be exempt from disclosure under Act 989.

RESOLUTION OF ISSUE

Act 989 spells out information exempt from disclosure from under sections 5 to 16. These exemptions are based on varied reasons. Section 7, however, gives an exemption that covers information relating to law enforcement and public safety. A full rendition of the contents of the section should help with our analysis:

7. (1) Information is exempt from disclosure where the information contains matters which if disclosed can reasonably be expected to
- (a) interfere with the prevention, detection or curtailment of a contravention or possible contravention of an enactment,
 - (b) prejudice the investigation of a contravention or possible contravention of an enactment,
 - (c) reveal investigation techniques and procedures in use or likely to be used in law enforcement,
 - (d) disclose the identity of a confidential source of information, matter or the information given by a confidential source in respect of law enforcement,
 - (e) impede the prosecution of an offence,
 - (f) endanger the life or physical safety of a person,
 - (g) prejudice the fair trial of a person or the impartial adjudication of a case,
 - (h) reveal a record of information that has been confiscated from a person by a police



officer or a person authorised to effect the confiscation in accordance with an enactment,

- (i) interfere with the maintenance or enforcement of a lawful method or procedure for protecting the safety of the public,
- (j) endanger the security of a building, structure or means of transport or a system including computer and communication systems for which security is reasonably required,
- (k) prejudice the security of a prison or place for lawful detention,
- (l) facilitate the escape of a person from lawful custody, or
- (m) prejudice a system or procedure for witness protection or any other procedure for the protection of persons or property where the protection is required.

From the above provisions and a glean through the pieces of information requested by the Applicant, it is important to note that the requested information, as much as it only concerns updates and outcomes of investigations conducted into the incidents outlined in Exhibits A and B, the Commission does not find its disclosure interfering with investigations in any way, or even revealing investigation techniques or prejudicing the fair trial of a person or adjudication of a case. In fact, the disclosure of the information shall not result in any of the situations enumerated under section 7 (1) of Act 989.

The Commission holds that the nature of the Applicant's request demands only a report on the enumerated incidents in Exhibits A and B, and reasons for not conducting investigations at all, if any. Primarily being a report that is being requested by the Applicant, section 7 (2) (a) of Act 989 makes such a disclosure not exempt:

7. (2) Despite subsection (1), information is not exempt from disclosure where that information

(a) consists merely of a report on the outcome of a programme adopted by a



public institution to deal with a contravention or possible contravention of
an enactment;

Based on the above analysis, the Commission resolves the issue set down for determination by holding that the pieces of information requested by the Applicant are not exempt from disclosure. The Applicant is therefore entitled to the pieces of information requested.

FINAL ORDERS

Under **Section 43 (2) (c) of Act 989**, the Commission is clothed with the power to

“make any determination as the Commission considers just and equitable including issuing recommendations or penalties in matters before the Commission.”

In the circumstances of this case, since the requested pieces of information are not exempt information and that the Applicant is entitled to be furnished same, the Commission hereby invokes its jurisdiction under **section 44 (c) of Act 989** to take appropriate action necessary to resolve the Applicant’s complaint. **Section 44 (c) reads;**

“44. To achieve its object, the Commission shall

(a) take appropriate action that is necessary to enable the Commission resolve a complaint before it.

Moreover, according to **section 71 (4) of Act 989**, **“The Commission may issue directives that the Commission considers necessary for the enforcement of its decisions.”**

Based on sections 43(2) (c), 44 (c), and 71(4) of Act 989, the Commission hereby makes the following specific orders directed at the Respondent:

- a. Based on the Respondent’s failure to make decisions on the Applicant’s application lodged with it, the Respondent has clearly failed to perform its obligation under Act 989. This is coupled with its failure to respond to the Commission’s letter received by it. Such a posture by the Respondent is not to be encouraged as it is an affront to the right of access to information enshrined under Article 21(1) (f) of the 1992 Constitution of Ghana and affirmed by Act 989 and same ought to be disapproved**



in strong terms. For this reason, an administrative penalty of GH¢ 100,000.00 is imposed on the Respondent and this shall be payable to the Commission not later than 14 days after receipt of this decision of the Commission by the Respondent. The penalty so imposed shall attract an additional default penalty rate of 10% on the principal penalty sum of GH¢ 100,000.00 in the event of default for any additional 14 days thereafter.

b. The Inspector - General of the Ghana Police Service shall ensure that the following pieces of information are released to the Applicant not later 14 days after receipt of this decision by the Commission:

A. "An official document providing updates on the outcome of the investigations concerning the unlawful killing by police officers in respect of;

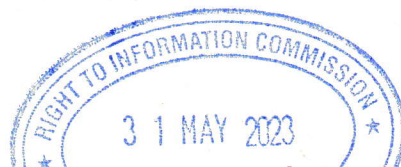
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B. "1. An official document on updates and outcomes of the investigations of each of the under listed cases concerning police brutality meted out to the under listed persons.

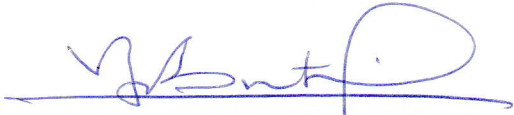


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 - o) Afra Darko at Offoase, Atwima Kwanwoma – Ashanti Region in 2018
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 - q) Antwi Francis-30 yrs at Offoase, Atwima Kwanwoma – Ashanti Region in 2018
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 - s) Micheal Kofi Gyamfi at Offoase, Atwima Kwanwoma – Ashanti Region in 2018
 - t) Charles Kofi Gyamfi at Offoase, Atwima Kwanwoma – Ashanti Region in 2018
- c. The information ordered to be released to the Applicant under Paragraph 3 supra shall attract a charge of GH¢0.27 per page, where it is to be photocopied. If the information is to be released in a printed form, a fee or charge of GH¢0.38 per page should be applied for the information and a fee of GH¢0.29 per page if the information is to be released in a computer readable form on an external storage



device pursuant to the Fees and Charges (Miscellaneous Provisions) Act, 2022 (Act 1080)



YAW SARPONG BOATENG, Esq

EXECUTIVE SECRETARY

