



Decision and Reasons for Decision

Citation:	<i>Seven Network (Operations) Limited and Department of Justice and Attorney-General; Department of Child Safety, Youth and Women (Third Party) [2018] QICmr 48 (29 November 2018)</i>
Application Number:	313657
Applicant:	Seven Network (Operations) Limited (ACN 052 845 262)
Respondent:	Department of Justice and Attorney-General
Third Party:	Department of Child Safety, Youth and Women
Decision Date:	29 November 2018
Catchwords:	<p>ADMINISTRATIVE LAW – RIGHT TO INFORMATION REFUSAL OF ACCESS – EXEMPT INFORMATION – INFORMATION THE DISCLOSURE OF WHICH IS PROHIBITED BY AN ACT – pixelated CCTV footage concerning incidents occurring in a youth detention centre – whether information is confidential information under section 288 of the <i>Youth Justice Act 1992 (Qld)</i> – whether disclosure is prohibited by an Act – whether access to information may be refused under section 47(3)(a) and section 48 and schedule 3, section 12(1) of the <i>Right to Information Act 2009 (Qld)</i></p> <p>ADMINISTRATIVE LAW – RIGHT TO INFORMATION REFUSAL OF ACCESS – CONTRARY TO PUBLIC INTEREST INFORMATION – pixelated CCTV footage concerning incidents occurring in a youth detention centre – whether disclosure would, on balance, be contrary to the public interest – section 47(3)(b) and section 49 of the <i>Right to Information Act 2009 (Qld)</i></p>

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Department of Justice and Attorney-General (**DJAG**) under the *Right to Information Act 2009 (Qld)* (**RTI Act**) for information, including photographs and CCTV/body-worn camera and video footage relating to security breaches at Queensland's correctional and youth detention centres since 1 January 2015. In its application, the applicant advised that it was agreeable to receiving access to documents and photos etc, with personal information redacted or pixelated.

¹ Access application dated 14 September 2017.

2. DJAG located 173 pages and three pieces of CCTV footage. It decided that 19 pages fell outside the scope of the application. It decided to give the applicant full access to 21 pages, partial access to 113 pages, and to refuse access in full to 20 pages and to the three pieces of CCTV footage. It decided that the CCTV footage was exempt information under schedule 3, section 12(1) of the RTI Act. It decided that disclosure of other information would, on balance, be contrary to the public interest.
3. The applicant applied² to the Office of the Information Commissioner (**OIC**) for review of DJAG's decision to refuse it access to the three pieces of CCTV footage, which concerned escape attempts from a youth detention centre. The applicant stated that it did not seek access to information that would identify a young person in detention and was agreeable to receiving access to the footage with the faces of the young people involved pixelated or blurred, so as to remove identifying information.
4. During the course of the review, Machinery of Government changes occurred which resulted in responsibility for the youth justice portfolio being transferred from DJAG to Department of Child Safety, Youth and Women (**DCSYW**).³ As the only information that remained in issue on external review was CCTV footage taken at a youth detention centre over which DCSYW now had control, DCSYW applied to OIC to participate in the review as a third party under section 89(2) of the RTI Act on the basis that it now had an interest in the information in issue and the decision under review. Participant status was granted on 18 April 2018. The practical effect of this was that, while DJAG technically remained the respondent agency, it played no further role in the review.⁴ DCSYW assumed responsibility for providing submissions in support of the nondisclosure of the information in issue, and OIC dealt only with DCSYW for the remainder of the review.
5. As the central issues for determination were the same as those raised in an application for external review that had been lodged earlier in time by another media organisation and that also involved CCTV footage taken inside a youth detention centre, I advised the applicant at an early stage that this review would be unable to finalised until a decision had been issued by OIC in the earlier review. A decision in the earlier review was published on 21 November 2018. In making my decision in this review, I have applied and rely upon the same principles and reasoning explained in detail in that earlier decision. A copy of that decision is attached as Appendix 2 to these reasons for decision.⁵
6. For the reasons set out below, I set aside the decision under review. I find that there are no grounds upon which access to the pixelated CCTV footage to which the applicant seeks access may be refused under the RTI Act, and that the applicant is therefore entitled to access it.

Reviewable decision

7. The decision under review is DJAG's decision dated 1 December 2017. While DCSYW also claims that the pixelated CCTV footage is exempt information under schedule 3, section 12(1) of the RTI Act, it additionally argues that disclosure of the footage would, on balance, be contrary to the public interest.

² External review application dated 12 December 2017.

³ Administrative Arrangements Order (No.3) 2017.

⁴ DCSYW and DJAG advised that it was necessary for DJAG to retain administrative control of the relevant file as the respondent agency rather than transferring it to DCSYW because the access application had requested access to correctional centre information, for which DJAG retained responsibility. OIC confirmed with DJAG again on 19 November 2018 that it retained administrative control over the external review and remained the correct respondent agency.

⁵ *Australian Broadcasting Corporation and Department of Child Safety, Youth and Women* [2018] QICmr 47 (21 November 2018) (**ABC and DCSYW**).

Evidence considered

8. Evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including footnotes and the appendices).
9. Significant procedural steps are set out in Appendix 1 to these reasons.

Information in issue

10. The information in issue is contained in three pieces of pixelated CCTV footage. The footage contains images of young people involved in escape attempts from a youth detention centre (**Information in Issue**). Two pieces of footage show the same incident from different angles.
11. OIC has applied pixelation/blurring to the top half of the young persons' bodies so as to redact identifying information to which the applicant does not seek access. I will provide DCSYW with a copy of the Information in Issue in this format.

Issues for determination

12. The central issues for determination are:
 - (a) whether the Information in Issue is exempt information under schedule 3, section 12(1) of the RTI Act because its disclosure is prohibited under section 288 of the *Youth Justice Act (1992)* (Qld) (**YJ Act**); and
 - (b) whether disclosure of the Information in Issue would be, on balance, contrary to the public interest.

Exempt information – disclosure is prohibited by an Act

Relevant law

13. Under the RTI Act, a person has a right to be given access to documents of an agency.⁶ However, this right is subject to limitations, including grounds on which access may be refused.⁷
14. An agency may refuse access to a document to the extent it comprises exempt information.⁸ Schedule 3 of the RTI Act specifies the type of information the disclosure of which Parliament has determined is exempt because its release would be contrary to the public interest. Relevantly, under schedule 3, section 12(1) of the RTI Act, information is exempt under the RTI Act if its disclosure is prohibited under specified legislative provisions, one of which is section 288 of the YJ Act. DCSYW submits that disclosure of the Information in Issue is prohibited by section 288 of the YJ Act, and that the Information in Issue is therefore exempt information under schedule 3, section 12(1) of the RTI Act.

Application of relevant provisions of the YJ Act

15. Section 283(1) of the YJ Act provides that part 9 (Confidentiality) applies to confidential information relating to a child who is being, or has been, dealt with under the YJ Act.

⁶ Section 23 of the RTI Act.

⁷ As set out in section 47 of the RTI Act.

⁸ See section 47(3)(a), section 48 and schedule 3 of the RTI Act.

Section 283(2) provides that one of the ways that a child may be dealt with under the YJ Act is being detained.

16. 'Confidential information' is relevantly defined in section 284 of the YJ Act:

confidential information, relating to a child, includes –

- (a) identifying information about the child; ...⁹

17. 'Identifying information about a child' is defined in schedule 4 to the YJ Act as meaning:

'information that identifies the child, or is likely to lead to the identification of the child, as a child who is being, or has been, dealt with under this Act'.

Example –

Each of the following is identifying information about a child if it identifies the child, or is likely to lead to the identification of a child, as a child who is being or has been dealt with under this Act –

- (a) the child's name, address, school or place of employment;
(b) a photograph, picture, videotape or other visual representation of the child or someone else.

18. Division 2 of the YJ Act is titled '*Preservation of confidentiality generally*'. Section 287 provides that this division applies to a person who has gained, gains, or has access to, confidential information relating to a child through involvement in the administration of the YJ Act.

19. Section 288 of the YJ Act provides that such a person must not:

- (a) record or use the [confidential] information, or intentionally disclose it to anyone, other than under division 2; or
(b) recklessly disclose the [confidential] information to anyone.

20. Section 286 of the YJ Act provides that a person '*discloses*' confidential information to someone else if the person:

- (a) orally discloses the information to the other person; or
(b) produces to the other person, or gives the other person access to, a document containing the information; or
(c) discloses the information to the other person in another way.

Submissions of DCSYW/DJAG

21. In its decision, DJAG simply stated that disclosure of the Information in Issue was prohibited under section 288 of the YJ Act, and that no exception to that prohibition applied in the circumstances.

22. While DCSYW initially advised that it would rely on the same submissions it had lodged in *ABC and DCSYW*, it later decided to provide a fresh set of submissions specifically relating to this review.¹⁰ Those submissions are essentially the same as made by DCSYW in *ABC and DCSYW* and which are set out in detail at paragraphs 23-32 of that decision (see Appendix 2). I have given careful consideration to all of the submissions made by DCSYW. In the interests of brevity, given that they are dealt with fully in *ABC and DCSYW*, the central points relied upon by DCSYW can be summarised as follows:

⁹ DCSYW does not rely upon any of the other subsections of section 284 of the YJ Act.

¹⁰ Dated 7 August 2018.

- the CCTV footage cannot be de-identified so as to remove confidential information within the meaning of the YJ Act because it is likely that there would be numerous people who are familiar with the young persons in question (including friends, family, detention centre workers and other detainees) and who, despite pixelation of the footage, would still be able to identify the young persons as children who are being, or have been, dealt with under the YJ Act
 - a 'disclosure' for the purposes of section 286 of the YJ Act simply requires the production of 'confidential information' to another person: it does not require that the recipient of the confidential information not know the information
 - Parliament's object in enacting section 288 of the YJ Act was to protect the privacy of young persons being dealt with under the YJ Act and a sense of violation of privacy is likely to be felt by young persons even if the information is disclosed in a form where only those who already know of the young persons' identity and the fact that they are/have been held in youth detention are able to recognise them
 - a person tasked with pixelating the footage would not be familiar with the individual and would be exercising their own subjective view to decide what measures are necessary to de-identify the individual which may not be sufficient
 - the small population of youth detention centres, together with young persons possibly coming from a small community, increases the likelihood of identification, even by those who may not already be aware that the young person is being dealt with under the YJ Act
 - it is reasonable to expect that media organisations will use their 'skill and experience in investigative journalism' to identify the young persons in the footage; and
 - consultation with the young persons shown in the footage should take place if disclosure is being contemplated.
23. In support of its argument that pixelation may not be enough to protect a person's identity, DCSYW relied upon a case which it did not raise in its submissions in *ABC and DCSYW*. In this case, which related to an alleged sexual offence against a minor in the United Kingdom, The Sun newspaper published a photograph of the 15 year old alleged victim with the alleged offender (a well-known football player whose identity was publicly known) that was posted on the victim's Facebook account. The Court found that extensive efforts had been made by The Sun to de-identify the victim in the photograph. However, despite those efforts, the original photograph was still available on Facebook and social media users, who were familiar with the victim's Facebook profile, recognised the photograph.

Applicant's submissions

24. The applicant provided brief submissions¹¹ in which it argued that DCSYW's arguments were 'clearly flawed and untenable' and stated that it disagreed that children could be identified if their identifying features were obscured:

Nothing would ever be released under FOI legislation across the country if the basis of personal information was more than just names, addresses, numberplates, faces and other distinctive features like a birthmark or tattoo.

Discussion

25. I repeat and rely on my detailed discussion of DCSYW's submissions in favour of nondisclosure as contained at paragraphs 34-67 of *ABC and DCSYW*.

¹¹ Dated 28 May 2018.

26. I am satisfied that the intention of the relevant confidentiality provisions contained in the YJ Act is to protect the identity of a young person in connection with their status as someone who is being, or has been, dealt with under the YJ Act. It is reasonable to conclude that the reason for the protection of a young person's identity in connection with their status under the YJ Act is to avoid prejudicing the rehabilitation, reintegration and acceptance of young persons into society upon their release from detention. I therefore do not accept that the provisions were intended to operate to prevent the disclosure of information about identity and status to those who already know of the young person and their status under the YJ Act, i.e., those with 'special knowledge'.
27. The correct test for whether information qualifies as '*confidential information about a child*' for the purposes of the YJ Act is whether it will identify a child, or will likely lead to the identification of a child, as a child who is being or has been dealt with under the YJ Act, to a person who has no special knowledge.
28. Having carefully reviewed the Information in Issue, I do not accept that it is identifying information about a child for the purposes of section 284(a) of the YJ Act. I do not consider it likely that a person who does not already know of the incident(s) in question and the young persons' involvement in them would be able to view the pixelated CCTV footage and identify the young persons, thereby learning of their status as young persons being dealt with under the YJ Act. The footage is taken at night and parts of it are blurred and of poor quality. This, together with the pixelation that has been applied, is sufficient, in my view, to remove any identifying information about a child from those with no special knowledge.
29. In assessing whether the Information in Issue is confidential information for the purposes of the YJ Act, I have given regard to the factors identified at paragraph 53 of *ABC and DCSYW*, namely:
- the length and quality/clarity of video footage
 - the event that is depicted and any other ancillary information that is depicted/described, including the circumstances in which the incident took place and the setting
 - whether the incident/information has received public attention or notoriety, or whether there is ancillary information in the public domain that, when linked, is likely to lead to the identification of the child in question; and
 - the manner in which the young person is depicted, including the presence of any distinctive clothing, or distinctive physical traits or characteristics, such as tattoos or other identifying marks, an unusual gait, a distinctive body shape, etc.
30. On the information before me, I am not aware that the incidents have received public attention or notoriety, nor that there is ancillary information in the public domain that, when linked, is likely to lead to the identification of a young person to someone with no special knowledge. I accept that the likelihood of identification should not be considered in a vacuum and regard must be given to whether a person can be identified or is likely to be identified through reference to external sources (see the discussion at paragraphs 57 to 62 of *ABC and DCSYW*). However, there is nothing before me to suggest that that is likely in the circumstances of this case.
31. I do not accept that the circumstances of the UK case relied upon by DCSYW and discussed above at paragraph 23) have any relevance or application in the present case. Identification of the victim there was possible not because insufficient measures had been taken to de-identify her, but because the alleged offender's identity was publicly

known and social media users were familiar with the original, unedited photograph of the victim with the offender that was still available on Facebook. I can find no similarities between that case and the circumstances that arise for my consideration in this review.

32. In response to DCSYW's contention that the young persons in question ought to be consulted about disclosure of the pixelated footage, I refer to and rely upon my reasoning in paragraphs 31 and 32 of *ABC and DCSYW* in rejecting that submission.

Finding

33. For the reasons set out above and explained in further detail in *ABC and DCSYW*, I find that the Information in Issue does not satisfy the definition of 'confidential information' in section 284(a) of the YJ Act and that its disclosure is therefore not prohibited by section 288 of the YJ Act. Accordingly, it is not exempt information under schedule 3, section 12(1) of the YJ Act.

Application of the public interest balancing test

Relevant law

34. Another ground for refusing access is where disclosure would, on balance, be contrary to the public interest.¹² The term 'public interest' refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens. This means that in general, a public interest consideration is one which is common to all members of, or a substantial segment of, the community, as distinct from matters that concern purely private or personal interests. However, there are some recognised public interest considerations that may apply for the benefit of an individual.¹³
35. The RTI Act list factors which may be relevant to deciding the balance of the public interest¹⁴ and sets out the following steps¹⁵ to decide where the public interest lies in relation to disclosure of information:
- identify any irrelevant factors and disregard them
 - identify relevant public interest factors favouring disclosure and nondisclosure
 - balance the relevant factors favouring disclosure and nondisclosure; and
 - decide whether disclosure would, on balance, be contrary to the public interest.
36. No irrelevant factors, including those in schedule 4, part 1 of the RTI Act, arise for consideration in this case.

Factors favouring disclosure

37. DCSYW recognised the following public interest factors favouring disclosure of the Information in Issue:
- (i) disclosure could reasonably be expected to promote open discussion of public affairs and enhance the Government's accountability;¹⁶ and

¹² Sections 47(3)(b) and 49 of the RTI Act.

¹³ For example, where disclosure of the information could reasonably be expected to contribute to the administration of justice for a person (schedule 4, part 2, item 17 of the RTI Act).

¹⁴ In schedule 4 of the RTI Act. However, this list is not exhaustive and factors not listed may be relevant in a particular case.

¹⁵ In section 49(3) of the RTI Act.

¹⁶ Schedule 4, part 2, item 1 of the RTI Act.

- (ii) disclosure could reasonably be expected to ensure effective oversight of public funds.¹⁷
38. It did not discuss the application of these factors to the Information in Issue, but simply submitted that the factors should be given only moderate weight when balancing the public interest because release of the footage would not significantly advance the public interest.
39. I do not consider that factor (ii) raised by DCSYW has any application to the Information in Issue. I cannot identify any reasonable basis for expecting that disclosure of pixelated CCTV footage showing unsuccessful escape attempts from a youth detention centre could enable effective oversight of public funds.
40. In addition to factor (i) above, I consider that the following factors apply in favour of disclosure:
- (iii) disclosure could reasonably be expected to contribute to positive and informed debate on important issues or matters of serious interest;¹⁸ and
- (iv) disclosure could reasonably be expected to inform the community of the Government's operations.¹⁹
41. I am satisfied that disclosure of the Information in Issue would enhance DCSYW's accountability for the management of youth detention centres and the security measures that exist at the centres. Disclosure could reasonably be expected to contribute to positive and informed debate about management and security of the centres, which are important issues of public interest, particularly given recent security incidents that have occurred at the centres and the resultant cost to the taxpayer. As I have noted, the escape attempts were unsuccessful and I consider disclosure would enable assessment of the security measures in place at the centre and how they could be improved so as to prevent other attempts, and improve security generally. For these reasons, I am also satisfied that disclosure could reasonably be expected to inform the community of the government's operations in terms of the way in which it manages youth detention centres and the security of young persons who are detained there.
42. Having regard to the nature of the Information in Issue and what it depicts, as well as its length and clarity, I afford moderate weight to factors (i), (iii) and (iv).

Factors favouring nondisclosure

43. DCSYW relied upon the following public interest factors favouring nondisclosure:
- (i) disclosure could reasonably be expected to cause a public interest harm, as disclosure would disclose personal information of a person other than the applicant²⁰
- (ii) disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy;²¹ and
- (iii) disclosure could reasonably be expected to prejudice the security of the youth detention centres.²²

¹⁷ Schedule 4, part 2, item 4 of the RTI Act.

¹⁸ Schedule 4, part 2, item 2 of the RTI Act.

¹⁹ Schedule 4, part 2, item 3 of the RTI Act.

²⁰ Schedule 4, part 4, item 6 of the RTI Act.

²¹ Schedule 4, part 3, item 3 of the RTI Act.

²² This is similar to schedule 4, part 3, item 10 of the RTI Act which concerns prejudice to the security or good order of a corrective services facility under the *Corrective Services Act 2006* (Qld).

44. I will refer to factor (i) as the 'Personal Information Harm Factor'. I discussed the application of this factor at paragraphs 101 to 108 of *ABC and DCSYW* and I repeat and rely on the reasoning contained in that decision in finding that this factor does not apply to the Information in Issue. I am not satisfied that it is possible for those without special knowledge to identify an individual from the pixelated Information in Issue. Nor am I satisfied that the special knowledge that would allow identification is generally or easily available such as to demonstrate that identity could reasonably be ascertained by others.
45. As discussed at paragraph 107 of *ABC and DCSYW*, even if I were to be satisfied that the Information in Issue should properly be characterised as personal information, the harm to the public interest contemplated by this factor only arises through the *disclosure* of such information. The concept of *disclosure* as used in the Personal Information Harm Factor apprehends the giving of information to a person or entity not otherwise possessed of knowledge of that information. While '*disclose*' as used in the Personal Information Harm Factor is not defined in the RTI Act, the word is defined in section 23 of the IP Act as it relates to the application of the Information Privacy Principles – to '*disclose personal information*' relevantly means to give that information to an entity who does not otherwise know the information and is not in a position to find it out. Where releasing personal information would not involve conveying to any person or entity information not already known to them, it cannot be said such release would '*disclose*' personal information within the meaning of the Personal Information Harm Factor, and that factor will therefore not apply.
46. I therefore find that the Personal Information Harm Factor does not apply to the Information in Issue.
47. As regards factor (ii), DCSYW simply submitted that disclosure of information which could reasonably be expected to prejudice the protection of an individual's right to privacy is a public interest factor favouring nondisclosure that should be afforded significant weight in the public interest balancing test.
48. The concept of '*privacy*' is not defined in the RTI Act. It can, however, essentially be viewed as the right of an individual to preserve their '*personal sphere free from interference by others*'.²³
49. I acknowledge that protecting the privacy of young persons held in detention is one of the youth justice principles upon which the YJ Act is based. I have explained above why I accept that the young persons involved in the escape attempts may be able to be recognised by a very small cohort of people with special knowledge, despite the de-identification/pixelation of the Information in Issue. To that extent, I am satisfied that disclosure of the Information in Issue could reasonably be expected to prejudice the protection of the young persons' right to privacy.
50. In considering the weight that should be attributed to this factor, I take account of the following:
- the brief nature and sometimes poor quality of the pixelated CCTV footage; and
 - the fact that only a very small cohort of persons who already have knowledge of the incidents may be able to recognise the young persons concerned.
51. In these circumstances, I afford factor (ii) low weight in balancing the public interest.

²³ Paraphrasing the Australian Law Reform Commission's definition of the concept in 'For your information: Australian Privacy Law and Practice', *Australian Law Reform Commission Report No. 108*, released 12 August 2008, at [1.56]. Cited in *Balzary and Redland City Council; Tidbold (Third Party)* [2017] QICmr 41 (1 September 2017) at [28].

52. In relation to the application of factor (iii), DCSYW submitted that protecting the security of a detention centre is of the utmost importance and a security failure may result in harm to young persons and staff and, potentially, others. It argued that this factor should be afforded the highest weight and that it outweighs the public interest in disclosure. It also raised comments I had made in another review where young persons had gained access, through an internal point, to the roof of a detention centre and where I accepted that photographs that showed how that access was gained could reasonably be expected to prejudice the security of the centre.

53. DCSYW submitted that:

If the information were to be released to the applicant and subsequently broadcast, the children and young people in the youth detention centres will be able to view the footage and it has been the experience of youth detention centres nationally that seeing footage of misbehaviour in detention emboldens children and young people to imitate the actions and involve themselves in high risk behaviours that can put the security of the centre at risk.

54. I accept that protecting the security of youth detention centres is extremely important, for the safety of young persons, staff and the community. In determining the weight to be afforded to this factor, I must assess to what extent disclosure of the particular Information in Issue could reasonably be expected to prejudice the security of the centre.

55. I note that the two escape attempts do not involve covert or secretive techniques or methods. Rather, they were conspicuous and opportunistic attempts made in clear view of security cameras and that were quickly stopped by staff. Moreover, while I am constrained in being able to describe what the footage depicts,²⁴ I am satisfied that the ability to make attempts of the same nature could be avoided relatively easily, thus limiting the risk of imitation. To that extent, the Information in Issue is distinguishable from the photographs referred to in paragraph 52 above. In that other review, I was persuaded by the agency's submissions that the internal point used by young persons to gain access to the roof and stage a long and destructive rooftop riot remained vulnerable to future access attempts were photographs of it to be disclosed.

56. I also consider that the opportunity to make the kind of escape attempts depicted in the Information in Issue in this review would present itself very rarely, given the obvious and somewhat brazen nature of the attempts, such that I am not satisfied that disclosure of the Information in Issue would result in a significant increase in escape attempts of the same type or otherwise prejudice the security of the centre.

57. For these reasons, I afford factor (iii) low weight in the public interest balancing test.

Balancing the public interest test

58. Having carefully considered the nature of the Information in Issue and what it depicts, and for the reasons explained above, I give moderate weight to each of the three public interest factors that weigh in favour of disclosure of the Information in Issue. I afford low weight to the public interest in protecting the privacy of the young persons concerned, and low weight to the public interest in protecting the security of a youth detention centre. I also take account of the RTI Act's pro-disclosure bias as set out in section 44 of the RTI Act.

²⁴ Section 108(3) of the RTI Act prohibits the inclusion by OIC in its reasons for a decision of information that is claimed to be exempt information or contrary to public interest information.

59. After balancing those competing factors, I find that disclosure of the Information in Issue would not be, on balance, contrary to the public interest.

DECISION

60. I set aside the decision under review. In substitution for it, I decide there are no grounds upon which access to the Information in Issue may be refused under the RTI Act.
61. I have made this decision under section 110 of the RTI Act as a delegate of the Information Commissioner, under section 145 of the RTI Act.

Louisa Lynch
Right to Information Commissioner
Date: 29 November 2018

APPENDIX 1

Significant procedural steps

Date	Event
12 December 2017	Office of the Information Commissioner (OIC) received an application for external review of the decision made by Department of Justice and Attorney-General (DJAG).
5 January 2018	OIC advised the applicant that its application for external review had been accepted.
12 January 2018	DJAG provided a copy of the Information in Issue.
22 March 2018	OIC wrote to the applicant to confirm that the applicant did not wish to pursue access to any information that would identify a child in detention and that OIC therefore had requested that DJAG advise whether it was prepared to grant access to a pixelated copy of the Information in Issue. OIC wrote to DJAG to express the preliminary view that the pixelated Information in Issue was not exempt information under schedule 3, section 12 of the RTI Act and to request that DJAG advise whether it was prepared to release it to the applicant in its pixelated form.
18 April 2018	DJAG advised that it had forwarded OIC's letter to Department of Child Safety, Youth and Women (DCSYW) for response as DCSYW now had responsibility for youth justice information following Machinery of Government changes. DCSYW requested to be joined as a party to the external review. OIC granted the request. OIC updated the applicant.
26 April 2018	OIC requested that DCSYW provide its response to OIC's letter dated 22 March 2018 by 11 May 2018.
17 May 2018	OIC advised DCSYW that it unless it advised to the contrary by 21 May 2018, OIC would proceed on the basis that DCSYW relied on the submissions it had made in external review 313486 that raised the same issues for determination, and OIC would provide those submissions to the applicant for response.
24 May 2018	OIC communicated to the applicant the submissions made by DCSYW in external review 313486.
28 May 2018	The applicant provided a brief submission in response.
31 May 2018	OIC advised the applicant that there would be a delay in finalising this review as it would be necessary to finalise review 313486 before steps could be taken to progress this review.
30 July 2018	DCSYW informed OIC that it had decided that it preferred to lodge separate submissions for this review rather than relying on the submissions lodged in external review 313486.
7 August 2018	DCSYW provided written submissions.
22 August 2018	OIC provided the applicant with DCSYW's submissions and invited a response.
21 November 2018	OIC published its decision in external review 313486.

APPENDIX 2

Australian Broadcasting Corporation and Department of Child Safety, Youth and Women [2018] QICmr 47 (21 November 2018)