



Decision and Reasons for Decision

Citation:	<i>P72 and Queensland Corrective Services [2026] QICmr 23 (13 February 2026)</i>
Application Number:	318870
Applicant:	P72
Respondent:	Queensland Corrective Services
Decision Date:	13 February 2026
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO THE PUBLIC INTEREST – prison call recordings - personal information and privacy of third parties - whether disclosure would, on balance, be contrary to the public interest - section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and sections 47(3)(b) and 49 of the <i>Right to Information Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Queensland Corrective Services (**QCS**) under the *Information Privacy Act 2009* (Qld) (**IP Act**)² for recordings or transcripts of prison phone calls between the applicant and three other individuals. During the processing of the application, the applicant agreed to reduce the request to:
 - the longest three phone calls between the applicant, and individual 1; and
 - the first seven phone calls between the applicant and individual 2.³
2. QCS located 10 audio recordings and refused access in full on the basis it contains personal information of other individuals,⁴ and its disclosure would, on balance, be contrary to the public interest.⁵

¹ Access application dated 17 June 2025.

² On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting changes to the IP Act and *Right to Information Act 2009* (Qld) (**RTI Act**). As the applicant's application was made before this change, the IP Act and RTI Act **as in force prior to 1 July 2025** remain applicable to it. This is in accordance with transitional provisions in Chapter 8, Part 3 of the IP Act and Chapter 7, Part 9 of the RTI Act, which require that applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted. Accordingly, references to the IP Act and RTI Act in this decision are to those Acts **as in force prior to 1 July 2025**.

These may be accessed at <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-014> and <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013> respectively.

³ From a specified date.

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

⁵ Section 67 of the IP Act provides that access may be refused in the same way and to the same extent as under section 47 of the RTI Act. Sections 47(3)(b) and 49 of the RTI Act.

3. QCS affirmed this decision on internal review⁶ – QCS’ internal review decision is the **reviewable decision**.
4. The applicant applied⁷ to the Office of the Information Commissioner (**OIC**) for external review of QCS’s refusal of access decision.
5. For the reasons set out below, I affirm QCS’ decision to refuse access to the requested recordings – the ‘**Call Recordings**’ – on the basis their disclosure would, on balance, be contrary to the public interest.
6. In reaching this decision, I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.⁸ A decision-maker in my position will be ‘*respecting and acting compatibly with*’ that right and others prescribed in the HR Act when applying the law prescribed in the IP Act and the RTI Act.⁹ I have done so in making this decision, in accordance with section 58(1) of the HR Act. I also note the observations made by Bell J on the interaction between equivalent pieces of Victorian legislation:¹⁰ ‘*it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act.*’¹¹ I note that the Queensland Civil and Administrative Tribunal has considered and endorsed the manner in which I have approached HR Act obligations, as set out above.¹²

Relevant law

7. Under the former IP Act, an individual has a right to be given access to documents of an agency to the extent they contain the individual’s personal information.¹³ While the legislation is to be administered with a pro-disclosure bias,¹⁴ the right of access is subject to certain limitations, including grounds for refusing access, as set out in the former IP Act and the RTI Act.¹⁵ Relevantly, access to information may be refused where its disclosure would, on balance, be contrary to the public interest.¹⁶
8. 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. 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.¹⁷
9. The RTI Act requires a decision maker to undertake certain steps in determining where the balance of the public interest lies.¹⁸ Schedule 4 of the RTI Act non-exhaustively lists factors that may be relevant in determining where the balance of the public interest lies in a particular case.

⁶ Dated 21 August 2025.

⁷ Dated 27 August 2025.

⁸ Section 21 of the HR Act.

⁹ *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (**XYZ**) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111].

¹⁰ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

¹¹ *XYZ* at [573].

¹² *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23].

¹³ Section 40 of the former IP Act.

¹⁴ Section 64 of the IP Act.

¹⁵ Section 67(1) of the IP Act and section 47 of the RTI Act. Those grounds are however, to be interpreted narrowly: section 67(2) of the IP Act.

¹⁶ Sections 47(3)(b) and 49 of the RTI Act.

¹⁷ However, there are some recognised public interest considerations that may apply for the benefit of an individual. See Chris Wheeler, ‘*The Public Interest: We Know It’s Important, But Do We Know What It Means*’ (2006) 48 AIAL Forum 12, 14.

¹⁸ Section 49(3) of the RTI Act. The steps include: identify and disregard any irrelevant factors, identify any factors favouring disclosure, identify any factors favouring nondisclosure; and decide whether, on balance, disclosure of the information would be contrary to the public interest. I have **not** taken into account irrelevant factors in making this decision.

Discussion

Preliminary view

10. Having reviewed copies of the Call Recordings (as obtained from QPS), by letter dated 19 December 2025, I wrote to the applicant, explaining my preliminary view that disclosure of the Call Recordings would, on balance be contrary to the public interest. Having summarised relevant law as set out above, I detailed my analysis of relevant public interest factors, beginning with privacy related matters:¹⁹

Personal information and Privacy

The Call Recordings contain your personal information²⁰ which raises a factor favouring disclosure that I afford significant weight.²¹ However, the Call Recordings also contain other individuals' personal information – that is - the other participants in the phone calls and individuals discussed in the conversation. Due to the nature of these calls, your personal information is intertwined with the personal information of other people in such a way that it is not possible to disclose just your information, without also revealing information about other people.

The disclosure of an individual's personal information to someone else would cause a public interest harm²² and may also prejudice the protection of an individual's right to privacy.²³ I acknowledge your submission that you were a 'direct participant in all calls' and, as such will likely 'know the content', from your own recollection of the phone calls.²⁴ However, given the nature of the calls and the reason they were recorded, I do not consider that your recollection negates or lessens the public interest in protecting other individual's privacy and personal information to any significant degree.²⁵

In my view, disclosing the personal information of other individuals would constitute an unwarranted intrusion into their privacy and these factors in favour of nondisclosure should be afforded significant weight.

Child's personal information

Small portions of the Call Recordings contain the personal information of your child. The relevant public interest factor favouring disclosure²⁶ is only enlivened when a parent makes an access application on behalf of a child (which is not the case here). However, it appears that a broader factor favouring disclosure requires consideration—that disclosure of information to a child's parent could reasonably be expected to be in the child's best interests.²⁷ Due to the

¹⁹ Including footnotes, given they set out a number of important statutory references and definitions – footnotes from my 19 December 2025 letter are italicised, for ease of reference.

²⁰ That term is defined in section 12 of the IP Act as 'information or an opinion whether true or not, and whether recorded in material form or not, about an individual whose identity is apparent or can reasonably be ascertained, from the information or opinion.

²¹ Schedule 4, part 2, item 7 of the RTI Act.

²² Schedule 4, part 4, section 6 of the RTI Act

²³ Raising a factor favouring nondisclosure in the public interest under schedule 4, part 3, item 3 of the RTI Act. The concept of 'privacy' is not defined in the IP Act or RTI Act. It can, however, be viewed as the right of an individual to preserve their personal sphere free from interference from others: see Marshall and Department of Police (Unreported, Queensland Information Commissioner, 25 February 2011) at [27] 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 11 August 2008, at paragraph 1.56. This extends to any unsubstantiated allegations made against other individuals, schedule 4, part 3, item 6 of the RTI Act.

²⁴ In your application for external review dated 27 August 2025.

²⁵ OZH6SQ and Department of Health (Unreported, Queensland Information Commissioner, 21 May 2012).

²⁶ Schedule 4, part 2, item 8 of the RTI Act.

²⁷ As per Q95 and Legal Aid Queensland [2019] QICmr 38 (6 September 2019).

nature of the Call Recordings, I cannot readily identify that the disclosure of the child's personal information would be in their best interests. I afford this factor low weight.²⁸

11. I went on in my 19 December 2025 letter to address several additional public interest factors:

Administration of justice and enforcement of the law

You have explained that the Call Recordings are needed for an ongoing court matter and that denying access to this information causes 'procedural unfairness and block full evidence from being presented in court'.²⁹ I acknowledge that when the release of information could reasonably be expected to contribute to the administration of justice for a person or generally, including procedural fairness, a factor favouring disclosure will arise.³⁰ In the circumstances of this case, I afford this factor minimal weight.

I have considered your concerns and the fact that you are already aware of the broad content and substance of the Call Recordings. With your demonstrated knowledge, I consider you are adequately positioned to bring any concerns that you may have to the attention of the Queensland Police Service (QPS) for their consideration as the relevant criminal law enforcement agency,³¹ or to evaluate and pursue a remedy for a legal wrong.

As you have explained your current court proceedings relate to these recordings, you are in the process of pursuing a legal remedy that may be available to you. Accordingly, I consider that disclosure of the Call Recordings to you in this process would not materially advance your fair treatment or the administration of justice.

It may be that you consider that you have suffered a separate legal wrong unrelated to your current court proceedings. If so, I do not have enough information before me to understand how this may relate to the recordings, and whether this factor has greater relevance.

Government accountability

The Call Recordings involve conversations of a personal nature between yourself and others. Given this, I consider that the public interest factor relating to government accountability is only relevant to the extent it demonstrates QCS's processes for recording and retaining calls made within a correctional facility. To the extent this factor applies, I consider it should only be afforded minimal weight.³²

Security or good order of a corrective services facility

Under the RTI Act, disclosing a recording of a telephone call made by an offender from a corrective services facility could reasonably be expected to cause a public interest harm.³³ Given that these recordings were created by you, during your incarceration within a correctional service facility, I afford this factor moderate weight.

I also consider that disclosure could reasonably be expected to prejudice the good order of a corrective services facility, raising a further factor favouring nondisclosure.³⁴ However, owing to the personal nature of the information in the Call Recordings, the circumstances of how the

²⁸ I have also considered whether the nondisclosure factor in schedule 4, part 3, item 4 of the RTI Act applies. As this application is not made on behalf of the child, I do not consider this is enlivened. However, I recognise the impact that disclosure may have on the child's privacy in the preceding paragraphs.

²⁹ In your application for external review received by OIC 27 August 2025.

³⁰ Schedule 4, part 2, item 16 of the RTI Act. I note that you also raise concerns about a number of other matters in your external review application. These are not matters within the Information Commissioner's jurisdiction. In relation to legal proceedings which you indicate you may commence, I note that there are various disclosure processes available to the parties to proceedings in courts and tribunals. These processes are quite separate to applications made under the IP Act which is a general information access scheme.

³¹ Schedule 4, part 2, item 18 of the RTI Act.

³² Schedule 4, part 2, item 1 of the RTI Act.

³³ Schedule 4, part 4, section 5(1)(b)(ii) of the RTI Act.

³⁴ Schedule 4, part 3, item 10 of the RTI Act.

information was created and that the Call Recordings, do not, on their face, reveal any specific information about current facility security I only afford this factor moderate weight.³⁵

Preventing risk to a child's welfare

You have explained that QCS misapplied the public interest test and that 'preventing a risk to a child's welfare' should be a factor strongly favouring the disclosure of the Call Recordings. I note that there is no public interest factor in the RTI Act which specifically aligns with this submission. However, the public interest factors listed are not exhaustive and, as such, I have considered whether disclosure of the Call Recordings could reasonably be expected to prevent risk to a child's welfare.

While I appreciate your genuine concern for a child's wellbeing, I am not satisfied that disclosure of the Call Recordings themselves could reasonably be expected to have such an impact to prevent any risk to a child's welfare. I am satisfied that any concerns can be raised directly with the relevant authorities (such as QPS or the Department of Families, Seniors, Disability Services and Child Safety) and provision of the Call Recordings is not necessary for this to occur. As such, I consider this additional factor relating to a child's welfare does not apply to favour the release of information.

12. I concluded my 19 December 2025 letter by balancing competing public interest factors against one another, before reaching the preliminary view that disclosure of the Call Recordings would, on balance, be contrary to the public interest:

As detailed above, my preliminary view is that there is significant public interest in you being able to access your own personal information. I also consider that low weight should be afforded to the public interest factors favouring disclosure, which relate to the administration of justice, enforcement of the law and government accountability.

Weighing against these factors, the release of the recordings would impact on the good order of a correctional services facility. Further, I consider that your personal information is intertwined with others in such a way that it is not possible to give access without also disclosing the personal information of others. The public interest related to safeguarding the personal information and protecting the privacy of the other individuals involved or mentioned in the Call Recordings warrants significant and determinative weight.

It is my preliminary view that the nondisclosure factors outweigh the disclosure factors and access may be refused to the Call Recordings on the basis that, disclosure would, on balance, be contrary to the public interest.³⁶

Due to the nature of the information, it is not practicable or possible to redact the personal information of others from the Call Recordings (including the intertwined personal information).³⁷ For completeness, it is also my preliminary view that QCS is not required to create a transcript of the Call Recordings to give access in another form.³⁸

Applicant's submissions

13. The applicant replied to my 19 December 2025 letter by email dated 22 January 2026. Relevantly, that email simply states that the applicant 'want[s] review'. Importantly, it contained no submissions contesting or otherwise engaging with the reasoning stated in my preliminary view as set out above.
14. In these circumstances, there is nothing before me to dissuade me from my 19 December 2025 preliminary view, set out in paragraphs 10-12 above. Accordingly, I

³⁵ Q20RYB and Department of Justice and Attorney-General [2014] QICmr 2 (16 January 2014) at [40].

³⁶ Section 67 of the IP Act and section 47(3)(b) of the RTI Act.

³⁷ Section 90 of the IP Act.

³⁸ Section 83 of the IP Act.

adopt that view as final for the purposes of this decision. Access may be refused to the Call Recordings, on the basis their disclosure would, on balance, be contrary to the public interest. As also noted in my preliminary view, QCS is not required to create a transcript of the Call Recordings.

DECISION

15. For the reasons set out above, I affirm the reviewable decision³⁹ and find that access may be refused to the Call Recordings.
16. I have made this decision under section 123 of the IP Act as a delegate of the Information Commissioner, under section 139 of the IP Act.



Brianna Luhrs
Manager, Right to Information

Date: 13 February 2026

³⁹ Under section 123(1)(a) of the IP Act.