



## Decision and Reasons for Decision

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

**Application Number:** 313486

**Applicant:** Australian Broadcasting Corporation

**Respondent:** Department of Child Safety, Youth and Women

**Decision Date:** 21 November 2018

**Catchwords:** ADMINISTRATIVE LAW – RIGHT TO INFORMATION REFUSAL OF ACCESS – EXEMPT INFORMATION – INFORMATION THE DISCLOSURE OF WHICH IS PROHIBITED BY AN ACT – information and pixelated CCTV footage concerning incidents occurring in a youth detention centre – whether information is confidential information under section 288 of the *Youth Justice Act 1992 (Qld)* – 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 *Right to Information Act 2009 (Qld)*

ADMINISTRATIVE LAW – RIGHT TO INFORMATION REFUSAL OF ACCESS – CONTRARY TO PUBLIC INTEREST INFORMATION – information and 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 *Right to Information Act 2009 (Qld)*

## REASONS FOR DECISION

### Summary

1. The applicant applied<sup>1</sup> to the Department of Justice and Attorney-General (**DJAG**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to full copies of the Youth Detention Inspection Reports (**Inspection Reports**) for the March 2017 quarter for both the Brisbane Youth Detention Centre (**BYDC**) and Cleveland Youth Detention Centre (**CYDC**), as well as CCTV footage of two incidents that were referred to in the Executive Summary of the BYDC Inspection Report in the following terms:

*In relation to monitored areas, necessary improvements were identified in relation to the viewing of, and response to, CCTV footage of incidents. Inspectors brought to light footage depicting a high-risk CYDC youth apparently being used by staff as an interloper during an incident. Further concerns were identified within footage of another incident, this time involving force. During consultation the ADG YJ advised the Inspectorate that CCTV oversight functions will now be centralised.*

2. DJAG located 64 pages, four pieces of CCTV footage, and two audio recordings. It decided<sup>2</sup> to give the applicant full access to 42 pages, partial access to 21 pages, and to refuse access in full to one page and to the CCTV and audio recordings. It decided that the audio recordings and some photographs were exempt information under schedule 3, section 12(1) of the RTI Act. It decided that disclosure of the remaining information would, on balance, be contrary to the public interest.
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for review of DJAG's decision to refuse it access to certain information contained on five pages of the BYDC Inspection Report, and two pieces of CCTV footage.
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 the Department of Child Safety, Youth and Women (**DCSYW**).<sup>3</sup> From that point, the respondent agency in this review became DCSYW. Delays in the finalisation of the review have occurred due both to delays in DJAG responding to correspondence when it was the respondent agency, and in DCSYW taking a different position to DJAG and raising new arguments in support of nondisclosure of information (including pixelated CCTV footage) in a number of written submissions that it lodged following the transfer of the review.
5. For the reasons set out below, I find that there are no grounds upon which access to the information to which the applicant seeks access may be refused under the RTI Act and that the applicant is therefore entitled to access it.

### Background

6. The *Youth Justice Act 1992* (Qld) (**YJ Act**) requires Queensland's youth detention centres to be inspected at least once every three months. Statutory independent inspections are conducted by the Youth Detention Inspection Team. The Inspection Team prepares an Inspection Report following each inspection, identifying the inspection's focus and monitoring areas, and the issues and concerns arising from those focus and monitoring areas. For the March 2017 inspection of BYDC, the focus areas

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<sup>1</sup> Application dated 18 July 2017.

<sup>2</sup> Decision dated 6 September 2017.

<sup>3</sup> Administrative Arrangements Order (No.3) 2017.

were security and management, and the areas monitored were use of force, incident reporting and the separation of youths in locked rooms.

7. An Executive Summary of each Inspection Report is prepared and published on the Queensland government's website.<sup>4</sup> The website advises those persons who wish to see a copy of the Inspection Report itself to make a Right to Information application.
8. Significant procedural steps relating to the external review are set out in the appendix to these reasons.

### **Reviewable decision**

9. The decision under review is DJAG's decision dated 6 September 2017. While DCSYW also objects to disclosure of the information in issue, it relies upon different grounds from those contained in DJAG's decision. I will discuss those below.

### **Evidence considered**

10. Evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including footnotes and the appendix).

### **Information in issue**

11. The information in issue is contained on pages 8, 9, 28, 29 and 30 of the BYDC Inspection Report, as well as two pieces of pixelated CCTV footage relating to an incident involving force (**Information in Issue**).
12. The applicant advised that it did not seek access to any information that would identify either a youth in detention, or any staff member of BYDC. The Inspection Report is already de-identified to the extent that it does not contain the name of any individual. The applicant withdrew its application for one word contained on page 8 that identified a place name. For the CCTV footage in issue, the applicant advised that it was agreeable to the pixelation of the faces of persons shown in the footage so as to protect their identities. OIC therefore arranged for identifying information in the CCTV footage to be pixelated. Upon being informed that one piece of CCTV footage was nearly seven hours in length, the applicant advised that it wished to pursue access to only the first few minutes of that footage.
13. A copy of the Information in Issue has been provided to DCSYW along with these reasons for decision.

### **Issues for determination**

14. 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 YJ Act; and
  - (b) whether disclosure of the Information in Issue would, on balance, be contrary to the public interest.

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<sup>4</sup> <https://publications.qld.gov.au/dataset/youth-detention-centres-quarterly-reports> (accessed on 5 November 2018).

## Exempt information – disclosure is prohibited by an Act

### Relevant law

15. Under the RTI Act, a person has a right to be given access to documents of an agency.<sup>5</sup> However, this right is subject to limitations, including grounds on which access may be refused.<sup>6</sup>
16. An agency may refuse access to a document to the extent it comprises exempt information.<sup>7</sup> 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

17. 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. Section 283(2) provides that one of the ways that a child may be dealt with under the YJ Act is being detained.
18. ‘*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; ...*<sup>8</sup>
19. ‘*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.*
20. 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.
21. 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

<sup>5</sup> Section 23 of the RTI Act.

<sup>6</sup> As set out in section 47 of the RTI Act.

<sup>7</sup> See section 47(3)(a), section 48 and schedule 3 of the RTI Act.

<sup>8</sup> DCSYW does not rely upon any of the other subsections of section 284 of the YJ Act.

- (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.

22. 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.

### **Submissions of DCSYW**

23. DCSYW submits that, although the Inspection Report is de-identified to the extent that it contains no references to names of children, and the applicant seeks access to the CCTV footage with the faces of those shown in the footage pixelated, the Information in Issue is nevertheless 'confidential information' within the meaning of section 284(a) of the YJ Act because it is 'identifying information about [a] child', i.e., it is 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 the YJ Act.

24. In its first set of submissions dated 19 April 2018, DCSYW argued:

- CCTV footage is captured squarely within the example contained in schedule 4 to the YJ Act and is therefore clearly 'confidential information'
- relying on the decision in *Public Transport Authority* [2018] WASC 47 (**Public Transport Authority**), even if the Inspection Report is de-identified and the CCTV footage pixelated, the youths who are referred to in the Report and whose image/s [are] contained in the CCTV footage would still be able to identify or recognise themselves, as would others who were involved in the relevant incidents, and this is sufficient to classify the information as identifying information about a child; and
- the only way that identifying information could be removed from the CCTV footage would be to pixelate the entire image of the youth and this would not be practicable under section 74 of the RTI Act.

25. I responded to these submissions in my letter dated 23 April 2018. I stated that I considered that DCSYW had failed to give consideration to the fact that the definition of 'identifying information about a child' in schedule 4 to the YJ Act requires that the information must identify the child, or likely lead to the identification of the child, as a *child who is being, or has been, dealt with under the YJ Act*. I expressed the preliminary view that there may indeed be persons, such as the children themselves, other detainees, and detention centre staff, who may know of the incidents in question and who may be aware that it is the child in question who is being referred to in the Inspection Report or whose image is contained in the CCTV footage, even if that information is de-identified as against the world at large. However, those persons are already aware that the child is being/has been dealt with under the YJ Act and that information is therefore not confidential information about a child vis-à-vis them.

26. In terms of the CCTV footage in issue, I expressed the view that the example contained in the definition of 'identifying information about a child' in schedule 4 to the YJ Act apprehends the case of videotape footage that has not been edited so as to remove identifying information. The examples contained in the definition must still be read subject to the introductory words, that is, that the information must identify a child or be

likely to lead to the identification of a child as a child who is being or has been dealt with under the YJ Act.

27. I also advised DCSYW that I was concerned the approach that it contended for would result in a blanket refusal of access under the RTI Act to all information that deals with young persons under the YJ Act because, on DCSYW's approach, if the child in question can still recognise themselves as being referred to in the information, no matter the lengths taken to de-identify the information, that is sufficient to bring the information within the definition of 'confidential information' in section 288 of the YJ Act and prohibit its disclosure under the RTI Act.
28. DCSYW lodged a second set of submissions dated 11 May 2018 in which it argued:
- the meaning of 'disclose' in section 286 of the YJ Act supports the view that a disclosure of confidential information does not occur only when the information is given to someone not already possessed of knowledge of the information – it simply requires that the confidential information be produced or given to another person
  - it only has to be evident that the individuals referred to in the Inspection Report or depicted in the CCTV footage are children who are being dealt with under the YJ Act for the information to qualify as identifying information about a child – it is not necessary to be able to identify a particular child
  - Parliament's object in enacting section 288 of the YJ Act was to protect the privacy of persons who are being, or have at any time been, dealt with as children under the YJ Act so as to prevent the sense of violation likely be felt by such persons by the publication to the world at large of information that identifies those persons as persons who are being, or have at any time been, dealt with under the YJ Act – that sense of violation is likely to be felt even if the information is published in such a way that they are only recognisable by persons who already know of their status under the YJ Act
  - it may be that persons who did not previously know that a child was being dealt with under the YJ Act may be able to recognise the child as being referred to in the information and therefore discover their status under the YJ Act
  - a person can identify themselves or others in videotape footage not only from an image of a face but also from other familiar characteristics such as stance, posture or body movement; and
  - DCSYW's approach will not lead to a blanket refusal of access to similar information because section 288 of the YJ is subject to several exceptions which permit disclosure, including disclosure with the consent of the child to whom the information relates.
29. By email on 29 May 2018, DCSYW's General Counsel contacted OIC to request a meeting 'to ensure that [OIC] had sufficient contextual understanding of the youth detention system to enable it to consider the quite complex issues'. DCSYW also referred to concerns about 'any obligation to consult with those persons who appear in the CCTV footage'. I advised that I was prepared to meet to discuss 'general contextual information' but that, to the extent that DCSYW wished to make submissions that were directly relevant to the issues for determination in this review, I required such submissions to be put in writing, as procedural fairness would require that they be communicated to the applicant.
30. A meeting with representatives of DCSYW took place on 14 June 2018. The bulk of the issues raised by DCSYW were directly relevant to the issues for determination in this review rather than being information of a background, contextual nature. Accordingly,

following the meeting, I confirmed the additional submissions with DCSYW and then communicated them to the applicant as follows:

***DCSYW's additional submissions - application of section 288 of the Youth Justice Act 1992 (Qld) (YJ Act)***

*The Department made the following submissions in relation to the issue of whether the information in issue in the CCTV footage is confidential information under section 288 of the YJ Act because its disclosure would identify the child, or likely lead to the identification of the child, as a child who is being, or has been, dealt with under the YJ Act:*

- the applicant is a media organisation and its job is investigative journalism - it is reasonable to expect that the applicant will try to identify the child even if the child's face is pixelated*
- it is likely that the child's identity will be leaked to the media and the media may try to interview [the child]*
- the population of youth detention centres is relatively small (the Department mentioned a figure of 1000 annually) and young people in detention can readily be identified by everyone who was in the centre at the relevant time, including staff and other detainees*
- identification of the child in question is likely through the media speaking to staff or to other young people who were in detention at the same time*
- the Department's experience is that the identities of children shown in youth detention centre footage or other information are relatively easily ascertainable by media organisations; and*
- if the child comes from a small community, everyone in the community will know that it is his image in the footage because of the relatively small number of young people in detention.*

*The Department also confirmed that its views about the confidentiality of information relating to young persons in detention are not restricted to the information in issue in this review, but apply to information of a similar nature that the Department holds concerning young persons in detention. The Department's view is that the aim of the YJ Act is the protection of children and the Department considers this to be of paramount importance in dealing with any information concerning a young person in detention.*

***DCSYW's additional submissions - public interest balancing test***

*The Department made the following submissions in relation to the issue of whether disclosure of the information in issue would, on balance, be contrary to the public interest:*

- youth detention centres are already subject to a great deal of scrutiny - by youth detention inspectors, community visitors, the Ombudsman and Amnesty International etc.*
- the recent independent report into youth detention in Queensland found no systemic harm was being caused to young people in detention: it made recommendations to improve service delivery, which are being implemented by the Department*
- the Executive Summary has already been released and that sufficiently serves the public interest*
- disclosure of the information in issue would not enhance the public interest: it would be of no benefit to the young person in question and the young person holds all the risks*
- the subjects of CCTV footage, for example, young persons and staff, would have an 'interest' in being given access to video footage taken in youth detention centres*

*that would be likely to give rise to exceptions to the confidentiality in the YJ Act so that where appropriate, such CCTV would not be inaccessible*

- *the management techniques shown in the footage are standard practice and sometimes necessary when dealing with young people who have a strong physical build*
- *no findings were made that staff acted improperly in this incident – there was no injury suffered by the young person; and*
- *the footage could be taken out of context and damage or impugn the reputation of staff who were involved.*

31. DCSYW also submitted that, despite the fact that the applicant did not seek access to any information in the CCTV footage that would identify any person, OIC should consult with the persons in the footage to obtain their views about disclosure of the pixelated footage. Section 37(1)(a)(ii) of the RTI Act provides that '*...an agency or Minister may give access to a document that contains information the disclosure of which may reasonably be expected to be of concern to a ... third party only if the agency or Minister has taken steps that are reasonably practicable to obtain the views of the relevant third party about whether ... the information is exempt information or contrary to public interest information*'. DJAG did not consult with the persons in the footage when making its decision on access as it decided to refuse access to the footage. Section 89(2) of the RTI Act provides that any '*... person affected by the decision the subject of the external review (including a government, agency or person whose views were required to be sought under section 37 before the decision was made) may apply to the information commissioner to participate in the external review.*' Section 95(1)(a) of the RTI Act provides that, on external review, the procedure to be followed is, subject to the RTI Act, within the discretion of the Information Commissioner.
32. The relevant consideration in deciding whether or not third party consultation is necessary is whether it is reasonably expected that disclosure of the information may be of concern to the third party. Given my finding (explained below) that pixelation of the CCTV footage is sufficient to protect the identities of those depicted in it from everyone other than a small cohort who is already aware of the identities, I am satisfied that consultation with third parties is not necessary. I do not consider that disclosure would reasonably be expected to be of concern to them in these circumstances.

### **Applicant's submissions**

33. The applicant responded as follows to DCSYW's submissions:<sup>9</sup>
- the 'identification test' is not so wide as to extend to individuals being able to identify themselves
  - a more relevant test is whether the information 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 the YJ Act) to a member of the public
  - if an incident does not have any unusual or notorious element (and absent identifying information), its disclosure could not reasonably be expected to enable the identification of the child involved in the incident
  - in a review of whether additional information could be released from the report prepared following the independent review of Queensland's youth detention centres conducted in December 2016 by Ms Kathryn McMillan QC and Professor Megan Davis, the following approach was taken by the

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<sup>9</sup> See the applicant's undated letter received by OIC on 4 June 2018.



Queensland government regarding the redaction of confidential information:<sup>10</sup>

*Section 32B of the Commissions of Inquiry Act 1950 (Qld) prohibits the disclosure of confidential information obtained for the purposes of a review under the Act. Confidential information is defined as information about a person's affairs, but does not include information which could not reasonably be expected to identify a person, even though it may concern the affairs of that person.*

*It should be noted that not all information in the report which concerns the personal affairs of young persons in detention, or of staff of agencies, could be considered personal information as it does not identify particular individuals....*

*It is acknowledged that unredacted information concerning individuals' personal affairs could enable a very small cohort of persons to identify the subjects of that information, but it would be limited to those persons who were present at the time of incidents or actions involving the persons to whom the information relates and who would therefore already be aware of at least the substance of that information.*

- de-identification of CCTV footage should be reasonably practicable via pixelation
- the applicant does not seek to disclose any identifying information but rather seeks access to the CCTV footage in order to fully report on the matters raised in the Inspection Report.

## **Discussion**

### **Is the information in issue 'confidential information' under the YJ Act?**

34. No, for the reasons explained below.
35. The central issue for determination is whether the Information in Issue satisfies the definition of 'confidential information' in section 284(a) of the YJ Act, i.e., whether it is identifying information about a child. If it is not, section 288 of the YJ Act has no application and the Information in Issue will not be exempt information under schedule 3, section 12(1) of the RTI Act.
36. The Information in Issue will be identifying information about a child under the YJ Act if it 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 the YJ Act. The intent of sections 284(a) and 288 of the YJ Act is to protect the identity of children in connection with their status as children who are being/have been dealt with under the YJ Act.<sup>11</sup> It is reasonable to expect that the reason behind the protection of a young person's identity in connection with their status under the YJ Act is to avoid prejudicing their rehabilitation and their reintegration into, and acceptance by, the general community upon their release from detention.
37. I do not accept DCSYW's contention that it is not necessary to be able to identify a particular child in the Information in Issue in order for the Information in Issue to be

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<sup>10</sup> Queensland Government, Independent Review of Youth Detention, *Independent Review of Youth Detention Report* (2016) at 2 of attachment 'Reasons for inclusion or redaction of categories of information in the report'. Available at <http://www.youthdetentionreview.qld.gov.au/review-of-youth-detention-centres-report-updated-28-June-2017.pdf> (accessed 5 November 2018).

<sup>11</sup> Protection of the identity and privacy of children in detention is one of the youth justice principles upon which the YJ Act is based. Schedule 4, part 3, item 3 of the RTI Act provides that a factor that favours nondisclosure in the public interest arises where disclosure of the information could reasonably be expected to prejudice the protection of an individual's right to privacy. I will discuss this factor in the context of the public interest balancing test.

confidential, i.e., that it is enough simply to be able to identify in a general sense that the children being discussed in a de-identified report or whose pixelated images are captured in CCTV footage are children who are being dealt with under the YJ Act. Section 284 of the YJ Act provides that confidential information relating to a child includes identifying information *about the child*. These words indicate that a specific child must be able to be identified. The word 'identify' must be given its ordinary meaning - 'to establish or indicate who or what (someone or something) is; recognise or distinguish';<sup>12</sup> 'to recognise or be able to name someone or something'.<sup>13</sup>

38. As mentioned, the information that is in issue in the Inspection Report is already de-identified in that it does not refer to any child by name. I have also reviewed a pixelated version of the CCTV footage that is in issue (pixelation software was used by OIC to blur/obscure the faces of both the child involved in the particular incidents, and detention centre staff). I note that the footage is brief and of poor clarity.
39. Having carefully reviewed the Information in Issue, I find that it is not identifying information about a child for the purposes of section 284(a) of the YJ Act. I am satisfied that it neither identifies a child, nor is it likely to lead to the identification of a child, as a child who is being, or has been, dealt with under the YJ Act.

#### **Self-recognition/identification by those with special knowledge**

40. Despite the poor quality of the footage and the pixelation that has been applied to it, and the fact that the Inspection Report is already in de-identified terms, I acknowledge that the children involved in the relevant incidents may still recognise themselves as being referred to or depicted in the Information in Issue. There may also be some detention centre staff and perhaps other children who were detained in the centre at the same time who are aware of the incidents and the identities of those involved. However, this identification relies upon special knowledge.<sup>14</sup> Importantly, this small cohort of persons is already aware that the children in question are being, or have been, dealt with under the YJ Act. As such, the Information in Issue is not 'confidential information about a child' for those persons because they are already aware of the child's identity and their status under the YJ Act. It is not confidential or secret information vis-à-vis them. The ordinary dictionary meaning of 'confidential' is 'secret; intended to be kept secret'.<sup>15</sup>
41. In my view, 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, *et cetera*, to a person who has no special knowledge, i.e., to a person who does not already know the child's identity and their status under the YJ Act. That is, will the information reveal to an ordinary person or is it likely to reveal to them, information that they did not know; information that was hitherto secret or confidential from them?
42. While a different statutory provision was under consideration in relation to the release of confidential information from the report into the Independent Review of Queensland's youth detention centres conducted in December 2016, this approach accords with that taken by the Queensland government in that case, as relied upon by the applicant (see paragraph 33 above). It is also the approach taken by DJAG in relation to the release of youth justice information under the RTI Act prior to the transfer of the youth justice portfolio to DCSYW.

<sup>12</sup> <https://en.oxforddictionaries.com/definition/identify> (accessed on 5 November 2018).

<sup>13</sup> <https://dictionary.cambridge.org/dictionary/english/identify> (accessed on 5 November 2018).

<sup>14</sup> See *Seven Network (Operations) Limited and Logan City Council* [2018] QICmr 21 (11 May 2018) (**Seven and Logan CC**) at paras 43ff.

<sup>15</sup> <https://en.oxforddictionaries.com/definition/confidential> (accessed on 5 November 2018).

43. DCSYW relies upon the decision of the Western Australian Supreme Court in *Public Transport Authority* in arguing that all that is necessary in order for information to satisfy the definition of ‘confidential information about a child’ under the YJ Act is self-recognition.
44. In that case, the Court considered the meaning of ‘personal information’ in the *Freedom of Information Act 1992 (WA) (WA FOI Act)* within the context of the application of a public interest balancing test. The information in issue was pixelated CCTV footage concerning incidents occurring at train stations or level crossings. It was necessary for the Court to decide whether the information was personal information about an individual within the meaning of clause 3(1) of schedule 1 of the WA FOI Act. That is, relevantly, whether it was information about a person whose identity ‘*is apparent or can reasonably be ascertained from the information*’.<sup>16</sup> Clause 3(2) of schedule 1 provides that information is not exempt under clause 3(1) merely because its disclosure would reveal personal information about the applicant.
45. Having regard to the specific wording used in clauses 3(1) and 3(2), the Court rejected the WA Information Commissioner’s finding that it was relevant to consider whether a ‘*substantial*’ number of persons have the necessary knowledge or contextual information to ascertain the individual’s identity’. The Court found that this approach was not consistent with clause 3(2). It decided that the correct test to be applied in determining whether a person’s identity can reasonably be ascertained is whether, on an objective assessment of all relevant circumstances when examining CCTV footage, it can reasonably be said that at least one or more persons, including the person or persons whose image(s) are shown in CCTV footage, could have the necessary knowledge or contextual information to ascertain the identity of the individual or individuals.<sup>17</sup>
46. This decision turned upon the specific wording used in the ‘*personal information*’ provisions contained in the WA FOI Act. These provisions are materially different, and operate in a different way, from the confidentiality provision contained in the YJ Act. The definition of ‘*personal information*’ in the WA FOI Act simply requires that consideration be given to whether the information would reveal to anyone, information about an individual whose identity is apparent or can reasonably be ascertained from the information. In contrast, the definition of ‘*confidential information about a child*’ in the YJ Act that requires the information must identify or be likely to identify a child as a *child who is being, or has been, dealt with under the YJ Act*. Moreover, the Court in WA found that its interpretation – that it is only necessary that at least one person, including the person whose image is shown, has the necessary information to ascertain their identity or the identity of another person – was correct because it was consistent with the wording of the exemption contained in clause 3(2) of schedule 1.<sup>18</sup>
47. I do not consider that the decision in *Public Transport Authority* is relevant to a consideration of the correct interpretation to be given to section 288 of the YJ Act. In terms of its discussion about the meaning of personal information, and when personal information is disclosed, I will refer to it further below in the context of a discussion about the application of the public interest balancing test.
48. I would note, however, that the Court in *Public Transport Authority* acknowledged the WA Information Commissioner’s concern that, if the correct test for whether information

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<sup>16</sup> Clause 1 of the Glossary.

<sup>17</sup> At [68] to [72].

<sup>18</sup> Importantly, and unlike the equivalent personal information provisions in the *Information Privacy Act 2009 (Qld) (IP Act)*, the WA FOI Act does not define when a *disclosure* of personal information occurs. This is discussed further below in the context of the public interest balancing test.

is personal information is simply whether the individual concerned can still recognise themselves, it might never be possible for access to be given to an edited copy of video footage with an individual's image pixelated or obscured. However, the Court considered that this concern was misplaced because it could be mitigated by the application of the public interest balancing test contained in the WA FOI Act, i.e., the Information Commissioner could still find that, even if edited footage contained personal information, the balance of the public interest might still lie in favour of disclosure.

49. In this case, however, DCSYW's arguments are formulated within the context of an exemption provision, rather than a public interest balancing test, and would have the practical effect of a blanket exemption under the RTI Act for all information where a young person who is or has been in detention could identify themselves as depicted, or discussed, or referred to, no matter the lengths taken to de-identify the information. I do not consider that such a wide interpretation of *'identifying information about a child'* is reasonable or justified. Nor is it supported by other provisions contained in part 9 of the YJ Act. Section 301 of the YJ Act prohibits the publication of *'identifying information about a child'*. This provision operates to allow, for example, media organisations to report on offences committed by children (which they do regularly), as long as they do not publish identifying information about the child. On DCSYW's interpretation of *'identifying information about a child'*, section 301 is superfluous because no information would ever be able to be published by the media where the child concerned can still recognise themselves. A news item such as, for example, 'Two 16 years olds were arrested last night after a car chase through Brisbane's CBD involving a stolen Subaru'<sup>19</sup> would, according to DCSYW, be prohibited under section 301, because it contains identifying information about a child. That clearly is not the correct interpretation of section 301. A small cohort of persons would of course know the identity of the children involved in the car chase (including the children themselves) and the fact that they had been arrested and are being dealt with under the YJ Act. However, that is not sufficient to characterise it as *'identifying information about a child'* and so prevent its publication. The operation of section 301 supports my view that the definition of *'identifying information about a child'* must be read as meaning identifying information for ordinary persons who have no special knowledge.
50. Had Parliament intended a blanket approach, it is reasonable to expect that it would have included relevant youth justice information in schedule 1 to the RTI Act as an excluded class of documents to which the RTI Act does not apply.

### **Practical implications of DCSYW's approach**

51. While I will discuss the application of the public interest balancing test in detail below, I will simply note here that DCSYW's approach would also nullify the application, to a large volume of information about youth justice, of the public interest in the accountability of the government for its treatment of youth in detention and for its management of youth detention centres. Concerns raised by the media in recent years, both in the Northern Territory and in Queensland, about the management of youth detention centres and the treatment of youth (and which, in Queensland, sparked the independent review of Queensland's youth detention centres conducted in 2016/2017) show clearly that there is a significant public interest in the management of youth detention centres. Many of the issues that came to the public's attention did so as a result of disclosure, to organisations such as Amnesty International as well as media organisations, of the type of information that is in issue in this review.

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<sup>19</sup> This example is purely hypothetical.

52. DCSYW argues that the effect of its interpretation of 'identifying information about a child' would not be a blanket exemption for youth detention information, because section 288 provides that disclosure of confidential information can take place in the circumstances contained in division 2 of part 9 of the YJ Act, one of which is where the child in question consents (see section 290 of the YJ Act). DCSYW argues that in order to displace the operation of section 288, one need only obtain the consent of the child to disclosure of confidential information under section 290. However, a child's consent to disclosure of confidential information under the YJ Act in the specific and limited circumstances set out in section 290 does not operate to displace the *prima facie* prohibition on disclosure of confidential information under the RTI Act that arises by virtue of the operation of section 288 of the YJ Act and schedule 3, section 12(1) the RTI Act.<sup>20</sup> Section 288 provides for specific situations where confidential information can be disclosed under division 2 of part 9 the YJ Act, but not under any other legislation. It is also important to note that, unlike section 290, which operates to require certain information to be provided to a child before they decide whether or not to consent (such as the identity of the person requesting the information and the reason they wish to access the information) no such information is required to be provided under the RTI Act when undertaking a third party consultation. Nor is there any restriction upon what a person can do with information once it has been released to them under the RTI Act.

#### **The likelihood of identification by those without special knowledge**

53. In assessing whether information is confidential information about a child for a person with no special knowledge, each case must be considered on an individual basis and regard given to all relevant circumstances, including, for example:
- 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 child 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.
54. The ordinary dictionary meaning of 'likely' is 'such as well might happen or be true; probable; will probably happen.'<sup>21</sup> In terms of whether information is likely to lead to the identification of a child as a child being dealt with under the YJ Act, the test is whether it is probable that a person viewing the information with no special knowledge would be able to identify the child in question and thus discover their status under the YJ Act.
55. DCSYW submits that there are only approximately 1000 young people who pass through youth detention each year. It also argues that young people in detention can readily be identified by everyone who was in the centre at the relevant time, including by staff and other detainees. DCSYW submits that the fact that the applicant is an investigative media organisation should also be taken into account as it means that it is reasonable to expect that the applicant will try to uncover the identities of the children. It could readily do this by contacting detention centre staff or other children who were detained at the same

<sup>20</sup> See *Carmody v Information Commissioner & Ors* [2018] QCATA 14 at [145ff].

<sup>21</sup> <https://en.oxforddictionaries.com/definition/likely> (accessed on 5 November 2018).

time.<sup>22</sup> DCSYW submits generally that the children's identities would almost certainly be 'leaked' to the media.

56. Firstly, detention centre staff are bound by the obligation of confidentiality contained in section 288 of the YJ Act regarding the disclosure of information that they have gained or accessed through their involvement in the administration of the YJ Act. This includes information that identifies a child in detention. I do not consider it is reasonable to take into account, in assessing whether the Information in Issue is likely to lead to the identification of a child, the possibility that a staff member may breach their obligation of confidentiality under the YJ Act and disclose a child's identity to the applicant. Such an occurrence is merely possible, rather than probable. Similarly, I do not consider it probable that, even if the applicant could identify and locate another child who was in detention at the same time as the children referred to in the Information in Issue, that child would disclose identifying information. I also reject DCSYW's contention that it is appropriate, when considering the likelihood of identification, to take special notice of the fact that the applicant is a media organisation, whose job is investigative journalism, as opposed to any other type of applicant. Even if identifying information were to be leaked, all persons, including media organisations, are prohibited from publishing identifying information about a child under section 301 of the YJ Act.

### Identification through reference to external sources

57. I accept that the likelihood of identification should not be considered in a vacuum and regard must be had to whether a person can be identified or is likely to be identified through reference to external sources. I consider that the correct approach to take is that which has been taken by the courts in the personal information/privacy sphere, where consideration is given to 'constructive identity'.<sup>23</sup> The courts have found that *'depending on the circumstances, sources of information other than the information or opinion which contains the personal information, may be consulted to ascertain the person's identity'*.<sup>24</sup>
58. However, the courts have also taken account of the complexity of inquiries that would need to be made to ascertain the information<sup>25</sup> and have applied a test of whether *'more than moderate steps'* would be needed to match data from different sources.<sup>26</sup>
59. DCSYW does not argue that the identification of a child in this case is likely because of the ability to cross-reference or link other information which is in the public domain. It argues that identification is likely either because it is reasonable to expect the applicant will approach detention centre staff for information and staff are likely to breach their obligation of confidentiality under the YJ Act; or that the applicant will be able to identify and locate other children who were in detention at the relevant time and those children will likely disclose identifying information. In my view, both of those scenarios represent *'more than moderate steps'* that would have to be taken to ascertain identity. The caselaw deals with situations where the other information that might reasonably be used to cross-reference or link to the information in issue is information that is publicly available, for example, through internet searches,<sup>27</sup> through social media,<sup>28</sup> or through information available from government agencies.<sup>29</sup> As for DCSYW's submission that it

<sup>22</sup> The applicant rejected these contentions by DCSYW and submitted in its undated letter received on 4 June 2018, and again in its letter dated 2 July 2018, that it undertook to comply with all statutory restrictions on publication of identifying information.

<sup>23</sup> *WL v Randwick City Council (No.2)* [2010] NSWADT 84 at [20] – [36].

<sup>24</sup> *Office of Finance and Services v APV and APW* [2014] NSWCATAP 88 at [54] – [56].

<sup>25</sup> *Privacy Commissioner v Telstra Corporation Limited* [2017] FCAFC 4 (19 January 2017) at [102] – [107].

<sup>26</sup> *Seven and Logan CC* at [37ff]. See also *AIN v Medical Council of New South Wales* [2016] NSWCATAD 5.

<sup>27</sup> *APV and APW and Department of Finance and Services* [2014] NSWCATAD 10.

<sup>28</sup> *Field v Commissioner of Police, New South Wales Police Force* [2015] NSWCATAD 153.

<sup>29</sup> *WL v Randwick City Council* [2007] NSWADTAP 58.

is inevitable that identifying information will somehow be leaked to the media, from some unidentified source, I am not satisfied that it is reasonable to take account of a speculative scenario when considering whether identification is likely or probable.

60. DCSYW also argues that the likelihood of identification increases where a child comes from a small community, in light of the fact that only 1000 young people are held in detention each year. However, I do not understand how this fact, of itself, increases the likelihood of identification, absent special knowledge, or the ability to cross-reference or link other publicly-available information, or the presence of unique or distinctive characteristics, such as clothing, gait, tattoos etc, that would make identification more likely by members of a small community.
61. DCSYW submits that there may be persons who may be able to identify the children referred to in the Information in Issue but who did not know of their status under the YJ Act. I do not accept that outcome is likely. Having reviewed the pixelated CCTV footage, the pages in issue in the Inspection Report, and the information already released to the applicant from the Inspection Report, I do not accept it is likely that persons who do not already know that the child is or was being dealt with under the YJ Act could view the Information in Issue and be able to identify the child, and therefore discover their status under the YJ Act.
62. In response to DCSYW's contention that a sense of violation of their privacy is likely to be felt by young persons even if the information is published in such a way that they are only recognisable by persons who already know of their status under the YJ Act, such a factor is relevant to a consideration of the public interest balancing test (which I will discuss below) but not to a consideration of the specific words used in section 284(a) of the YJ Act.

### **Finding**

63. I acknowledge that DCSYW's primary concern is to protect the identity of young persons who have committed offences and been detained in a youth detention facility. I accept that protection of a child's identity in connection with their status under the YJ Act is of paramount importance, in recognition of the potential prejudice that would otherwise be caused to their prospects of rehabilitation and reintegration into society.
64. However, I consider there will be circumstances where de-identification of material will sufficiently protect the identity of a young person in connection with their status under the YJ Act from all those except a small cohort who already know that information. The de-identified information will not meet the definition of '*confidential information*' in section 284(a) of the YJ Act in those circumstances, which I am satisfied exist in the present case. Applying the test I have set out in paragraph 41 above, and after giving consideration to the factors listed in paragraph 53 above, I am satisfied that the Information in Issue is not confidential information for the purposes of section 284(a) of the YJ Act.
65. For these reasons, I find that disclosure of the Information in Issue is not prohibited under section 288 of the YJ Act and that it is therefore not exempt information under schedule 3, section 12(1) of the RTI Act.

### **Additional issue - meaning of 'disclosure'**

66. While it is not strictly necessary for me to do so, given my finding that the Information in Issue is not confidential information under section 284(a) of the YJ Act, I will take this opportunity to note that the interpretation that the courts have given to the specific

concept of *disclosure* supports the conclusion that a disclosure does not occur where the recipient already knows the information. In *Nakhl Nasr v State of New South Wales* [2007] NSWCA 101 at [127], the Court said:

... *The essence of disclosure of information is making known to a person information that the person to whom the disclosure is made did not previously know: R v Skeen & Freeman (1859) Bell 97; 169 ER 1182 (“uncovering ... discovering ... revealing ... imparting what was secret ... [or] telling that which had been concealed”); Foster v Federal Commissioner of Taxation (1951) 82 CLR 606 at 614-5 (“... a statement of fact by way of disclosure so as to reveal or make apparent that which (so far as the “discloser” knows) was previously unknown to the person to whom the statement was made”); R v Gidlow [1983] 2 Qd R 557 at 559 (“telling that which has been kept concealed”); Dun & Bradstreet (Australia) Pty Ltd v Lyle (1977) 15 SASR 297 at 299; A-G v Associated Newspapers Ltd [1994] 2 AC 238 at 248 (“to open up to the knowledge of others”); Real Estate Opportunities Limited v Aberdeen Asset Managers Jersey Limited [2007] EWCA Civ 197 at [78] (“the revelation of information for the first time”). ...*

67. Applying this line of authority, section 286 of the YJ Act (the meaning of ‘disclose’) is reasonably to be interpreted as meaning that a disclosure only occurs where the ‘other person’ referred to in that provision does not already know the information. However, DCSYW raises the fact that section 288 of the YJ Act purports to prohibit the disclosure of information to *anyone* other than under division 2, in arguing that it is irrelevant whether the person to whom the disclosure is made already knows the information. Regardless of the inclusion of ‘anyone’ in section 288, I consider that the concept of ‘disclosure’ has the specific meaning that has been confirmed by the courts. Had Parliament intended that the prohibition in part 9 of the YJ Act on disclosing information to another person would include circumstances where the other person already knows the information, it may be reasonable to expect that Parliament would have used a more general term such as ‘communicate’ or ‘provide’, rather than ‘disclose’.

## Application of the public interest balancing test

### Relevant law

68. Another ground for refusing access is where disclosure would, on balance, be contrary to the public interest.<sup>30</sup> 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.<sup>31</sup>
69. The RTI Act lists factors which may be relevant to deciding the balance of the public interest<sup>32</sup> and sets out the following steps<sup>33</sup> 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.

<sup>30</sup> Sections 47(3)(b) and 49 of the RTI Act.

<sup>31</sup> 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).

<sup>32</sup> In schedule 4 of the RTI Act. However, this list is not exhaustive and factors not listed may be relevant in a particular case.

<sup>33</sup> In section 49(3) of the RTI Act.



70. No irrelevant factors, including those in schedule 4, part 1 of the RTI Act, arise for consideration in this case and I have taken none into account.

**Factors favouring disclosure**

71. In its decision, DJAG recognised that disclosure of the Information in Issue would allow greater access to government-held information and would enhance the government's accountability.
72. The public interest factors favouring disclosure which I consider apply to the Information in Issue are:
- (i) disclosure could reasonably be expected to promote open discussion of public affairs and enhance the Government's accountability<sup>34</sup>
  - (ii) disclosure could reasonably be expected to contribute to positive and informed debate on important issues or matters of serious interest<sup>35</sup>
  - (iii) disclosure could reasonably be expected to inform the community of the Government's operations<sup>36</sup>
  - (iv) disclosure could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official;<sup>37</sup> and
  - (v) disclosure could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision.<sup>38</sup>
73. The words '*could reasonably be expected to*' call for the decision-maker to discriminate between unreasonable expectations and reasonable expectations, between what is merely possible (e.g. merely speculative/conjectural 'expectations') and expectations which are reasonably based, i.e., expectations for the occurrence of which real and substantial grounds exist.<sup>39</sup>
74. DCSYW argues that only moderate weight should be afforded to these factors because of the information that is already in the public domain about the management of youth detention centres and the fact that the centres are already subject to a great deal of scrutiny – by inspectors, community visitors, the Queensland Ombudsman and Amnesty International.<sup>40</sup> DCSYW submits that the Queensland government, cognisant of the concerns identified by the media about the treatment of young persons in detention, has made available on DCSYW's website, significant information about the 2016 Independent Review into Youth Detention. In addition, the Executive Summaries of Inspection Reports are published, and the applicant has already been given access to a significant amount of information from the Inspection Reports themselves. It contends that disclosure of the Information in Issue would not advance the public interest in the accountability of the government but would simply pose a risk to the welfare of the young persons concerned.
75. I do not accept DCSYW's arguments. I do not accept the fact that other information about youth detention is publicly available elsewhere somehow lessens the government's ongoing accountability for the management of the centres and for the

<sup>34</sup> Schedule 4, part 2, item 1 of the RTI Act.

<sup>35</sup> Schedule 4, part 2, item 2 of the RTI Act.

<sup>36</sup> Schedule 4, part 2, item 3 of the RTI Act.

<sup>37</sup> Schedule 4, part 2, item 5 of the RTI Act.

<sup>38</sup> Schedule 4, part 2, item 11 of the RTI Act.

<sup>39</sup> *B and Brisbane North Regional Health Authority* [1994] 1 QAR 279 at [155] to [160].

<sup>40</sup> DCSYW's submissions dated 19 April 2018 and 29 June 2018.

specific incidents in question. On the information before me, the Information in Issue has not been disclosed elsewhere. It is not dealt with in the parts of the Inspection Report that have been disclosed to the applicant. It is referred to only briefly in the Executive Summary. Given that the incidents occurred after the Independent Review into Youth Detention, that report does not deal with them.

76. The information that is in issue on pages 8, 9, 28, 29 and part of page 30 of the BYDC Inspection Report discusses serious operational issues that arose at BYDC after a decision was made to transfer young persons from CYDC, and that resulted in a major rooftop riot, with accommodation units and roof infrastructure destroyed and damaged. The inspectors reported in the Executive Summary of the BYDC Inspection Report that the BYDC incident was precipitated by the arrival of the CYDC young persons, with allegations that the CYDC young persons had been shown favouritism by BYDC staff and had been used by staff as 'enforcers' to intimidate some BYDC young persons.<sup>41</sup> A number of media articles reported on these issues.<sup>42</sup>
77. The remainder of the information that is in issue on page 30 of the BYDC, and in the two CCTV recordings, involves an unrelated incident wherein inspectors expressed concern about the level of force used on a young person detained at BYDC.<sup>43</sup>
78. As I have already noted, there has been much public attention and debate in recent times regarding the management of Queensland's youth detention centres. The major incidents that occurred at CYDC in November 2016, and at BYDC in January 2017, and that resulted in significant damage to both centres (with a corresponding significant cost to taxpayers), as well as injuries to staff, received widespread media attention and raised serious questions regarding the management of the centres, security measures at the centres, the treatment and behaviour of young persons in detention, and the conduct of staff and their interactions with young persons.
79. The Queensland government is accountable both to the young persons in its care, and to the public, for the way in which it manages the detention centres and for its methods in striving to care for and rehabilitate, on behalf of the community, young offenders in detention. This includes accountability for:
  - management decisions
  - security measures and the safety of young persons and staff
  - the actions and behaviour of young persons in detention
  - the actions and behaviour of detention centre staff; and
  - the cost to the taxpayer that results from security incidents that cause damage to property and injuries to young persons and staff.
80. I consider that disclosure of the Information in Issue would assist the public in understanding the implications of the decision to transfer the CYDC young persons, as well as the management of BYDC and the causes of the January 2017 incident. It would also assist in understanding the complex issues that arise in the rehabilitation of young offenders. I consider that its disclosure would enhance the accountability of the government for the decision it made to transfer the CYDC young persons, as well as the way in which those young persons, and the BYDC detainees, were managed and treated

<sup>41</sup> Executive Summary of the March 2017 BYDC Inspection Report at page 1. Available at <https://publications.qld.gov.au/dataset/youth-detention-centres-quarterly-reports> (accessed on 12 November 2018).

<sup>42</sup> For example, 'Riot ringleaders were later used by Wacol staff as 'enforcers': report', Brisbane Times (online) 18 July 2017. Available at <https://www.brisbanetimes.com.au/national/queensland/riot-ringleaders-were-later-used-by-wacol-staff-as-enforcers-report-20170718-gxddd59.html> (accessed on 5 November 2018). Leonie Mellor 'Queensland youth detention reports finds insufficient staff levels and detainees used as enforcers', ABC News (online) 18 July 2017. Available at <http://www.abc.net.au/news/2017-07-18/youth-detention-report-find-lack-of-staff/8716434> (accessed on 5 November 2018).

<sup>43</sup> Page 5 of the Executive Summary of the March 2017 BYDC Inspection Report.

whilst in detention. Disclosure could reasonably be expected to reveal the reasons for the transfer, and the reasons for the various management decisions that were made following the transfer, and the background and contextual information that informed those decisions.

81. The Inspection Report expresses concerns about the actions of detention centre staff in the way in which they interacted with young persons, and the effects and repercussions of those interactions. I consider that disclosure of the Information in Issue could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official.
82. Disclosure of the information on the remainder of page 30 of the Inspection Report, and in the two associated pixelated CCTV recordings, which relate to an incident of force used on a young person in detention, and about which the inspectors expressed concern, would enhance the accountability of government regarding the way in which young persons are treated while in detention. Again, there has been a great deal of controversy and public debate in recent times regarding the use of force on young persons. This issue received extensive media coverage following the release of information to Amnesty International in 2016, including the release of video footage showing force used on young persons.<sup>44</sup> Allegations of excessive force were also discussed in those parts of the Independent Review of Youth Detention Report which were released in June 2017. As well as enhancing the accountability of government for its treatment of young persons in detention, I consider that disclosure could also reasonably be expected to:
- contribute to positive and informed debate on important issues or matters of serious interest
  - inform the community of the Government's operations; and
  - allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official.
83. For these reasons, I maintain the view I have expressed throughout the review regarding the strong weight that I consider should be given to each of the public interest factors favouring disclosure that I have identified above.

### ***Factors favouring nondisclosure***

#### **DJAG's submissions**

84. At the time that it was the respondent agency, DJAG relied upon the following public interest factors favouring nondisclosure:
- (i) disclosure could reasonably be expected to prejudice the security, good order and discipline of a youth detention centre<sup>45</sup>
  - (ii) disclosure could reasonably be expected to prejudice an ongoing investigation
  - (iii) disclosure could reasonably be expected to disclose the personal information of a person and prejudice the protection of their right to privacy; and
  - (iv) disclosure could reasonably be expected to incite discrimination in the community.

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<sup>44</sup> As shown on the applicant's 7.30 Report programme. See also, for example, Ella Archibald-Binge '17 year olds remain in adult jails due to overcrowding in Qld youth detention centres', NITV News (online) 12 February 2018. Available at <https://www.sbs.com.au/nitv/nitv-news/article/2018/02/12/17-year-olds-remain-adult-jails-due-overcrowding-ql-d-youth-detention-centres> (accessed on 7 November 2018).

<sup>45</sup> 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).

85. Of these factors, DCSYW continued to pursue only factor (iii) when it took over responsibility for the review (it also raised fresh factors). I will discuss factor (iii) and the factors raised by DCSYW further below.
86. As regards the other factors raised by DJAG, I stated in my letter to DJAG dated 27 November 2017 that I was unable to identify how disclosure of any Information in Issue could reasonably be expected to have the prejudicial effects identified by DJAG. In respect of the information concerning the use of force, including the pixelated CCTV footage, I was unable to identify any security aspects of BYDC that would be prejudiced by disclosure, nor identify how disclosure could reasonably be expected to prejudice the good order and discipline of a youth detention centre. In respect of the information that concerned incidents occurring after the transfer of the CYDC young persons to BYDC, I noted that the young persons in question were no longer detained at BYDC and that the management issues and relationship tensions that had arisen during that period no longer existed.
87. Accordingly, if DJAG continued to object to disclosure of any information, I requested that it provide written submissions in support of its objection that addressed the specific Information in Issue and explained how its disclosure could reasonably be expected to have the requisite prejudicial effects.
88. In its letter dated 11 December 2017, DJAG submitted as follows in favour of nondisclosure of the information in the Inspection Report:
- (a) the information concerns detailed operational information and decisions regarding the management of security incidents and its disclosure could give rise to further 'serious and violent incidents' by young people in detention and prejudice the security of a youth detention centre
  - (b) disclosure of this information on television will lead to young people trying to imitate the behaviour depicted and this 'mimicking' of high risk behaviour could escalate so as to put the centre at risk; and
  - (c) disclosure of photographs showing detention centre infrastructure design has the potential to put the safety and security of a centre and its staff at risk as young people will try to involve themselves in high risk behaviour such as climbing on roofs, accessing unauthorised areas, and causing damage to infrastructure.
89. It submitted as follows in favour of nondisclosure of the pixelated CCTV footage:
- (d) children and young persons in detention would be able to observe the footage on television and it is the experience of youth detention centres nationally that seeing footage of misbehaviour in detention 'ignites' children and young persons to imitate the actions and further involve themselves in high risk behaviour which can easily escalate so as to put the whole centre at risk; and
  - (e) discrimination is incited in the community by the media repeatedly showing particular youth being dealt with in youth detention and may result in vigilante behaviour.
90. While some information in the Inspection Report may concern behaviour by young persons that has an element of risk involved, I do not consider it could accurately be described as 'violent' or that its disclosure could reasonably be expected to lead to further violent incidents. I also do not accept that it reveals detailed or sensitive operational information about how young people are managed during security incidents, nor how

staff make (authorised) operational decisions about the safety and security of the centre. To the extent that the information may reveal the use by staff of an unauthorised security tactic in dealing with a particular incident (namely, using a young person as an 'interloper' in the incident), I do not accept there is any merit in a submission that disclosure of the use of an unauthorised tactic (which was disclosed in the Executive Summary of the Inspection Report in any event) would be contrary to the public interest because it might prejudice the future use of tactic. I therefore am not satisfied that DJAG has established a reasonable basis for expecting that disclosure of the information in question could give rise to 'further serious or violent' incidents by young person in detention or otherwise prejudice the security or good order of a youth detention centre.

91. Submission (b) would appear to be relevant only to video footage rather than to the Inspection Report. The basis for DJAG's submission is therefore unclear. There are two photographs contained in the Inspection Report which I will discuss below. However, I will simply note that I do not accept that disclosure of the other information in the Inspection Report could reasonably be expected to lead to young people in detention trying to imitate or mimic the behaviour in question so as to put the security of a detention centre at risk.
92. As regards submission (c), I am constrained in being able to describe what the photographs on pages 28 and 29 of the Inspection Report depict.<sup>46</sup> However, both are taken from a distance and neither, in my view, reveals sufficient detail of 'infrastructure design' such that disclosure could reasonably be expected to put centre security at risk. To the extent that the photographs depict certain behaviour by young people that could be regarded as risky, the behaviour itself is not uncommon in detention centres (and is often reported upon in the media) and I do not accept that disclosure of these two photographs would heighten significantly the propensity of young persons to engage in this behaviour.
93. Turning to the pixelated CCTV footage, as it does not show any misbehaviour or high risk behaviour by the young person in question, I reject DJAG's submission (d) that airing of the footage could reasonably be expected to cause other young persons to mimic misbehaviour or ignite high risk behaviour which might put the security of the centre at risk.
94. DJAG made submission (e) in another review which involved CCTV footage of the riot that occurred at CYDC in November 2016, during which staff lost control of the centre for many hours and a large group of young people rioted throughout the centre, causing significant damage to infrastructure and seriously injuring staff. Given the particular nature of the footage in that review, I accepted that there was merit in DJAG's submission. However, in the present review, the footage shows no misbehaviour. I do not consider it likely that its release would incite either discrimination or racism in the community or result in vigilante behaviour. DJAG refers to 'repeated media [coverage]' of particular young people being dealt with in detention and argues that it leads to vigilante behaviour in smaller communities, giving examples of young people being followed in cars and being subjected to taunts. The reference to 'repeated media' is unsupported and it is also not clear how DJAG proves a link between the two events, rather than it being merely speculative. But, in any event, I am not satisfied that disclosure of the particular footage that is in issue in this review, given its nature, is likely to result in the prejudicial effects contended for by DJAG.

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<sup>46</sup> 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.

95. For the reasons explained, I do not consider that factors (i) and (iv) at paragraph 84 above apply to the Information in Issue.
96. In respect of factor (ii), DJAG provided no supporting information. I therefore requested<sup>47</sup> that DJAG provide relevant information that would allow me to assess the application of this factor, including which incident was being investigated; who was conducting the investigation; the current status of the investigation; and how the requisite prejudice could reasonably be expected to be caused by disclosure.
97. DJAG eventually responded by advising that it had nothing to add to its submissions.<sup>48</sup> As there is no information before me to support the application of factor (ii) to the Information in Issue, I find that it has no application.

### **DCSYW's submissions**

98. The public interest factors favouring nondisclosure relied upon by DCSYW in its submissions dated 19 April 2018 were:
- (i) disclosure could reasonably be expected to cause a public interest harm, as disclosure would disclose personal information of a person other than the applicant<sup>49</sup>
  - (ii) disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy;<sup>50</sup> and
  - (iii) disclosure is prohibited by an Act.<sup>51</sup>
99. In its meeting with OIC on 14 June 2018, DCSYW also raised the additional points concerning the application of the public interest balancing test that are set out in paragraph 30 above.
100. Dealing first with factor (iii), it follows for the reasons I have explained above in discussing the application of schedule 3, section 12 of the RTI Act, that I do not consider that disclosure of the Information in Issue is prohibited by section 288 of the YJ Act. I therefore find that factor (iii) has no application to the Information in Issue.
101. I will refer to factor (i) as the 'Personal Information Harm Factor'.
102. The definition of '*personal information*' in the RTI Act<sup>52</sup> refers to the definition in the IP Act, which provides that:<sup>53</sup>
- Personal information is information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.*
103. The RTI Act recognises that disclosure would cause a public interest harm if it would disclose personal information of a person, whether living or dead.
104. As noted, DCSYW relies on the decision in *Public Transport Authority* (see paragraphs 43-47 above) in arguing that all that is necessary for information to be characterised as

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<sup>47</sup> Letter dated 12 December 2017.

<sup>48</sup> Email dated 8 February 2018.

<sup>49</sup> Schedule 4, part 4, item 6 of the RTI Act.

<sup>50</sup> Schedule 4, part 3, item 3 of the RTI Act.

<sup>51</sup> Schedule 4, part 3, item 22 of the RTI Act.

<sup>52</sup> Section 10 and schedule 6 of the RTI Act.

<sup>53</sup> Section 12 of the IP Act.

personal information is that the person whom the information is about can identify themselves.

105. In contrast, the New South Wales Administrative Tribunal<sup>54</sup> considered footage taken in a hospital, and found that in the circumstances, provided that individuals' faces, heads and necks (and any identifying marks such as tattoos) were pixelated, their identities would not be reasonably ascertainable. Although not expressly considered in the decision, it is clear from the facts of that matter that the Tribunal did not consider that the fact that the patients and staff concerned could still identify themselves and each other to be sufficient to characterise the information as personal information.
106. I have explained above why I am of the view in this case that it is not possible for those without special knowledge to identify an individual. Nor do I accept 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 from the information.<sup>55</sup>
107. 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.<sup>56</sup> 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. This is consistent with the meaning that the courts have given to the concept of disclosure as discussed at paragraph 66 above.
108. I therefore find that the Personal Information Harm Factor does not apply to the Information in Issue.
109. As regards factor (ii) and prejudice to the protection of an individual's right to privacy, DCSYW relies on the decision in *Beale and Department of Community Safety*<sup>57</sup> where a prisoner was refused access to CCTV footage of an incident involving him and other inmates at the Arthur Gorrie Correctional Centre. However, of relevance in that case, so far as the application of the privacy public interest factor was concerned, was the fact that the prisoner requesting access was aware of the identities of the other persons involved in the incident and de-identification was therefore not possible.
110. I noted at paragraph 62 above that DCSYW submitted that a sense of violation of their privacy is likely to be felt by young persons even if the information is published in such a way that they are recognisable only by persons who already know of their status under the YJ Act.

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<sup>54</sup> *Seven Network Limited v South Eastern Sydney Local Health District* [2017] NSWCATAD 210. This decision considered item 3(a) in the table to section 14 of the *Government Information (Public Access) Act 2009* (NSW), and the definition of 'personal information' in clause 4 of Schedule 4 to that Act.

<sup>55</sup> *Seven and Logan CC* at [40].

<sup>56</sup> Contrast the WA FOI Act and the basis for the decision in *Public Transport Authority*.

<sup>57</sup> (Unreported, Queensland Information Commissioner, 11 May 2012).

111. 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'.<sup>58</sup>
112. I acknowledged at paragraph 36 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 various incidents may be able to be recognised by a 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.
113. In considering the weight that should be attributed to this factor, I take account of the following:
- the information that is already in the public domain concerning the incidents discussed in the Inspection Report (in the form of media reports, but also through the public information contained in the Executive Summary of the Inspection Report)
  - the very brief nature and poor quality of the pixelated CCTV footage; and
  - the fact that only a small cohort of persons who already have knowledge of the incidents may be able to recognise the young persons concerned.
114. In these circumstances, I afford factor (ii) moderate weight in balancing the public interest. In giving this factor moderate weight, I have also taken account of the public interest in protecting the right to privacy of detention centre staff.
115. As part of its submissions on the application of the privacy public interest factor, DCSYW also argued that *'it is entirely plausible that some children identifiable in the information in issue are still being rehabilitated... . Release of information that is likely to identify them in that context could potentially jeopardise that rehabilitation. Further detriment could be caused by the release of information which confirms what particular individuals told investigators as those individuals may still associate with people from the relevant detention centre.'*<sup>59</sup>
116. I am not satisfied that these submissions are relevant to privacy considerations. But in any event, as I advised DCSYW,<sup>60</sup> I consider them to be speculative in nature rather than expectations for which real and substantial grounds exist. In terms of prejudice to rehabilitation prospects, DCSYW has not confirmed whether or not any of the young people in question are, in fact, still being rehabilitated. Even if they were, DCSYW has not explained how disclosure of the Information in Issue could reasonably be expected to jeopardise or prejudice that rehabilitation. I am therefore unable to be satisfied that this factor applies to the information in issue.
117. In response to DCSYW's submission that disclosure of information that young persons told investigators about incidents may cause detriment if the young persons still associate with others from BYDC, again, I find this submission to be speculative in nature rather than an expectation for which real and substantial grounds exist. The only reference to information provided by a specific young person (rather than general references to information provided by, say, 'BYDC young people') appears in the three

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<sup>58</sup> 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].

<sup>59</sup> DCSYW's submissions dated 19 April 2018.

<sup>60</sup> My letter dated 23 April 2018.



bullet points on page 9 of the Inspection Report. This information is not directly critical of young persons but relates more to interactions with staff. I am unable to identify what specific type of detriment could reasonably be expected to result from disclosure, particularly given the time that has passed. I understand that the young person about whom the information was provided was transferred in early 2017. DCSYW has not confirmed whether either the provider or the subject of the information is still in detention and, if not, where either currently resides. Again, I consider this argument to be too speculative in nature to afford it weight in the public interest balancing test.

### **Relevance of other public interest factors favouring nondisclosure**

118. I have given careful consideration to whether there are any other public interest factors contained in schedule 4, parts 3 and 4, or more generally, that would apply in favour of nondisclosure of the Information in Issue.

### ***Prejudice to an agency's management function/industrial relations***

119. I acknowledge that, although no staff member is identified by name in the Inspection Report and the faces of staff in the CCTV footage are pixelated, nevertheless, as is the case for the young persons involved, there may be a small cohort of persons who know the identity of the staff members involved. Some information may be regarded or interpreted as critical of the actions of staff. I have therefore given consideration to whether disclosure could reasonably be expected to cause industrial unrest at BYDC because staff may feel that their reputations would be unfairly damaged if the Information in Issue were to be disclosed. I accept that industrial disputes at youth detention centres have a significant impact of the management of the centres.
120. Schedule 4, part 3, item 19 of the RTI Act provides that a factor favouring nondisclosure in the public interest arises where disclosure of information could reasonably be expected to prejudice the management function of an agency or the conduct of industrial relations by an agency.
121. While DCSYW submits that the pixelated CCTV footage could be taken out of context and damage or impugn the reputation of staff involved, it also states that the management techniques used were standard practice; that no findings were made that staff acted improperly; and that there was no injury suffered by the young person. Given that, it is difficult to understand why it would be reasonable to expect that industrial unrest would be likely to result from its disclosure. As I noted above, the management technique demonstrated has been shown by media on previous occasions.
122. Information which is already in the public domain, including in the Executive Summary of the Inspection Report, discloses the central concerns that inspectors identified about the behaviour of staff at BYDC. However, I accept that Information in Issue provides details of the incidents that gave rise to these concerns. However, given:
- the brief nature and poor quality of the pixelated CCTV footage
  - the factual nature of much of the information
  - the age of the information
  - the expression of information in general terms with reference simply to 'staff'
  - the central concerns about staff actions have already been disclosed in the Executive Summary; and
  - that I am not aware, on the information provided to me by either DJAG or DCSYW, that there are any current investigative or disciplinary proceedings pending or on foot in relation to the incidents,

I consider that the likelihood of prejudice to the management function and/or the conduct of industrial relations arising from disclosure of the Information in Issue to be low. I therefore afford this factor low weight in the public interest balancing test.

***Prejudice to the fair treatment of an individual***

123. Given that no individual staff member is identified in the Information in Issue, I do not consider that the public interest factor contained in schedule 4, part 3, item 6 of the RTI Act – disclosure could reasonably be expected prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or improper conduct – applies to the Information in Issue.

***Prejudice to the health and well-being of an individual***

124. I recognise the vulnerability and disadvantage of young persons in detention, and that many may come from dysfunctional homes and may have suffered physical or emotional trauma. Some may suffer from mental health issues. Disclosure of information, particularly video footage, that reminds them of their behaviour or the behaviour of others towards them, may potentially be distressing and may have a detrimental effect on their well-being and state of mental health. In attempting to assess whether it is reasonable to expect that disclosure of the Information in Issue in this case could reasonably be expected to have that detrimental effect on the young persons in question, I note that DCSYW has provided no specific or particularised information to establish that any young person suffers from mental or other health issues that disclosure of the Information in Issue could reasonably be expected to exacerbate.
125. Given the mostly factual nature of the information contained in the Inspection Report, and taking account of the fact that it is in written form rather than visual,<sup>61</sup> I do not consider its disclosure could reasonably be expected to prejudice the health or well-being of the young persons in question.
126. I accept that disclosure of the pixelated CCTV footage, which depicts the use of force and the subsequent use of a behaviour management strategy in visual form, is more likely to carry a risk of having a detrimental impact on the young person concerned. However, as stated previously, the pixelated footage is very brief and of low clarity and in this context, I cannot be satisfied, on the information before me, that the risk is substantial or that it is reasonable to expect that the detrimental effect will occur (as opposed to being merely possible). As noted, I am not aware of the impact the incident had on the young person at the relevant time or whether, for example, the young person made a complaint about the incident. DCSYW submits that the force and the management techniques used were standard practice and often necessary when dealing with young persons in detention; that no findings were made that staff acted improperly; and that no injury was suffered by the young person. It must also be reasonably assumed that the staff involved, who knew the young person and the young person's background and circumstances, were satisfied that the actions they used would not cause harm to the young person's physical or mental well-being.
127. Taking account of all the circumstances and the information before me, I am not satisfied that this public interest factor in favour of nondisclosure applies to the Information in Issue.

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<sup>61</sup> I observed in *Seven and Logan CC* at [35] that video footage is more 'information-rich' and impactful than traditional, paper-based documents.

### ***Balancing the public interest***

128. For the reasons explained, I give significant weight to each of the public interest factors favouring disclosure that I have identified in paragraph 72 above.
129. As to factors favouring nondisclosure that I am satisfied apply to the Information in Issue, I give moderate weight to the public interest in protecting an individual's right to privacy, and low weight to the public interest in preventing prejudice to the management function or the conduct of industrial relations by an agency.
130. After balancing those competing factors, I find that disclosure of the Information in Issue would not, on balance, be contrary to the public interest.

### **DECISION**

131. I set aside the decision under review. In substitution for it, I decide that there are no grounds upon which access to the Information in Issue may be refused under the RTI Act.
132. 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.

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Louisa Lynch  
**Right to Information Commissioner**  
**Date: 21 November 2018**

## Appendix

### Significant procedural steps

Date	Event
6 September 2017	Office of the Information Commissioner ( <b>OIC</b> ) received an application for external review of the decision made by Department of Justice and Attorney-General ( <b>DJAG</b> ).
8 September 2017	OIC notified DJAG that the external review application had been received and requested that the relevant procedural documents be provided by 15 September 2017.
14 September 2017	OIC received the requested procedural documents from DJAG.
15 September 2017	OIC telephoned the applicant to clarify the identity of the information in respect of which he sought review. OIC notified the applicant and DJAG that it had accepted the external review application. OIC requested that DJAG provide all documents located in response to the access application by 3 October 2017.
3 October 2017	OIC received the requested documents from DJAG.
4 October 2017	OIC contacted DJAG to advise that it was unable to open two CCTV recordings.
30 October 2017	OIC telephoned the applicant to discuss the identity of the information in issue. The applicant narrowed the scope of the information to which he sought access. OIC contacted DJAG to confirm the information in issue and to request that DJAG send fresh copies of the two segments of CCTV footage that were unable to be opened.
3 November 2017	OIC received fresh copies of CCTV footage which were also unable to be opened.
13 November 2017	An officer from the Youth Justice division of DJAG attended at OIC to allow OIC to view the CCTV footage on a SurfacePro provided by DJAG.
23 November 2017	OIC contacted the applicant to discuss the information in issue. The applicant again narrowed the scope of the information to which he sought access.
27 November 2017	OIC conveyed a written preliminary view to DJAG and requested its response by 11 December 2017.
11 December 2017	OIC received written submissions from DJAG.
12 December 2017	OIC conveyed a further written preliminary view to DJAG and requested its response by 12 January 2018. No response was received.
25 January 2018	OIC wrote to DJAG requesting its response by 2 February 2018. No response was received.
5 February 2018	OIC telephoned DJAG requesting its response.
7 February 2018	OIC received an email from DJAG advising that it was awaiting a further submission from the Youth Justice division. OIC wrote to DJAG requesting that its response be provided by no later than 4pm on 8 February 2018.
8 February 2018	OIC received an email from DJAG advising that it maintained its objection to disclosure of the information in issue, but that it had no further submissions to make.
12 February 2018	OIC telephoned the applicant to advise that it would be necessary to proceed to prepare and issue a formal decision to finalise the review.
1 March 2018	OIC requested that DJAG provide OIC with a copy of the CCTV footage to allow OIC to prepare the decision.
March 2018	Due to Machinery of Government changes, the Department of Child Safety, Youth and Women ( <b>DCSYW</b> ) became the respondent agency.

Date	Event
16 March 2018	DCSYW attended at OIC to allow OIC to again view the CCTV footage. OIC received an email from DCSYW requesting that it be permitted to make fresh submissions in support of the nondisclosure of the information in issue.
21 March 2018	OIC updated the applicant regarding the impact of the change in respondent agency. OIC invited DCSYW to lodge written submissions in support of its position.
19 April 2018	DCSYW provided written submissions.
23 April 2018	OIC expressed a preliminary view in response to DCSYW's written submissions.
11 May 2018	DCSYW lodged further written submissions.
14 May 2018	OIC provided the applicant with DCSYW's submissions and invited a response.
29 May 2018	OIC received a request that DCSYW meet with OIC to discuss general contextual information about the youth detention system.
4 June 2018	The applicant provided written submissions in support of disclosure of the information in issue.
6 June 2018	OIC provided DCSYW with the applicant's submissions. OIC requested that DCSYW provide OIC with a pixelated copy of the CCTV footage in the form in which the applicant had requested access.
14 June 2018	Representatives of OIC and DCSYW met. DCSYW advised that it refused to provide OIC with a copy of the CCTV footage edited to pixelate identifying information as it considered that that would involve creating a new document which it was not obliged to do.
20 June 2018	OIC wrote to DCSYW to summarise the submissions made by DCSYW at the meeting.
29 June 2018	DCSYW provided OIC with amendments to the submissions.
2 July 2018	OIC provided the applicant with DCSYW's amended submissions. The applicant advised OIC that it did not wish to provide any additional submissions.
6 July 2018	DCSYW provided OIC with an unedited copy of the CCTV footage.
30 July 2018	OIC received an email from DCSYW clarifying that it did not seek to rely on certain issues it had raised at the meeting between OIC and DCSYW.
August-September 2018	OIC prepared reasons for decision and an edited copy of the CCTV footage by pixelating the identifying information to which the applicant did not wish to pursue access.
24 October 2018	The applicant contacted OIC to request that publication of the reasons for decision be delayed until 19 November 2018 when the relevant journalist returned from leave.