

Decision and Reasons for Decision

Citation: X42 and Department of Youth Justice and Victim Support [2026] QICmr 43 (19 March 2026)

Application Number: 318533

Applicant: X42

Respondent: Department of Youth Justice and Victim Support

Decision Date: 19 March 2026

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - DISCLOSURE PROHIBITED BY ACT - whether disclosure prohibited by section 288 of the *Youth Justice Act 1992* (Qld) - whether exempt information - whether access may be refused under section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(a) and 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 - whether disclosure would, on balance, be contrary to the public interest - applicant's personal information - prejudice to the security or good order of a correctional centre - section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld)

REASONS FOR DECISION

Background

1. An application on behalf of a child¹ was made, under the *Information Privacy Act 2009* (Qld) (**IP Act**), to the Department of Youth Justice and Victim Support (**Department**) for access to documents, including recordings and CCTV footage, relating to incidents that occurred involving the applicant in a particular youth detention centre during a specific date.²

¹ Application dated 18 February 2025. Under schedule 1 of the *Acts Interpretation Act 1954* (Qld), a child is an individual who is under 18.

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

2. The Department located 96 recordings and in its initial decision³ refused access to all 96 recordings on the basis that its disclosure would, on balance, be contrary to the public interest.
3. The applicant applied⁴ to the Office of the Information Commissioner (**OIC**) for external review of the Department's decision. The applicant seeks access to the refused recordings and to certain documents which were not located in the searches performed by the Department.
4. During the review the Department:
 - informed OIC that there had been an error in the initial decision and only 89 of the located recordings were responsive to the access application⁵
 - conducted further searches and located additional 203 pages of documents;⁶ and
 - released a copy of the further documents to the applicant.⁷
5. OIC conveyed a preliminary view⁸ to the applicant that:
 - In relation to the 89 responsive recordings:
 - 47 recordings were outside the scope of the access application made under the IP Act as they did not contain the applicant's personal information. The applicant accepted this view⁹ and therefore these recordings are no longer in issue and need not be addressed further.
 - 34 recordings were exempt from disclosure under schedule 3, section 12 of the RTI Act and section 288 of the *Youth Justice Act 1992 (Qld)* (**YJ Act**) (**YJ Exemption**). The applicant disagrees with this view and contends that *'there is no authority for withholding material that does not identify a child, including where their image is pixelated or obscured'*.¹⁰
 - 8 recordings depict the applicant only within the correctional facility. As part of exploring informal resolution options,¹¹ OIC engaged with the Department and the applicant to seek their views regarding access via inspection. Whilst the Department agreed to the proposal, the applicant did not respond and, as such, OIC confirmed¹² with the applicant that it would proceed on the understanding that the applicant would not be pursuing inspection access. OIC conveyed a view to the applicant that the 8 recordings may be refused on the ground that their disclosure would be contrary to the public interest.¹³ The applicant did not respond. OIC then confirmed with the applicant that the review will proceed on the basis that the applicant disagrees with OIC preliminary view.¹⁴
 - In relation to the 203 pages, full access to 84 pages has been given and access to parts of 119 pages has been refused on the ground that some information

³ Decision dated 19 March 2025. This is the *reviewable decision* in this review.

⁴ On 27 March 2025.

⁵ Email dated 27 May 2025.

⁶ Email dated 26 September 2025.

⁷ On 9 October 2025. The Department released the documents with some information redacted from the documents on the ground that it was exempt and/or its disclosure was contrary to the public interest.

⁸ Letter dated 23 September 2025.

⁹ Email correspondence dated 7 October 2025.

¹⁰ Email dated 7 October 2025.

¹¹ In accordance with section 103(1) of the IP Act.

¹² Email dated 10 February 2026.

¹³ Email dated 23 January 2026.

¹⁴ Email dated 10 February 2026.

comprises information subject to the YJ Exemption and a small amount of information comprises information the release of which, would on balance, be contrary to the public interest to disclose.

- OIC conveyed a view to the applicant¹⁵ that the redacted information within the further documents could be refused on the ground that it comprised exempt information under the YJ Exemption or contrary to public interest information as its disclosure would prejudice the security or good order of a youth detention centre. The applicant did not provide their views regarding this issue and therefore OIC confirmed to the applicant¹⁶ that this review would proceed on the basis that the applicant disagrees with OIC preliminary view.

6. For the reasons set out below, I vary the reviewable decision¹⁷ and find that:

- access to 34 recordings and some information contained in the documents may be refused on the ground that they comprise exempt information; and
- access to 8 recordings and some information contained in the documents may be refused on the ground that disclosure would, on balance, be contrary to the public interest.

7. The evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including the footnotes).

8. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information,¹⁸ as well as rights relating to children and persons deprived of liberty.¹⁹ I consider a decision-maker will be '*respecting and acting compatibly with*' that right and others prescribed in the HR Act, when applying the law prescribed in the IP Act and RTI Act.²⁰ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.

Information in Issue

9. While the RTI Act prevents me from describing exempt information or contrary to public interest information in any detail,²¹ the Information in Issue can be described as:

- recordings which depict interactions between the applicant and a number of other individuals dealt under the YJ Act and information contained in the documents that relate to those other individuals (**Category A Information**)
- information relating to the security or good order of a youth detention centre facility including recordings which depict the applicant in a correctional centre (**Category B Information**); and
- middle names of staff officers, mobile phone numbers and other personal information of staff Officers (**Category C Information**).

¹⁵ Email dated 7 October 2025 and 23 January 2026.

¹⁶ Email dated 10 February 2026.

¹⁷ Under section 123(1)(b) of the IP Act.

¹⁸ Section 21 of the HR Act.

¹⁹ Sections 26 and 30 of the HR Act.

²⁰ *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (**XYZ**) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111]. I further note that OIC's approach to the HR Act (as set out in this paragraph) was considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23] (where Judicial Member DJ McGill SC saw '*no reason to differ*' from OIC's position).

²¹ Section 108(3) of the RTI Act.

Issues for determination

10. The issue for determination is whether access to the Information in Issue may be refused on the ground that it is exempt or its disclosure would, on balance, be contrary to the public interest.

Category A Information

Relevant law

11. Under the IP Act, an individual has a right to be given access to documents of a Queensland government agency, to the extent they contain the individual's personal information.²² This right of access is subject to limitations, including the grounds on which access to information may be refused.²³

12. One ground of refusal is where information comprises exempt information.²⁴ Relevantly, information is exempt information if its disclosure is prohibited by section 288 of the YJ Act, unless it is only personal information of the access applicant.²⁵

13. Section 288 of the YJ Act (together with a number of surrounding provisions) provides that a person who has gained, gains, or has access to, confidential information relating to a child who is being, or has been, dealt with under the YJ Act through involvement in the administration of the Act must not intentionally disclose that information to anyone, other than in accordance with part 9, division 2 of the YJ Act.²⁶

14. '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; ...

15. '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.

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

- orally discloses the information to the other person; or
- produces to the other person, or gives the other person access to, a document containing the information; or

²² Section 40 of the IP Act. 'Personal information' is defined in section 12 of the IP Act as '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'.

²³ Section 67(1) of the IP Act provides that access may be refused to information in the same way and to the same extent as information may be refused under the RTI Act (which are set out in section 47 of the RTI Act).

²⁴ Schedule 3 of the RTI Act identifies the types of information which Parliament has determined will comprise exempt information under the RTI Act.

²⁵ Schedule 3, sections 12(1) and 12(2) of the RTI Act.

²⁶ Sections 283, 287 and 288 of the YJ Act.

- discloses the information to the other person in another way.

17. The question of what constitutes disclosure of confidential information for the purpose of the YJ Act was considered by the Civil and Administrative Tribunal (QCAT) in *Department of Youth Justice v Office of the Information Commissioner & Ors; Department of Youth Justice v Office of the Information Commissioner & Anor*²⁷ (DYJ). In that matter, QCAT confirmed that the disclosure which is prohibited by section 288 of the YJ Act is not limited to a disclosure to a person who does not already know the child, and the child's status under the YJ Act.

Findings

18. As noted above, the Category A Information comprises some information contained in the documents that relate to other individuals and 34 recordings which depict the applicant's interactions with other individuals. It therefore comprises the personal information of both the applicant and the other individuals.

19. In relation to the 34 recordings, the applicant's representative submitted that disclosing the Category A Information to the applicant will not breach the disclosure prohibition in section 288 of the YJ Act. More specifically, the applicant's representative submitted:²⁸

[The] Department of Youth Justice v Office of the Information Commissioner & Anor [2019] QCATA 143 is not authority for the prohibition in s288 of the YJ Act extending to the disclosure of pixelated or poor-quality CCTV/body worn camera footage if it enables identification of a child by anyone. Rather, in that case the application was remitted to the OIC to reconsider the application in light of the delegate's error of law. The error of law was limited to the delegate's qualification that prohibition extended to relevant information which would identify a child to a person who does not already know the child, and the child's status under the Act [13].

Paragraphs [43] to [45] outline that whether material identifies a child is a question of fact, and was not in issue in this case. Consequently, in our view, there is no authority for withholding material that does not identify a child, including where their image is pixelated or obscured.

It is not clear to us that the OIC has adequately demonstrated that, despite pixelation, the footage in question identifies other young people dealt with under the Youth Justice Act. We are not aware of any authority for the position that pixelated or obscured footage with audio can be said to be 'identifying information about the child' (s284 of the YJ Act).

20. In this regard, I note the following observations in DYJ:²⁹

Section 288 contains a number of prohibitions. By reference to the language of that section, and the definitions and qualifications found in the YJ Act, one prohibition might be formulated as being that a person to whom the section applies must not "record or use, or intentionally disclose or produce to another person a document containing information about a child 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, or give to another person access to such a document". Neither the prohibition itself, nor the broader context provided by the statute, provide a basis for restricting the prohibition. An examination of the text of the statute, including the definitions read in the context of the sections which draw on them, would show that the prohibition on disclosure found in s 288 would apply to confidential information, relating to a child, as the expression is defined, without further restriction.

...

It may be accepted that the question whether material identifies a person is a question of fact. The findings of the delegate on that question are not in issue in the appeal. What is in issue

²⁷ [2019] QCATA 143.

²⁸ Submissions dated 7 October 2025 and 1 December 2025

²⁹ DYJ at [39] and [45].

is the test used by the delegate for determining whether, in light of those findings, disclosure of the information would be in breach of the prohibition in s 288 of the YJ Act. That test is a result of the construction of the delegate of the relevant statutory provisions. It is a determination of the legal effect of those provisions, rather than whether the facts came within the meaning of an expression found in a statute, as ordinarily understood.

21. Following the reasoning in *DYJ*, I find that, notwithstanding the applicant may know the other individuals who are depicted in the 34 recordings and their identity comprised in the further released documents and their status, if any, under the YJ Act, this knowledge does not, of itself, take disclosure of the Category A Information outside the prohibition specified in section 288 of the YJ Act. Accordingly, I am satisfied that disclosure of the Category A Information to the applicant is the type of disclosure which is prohibited by section 288 of the YJ Act.
22. As the Category A Information contains the personal information of the applicant and other individuals, it is not comprised of **only** the applicant's personal information. I am therefore satisfied that schedule 3, section 12(2) of the RTI Act does not apply.
23. As part of this external review, the applicant's representative submitted that '*...[W]e remain of the view that footage containing young people's faces pixelated is not captured by the prohibition of s 288 of the Youth Justice Act and not exempt information under s 48 Schedule 3 of the Right To Information Act*'. The applicant's representative proposed release of the recordings with pixelation or obscured footage. Again, while I am limited in the extent to which I can describe the content of the Category A Information, I can confirm that it captures other individuals' personal information - comprising both images and voices - which mostly appears intertwined with personal information of the applicant. In the circumstances of this matter and having carefully reviewed the Category A Information, I am satisfied that the pixelation suggested by the applicant would be insufficient to deidentify those other individuals.³⁰
24. For the reasons above, I find that the Category A Information comprises exempt information and access to it may be refused on that basis.³¹

Category B Information

Relevant law

25. Access to information may also be refused where its disclosure would, on balance, be contrary to the public interest.³² 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.³³
26. In deciding whether disclosure of information would, on balance, be contrary to the public interest, section 49 of the RTI Act sets out the process a decision-maker must take, namely:
 - identify any irrelevant factors and disregard them
 - identify relevant public interest factors favouring disclosure and nondisclosure

³⁰ That is, the suggested redactions could not ensure that only the applicant's confidential information remained in Recordings 1.

³¹ Pursuant to section 67(1) of the IP Act and sections 47(3)(a) and 48 and schedule 3, section 12(1) of the RTI Act. I note that the Information Commissioner has no discretion to disclose exempt or contrary to the public interest information (as specifically stated in section 118(2) of the IP Act).

³² Section 67(1) of the IP Act and sections 47(3)(b) and 49 of the RTI Act.

³³ Chris Wheeler, '*The Public Interest: We Know It's Important, But Do We Know What It Means*' (2006) 48 AIAL Forum 12, 14.

- balance the relevant factors favouring disclosure and nondisclosure; and
- decide whether disclosure of the information would, on balance, be contrary to the public interest.

27. Schedule 4 of the RTI Act contains non-exhaustive lists of factors that may be relevant in determining where the balance of public interest lies. I have considered these factors, together with other relevant information and discuss my findings below. I have also kept in mind the pro-disclosure bias of the RTI Act and that the refusal grounds are to be interpreted narrowly.³⁴

Findings

28. The Category B Information comprises recordings which depict the applicant in a youth detention centre and information contained in the documents relating to the colour code alerts and procedures in place for the safety and protection of individuals whilst in a youth detention centre facility.³⁵

29. I have not taken into account any irrelevant factors into account in respect of Category B Information.

30. Generally, there is a strong public interest in the disclosure of government held information in order to promote openness and transparency in government and to enhance the government's accountability.³⁶ While I consider that these public interest factors apply with respect to the Department in this case, I am of the view that the weight attributable to these factors is lowered given the information that has already been released to the applicant and the nature of the Category B Information. I therefore afford these factors low weight.

31. In relation to the recordings depicting the applicant, I acknowledge they contain the personal information of the applicant.³⁷ However, they also depict the layout, daily routines and construction of the detention centre facilities, enlivening a factor favouring non-disclosure that relates to the safety, security and good order of a correctional facility (as discussed in paragraph 34 below).

32. In terms of the applicant's personal information, I note (as mentioned at paragraph 5 above) that OIC engaged with the Department and the applicant's representative to seek their views regarding access via inspection of these recordings. Whilst the Department agreed to such proposal, the applicant's representative did not respond and therefore the review proceeded on the understanding that the applicant would not be pursuing inspection access. In relation to the recordings, the Department submitted:³⁸

"...[W]hen releasing RTI documents in response to an access application, no limitations can be placed on the future use and disclosure of the materials and, inspection only access would assist to alleviate some of the concerns regarding this footage.

It is the agency's view that information regarding the layout, daily routines and construction of the detention centre facilities can be gleaned from review of interior footage. Much like for corrective services facilities, review by individuals that do not already know this information, can be prejudicial to the security and safety of the detention centre facility.

³⁴ Section 47(2)(a) of the RTI Act.

³⁵ Section 67(1) of the IP Act and Schedule 4, part 3, item 10 of the RTI Act.

³⁶ Section 67(1) of the IP Act and Schedule 4, part 2, items 1, 2, 3 and 11 of the RTI Act.

³⁷ Section 67(1) of the IP Act and Schedule 4, part 2, item 7 of the RTI Act.

³⁸ Email dated 26 September 2025.

33. Given the applicant had the opportunity during external review to access these recordings by inspection, I have afforded the factor favouring disclosure relating to the information comprising the applicant's personal information moderate weight.
34. In relation to the colour code alerts and procedures, this information is collected by the Department for assessing its security measures and determine how the Department (and its officers) respond to security incidents, risks and alerts in a youth detention centre setting. Similarly, the recordings contain images regarding the layout, daily routines and construction of the detention centre facility. I consider that the release of information relating to security protocols, infrastructure vulnerabilities, surveillance systems, emergency response procedures, or internal risk assessments could reasonably be expected to prejudice ongoing security strategies and risk-management frameworks, undermine physical and procedural safeguards, enable inmates or external associates to identify weaknesses within the detention centre, increase the likelihood of riots, assaults, or escape attempts compromising the safety of corrective services staff, visitors, and prisoners. Disclosure of these types of information would impair the security and good order of the facility.³⁹
35. In my view, the public interest in maintaining secure custodial environments is significant. Correctional facilities including detention centres must operate in a controlled and secure manner to ensure community safety. I am satisfied that disclosure would be likely prejudicial to the security of the detention centre facility particularly considering that release under the IP Act impose no restrictions on its use, dissemination or re-publication. On this basis, I have afforded this nondisclosure factor significant weight.
36. I have carefully considered the remaining factors favouring disclosure in schedule 4, part 2 of the RTI Act and more generally and, taking into account the material before me, including the submissions of applicant's representative, I am unable to identify any further factors favouring disclosure.
37. With respect to the identified factors for and against disclosure, it is my view that the factor favouring nondisclosure carries greater weight. Accordingly, I am satisfied that disclosure of the Category B Information would, on balance, be contrary to the public interest.

Category C Information

38. For this category of information, the law noted regarding the Category B Information is again relevant.⁴⁰
39. The Category C Information comprises middle names of staff officers, mobile phone numbers and other personal information of staff.
40. I find that the factors favouring disclosure described in paragraph 29 above do not apply to the Category C Information as its disclosure would not advance accountability and transparency, nor provide background information. I have considered the remaining factors favouring disclosure (in schedule 4, part 2 of the RTI Act and more generally) but have identified none relevant to this category of information.
41. This information comprises personal information of individuals other than the applicant which falls outside the realm of routine work information and/or would allow individual officers to be contacted outside usual channels of communication. As such, there is a degree of intrusion into the relevant officers' personal spheres which warrants application

³⁹ Section 67(1) of the IP Act and Schedule 4, part 3, item 10 of the RTI Act.

⁴⁰ I confirm that I have not taken into account any irrelevant factors into account in respect of Category C Information.

of the privacy factor favouring nondisclosure and the personal information harm factor. Further, effective and efficient operations of the Department including delegation of work and record keeping associated with that work, could be prejudiced if members of the community contact officers directly, rather than via the systems and processes put in place and used by the Department as a whole.

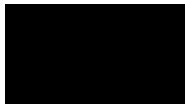
42. Given the nature of the Category C Information and the context in which it appears, the extent of the public interest harm that could be anticipated from disclosure is significant. In the circumstances, I afford significant weight to these factors favouring nondisclosure in relation to the Category C Information. In the absence of any factors favouring disclosure, these factors outweigh the pro-disclosure bias and are determinative. Accordingly, I am satisfied that disclosure of the Category C Information would, on balance, be contrary to the public interest.

DECISION

43. For the reasons set out above, I vary the reviewable decision⁴¹ and find that:

- access to 34 recordings and certain information contained in the documents, which collectively comprise the Category A information, may be refused on the ground that they comprise exempt information
- access to 8 recordings and certain information contained in the documents, which collectively comprise Category B Information, may be refused on the ground that their disclosure would, on balance, be contrary to the public interest; and
- access to the remaining information contained in the documents, which comprises the Category C information, may be refused on the ground that their disclosure would, on balance, be contrary to the public interest.

44. I have made this decision under section 123 of the IP Act as a delegate of the Information Commissioner, under section 139 of the IP Act.



K Zaidiza
Manager, Right to Information

Date: 19 March 2026

⁴¹ Under section 123(1)(b) of the IP Act.