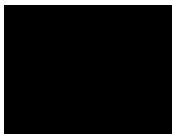


Decision and Reasons for Decision

Citation:	<i>J28 and Queensland Corrective Services [2026] QICmr 78 (20 May 2026)</i>
Application Number:	319105
Applicant:	J28
Respondent:	Queensland Corrective Services
Decision Date:	20 May 2026
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO THE PUBLIC INTEREST - prison call recordings - personal information and privacy of third parties - whether disclosure would, on balance, be contrary to the public interest - sections 47(3)(b) and 49 of the <i>Right to Information Act 2009</i> (Qld)

DECISION

1. For the below reasons, I vary¹ the reviewable decision of Queensland Corrective Services (**QCS**) and find that disclosing the remainder of the requested telephone recording would, on balance, be contrary to the public interest and access to it may be refused on that basis.
2. This means that no further information is to be released to the applicant.
3. My reasons for the decision follow.



V Corby
Assistant Information Commissioner

Date: 20 May 2026

¹ Under section 110(1)(b) of the *Right to Information Act 2009* (Qld) (**RTI Act**).

REASONS FOR DECISION

Summary

4. The applicant applied² to QCS to access ‘A transcript of phone calls between [the applicant] and [named individual] from 1 August 2025 to 26 August 2025.’
5. QCS conducted searches and no transcripts of telephone call recordings were located. QCS decided³ to refuse access on the grounds the documents were nonexistent.⁴
6. The applicant applied⁵ to the Office of the Information Commissioner (**OIC**) for external review.
7. The applicant then wrote to OIC⁶ and explained:

To cut a long story short, my aim is to obtain a recording/transcript between myself and [named individual] on 1 August 2025 to use as [they] states my property has been stolen and I'd like to pass this information on to police to press charges. As [named individual] is to [sic] old, this is all the evidence I have. I don't mind what format I just need it to pass on (prison won't let me hold a recording hence [sic] why I asked for a transcript).

8. During the review, QCS located the audio recording of the telephone call in question⁷ (**Call Recording**) and released parts of it.⁸ The applicant does not agree with the level of information which has been disclosed to him and seeks full access to the Call Recording.⁹

Relevant law

9. Under the RTI Act, an individual has a right to be given access to documents in the possession or under the control of an agency.¹⁰ The legislation is to be administered with a pro-disclosure bias¹¹ however, the right of access is subject to certain limitations, including grounds for refusing access.¹²
10. Access to information may be refused where disclosure would, on balance, be contrary to the public interest.¹³ In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision-maker must take certain steps as set out in section 49(3) of the RTI Act, including, identifying and disregarding irrelevant factors, identifying factors for and against disclosure, and deciding whether, on balance, disclosure of the information would be contrary to the public interest.
11. 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, generally, 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.

² Access application dated 3 August 2025.

³ Decision on 26 September 2025. This is the reviewable decision.

⁴ Sections 47(3)(e) and 52 of the RTI Act.

⁵ External review application received on 27 October 2025.

⁶ Letter received on 13 November 2025.

⁷ The date of the telephone call was 2 August 2025.

⁸ QCS advised a copy of the recording on disc was sent to the applicant by Registered Post on 17 March 2026.

⁹ Letter received on 1 April 2026.

¹⁰ Section 23 of the RTI Act.

¹¹ Section 44 of the RTI Act.

¹² Section 47 of the RTI Act. Those grounds are however, to be interpreted narrowly: section 47(2) of the RTI Act.

¹³ Section 47(3)(b) of the RTI Act.

12. Schedule 4 of the RTI Act contains factors that may be relevant in determining where the balance of the public interest lies in a particular case. I have considered these,¹⁴ together with all other relevant information, in reaching my decision. I have also applied the RTI Act's pro-disclosure bias¹⁵ and considered Parliament's intention that grounds for refusing access to information are to be interpreted narrowly.¹⁶

13. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.¹⁷ 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 RTI Act.¹⁸ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.¹⁹

Submissions

14. In his external review application,²⁰ the applicant submitted as follows:

I had found out as I had only been in jail for a month. People had gone to my address and broke in, holding [named individual] who is [age of named individual] against [their] will. I found all this out over the jail phone. So I requested firstly [them] to phone the police ... and I followed through with filling out rights to information to obtain records of the call so apon [sic] release I have evidence to charge those involved as I am powerless in jail.

...

My reason for this letter is to state it is existant [sic] just not transcribed [sic]. Due to my restrictions in jail can I have the recordings sent to my property apon [sic] release I can listen. Or it formatted to transcript so I can have justice for my belongings and [named individual] ...

15. In responding to OIC's preliminary view,²¹ the applicant made written submissions²² as follows:

- *I am unable to listen to CD as Im [sic] in prison [sic]*
- *I am using the recording to achive [sic] justice for my stolen stuff. (Everything I own).*
- *Futhermore [sic] I need/someone I (lawyer) trust outside prison [sic] needs to listen to the disc, to see if their [sic] is enough information (names of people included in stealing my belongings). To pass onto QPS.*

As I don't understand the issue if the names of people are not included. As the convosation [sic] between myself and [named individual] was on both ends clearly stated it would be recorded before we spoke, so after that point by staying on the line after the prison [sic] recording prompt clearly stating (all call will be recorded) any convosation [sic] after that is attainable.

¹⁴ I have considered each of the public interest factors outlined in schedule 4 of the RTI Act, and any relevant factors are discussed below. Some factors have no relevance, for example, the factor concerning innovation and the facilitation of research.

¹⁵ Section 44 of the RTI Act.

¹⁶ Section 47(2) of the RTI Act.

¹⁷ Section 21 of the HR Act.

¹⁸ *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].

¹⁹ I also note the following observations made by Bell J in *XYZ* at [573], on the interaction between equivalent pieces of Victorian legislation (namely, the *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic)): '*it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act*'.

²⁰ Received on 27 October 2025.

²¹ Dated 18 March 2026. While OIC's preliminary view addressed the refusal of information in parts of the Call Recording, it also conveyed to the applicant that QCS is not required to create a transcript of the Call Recording to give access in another form – section 68 of the RTI Act.

²² Letter received on 1 April 2026.

Findings

16. I have not identified any irrelevant factors that apply in relation to the information in issue.²³
17. The RTI Act recognises that there is a public interest in an individual gaining access to their personal information held by a government agency.²⁴ The telephone recording comprises the applicant's personal information as he was a party to the call and to the extent possible, the Call Recording has been released to him. I accept that some of the applicant's personal information remains within refused parts of the Call Recording, however, in these parts, the personal information of the applicant is intertwined with the personal information of other individuals such that it cannot be severed to permit release. Much of the Call Recording comprises the personal information of the applicant's intertwined with other individuals' in the context of discussions about crimes allegedly committed by named individuals against the applicant and the other person on the call. While the weight attributed to the public interest factor in favour of an applicant accessing their personal information is ordinarily high, in these circumstances, I attribute moderate weight to the factor.
18. Given much of the Call Recording is about other individuals, who are named, disclosing that information would cause a public interest harm²⁵ by disclosing their personal information²⁶ and prejudice the protection of their right to privacy.²⁷ Given the sensitive context in which the personal information appears, including untested allegations of crimes committed by individuals against the applicant and the other person on the call, I consider these nondisclosure factors carry significant weight. I have also taken into account that where information is disclosed under the RTI Act, there can be no limitation on its further dissemination and I am satisfied this lends further weight to the public interest harm and prejudice to privacy.²⁸
19. The applicant's submission²⁹ was primarily focussed on obtaining access to the entire Call Recording to evaluate whether it could be provided to police as evidence of the alleged crimes. When the release of information could reasonably be expected to contribute to the administration of justice for a person or generally, including procedural fairness, a factor favouring disclosure will arise.³⁰ Given the applicant's knowledge of the content and substance of the Call Recording, I consider he is adequately positioned to report the details to the Queensland Police Service for their consideration as the relevant criminal law enforcement agency,³¹ or to a lawyer to evaluate and pursue a remedy for a legal wrong. In the circumstances of this case, I consider disclosure of the Call Recording would not materially advance the applicant's fair treatment or the administration of justice and I attribute low weight to this factor.³²
20. As the Call Recording involves conversations of a personal nature between the applicant and another individual, I consider the public interest factor relating to government accountability is only relevant to the extent it demonstrates QCS's processes for recording and retaining calls made within a correctional facility. To the extent this factor applies, I attribute it low weight.³³

²³ Including those set out in schedule 4, part 1 of the RTI Act.

²⁴ Schedule 4, part 2, item 7 of the RTI Act.

²⁵ Section 4, part 4, section 6 of the RTI Act.

²⁶ As defined in schedule 5 of the RTI Act.

²⁷ Schedule 4, part 3, item 3 of the RTI Act.

²⁸ *FLK and Information Commissioner* [2021] QCAT 46 at [17].

²⁹ Letter received on 1 April 2026.

³⁰ Schedule 4, part 2, item 16 of the RTI Act.

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

³² I note that the applicant is not prevented from sending the CD containing the released portion of the Call Recording to his lawyer, or anybody, outside of the prison to listen to and/or create a written transcript of it.

³³ Schedule 4, part 2, item 1 of the RTI Act.

21. In summary, while there is significant public interest in the applicant being able to access his own personal information, the weight attributed to this factor is reduced due to the intertwining of other individuals' personal information. I have also attributed low weight to the other public interest factors favouring disclosure which relate to the administration of justice, enforcement of the law and government accountability.
22. Weighing against the factors, I consider that the public interests in favour of nondisclosure, related to safeguarding the personal information and protecting the privacy of the other individuals involved or mentioned in the Call Recording warrant significant weight.
23. In balancing the public interest, the nondisclosure factors outweigh the factors favouring disclosure and therefore access to the remainder of the Call Recording should be refused on the basis that its disclosure would, on balance, be contrary to the public interest.³⁴

Conclusion

24. The above are the reasons for my decision set out at paragraph 1.
25. 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.

--End--

³⁴ Section 47(3)(b) of the RTI Act.