



Decision and Reasons for Decision

Citation:	<i>E52 and Queensland Police Service</i> [2025] QICmr 59 (12 September 2025)
Application Number:	318548
Applicant:	E52
Respondent:	Queensland Police Service
Decision Date:	12 September 2025
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST - recordings of an altercation involving the applicant and third parties - section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and sections 47(3)(b) and 49 of the <i>Right to Information Act 2009</i> (Qld)

REASONS FOR DECISION

Background

1. The applicant applied to the Queensland Police Service (**QPS**) under the *Information Privacy Act 2009* (Qld) (**IP Act**)¹ for access to recordings of an altercation involving the applicant and other individuals.²
2. QPS located and decided to refuse access to parts of 3 recordings and 4 recordings in full (**Recordings**)³ on the basis that disclosure would, on balance, be contrary to the public interest.⁴
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of QPS's decision.⁵ During the review, OIC conveyed a preliminary view to the applicant about the Recordings.⁶ The applicant provided a submission to OIC in support of their position that access to the Recordings should be granted.⁷ As the applicant continues to seek access to the Recordings, the issue I must determine is whether access may be refused on the basis that disclosure would, on balance, be contrary to the public interest.⁸

¹ On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting significant changes to the IP Act and *Right to Information Act 2009* (Qld) (**RTI Act**). References in this decision to the IP and RTI Acts, however, are to those Acts as in force prior to 1 July 2025. This is in accordance with Chapter 8 Part 3 of the IP Act and Chapter 7 Part 9 of the RTI Act, comprising transitional provisions requiring that access applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted.

² Access application dated 25 October 2024.

³ Comprising 4 CCTV recordings, 2 body worn camera recordings and a phone recording provided to QPS by a third party.

⁴ Decision dated 19 December 2025. This is the *reviewable decision* as defined in schedule 5 of the RTI Act for the purpose of this decision.

⁵ External review application dated 7 January 2025.

⁶ Letter dated 10 June 2025.

⁷ Submissions dated 2 July 2025.

⁸ Under section 67(1) of the IP Act and section 47(3)(b) of the RTI Act.

4. For the reasons set out below, I affirm QPS's decision that access may be refused under section 67(1) of the IP Act and section 47(3)(b) of the RTI Act on the basis that the Recordings comprise contrary to public interest information.
5. In reaching my decision in this review, I have taken into account evidence, submissions, legislation and other material as set out in these reasons (including footnotes). I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information⁹ and in doing so, I have acted in accordance with section 58(1) of the HR Act.¹⁰

Relevant law

6. Under the IP Act, an individual has a right to be given access to documents in the possession or under the control of an agency to the extent they contain their personal information.¹¹ While the legislation is to be administered with a pro-disclosure bias,¹² the right of access is subject to certain limitations, including grounds for refusing access, as set out in the IP Act and RTI Act.¹³ Relevantly, access to information may be refused where its disclosure would, on balance, be contrary to the public interest.¹⁴
7. 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.¹⁵
8. The RTI Act explains the steps that the decision-maker must take in deciding the public interest¹⁶ and identifies factors in Schedule 4 that may be relevant to deciding the balance of the public interest. I have considered all these factors, together with other relevant information in reaching my decision, and discuss relevant factors below.

Submissions

9. In summary, the applicant has raised the following in support of their view that they have a right to access the Recordings:¹⁷
 - they suffered injuries because of the altercation and are seeking the Recordings to support a request for charges to be laid against the other individuals involved in the altercation
 - the Recordings were not given, nor shown, to them and were never accessible during the Court proceeding
 - they were advised by their local police station that the Recordings need to be obtained through RTI
 - protecting the personal information and privacy of the other individuals involved in the altercation is '*ridiculous*' as their profession '*puts them out in the media spotlight everyday*' and the '*exposure is beneficial to their career*'

⁹ Section 21 of the HR Act.

¹⁰ OIC's approach to the HR Act set out in this paragraph has been considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23].

¹¹ Section 40 of the IP Act.

¹² Section 64 of the IP Act.

¹³ Section 67(1) of the IP Act and section 47 of the RTI Act. Those grounds are however, to be interpreted narrowly: see section 67(2) of the IP Act.

¹⁴ Sections 47(3)(b) and 49 of the RTI Act.

¹⁵ However, there are some recognised public interest considerations that may apply for the benefit of an individual.

¹⁶ Section 49(3) of the RTI Act.

¹⁷ As detailed in the application for external review dated 7 January 2025 and submissions dated 2 July 2025.

- the other individuals involved in the altercation *'ran to the media (before police) with a ridiculous story'*; and
 - there is no problem with accessing their own personal information and any *'personal, sensitive information'* of other individuals can be edited out.
10. In the decision, QPS stated that the applicant was the *'defendant in the matter before the court'* and that *'the requested documents would be made available to [the applicant] through the prosecution process.'*¹⁸ During the review, QPS submitted:¹⁹

...advice from Prosecutions [is] that the [applicant] was provided the footage on disks [sic], but the disks [sic] did not work. Later, [the applicant] was given access to view the footage via evidence.com. Such access is time limited and they are unsure if the footage was ever viewed. Since the charges have finalised prosecutions has had no further dealings with [the applicant].

11. And:²⁰

...once a court process is finalised, there is no mechanism through QPS Prosecutions to obtain any material through that process. Generally when a matter is finalised through court, the Full Brief of Evidence will be forwarded back to the reporting station for filing.

Findings

Irrelevant factors

12. I have not taken any irrelevant public interest factors into account in making this decision.

Factors favouring disclosure

13. The RTI Act recognises that public interest factors favouring disclosure will arise where the information is the applicant's personal information²¹ and also if disclosing the information could reasonably be expected to:
- promote open discussion of public affairs and enhance the Government Accountability²²
 - inform the community of the Government's operations, including, in particular, the policies, guidelines and codes of conduct followed by the Government in its dealings with members of the community²³
 - reveal the reason for a government decision and any background or contextual information that informed the decision²⁴
 - contribute to the administration of justice generally, including procedural fairness;²⁵ and
 - contribute to the enforcement of the criminal law.²⁶
14. To the extent that the Recordings contain the applicant's personal information, I afford significant weight to this factor favouring disclosure. However, due to the nature of the altercation, the applicant's personal information is intertwined with the personal information of others. Having viewed the footage I note that it is not possible to disclose

¹⁸ At page 3.

¹⁹ Submission dated 15 May 2025.

²⁰ Submission dated 24 July 2025.

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

²² Schedule 4, part 2, Item 1 of the RTI Act

²³ Schedule 4, part 2, item 3 of the RTI Act

²⁴ Schedule 4, part 2, item 11 of the RTI Act

²⁵ Schedule 4, part 2, item 16 of the RTI Act

²⁶ Schedule 4, part 2, item 18 of the RTI Act.

the applicant's personal information without also disclosing the personal information of other individuals, giving rise to public interest factors favouring nondisclosure, which I discuss below at paragraphs 18 and 19.

15. I am satisfied transparency and accountability in agency operations and decision making extends to decisions made by QPS when determining what action to take following altercations that occur within a public place.²⁷ I accept that if the Recordings were disclosed, this would provide further context to the information relied upon by QPS when determining what action to take in relation to the altercation. However, in this matter there is a concluded prosecution in which the applicant would have been given relevant information regarding the charges brought against them, for example, in the brief of evidence and the prosecution process will have subjected QPS decision making to judicial oversight. As such, I consider that disclosure of the Recordings under the RTI Act would not advance these factors to any significant degree. Accordingly, I afford these factors favouring disclosure low weight.
16. Given the applicant's submissions, I have considered whether disclosing the Recordings could reasonably be expected to contribute to the administration of justice for the applicant.²⁸ In some circumstances, information can be accessed under the RTI Act for litigation purposes,²⁹ but only if the weight of the administration of justice factor is sufficient to outweigh other relevant considerations, such as privacy and flow of information as discussed below. Where disclosure of the information '*would assist [the applicant] to pursue [a] remedy, or to evaluate whether a remedy is available, or worth pursuing*'³⁰ this will be relevant to take into account in affording weight to this public interest factor. Usually, such consideration precedes any pursuit of a legal remedy. Here, however, there is a concluded prosecution in which the applicant was the defendant, and they would have been provided procedural fairness and, as noted at paragraph 15, given relevant information regarding the charges brought against them in that process.³¹ QPS also notes that they were afforded the opportunity, through the prosecution process, to access the recordings in a limited context. Accordingly, in the circumstances of this matter, I am satisfied that this public interest factor is not enlivened.
17. The applicant's submissions note that they require the Recordings to support a request for charges to be laid against the other individuals involved in the altercation. However, as QPS is the holder of the Recordings, QPS already has access to them and based on the information before OIC, the applicant was the individual QPS decided to charge and prosecute following an investigation of the altercation. Accordingly, I am satisfied that the public interest factor contributing to the enforcement of criminal law is not enlivened.

Factors favouring nondisclosure

18. Schedule 4, Part 4 sets out factors favouring non-disclosure because of public interest harm in the disclosure. This includes section 6 which states:
 - (1) *Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure would disclose person information of a person, whether living or dead.*
 - (2) *However, subsection (1) does not apply if what would be disclosed is only person information of the person by whom, or on whose behalf, an application for access to a document containing the information is being made.*

²⁷ Schedule 4, part 2, items 1, 3 and 11 of the RTI Act.

²⁸ Schedule 4, part 2, item 16 of the RTI Act.

²⁹ A relevant public interest consideration was identified and analysed by the Information Commissioner in *Willsford and Brisbane City Council* (1996) 3 QAR 368 (**Willsford**) at [17].

³⁰ *Willsford* at [17(c)].

³¹ For example, within the brief of evidence.

19. In this instance the recordings contain the applicant's personal information and the personal information of multiple individuals, much of it relatively sensitive given the context in which it appears. As noted at paragraph 9, the applicant submitted that the right to privacy of the other individuals involved in the altercation is deserving of less weight because their profession *'puts them out in the media spotlight everyday'* and the *'exposure is beneficial to their career'*.³² The applicant also submitted that the other individuals involved in the altercation *'ran to the media (before police) with a ridiculous story'*.³³ The Recordings include the personal information of a range of people who were present at the time of the altercation and captured in the footage. Due to the nature of the altercation, and the difficulties with redacting video footage, it is not possible to give access to any additional footage within the Recordings without also disclosing personal information of these others, and therefore disclosing their personal information and prejudicing their right to privacy. I also consider that if someone's employment places them in the public eye, this does not diminish that person's right to privacy in their personal sphere nor diminish the nature of the personal information *in the Recordings*. Consequently, I disagree with the applicant's submissions. I consider that the nature of the employment of some of the parties in the footage and the media report do not reduce the weight to be given to the public interest factors regarding the protection of the personal information and privacy of other individuals.³⁴
20. Given the nature of the information contained within the Recordings, and the sensitive context in which it appears, (i.e., video footage of people involved in, or witnesses of, a physical altercation which resulted in a subsequent law enforcement process) and the weight of the public interest harm considerations, I am satisfied that the two factors favouring nondisclosure relating to safeguarding personal information, and the protection of privacy of other individuals should be afforded significant weight.

Balancing the public interest

21. For the reasons outlined above, I am satisfied that the public interest considerations relating to privacy and the protection of other individual's personal information³⁵ warrant significant weight.
22. On the other hand, I have afforded significant weight to the applicant gaining access to her own personal information³⁶ and low weight to QPS being transparent and accountable in their operations and decision making.³⁷ I am also satisfied that factors favouring disclosure relating to the administration of justice and the enforcement of the criminal law are not enlivened in the circumstances of this matter.³⁸
23. On balance, I am satisfied that the public interest factors favouring nondisclosure of the Recordings outweigh the factors favouring disclosure. Accordingly, I find that disclosure of the Recordings would, on balance, be contrary to the public interest and access may be refused on that basis.

³² Submission dated 7 January 2025.

³³ Submission dated 7 January 2025.

³⁴ Schedule 4, part 4, section 6 and schedule 4, part 3, item 3 of the RTI Act. The concept of 'privacy' is not defined in the IP Act or RTI Act. It can, however, be viewed as the right of an individual to preserve their personal sphere free from interference from others – see the Australian Law Reform Commission's definition of the concept in "For your information: Australian Privacy Law and Practice" Australian Law Reform Commission Report No. 108 released 11 August 2008, at paragraph 1.56.

³⁵ Schedule 4, part 3, item 3 and schedule 4, part 4, section 6 of the RTI Act.

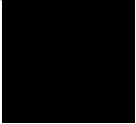
³⁶ Schedule 4, part 2, item 7 of the RTI Act.

³⁷ Schedule 4, part 2, items 1, 3 and 11 of the RTI Act.

³⁸ Schedule 4, part 2, items 16 and 18 of the RTI Act.

DECISION

24. For the reasons set out above, I affirm the reviewable decision³⁹ and find that access may be refused under section 67(1) of the IP Act and section 47(3)(b) of the RTI Act on the basis that the Recordings comprise contrary to public interest information.
25. 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.



S Winson
Right to Information Commissioner

Date: 12 September 2025

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