



**ACT**

Government

Justice and Community Safety

JACS2021/190

## DECISION ON FREEDOM OF INFORMATION ACCESS APPLICATION

I refer to your application received by the Justice and Community Safety Directorate (JACS) on 22 January 2021 in which you sought access to the following information under the *Freedom of Information Act 2016* (the Act):

- *ACT Corrective Services incident and response logs relating to the events at Alexander Maconochie Centre on Tuesday November 10 2020 from 5pm to midnight, including any notes or actions recorded during emergency meetings that evening*
- *ACT Corrective Services emails to the Corrections Minister in relation to the same incident, including all briefing notes.*
- *ACT Corrective Services post-incident review of the actions taken during and after the incident.*

I note this decision is being provided to you by the extended due date of 18 March 2021 as agreed by you. Thank you for agreeing to this extension of time.

### Authority

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

### Decision

I have identified 44 documents containing information within the scope of your access application. These are outlined in the *Schedule of documents*.

I have decided to:

- grant partial access to six documents
- refuse access to 38 documents

Please see the reasons outlined in the 'reasons for decision' at [Attachment A](#).

### Online publishing – disclosure log

Under section 28 of the Act, JACS maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the JACS disclosure log no later than 10 days after the decision. Your personal contact details will not be published.

You may view the JACS' disclosure log at:

<http://www.justice.act.gov.au/page/view/4049/title/disclosure-log>

#### **Ombudsman review**

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published on the JACS disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

The review of decision application form is available at:

[https://www.ombudsman.act.gov.au/data/assets/pdf\\_file/0026/79190/Apply-for-Ombudsman-review.pdf](https://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.pdf)

#### **ACT Civil and Administrative Tribunal (ACAT) review**

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal  
Level 4, 1 Moore St  
GPO Box 370  
Canberra City ACT 2601  
Ph: (02) 6207 1740

<http://www.acat.act.gov.au/>

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact JACS FOI via [jacsfoi@act.gov.au](mailto:jacsfoi@act.gov.au) or phone 6207 2167.

Yours sincerely



Jon Peach  
Commissioner – ACT Corrective Services

18 March 2021

## Attachment A – Reasons for decision

### 1. Material considered

In reaching my decision, I considered:

- your original access application
- the documents containing the information that fall within the scope of your access application
- consultation with the Australian Federal Police
- consultations with JACS officers
- *Freedom of Information Act 2016*
- *Human Rights Act 2004*

### 2. Reasons for my decision

As a decision maker, I am required to determine whether the information is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per Schedule 1 of the Act
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in Schedule 2

I have included below the factors relevant to my decision on access.

#### 2.1. Information contrary to public interest to disclose

I have determined that 38 of the documents within the scope of your request contain information that is taken to be contrary to the public interest to disclose under Schedule 1 of the Act.

##### 1.14 Law enforcement or public safety information

(1) Information the disclosure of which would, or could reasonably be expected to -

- (a) prejudice the investigation of a contravention or possible contravention of the law in a particular case.

I have determined that the Correctional Officer reports are contrary to the public to release as they the information in these reports is being relied upon in active Australian Federal Police investigations. Material contained in these reports has the potential to undermine these investigations.

#### 2.2. Public interest test

I have assessed the information against the factors favouring disclosure and factors favouring non-disclosure in Schedule 2. On balance, I have decided that the information is in the public interest to disclose. I have included below the relevant factors for your information.

##### 2.1 Factors favouring disclosure in the public interest

- (a) disclosure of the information could reasonably be expected to do any of the following:

- (ii) contribute to positive and informed debate on important issues or matters of public interest;
- (v) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or public official.

**2.2 Factors favouring nondisclosure in the public interest**

- (a) disclosure of the information could reasonably be expected to do any of the following:
  - (ii) prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*;
  - (iii) prejudice security, law enforcement or public safety;
  - (xi) prejudice trade secrets, business affairs or research of an agency or person.

I have decided to grant partial access to six documents. On balance, this information is in the public interest to release with minor redactions to:

- the personal details of individuals to protect the right to privacy of (including ACTCS staff, detainees and third parties) under the *Human Rights Act 2004*
- information which could reasonably be expected to prejudice public safety
- information which can reasonably be expected to prejudice the business affairs of a company.

**3. Summary of my decision**

In conclusion, I have decided to:

- grant partial access to six documents
- refuse access to 38 documents