



FREEDOM OF INFORMATION REQUEST – DECISION NOTICE

I refer to your application received by the Justice and Community Safety Directorate (JACS) on 30 April 2021 in which you sought access to the following information under the *Freedom of Information Act 2016* (the Act):

- Any registers or records of strip searches of women prisoners conducted at AMC for the period 1 October 2020 to 30 April 2021, including (but not limited to):
 - information pertaining to the number of strip searches of women prisoners;
 - information pertaining to the reasons why the strip searches were conducted;
 - the Indigenous status of the women subjected to the strip searches;
 - the number of items of contraband located as a result of the searches; and
 - the nature of those items.

This request includes records required to be kept under section 110 of the Act.

- Any documents that provide guidance on the conduct of strip searches of women prisoners at AMC including, without limitation, instructions, manuals, guidelines, policies and directives.

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 10 documents containing information within the scope of your access application. These are outlined in the *Schedule of documents*.

I have decided to:

- grant full access to four documents
- grant partial access to three documents
- refuse access to three 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 Your personal contact details will not be published.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/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 in 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

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

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 or phone 6207 2167.

Yours sincerely



Ray Johnson APM
Commissioner
ACT Corrective Services

27 May 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
- consultations with JACS officers
- *Corrections Management Act 2007*
- *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 some 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—
- (g) prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety.

2.2 Factors favouring nondisclosure in the public interest

- (a) disclosure of the information could reasonably be expected to do any of the following:
- (iii) prejudice security, law enforcement or public safety;
 - (vi) prejudice the security or good order of a correctional centre.

I have decided to refuse access to three restricted policies and procedures under the above provisions. The provisions apply to information excluded from publication by the Chief Executive under section 15(1) of the *Corrections Management Act 2007* as the Chief Executive believes, on reasonable grounds, that the material would be likely to disclose information that may endanger public safety or undermine justice, security or good order at a correctional centre.

I have decided to grant partial access to two training documents with redactions made to information which is extracted from these restricted policies and procedures.

2.2. Public interest test

I have assessed the remaining 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:
 - (iii) inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community.

I have decided to grant full access to four documents as the information is in the public interest to disclose.

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*.

I have decided to grant partial access to the strip search register. Minor redactions have been made personal information to protect an individual's right to privacy under the *Human Rights Act 2004*.

3. Summary of my decision

In conclusion, I have decided to:

- grant full access to four documents
- grant partial access to three documents
- refuse access to three documents