



Department of Communities and Justice | Legal  
Locked Bag 5000  
PARRAMATTA NSW 2124  
Tel 02 8346 1526  
[www.dcj.nsw.gov.au](http://www.dcj.nsw.gov.au)

19 July 2022

[REDACTED]  
**Your Ref:** [REDACTED]

**Our Ref:** GIPA23/[REDACTED]

**Re:** [REDACTED]

By email only to: [REDACTED]

Dear [REDACTED]

### **Your access application**

I refer to your formal access application on behalf of your client, received by the Department of Communities and Justice on 6 February 2023, under the *Government Information (Public Access) Act 2009* (GIPA Act).

On 4 April 2022 you consented to the scope of your access application being limited to the following:

1. Policies and procedures with respect to the searching of detainees including but not limited to, strip searches and/or cavity searches and/or body searches in New South Wales and at Worimi Juvenile Justice Centre in New South Wales from 1992 to 1995; and
2. Policies and procedures with respect to placating non-compliant and violent juvenile inmates in practice in New South Wales at Worimi Juvenile Justice Centre in New South Wales from 1992 to 1995.

### **Searches**

Under section 53 of the GIPA Act, the Department must undertake reasonable searches as may be necessary to find any of the government information applied for that was held by the Department when the application was received, using the most efficient means reasonably available to the Department.

Youth Justice NSW ('YJ') carried out searches for any information falling within the scope of your application, however, please be advised that YJ was unable to locate any policies as detailed in item 2 of your scope. Accordingly, it has been determined that this item of your scope is not held by the Department.

I consider that reasonable searches have been undertaken in response to the application, in accordance with section 53 of the GIPA Act. Based on the information available to me, I am satisfied that all records that exist in relation to the scope of your application have been identified and provided to me for consideration.

### **Decision**

I am authorised by the principal officer, for the purposes of section 9(3) of the GIPA Act to decide your access application.

I have decided:

- Under section 58(1)(a) of the GIPA Act to grant you full access to the information held by the Department; and
- Under section 58(1)(b) of the GIPA Act that some of the information you have requested is not held by the Department.

These are reviewable decisions under section 80(d) and (e) of the GIPA Act.

### **Reasons for Decision**

An applicant has a legally enforceable right to access the information requested, unless there is an overriding public interest against disclosing the information (section 9(1) of the GIPA Act). The public interest balancing test for determining whether there is an overriding public interest against disclosure is set out in section 13 of the GIPA Act.

I have made my decision in accordance with section 13 of the GIPA Act by:

- Identifying any public interest considerations in favour of disclosure;
- Identifying any relevant public interest considerations against disclosure;
- Attributing weight to each consideration for and against disclosure; and
- Determining whether the balance of the public interest lies in favour of or against disclosure of the government information.

### **Public interest considerations in favour of disclosure**

Section 12(1) of the GIPA Act sets out a general public interest in favour of disclosing government information, which must always be weighed in the application of the public interest test.

I find the following considerations in favour of disclosure are relevant to your application:

- There is a general presumption in favour of the release of government information;
- Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance;

- Disclosure of the information could reasonably be expected to inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public;
- Disclosure of the information could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision; and
- Disclosure of the information could reasonably be expected to contribute to the administration of justice generally, including procedural fairness.

### **Public interest considerations against disclosure**

When applying the public interest test, the only public interest considerations against disclosure that I can take into account are those set out in the table to section 14 of the GIPA Act.

I did not identify any public interest considerations against disclosure as being relevant to your application.

### **Balancing the public interest considerations**

Having weighed up the considerations in favour of release, and in the absence of any public interest considerations against disclosure, I have decided to grant you full access to the information you have requested. Copies of the records are enclosed.

### **Disclosure log**

I have assessed that the information released in response to your formal access application is information that may be of interest to other members of the public.

I note that you provided consent on your application form to the details of your application being recorded in the disclosure log. Accordingly, the information in response to your application will be included in the Department's disclosure log.

### **Review rights**

If you disagree with my decision, you may apply for this decision to be reviewed by seeking:

- An internal review by another officer of this agency, who is no less senior than me;
- An external review by the NSW Information Commissioner; or
- An external review by the NSW Civil and Administrative Tribunal (NCAT)

You have 20 working days from the date of this letter to apply for an internal review and 40 working days to apply for an external review by the NSW Information Commissioner or the NCAT.

Please find enclosed a document outlining your review rights under the GIPA Act.

I can be emailed at [infoandprivacy@justice.nsw.gov.au](mailto:infoandprivacy@justice.nsw.gov.au) if you have any questions about my decision.

Yours sincerely,

*Lucy*

**Open Government, Information and Privacy  
Department of Communities and Justice**

PROCEDURES FOR SEARCHING DETAINEES  
IN A JUVENILE JUSTICE CENTRE

LEGISLATIVE BASE

*Children (Detention Centres) Act, 1987, Regulation 37 (3)(a): An Officer may have recourse to force for the following purposes or in the following circumstances: (a) to search, where necessary, a detainee or to take possession of a dangerous or harmful article.*

*Children (Detention Centres) Act, 1987, Regulation 26 (1): If, in the opinion of the Superintendent, the security, safety or good order of the detention centre is likely to be adversely affected by the delivery to or the despatch from a detainee of any letter or parcel (other than a letter or parcel referred to in clause 27), that letter or parcel may be opened and inspected by the Superintendent or an officer authorised by him or her for that purpose.*

*Children (Detention Centres) Act, 1987, Regulation 14: A record shall be kept by the Superintendent, in a manner approved by the Director-General, of any property of a detainee -*

- (a) surrendered to, or taken and retained by, the Superintendent;*
- (b) sent away by the Superintendent;*
- (c) forfeited to the Crown;*
- (d) disposed of by the Superintendent;*
- (e) destroyed by the Superintendent;*
- (f) transferred by the Superintendent to the custody of the Superintendent of some other detention centre;*
- (g) allowed to be retained by the detainee; or*
- (h) returned to the detainee on discharge.*



### POLICY STATEMENT:

Searches are a necessary aspect of maintaining safety, security and good order of a Juvenile Justice Centre.

The necessity to conduct searches is not conducive to staff/detainee relationships and except in emergency situations, searches may only be conducted when directed by the Superintendent, Manager Juvenile Transport or Operations Manager.

Superintendents or Operations Managers are to direct staff to carry out a search on a detainee whenever they have evidence to believe that the detainee has in his/her possession any dangerous or harmful article.

Except in emergency situations all searches are to be conducted under the supervision of a senior officer. They must be conducted with due regard to privacy and decency.

All searches of persons are to be conducted by a staff member of the same sex.

Superintendents are to ensure that staff are given training in how to conduct searches.

Searches must never be used as an harassment.

The provisions for conducting searches relating to detainees are to be detailed in the "Detainees Handbook" or document in accordance with the Children (Detention Centres) Act, 1987 Regulations 5 (3).

The provisions for conducting searches relating to visitors of detainees are to be detailed in the information letter sent to parents when the detainee is admitted and published on a noticeboard or place readily visible to all visitors.

### DEFINITIONS:

#### CONTRABAND:

As defined in the Children (Detention Centres) Act, 1987, Regulations including any item not authorised by the Superintendent under Regulations 10 and 11; or any item given to a detainee under Regulation 23 (1) or Schedule 1, Part 1, 9 and Part 2, 6.

#### EMERGENCY SITUATION:

Where there is an imminent threat to the security, safety or good order of the Juvenile Justice Centre.

**SENIOR OFFICER:**

An officer who is at least one position above the position of the person conducting the search or a person placed in a supervisory position.

**VISITOR:**

Any person who presents himself/herself at a Juvenile Justice Centre with the intention of entering that Juvenile Justice Centre.

**1. STRIP SEARCHES**

Strip searches must be conducted in the following circumstances:

- 1.1 on admission to a Juvenile Justice Centre unless being transferred from another Juvenile Justice Unit; and
- 1.2 where there is evidence to suspect that a detainee has contraband items in his/her possession that would not necessarily be detected through a body search.

Strip searches may be conducted in the following circumstances:-

- 1.3 when being placed in confinement;
- 1.4 where a detainee has had contact with the community or other detainees in situations where it is possible for contraband to be obtained.

**2. BODY SEARCHES**

Body searches may be conducted in the following circumstances:-

- 2.1 on admission to a Juvenile Justice Centre;
- 2.2 on return from unsupervised leave;
- 2.3 on return from situations outside and from within the Juvenile Justice Centre where contraband is accessible and likely to have been obtained by the detainee;
- 2.4 when being placed in confinement or segregation;



2.5 where a detainee is suspected of having contraband items in their possession.

### 3. ROOM AND LOCKER SEARCHES

Room and/or locker searches may be conducted in the following circumstances:-

- 3.1 on suspicion of a detainee having contraband items;
- 3.2 as a formal routine;
- 3.3 randomly.

### 4. VISITORS POSSESSIONS

Visitors may be asked to submit for checking, property that they intend bringing into a Juvenile Justice Centre. Such searches may only be conducted with the consent of the visitor.

Permission to bring property into the Juvenile Justice Centre may be refused if there are grounds to suspect that contraband is being brought into the Centre.

### 5. LETTERS AND PARCELS

- 5.1 detainees may receive letters or parcels from any person who is not a detainee;
- 5.2 detainees may receive letters or parcels from a person who is a detainee/prisoner or another Juvenile Justice Centre/Prison only with the consent of the Superintendents of both Juvenile Justice Centres/Prisons;
- 5.3 under the Children (Detention Centres) Act, 1987, Regulation 26 (1) the Superintendent may authorise that a parcel or letter may be opened and inspected;
- 5.4 under the Children (Detention Centres) Act, 1987, Regulation 26 (2) if a letter or parcel is found to contain contraband, or is likely to affect the security, safety or good order of the Juvenile Justice Centre, the Superintendent may take possession of the letter or parcel and its contents and may deal with them accordingly;



- 5.5 if possession is taken of a letter, parcel or their contents, the detainee is to be given notice of that fact.

### PROCEDURE FOR SEARCHING:

#### 1.5 Procedure for conducting strip searches

- (a) Approval must be sought to conduct strip search.
- (b) Strip searches must be conducted in a private place in the presence of a senior officer;
- (c) At no stage must the searching officer touch the detainee and for safety reasons should remain beyond the reach of the detainee;
- (d) all clothing is to be removed for searching;
- (e) The detainee is to be asked to raise his/her arms so that it is possible to check the entire body including arm pits, hands, between the toes, soles of the feet and inner portions of the legs.
- (f) All articles of clothing should be searched including collars, cuffs, lapels, seams, lining and potential hiding places. Shoes should be thoroughly examined for split soles, false linings and removable inner soles or heels. These are to be searched in the presence of the detainee.

#### 2.6 Procedure for conducting body searches

- (a) Unless part of a standard, documented routine or unless in an emergency, approval must be sought to conduct a body search.
- (b) A senior officer must be present.
- (c) The detainee is to remove all articles from his/her pockets and remove his/her shoes, socks, jacket, cardigan and coat. The detainee is to turn pocket lining outward. These articles are to be searched in the presence of the detainee.
- (d) Starting at the back of the collar, staff are to ensure that nothing is inside or under the collar. With one hand on either side of the right shoulder and under the armpit they are to move hand down entire length of arms to the shirt sleeve (repeat for other arm).

- (e) Checks are to be made under the arms, behind the neck, covering the shoulders and down the back and sides to the belt line. The belt line all pockets and chest area are to be searched.
- (g) The search must include the back leg to the waist line, down the back and sides of the legs to the hemline, and the trouser turnups if applicable.

#### 3.4 Procedure for conducting searches of clothing, lockers and rooms

- (a) Unless part of a standard, documented routine approval must be sought to conduct a search.
- (b) A senior officer must be present.
- (c) Except in an emergency situation the owner must be present throughout the search.
- (d) For safety reasons bare hands should not be used to probe seams or any bulky areas. Seams, linings of pockets or bulky areas should be searched by placing them on a stable base and running a pen or ruler.
- (e) When searching footwear, staff should not place their hands inside the footwear, they should use a pen to lift innersoles, then knock the shoes together firmly to dislodge any articles that could be concealed inside.

#### 4.1 Procedure for searching visitors possessions

- (a) Unless part of a standard, documented routine or an emergency, approval must be sought to conduct a search.
- (b) A senior officer must be present.
- (c) Request approval from visitor to search bags, etc.
- (d) If the request is denied, the owner is to be supplied with a tag or some means to label their possessions and the property secured for them to collect at the completion of the visit.
- (e) If the request is granted the possessions should be checked as per 3.4 (c), (d) and (e).



- (f) If the possessions contain contraband or any item that is likely to adversely affect the security, safety or good order of the Juvenile Justice Centre, they should be labelled with the owner's name, secured and returned to the owner at the completion of the visit or dealt with under Section 37B of the Children (Detention Centres) Act, 1987 or Regulation 23 (1).

5.1 Procedure for searching letters and parcels

- (a) All letters and parcels are to be opened by the detainee in the presence of a staff member.
- (b) All items are to be recorded and dealt with in accordance with the Children (Detention Centres) Act, 1987, Regulation 14.
- (c) If letters or parcels are opened under Regulation 26.(1) of the Children (Detention Centres) Act, 1987, it is not necessary for the detainee to be present.
- (d) Items taken in possession under Regulation 26 are to be dealt with in accordance with Regulation 14.
- (e) Where letters or parcels have been opened and inspected under Regulation 26, the detainee is to be advised of that fact.

IAN GRAHAM  
DIRECTOR GENERAL