



ACT

Government

Community Services

s41 FOI Act

Dear s41 FOI Act

I refer to your application under the ACT *Freedom of Information Act 1989* (the FOI Act), received by the Directorate on 8 May 2014, in which you sought access to the following information:

"...information relating to the number and nature of drug overdoses at the Bimberi Youth Justice Centre in 2012, 2013 and 2014. The information could include incident reports and other documents which show a breakdown of the drug/s involved, what action was taken by staff in response and the outcome of the incident."

I am the officer authorised under section 22 of the Act to make a decision in relation to your request.

Reasons for Decision

Please note that the Directorate has used the definition of a 'drug overdose' as the accidental or intentional use of a drug or medicine in an amount that is higher than is normally used or prescribed. In line with this, I can advise that the Directorate has five incident reports involving the overdose of prescribed medication at the Bimberi Youth Justice Centre.

I consider the information contained in these reports to be personal information of a small number of young people engaged in the Youth Justice system who have been subject to Children's Court Proceedings. It is my view that it would be possible for the individual's identities to be worked out if the contents of the reports were disclosed.

The FOI Act allows for exemptions to be made in circumstances where the protection of certain matters is necessary. In this case the protection of personal privacy and the application of secrecy provisions are required through section 41 and 38 of the FOI Act.

Section 41 Documents affecting personal privacy

Exemption under section 41 of the FOI Act has been made where information contained within the documents may identify the young people involved. I believe to

release this information to you would constitute an unreasonable disclosure of the personal information of the young people involved.

Section 38 Documents to which secrecy provisions of enactments apply

Section 38 of the FOI Act allows for the restriction of access to certain documents if it has been determined that secrecy provisions apply. The reports contain a substantial quantity of personal information of young people and their information is subject to the secrecy provisions of the *Children and Young People Act 2008* (CYP Act) and the *Criminal Code 2002* (Criminal Code).

Personal information concerning the young people noted in the reports is protected information under the CYP Act and is prohibited from release by section 846 of the CYP Act. Section 846 prohibits an information holder, in this case the Community Services Directorate, from disclosing protected information. Protected information, defined at section 844, includes all information about the young people at Bimberi Youth Justice Centre. Under the CYP Act protected information may only be disclosed for a purpose under that Act or if required by another law.

Section 712A of the *Criminal Code 2002*, prohibits the publication of information which may identify a young person who has been subject to Children's Court proceedings. In reviewing these reports I have formed the view that the release of these reports has the potential to identify the young persons concerned.

Review Rights

My decision is appealable under the FOI Act. This means that if you are dissatisfied with this outcome you have a right to seek a review under Section 59 of the FOI Act. If you wish to pursue this course you should write to:

Executive Director
Policy and Organisational Services
Community Services Directorate
GPO Box 158
CANBERRA ACT 2601

You have 28 days from the receipt of this letter to seek a review of the outcome or such other period as the Executive Director permits.

You also have the right to approach the Ombudsman about processing of your request. If you wish to do this you should write to:

ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Online FOI Policy

Please be aware that under the ACT Government's online FOI Publication Policy, information released to FOI applicants may be released on the internet. This application is one that will be uploaded on to this publication website. Please note your name and details will be redacted.

A copy of the relevant policy, with details about what information may be published on the internet, is available online at: www.cmd.act.gov.au/open_government

Please contact Ms Jessica Gotovac, Senior Freedom of Information Officer, on 6207 6547 if you have any queries in relation to this request.

Yours sincerely



Dr Mark Collis
Executive Director
Office for Children, Youth and Family Support

4 June 2014

Freedom of Information Request – [REDACTED]

Folio no	Date	Document	Status	Reason for Exemption
1	13/05/12	Incident report	Exempt in full	s38 & s41, FOI Act 1989, s846, CYP Act 2008 & s712A, Criminal Code 2002
2	3/12/12	Incident report	Exempt in full	s38 & s41, FOI Act 1989, s846, CYP Act 2008 & s712A, Criminal Code 2002
3	6/12/12	Incident report	Exempt in full	s38 & s41, FOI Act 1989, s846, CYP Act 2008 & s712A, Criminal Code 2002
4	25/03/13	Incident report	Exempt in full	s38 & s41, FOI Act 1989, s846, CYP Act 2008 & s712A, Criminal Code 2002
5	3/11/13	Incident report	Exempt in full	s38 & s41, FOI Act 1989, s846, CYP Act 2008 & s712A, Criminal Code 2002