

## Custodial Operations Policy and Procedures

# 22.3 Government Information (Public Access) Act 2009

### Policy summary

The NSW Government demonstrates its commitment to open, accountable and responsible government through the Government Information (Public Access) Act 2009 (GIPA Act).

The aim of this policy is to assist all Corrective Services NSW (CSNSW) staff to understand the spirit and intent of the GIPA Act and to answer any general questions inmates or others may have.

This policy will also provide guidance to officers who are involved in the processing of applications under the GIPA Act.

### Management of Public Correctional Centres Service Specifications

Service specification	Professionalism and accountability
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## Scope

This section applies to all correctional centres and other facilities administered by or on behalf of CSNSW.

It also applies to all CSNSW employees, and where relevant to other personnel such as Justice Health and Forensic Mental Health Network (JH&FMHN), contractors, subcontractors and visitors.

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# 1 Government Information (Public Access) Act 2009

## 1.1 Policy

The GIPA Act provides:

- that all Government information is to be released unless there is an overriding public interest against disclosure;
- for an open and transparent process for giving the public access to government information from New South Wales (NSW) public sector agencies; and
- encourages the routine and proactive public release of government information.

Members of the public, including inmates, have a legally enforceable right to access information held by the Department of Communities & Justice (DCJ) under the GIPA Act, unless there is an overriding public interest against disclosure. This means many records held by CSNSW can be made available to the public.

The Secretary, DCJ has authorised each officer in the Open Government, Information and Privacy Unit (OGIP) of Department of Communities & Justice Legal (DCJ Legal) to decide formal access applications under the *GIPA Act* on behalf of CSNSW.

## 1.2 CSNSW obligations under the GIPA Act

- Complete reasonable searches for the documents/information requested and complete the certification document
- Timeliness: Provide the relevant records requested by OGIP within **five working days**
- Documents **must** be provided as a full digital **copy (not hard copy)** of the original in clear, full and un-redacted form
- Originals should not be provided due to the risk of loss
- Advise OGIP immediately if sourcing the documents would be an unreasonable diversion of CSNSW resources (more than 5 hours) or if there are delays in locating/retrieving the records.
- Provide clear reasons to OGIP regarding any objections to release of the documents or background to the contents of the documents.

Further information on how CSNSW shares, releases and protects information that is generated by the Department and information that is provided by other sources is available on the GIPPA, privacy and copyright policies and procedures CSNSW intranet page, and at [www.correctiveservices.justice.nsw.gov.au](http://www.correctiveservices.justice.nsw.gov.au).

## 1.3 Role of the OGIP and DCJ Legal

The OGIP facilitates compliance with obligations under the *GIPA Act* and the *Privacy and Personal Information Protection Act 1998 (NSW)* (PIPP Act) and ensures compliance when responding to subpoena and other statutory orders for the provision of information to courts and tribunals.

The OGIP is located on Level 4, Henry Deane Building, 20 Lee St, Sydney and may be emailed at [infoandprivacy@dcj.nsw.gov.au](mailto:infoandprivacy@dcj.nsw.gov.au). Further contact details for staff in the unit, can also be found in the *Department of Communities & Justice: access application form*. Further information is also available in fact sheets and other sources on the [OGIP intranet site](#).

## 1.4 Correctional centre obligations

Each correctional centre has a dedicated email inbox list CSNSW shared mailbox list for receipt of GIPA search requests and subpoenas/statutory orders from the OGIP.

The Governor must nominate at least one primary and two (2) secondary officers responsible for monitoring the inbox each day for any search requests from the OGIP.

On receipt of an email search request from the OGIP, the primary officer must allocate a responsible officer to conduct the search request and provide the documents to the OGIP. OGIP will include a read receipt on each email sent to the centre indicating when the email was opened.

The read receipt will notify OGIP of receipt of the request. There is no need to acknowledge the email.

Relevant records requested by OGIP must be provided within five (5) working days following completion of the request (unless there is an agreed extension). Records and correspondence relevant to a GIPA application for attention of the OGIP should be sent to [infoandprivacy@dcj.nsw.gov.au](mailto:infoandprivacy@dcj.nsw.gov.au)

The time sheet and GIPA certification provided with the search request must be completed and signed-off by a senior officer (Manager of Security, or the Governor).

If the search request is anticipated to take longer than five (5) days, the allocated officer must inform the OGIP at the earliest possible time given the strict timeframes given under the GIPA Act.

## 1.5 Primary officer role

The Primary Officer is responsible for:

- daily management of email inbox requests;
- allocating a responsible officer (Allocated Officer) to action the request;
- acknowledging receipt of a search request and providing the name of the allocated officer on the same day or the following day of receiving the request; and
- following up with the allocating officer on completion of the request or when further enquiries are received regarding the request

## 1.6 Secondary officer role

When the Primary Officer is absent the Secondary Officer must take on the roles and responsibilities of the Primary Officer role.

Secondary Officers should also provide a handover with the Primary Officer upon the return of the Primary Officer.

## 1.7 Allocated officer role

The allocated officer must:

- inform the OGIP at the earliest possible time if the search request is anticipated to take longer than five (5) days or the request cannot be fulfilled
- conduct a reasonable search for the records requested and copy all relevant documents and provide full and un-redacted electronic copies wherever possible to OGIP.
- submit requested documents in the specified or agreed time frame.
- notify the OGIP where searching and collating records is anticipated to take in excess of 5 hours. If so, the Allocated officer is to provide an estimate of time to search and collate to OGIP before undertaking any further work. This is because OGIP may be able to refine the scope with the applicant.

## 2 Mandatory proactive release and proactive release

### 2.1 Mandatory proactive release

Agencies **must** publish certain “open access information” on their website, free of charge unless there is an overriding public interest against disclosure under sections 6 and 18 of *GIPA Act*.

### 2.2 Proactive release

CSNSW is **encouraged** to proactively release as much government information as possible, in an appropriate manner and free of charge (or at the lowest reasonable cost) under Sections 7 of *GIPA Act*.

CSNSW, in consultation with OGIP, is required to regularly review and identify the kinds of information held that is in the public interest to voluntarily be made publicly available. Information which is frequently requested informally should also be considered for authorised proactive release. Information containing personal information should not be proactively released. Policies, procedures, guidelines and statistics are ideal for proactive release.

## 3 Informal release

### 3.1 Policy

CSNSW may release information informally to an applicant except where there is an overriding public interest against disclosure (e.g. information that contains personal information about a third party (another person) and or other security or sensitive information should not be released informally).

CSNSW is encouraged to release information in response to a request without the need for a formal *GIPA* access application under Section 8 of *GIPA Act*, unless there is an overriding public interest against disclosure.

## 3.2 procedures

	Procedure	Responsibility
1.	Issue an <i>Inmate request form</i> to the inmate to access records by way of informal release.	Authorised officer/ OIC (Wing/Unit)
2.	Approve or not approve <i>Inmate request form</i> for access to records by way of informal release.	Governor/ Manager of Security (MOS) in charge of a correctional centre
3.	Review requested records. Remove all third-party, sensitive or security related information. Provide a copy of the record requested to the inmate, if approved by the Governor/MOS in charge of a correctional centre.	Functional Manager (FM)
4.	If request is not approved by the Governor/ MOS in charge of a correctional centre, advise the inmate they can submit a formal access application by completing the <i>GIPAA access information form</i> under the GIPA Act.	FM

## 4 Formal access application

### 4.1 Policy

In **limited circumstances**, access to information will require a formal application which can be made by completing a *GIPAA access information form*.

People have a right to access information informally unless the GIPA Act provides a reason not to release the information under Section 9 of the GIPA Act.

Making a formal application under the GIPA Act should be the last resort for an applicant.

Formal applications are required only where it is necessary to consult (where information relates to a third party or another agency), where the information requested contains the personal information of other persons or the information is of a sensitive/confidential nature or where the scope of the request is too large and significant resources are required to address the application.

Formal access applications for CSNSW, Serious Offenders Review Council (SORC) and State Parole Authority (SPA) records under the GIPA Act must comply with the following:



- be in writing clearly indicating it is an access application made under the GIPA Act. The *Department of Justice: access application form* may be used.
- be accompanied by an application fee of \$30 (a fee reduction to \$15 may apply where proof of financial hardship can be established)
- state a postal address for correspondence in connection with the application
- contain specific information (including specific record type/ and a valid date range e.g. 1 January – 31 January 2017 to enable the Department to identify the records the applicant is seeking access to).

If the applicant is unable to clearly identify the information required, the Act requires the Department to provide reasonable assistance to the applicant to enable him/her to do so.

For further information about access to Department of Communities & Justice information, including the Department of Communities & Justice formal access application form, see website:

<https://www.justice.nsw.gov.au/contact-us/access-to-information>

An applicant Fact Sheet titled “What kinds of records are held by Corrective Services NSW” is available on the CSNSW intranet.

## 4.2 Procedures for formal access application

	Procedure	Responsibility
1.	Issue inmate with a <i>GIPAA access information form</i> and an Inmate payment form general purchases	Wing Officer / Senior Correctional Officer (SCO)
2.	Send completed Department of Communities & Justice <i>GIPAA access information form</i> to the: Open Government Information and Privacy Unit, Legal NSW Department of Communities & Justice GPO Box 6 SYDNEY NSW 2001 or scan and email to: <a href="mailto:infoandprivacy@dcj.nsw.gov.au">infoandprivacy@dcj.nsw.gov.au</a>	FM
3.	Record the request and outcome in an OIMS <i>Case Note</i> .	FM



### 4.3 Provision of records to an inmate in response to a formal access application

	Procedure	Responsibility
1.	Send <i>GIPAA access information form</i> , with attachments GIPA certification and time sheet and the <i>GIPA Instruction Guide</i> , to Governor / MOS in charge of a correctional centre of current / last correctional centre inmate housed.	OGIP
2.	Search for and collate copy of requested records.	Governor / MOS in charge of a correctional centre/ delegated officer
3.	Review the documents within scope to identify and highlight any record that contains intelligence information or if there are any other objections or concerns about release. If record contains intelligence information, contact the OGIP Unit immediately.	Governor / MOS in charge of a correctional centre
4.	If intelligence information is located, consult with CIG to determine whether there are public interest considerations against the disclosure of the information and provide advice received to the Governor/MOS in charge of a correctional centre.	OGIP Unit
5.	Complete the GIPA certification, complete the time sheet, and email records that have been located to the OGIP within five working days of receiving the request. Email them to: <a href="mailto:infoandprivacy@dcj.nsw.gov.au">infoandprivacy@dcj.nsw.gov.au</a> , or send to: GPO Box 6, Sydney NSW 2001.  Contact the OGIP Unit immediately if the five day deadline cannot be met. There is no need to post a copy of records sent via email.	Governor / MOS in charge of a correctional centre

### 4.4 Access to and release of CSNSW information

A legal or statutory reason must exist before CSNSW can access and/or release information. Requests for access to personal information can be made as per the below procedures.

Informal release directly from the correctional centre is encouraged in accordance with the GIPA Act in the circumstances where the applicant seeks access to their own personal information only and the information released does not contain any third-party, sensitive or security information.

If the information subject to release contains ant third-party, sensitive or security information, the applicant should be encouraged to apply for access via a formal access application under the GIPA Act.

Applications can also be made under the PPIP Act or the *Health Records and Personal Information Act 2002* by an inmate for their own personal or health information or on the issuing of a subpoena, summons or statutory notice/order for the production of documents. Sometimes an applicant may apply for information under one or more methods.

#### **4.5 Inmate access to information held by CSNSW**

Inmates must not view or access information directly from OIMS, Electronic Documents and Records Management System (EDRMS) or any other record held by CSNSW.

Inmates should be encouraged to make an informal access application for their own personal information. An application for informal release of information can be made by the inmate at the correctional centre, using the correctional centre's application process.

Authorised CSNSW staff may respond to informal requests by inmates for their own personal information (e.g; a list of courses or programs; work programs; OIMS *Convictions, Sentences and Appeals Report*, Buy-up docket, property docket).

Information / records are to be reviewed, removing any third-party, sensitive or security information, prior to a copy being provided to the inmate.

Release of the information to the inmate must be approved by the Governor or Manager of Security in charge of a correctional centre if it may:

- prejudice the security, discipline or good order of the correctional centre
- endanger or prejudice any system or procedure for protecting the life, health or safety of any person
- prejudice the supervision of, facilitate the escape of any person from lawful custody, include the personal information of other persons or where there are other public interest reasons against providing the information informally.

If the Governor or MOS in charge of a correctional centre decides the information contained in the requested records is not appropriate for informal release because of any of these reasons, the Governor or Manager of Security in charge of a correctional centre should recommend access to the information requested be made by way of formal access application.

A formal access application should be encouraged only where the inmate is seeking information that contains the personal information of other persons or their file contains other security or sensitive information, (e.g. a case note may contain information about another inmate or other sensitive information recorded by a CSNSW staff member).

An application for formal release of information can be made by the inmate at the correctional centre by completing the *GIPAA access information form* and an Inmate payment form general Purchases to cover the application fee and processing charges.

Where there is uncertainty about whether the information / records requested can be released informally or whether a formal access application is required, contact is to be made with OGIP for advice on 02 8346 1526 or by email to [infoandprivacy@dcj.nsw.gov.au](mailto:infoandprivacy@dcj.nsw.gov.au)

## 4.6 Formal access requests by inmates for records

In response to a formal access application received at the OGIP Unit, the application will be forwarded to the dedicated email inbox for the correctional centre where the inmate is currently housed or was last previously housed to locate the records.

As noted above at 1.4, there is a deadline of five (5) working days from the date the request is sent to the Correctional Centre by OGIP. If there is difficulty meeting the deadline, the Primary Officer (or Secondary Officer) must advise OGIP immediately.

Each search request will be sent with the following attachments:

- GIPA certification and time sheet
- The *GIPA Guide – What to do if I receive a GIPA request*

The time sheet provided with the GIPA certification must be accurately completed as it will allow processing charges to be correctly calculated for the time spent by all staff dealing with the application.

## 5 Quick links

- [Related COPP](#)
- [Forms and annexures](#)
- [Related documents](#)

## 6 Definitions

Authorised Officer	The officer authorised by the Governor to perform the functions set out in this part of the operations procedures manual
COPP	Custodial Operations Policy and Procedures
CSNSW	Corrective Services NSW
DCJ	Department of Communities & Justice
DCJ Legal	NSW Department of Communities & Justice Legal (formerly known as Office of the General Counsel (OGC))
Delegated officer	Any officer who occupies or acts in the following positions which the Governor has delegated certain Governor’s functions to deal with correctional centre offences: <ul style="list-style-type: none"> <li>• Manager of Security</li> <li>• Functional Manager.</li> </ul>
EDRMS	Electronic Documents and Records Management System
GIPA Act	Government Information (Public Access) Act 2009

Government information	Information contained in a record held by an agency
MOS	Manager of security
OGIP	The Department of Communities & Justice Legal and the Open Government, Information and Privacy Unit
OIMS	Offender Integrated Management System
Open Access Information	<ul style="list-style-type: none"> <li>the agency's current Information Guide which includes information about a Department's structure, functions and lists kinds of information that will be made publicly available</li> <li>Policies and procedures concerning how decisions are made and services provided</li> <li>Register of Government Contracts valued at \$150,000 or more</li> </ul> <p>The COPP is an example of the type of document that can be made publicly available (appropriately redacted to remove information for which there is an overriding public interest against disclosure)</p>
PPIP Act	<i>Privacy and Personal Information Protection Act 1998</i>
Proactive Release	The Inmate Info Portal is an example of information proactively released.
Record	Any document or other source of information compiled, recorded or stored in written form or by electronic process, or in any other manner or by any other mean. e.g. case notes, emails on departmental email accounts, notebooks, text messages sent from or received on departmental mobile phones etc.
SCO	Senior Correctional Officer
SORC	Serious Offenders Review Council
SPA	State Parole Authority
The Department	Department of Communities & Justice

## 7 Document information

<b>Business centre:</b>	Custodial Operations	
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