



Our Ref: 24/[REDACTED]
[GIPA24 [REDACTED]]
Your Ref: [REDACTED]

29 February 2024



By email to: [REDACTED]

Dear [REDACTED]

Notice of decision under the *Government Information (Public Access) Act 2009*

I refer to your access application under the *Government Information (Public Access) Act 2009* ('**GIPA Act**') lodged with the Department of Communities and Justice ('**DCJ**') on 11 January 2024. A copy of the application is **enclosed** for your reference.

Summary of application

Your application originally sought access to the following information:

1. The total numbers of those convicted of Domestic Violence offences – both custodial and non-custodial broken down by gender/ethnicity – for each year during the period 2018-2023.
2. For both (i) Intensive Corrections Orders and (ii) the Domestic Violence Programme we would like to know the following:
 - a) The criteria for someone being sentenced to either programme
 - b) How many people - broken down by gender/ethnicity – were sentenced to each programme for each year during the period 2018-2023.

On 12 January 2024, you provided additional context to the information sought at Items 2(ii)(a) and (b) via telephone. DCJ acknowledged that your application was a valid access application that was required to be decided on or before 9 February 2024.

On 30 January 2024, DCJ decided to require payment of an advance deposit of processing charges by 27 February 2024. The decision period stopped in accordance with s 68(2) of the GIPA Act pending payment of the advance deposit.

On 12 February 2024, the advance deposit was paid. The decision period recommenced on that date, with the time for deciding your application revised to 22 February 2024.

On 20 February 2024, an extension of the decision period to 29 February 2024 was agreed between you and DCJ under s 57(4) of the GIPA Act.

On 27 February 2024, the scope of your application was amended as follows:

For each year within the period 1 July 2018 to 30 June 2023:

- Number of proven court appearances in the NSW Local Court where the principal offence was domestic violence-related, subdivided by penalty, gender, and Aboriginality.
- Number of proven court appearances in the NSW Local Court where the principal offence was domestic violence-related with an Intensive Corrections Order imposed, subdivided by gender and Aboriginality.
- Number of criminal cases finalised, and number of sentences imposed (subdivided by gender), in the Supreme Court of NSW where the matter is verified as relating to domestic and family violence.
- Total number of persons convicted to an Intensive Corrections Order (regardless of offence).
- Total number of episodes of completion of a domestic violence program while in the custody of Corrective Services NSW.

Decision

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

I have decided, under s 58(1)(a) of the GIPA Act, to provide access to the information requested in your access application (as amended on 27 February 2024). The reasons for my decision are set out below.

Searches for information

An agency must conduct such reasonable searches as may be necessary to locate any of the government information sought that the agency held when an access application was received, using the most efficient means reasonably available to the agency.¹

Searches of DCJ's records were conducted by the following business areas:

- NSW Bureau of Crime Statistics and Research ('**BOCSAR**'), Courts, Tribunals and Service Delivery Division.
- Supreme Court of NSW.
- Corrections Research, Evaluation and Statistics ('**CRES**'), Corrective Services NSW Division.

Decision to provide access to information

A person who makes an access application has a legally enforceable right to access the information requested unless there is an overriding public interest against its disclosure.²

¹ GIPA Act s 53(1)-(2).

² GIPA Act s 9(1).

Section 5 of the GIPA Act establishes a presumption in favour of the disclosure of government information unless there is an overriding public interest against disclosure of the information.

There is an “overriding public interest against disclosure” of government information if, and only if, there are public interest considerations against disclosure of the information and, on balance, those considerations outweigh any public interest considerations in favour of disclosure.³ This is known as the “public interest test”.

Section 12(1) of the GIPA Act sets out a general public interest in favour of disclosing government information. There are no limitations placed on any further considerations in favour of disclosure that may be taken into account.

I find that the following are relevant considerations in favour of disclosure, in addition to the statutory presumption and general public interest in favour of disclosure:

- Disclosure of the information could reasonably be expected to contribute to positive and informed debate on issues of public importance.
- Disclosure of the information could reasonably be expected to inform the public about trends in criminal sentencing practices, particularly with respect to domestic and family violence-related offending.

In the absence of any public interest considerations against disclosure of the requested information, the public interest is presumed to be in favour of disclosure. For that reason, I have decided to provide access to the requested information.

A decision to provide access to information is a reviewable decision under s 80(d) of the GIPA Act. Further information regarding your review rights is set out below.

Form of access

Access to the requested information is to be provided by giving you a copy of records containing the information, subject to the conditions set out below.

Processing charges

An agency may impose a processing charge at a rate of \$30 per hour for each hour of processing time spent dealing with an access application.⁴

The “processing time” for which a charge may be imposed is:

- ... the total amount of time that is necessary to be spent by any officer of the agency in —
- (a) dealing efficiently with the application (including consideration of the application, searching for records, consultation, decision-making and any other function exercised in connection with deciding the application), or
 - (b) providing access in response to the application (based on the lowest reasonable estimate of the time that will need to be spent in providing that access).⁵

³ GIPA Act s 13.

⁴ GIPA Act s 64(1).

⁵ GIPA Act s 64(2).

The application fee paid counts as payment toward any processing charge payable in connection with the application.⁶

I have decided to impose a processing charge of \$195.00 for 6.5 hours of time spent by DCJ processing your access application. Noting the application fee and advance deposit already paid, the outstanding balance to be settled is **\$86.25**.

The **enclosed** Table of Processing Charges provides a complete breakdown of the processing charges imposed.

Access to information granted in response to an access application may be made conditional on payment of any processing charge imposed.⁷ I impose this condition and advise that access will be provided on payment of the balance set out above.

Payment is accepted by:

- Electronic funds transfer ('EFT') to the following account:

Bank Account: Department of Communities and Justice

BSB: 032-001

Account Number: 169197

Note: Please provide an EFT receipt or remittance to infoandprivacy@dcj.nsw.gov.au if paying via EFT.

- Credit or debit card by contacting us at infoandprivacy@dcj.nsw.gov.au for a link to our online payment system.

A decision to impose a processing charge is a reviewable decision under s 80(j) of the GIPA Act. Further information regarding your review rights is set out below.

Access period

When an agency grants access to information in response to an access application, the applicant has six months to access the information, after which the applicant's entitlement lapses.⁸ The access period will end after **28 August 2024**.

The access period commences from the date of this notice of decision, even where access is conditional on payment of a processing charge.⁹ The balance set out above must be paid before the access period ends in order for access to the information to be provided.

Disclosure log

An agency must keep and publish a disclosure log of access applications made to the agency in response to which the agency has decided to provide access to some or all the requested information, if the agency considers that the information may be of interest to other members of the public.¹⁰

⁶ GIPA Act s 64(3).

⁷ GIPA Act s 64(4).

⁸ GIPA Act s 77(1), (4)

⁹ GIPA Act s 77(2).

¹⁰ GIPA Act ss 6, 18(d), 25.

You consented to the inclusion of details about your application in DCJ's disclosure log.

I consider that the information to which access has been granted may be of interest to other members of the public. I have decided for this reason that details of your application will be included on DCJ's disclosure log, available online at: <https://dcj.nsw.gov.au/about-us/gipa/disclosure-log.html>.

Please note that your personal information will not be included on DCJ's disclosure log.

The decision to include details about your application on DCJ's disclosure log is not reviewable as you did not object to the information being included.

Review rights

If you are aggrieved by a reviewable decision set out in this notice or the adequacy of the searches for information that have been conducted, you are entitled to seek a review under Part 5 of the GIPA Act. You may request:

- internal review by another officer of DCJ who is no less senior than me,
- external review by the Information Commissioner ("**Commissioner**"), or
- external administrative review by the NSW Civil and Administrative Tribunal ("**NCAT**").

If you wish to seek an internal review, you must apply in writing to DCJ within **20 working days** of this notice, by **28 March 2024**, and pay an internal review fee of \$40.00.

If you wish to seek an external review, you must apply to the Commissioner or the NCAT within **40 working days** of this notice, by **30 April 2024**.

A fact sheet published by the Information and Privacy Commission further outlining your review rights is **enclosed**.

Further information

If you have any questions or concerns, please contact me on 02 9716 2662 or by email at infoandprivacy@dcj.nsw.gov.au.

Yours sincerely



Jake Austin
Open Government, Information and Privacy Advisor
Open Government, Information and Privacy | Legal
Law Reform and Legal Services

Encl/s. (3)

Table 1. Number of proven court appearances in the NSW Local Court where the principal offence* was domestic violence^ related, by penalty, gender and Aboriginality

Principal penalty	Gender	Aboriginality	Jul 2018 - Jun 2019	Jul 2019 - Jun 2020	Jul 2020 - Jun 2021	Jul 2021 - Jun 2022	Jul 2022 - Jun 2023
Custody	Male	Aboriginal	954	1,008	1,218	1,146	1,337
		Non-Aboriginal	929	924	1,081	1,005	1,101
		Unknown	5	2	3	3	3
		Total	1,888	1,934	2,302	2,154	2,441
	Female	Aboriginal	69	72	65	88	76
		Non-Aboriginal	41	45	47	49	49
		Unknown					
		Total	110	117	112	137	125
	Total	Aboriginal	1,023	1,080	1,283	1,234	1,413
		Non-Aboriginal	970	969	1,128	1,054	1,150
Unknown		5	2	3	3	3	
Total		1,998	2,051	2,414	2,291	2,566	
Supervised Community Sentence	Male	Aboriginal	1,546	1,527	1,990	1,777	2,245
		Non-Aboriginal	3,518	3,400	3,967	3,285	4,175
		Unknown	29	31	42	33	23
		Total	5,093	4,958	5,999	5,095	6,443
	Female	Aboriginal	358	346	497	464	600
		Non-Aboriginal	601	574	663	626	697
		Unknown	12	11	17	11	6
		Total	971	931	1,177	1,101	1,303
	Total	Aboriginal	1,904	1,873	2,487	2,241	2,845
		Non-Aboriginal	4,119	3,974	4,630	3,911	4,872
Unknown		41	42	59	44	29	
Total		6,064	5,889	7,176	6,196	7,746	
Unsupervised Community Sentence	Male	Aboriginal	787	727	1,056	961	1,095
		Non-Aboriginal	3,700	3,105	4,238	3,819	4,604
		Unknown	80	77	156	132	67
		Total	4,567	3,909	5,450	4,912	5,766
	Female	Aboriginal	370	361	482	481	585
		Non-Aboriginal	1,161	1,071	1,436	1,397	1,811
		Unknown	48	65	94	85	47
		Total	1,579	1,497	2,012	1,963	2,443
	Total	Aboriginal	1,157	1,088	1,538	1,442	1,680
		Non-Aboriginal	4,861	4,176	5,674	5,216	6,415
Unknown		128	142	250	217	114	
Total		6,146	5,406	7,462	6,875	8,209	
Fine	Male	Aboriginal	305	384	670	828	717
		Non-Aboriginal	904	995	1,479	1,690	1,567
		Unknown	16	13	20	24	12
		Total	1,225	1,392	2,169	2,542	2,296
	Female	Aboriginal	115	155	351	324	331
		Non-Aboriginal	196	248	413	466	434
		Unknown	7	10	16	13	9
		Total	318	413	780	803	774
	Missing/Unknown	Aboriginal	0	0	0	1	0
		Total	0	0	0	1	0
Total	Aboriginal	420	539	1,021	1,153	1,048	
	Non-Aboriginal	1,100	1,243	1,892	2,156	2,001	
	Unknown	23	23	36	37	21	
	Total	1,543	1,805	2,949	3,346	3,070	

Other**	Male	Aboriginal	155	126	202	191	240
		Non-Aboriginal	299	263	429	433	562
		Unknown	7	5	10	19	11
		Total	461	394	641	643	813
	Female	Aboriginal	53	63	70	95	145
		Non-Aboriginal	129	131	214	261	343
		Unknown	10	4	17	17	6
		Total	192	198	301	373	494
	Total	Aboriginal	208	189	272	286	385
Non-Aboriginal		428	394	643	694	905	
Unknown		17	9	27	36	17	
Total		653	592	942	1,016	1,307	
Total	Male	Aboriginal	3,747	3,772	5,136	4,903	5,634
		Non-Aboriginal	9,350	8,687	11,194	10,232	12,009
		Unknown	137	128	231	211	116
		Total	13,234	12,587	16,561	15,346	17,759
	Female	Aboriginal	965	997	1,465	1,452	1,737
		Non-Aboriginal	2,128	2,069	2,773	2,799	3,334
		Unknown	77	90	144	126	68
		Total	3,170	3,156	4,382	4,377	5,139
	Missing/Unknown	Aboriginal	0	0	0	1	0
		Total	0	0	0	1	0
	Total	Aboriginal	4,712	4,769	6,601	6,356	7,371
		Non-Aboriginal	11,478	10,756	13,967	13,031	15,343
		Unknown	214	218	375	337	184
Total		16,404	15,743	20,943	19,724	22,898	

* This table shows all proven court appearances. It is not a count of distinct people. If a person had more than one finalised court appearance in a single year they would appear more than once in the table. If a court appearance involves more than one proven offence, the 'principal offence' is the one that receives the most serious penalty.

^ Since March 2008 it has been possible to identify domestic violence charges coming before the NSW courts. In the court data, the DV flag is derived by using lawparts that have DV or "domestic" in the title, modifiers (to account for the expanded scope of DV offences under the Crimes (Domestic and Personal Violence) Act 2007 which might not be reflected in the law part code) and the presence of "Offence to be recorded as a domestic violence offence" orders (where the court can order an offence to be recorded as a DV offence on a person's criminal history regardless of whether a DV or non-DV law part was used in charging).

** Other penalties include conviction only and no conviction recorded.

Table 2. Number of proven court appearances in the NSW Local Court where the principal offence* was domestic violence^ related and the penalty was an intensive corrections order (ICO)~, by gender and Aboriginality

Principal penalty	Gender	Aboriginality	Jul 2018 - Jun 2019	Jul 2019 - Jun 2020	Jul 2020 - Jun 2021	Jul 2021 - Jun 2022	Jul 2022 - Jun 2023
Intensive Correction Order	Male	Aboriginal	286	388	497	442	464
		Non-Aboriginal	515	666	744	692	645
		Unknown	3	5	7	4	5
		Total	804	1,059	1,248	1,138	1,114
	Female	Aboriginal	36	58	66	76	78
		Non-Aboriginal	41	71	76	69	52
		Unknown	0	0	2	0	0
		Total	77	129	144	145	130
	Total	Aboriginal	322	446	563	518	542
		Non-Aboriginal	556	737	820	761	697
		Unknown	3	5	9	4	5
		Total	881	1,188	1,392	1,283	1,244

* This table shows all proven court appearances. It is not a count of distinct people. If a person had more than one finalised court appearance in a single year they would appear more than once in the table. If a court appearance involves more than one proven offence, the 'principal offence' is the one that receives the most serious penalty.

^ Since March 2008 it has been possible to identify domestic violence charges coming before the NSW courts. In the court data, the DV flag is derived by using lawparts that have DV or "domestic" in the title, modifiers (to account for the expanded scope of DV offences under the Crimes (Domestic and Personal Violence) Act 2007 which might not be reflected in the law part code) and the presence of "Offence to be recorded as a domestic violence offence" orders (where the court can order an offence to be recorded as a DV offence on a person's criminal history regardless of whether a DV or non-DV law part was used in charging).

~ an ICO is a type of supervised community order

Reference: kf24-23136

Please retain this reference number for future correspondence

Note 1: Data sourced from the NSW Bureau of Crime Statistics and Research must be acknowledged in any document (electronic or otherwise) containing that data. The acknowledgement should take the form of **Source: NSW Bureau of Crime Statistics and Research**

Note 2: [For information about Criminal Courts crime data please see our 'Criminal Courts - Glossary' webpage.](#)

CORRECTIVE SERVICES NSW

Response date: 20/02/2024

CRES reference: D24_1426

Table 1 : The total number of persons convicted to an Intensive Corrections Order for each year: 2018-19 to 2022-23

Year	Number*
2018-19	7899
2019-20	9153
2020-21	9187
2021-22	7618
2022-23	7765

Number* - represents the number of individuals with unique sentencing dates each financial year

Table 2 : The total number of persons who completed a domestic violence program* in custody; 2018-19 to 2022-23

Outcomes	2018-19	2019-20	2020-21	2021-22	2022-23
Program episodes completed by Gender					
Males	256	351	415	278	255
Females	-	-	-	2	-
Total completions	256	351	415	280	255
Program episodes completed by ethnicity (county of birth)					
Australian born	228	294	349	244	217
Overseas born	17	31	35	20	16
Unknown	11	26	31	16	22
Total completions	256	351	415	280	255

* Not all domestic violence programs delivered in custody are designed to record a "program completion". Those programs where a "program completion" is not recorded have been excluded.



	Total # Domestic Violence Cases finalised	Total # Family Violence Cases finalised	Total number of DV sentences	Total number of FV sentences	# Males-sentenced	# Females-sentenced
2018 - from 1st July	15	5	12	3	11	4
2019	12	10	10	4	13	1
2020	7	5	4	0	3	1
2021	9	7	4	2	4	2
2022	7	8	6	4	6	4
2023 - to 30 June	9	1	7	0	6	1

NOTES:

- Columns 1 and 2: total number of domestic violence and family violence cases finalised in Supreme Court during specified period. Includes all matters irrespective of final outcome (acquittals, no bills, not guilty by reason of mental illness, etc).
- Columns 3 and 4: total number of domestic violence and family violence cases where a sentence was handed down.
- Columns 5 and 6: Gender breakdown of accused persons who received a sentence.
- Statistics provided do not always align with charge specified on JusticeLink. The majority of cases appear on JusticeLink as Murder- SI rather than Murder – DV. Each case specified here has been researched and verified as being a domestic violence/family violence related matter.
- These statistics are limited to the Supreme Court Criminal Division and are all either Murder or Manslaughter cases.