

Request for evaluation and audit reports regarding extended supervision orders

Legislation	Official Information Act 1982, s 9(2)(g)(i)
Agency	Department of Corrections
Ombudsman	Peter Boshier
Case number(s)	387942
Date	May 2016

Evaluation report comprised largely academic material and statistical analysis—9(2)(g)(i) did not apply—audit report had been submitted to senior management but marked as draft—disclosure of majority not likely to prejudice future exchange of free and frank opinions—significant public interest considerations in favour of disclosure—audit report released with deletion of names and detailed findings relating to individual service providers

The Department of Corrections refused a request for information about extended supervision orders (ESOs) and the requester complained to the Ombudsman. The Chief Ombudsman considered whether section 9(2)(g)(i) provided good reason to withhold the following documents:

- *Review of Extended Supervision: Implementing and evaluating the 2004 legislation* (the evaluation report); and
- *Individual Residential Reintegration Programme: Offender Management Review* (the audit report).

Evaluation report

The Chief Ombudsman noted that the evaluation report comprised largely academic material and statistical analysis. It was not in the nature of opinion or recommendations. While this is not

required by section 9(2)(g)(i), the inclusion of such content will often indicate a greater need to protect the interests contemplated by that provision.

The Chief Ombudsman was not satisfied that disclosure of this information would be likely to prejudice the future exchange of free and frank opinions. It seemed unlikely that disclosure of a paper largely focused on academic studies and statistical analysis, without controversial findings, would deter staff from supplying this type of analysis in the future.

The Department noted that the evaluation report was out of date and not intended to be publicly circulated. However, this was not sufficient to engage section 9(2)(g)(i). If anything, the fact that the report was no longer current or applicable to present legislation reduced the need to withhold. The Chief Ombudsman noted that the Department was free to provide any explanation it considered necessary when disclosing the evaluation report.

Audit report

This report summarised an internal audit carried out in respect of the Department's Individual Residential Reintegration Programme (IRRP) contract management services. The audit had been presented to senior management. The fact that the document stated that it was a draft was insufficient alone to invoke the protection of section 9(2)(g)(i). It was clear from the material that the audit report had been submitted to senior management, who accepted its findings and recommendations; and reference was made elsewhere to the implementation of those recommendations.

The Chief Ombudsman was not satisfied that disclosure of the majority of the audit report was likely to prejudice the future exchange of free and frank opinions. It is the purpose of the internal audit team to conduct such activities and generate this information, and there is significant motivation for the Department to ensure that service providers are delivering the services for which they are contracted, and in the manner contracted. It was a reasonably high-level report, the content of which had been accepted by management, and it was over one year old at the time of the request. The Department had taken corrective steps for the deficiencies identified.

The Chief Ombudsman also concluded that even if section 9(2)(g)(i) applied, there were significant public interest considerations in favour of disclosure. Failure to adequately manage the IRRP posed a very real risk to public safety, and the Department must be held accountable to the public for its management of those functions, and the compliance of service providers. It was also important that the public be made aware of the corrective steps taken in such circumstances.

However, the Chief Ombudsman did accept that reference to the particular agencies reviewed, and the specific details of findings in respect of them, would be likely to prejudice the willingness of staff to detail such concerns and findings, for fear that disclosure (without the accompanying comment of those affected parties) would cause difficulties in the relationship between the Department and service providers, and reduce the willingness of those parties to discuss their conduct with officials. The free and frank discussion of matters was necessary to

the effective conduct of public affairs in that it was a crucial aspect of the audit process and the ability of the Department to question the adequacy of its programmes.

Outcome

The Ombudsman recommended the release of the evaluation report in full, and the audit report with deletions to the names and detailed findings in respect of individual service providers.

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