

**Ian Herps**

**From:** Andrew Gately  
**Sent:** Tuesday, 12 April 2016 6:59 PM  
**To:** Doug Orr  
**Cc:** Operations Managers - NSW; Ian Herps  
**Subject:** RE: Prisoners' Enrolment to Vote [SEC=UNCLASSIFIED]

UNCLASSIFIED

All good. re the remand/citizenship observations the CEA provides for comptrollers of prisons to provide us information about people commencing or ceasing a sentence of 3 years or more. This does not be definition include all prisoners or people on remand.

Suggest you address the elements under "MOU" to this effect.

○ Thanks  
 Andrew

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UNCLASSIFIED

**From:** Doug Orr  
**Date:** Tuesday, 12 Apr 2016, 5:12 PM  
**To:** Andrew Gately  
**Cc:** Operations Managers - NSW , Ian Herps  
**Subject:** FW: Prisoners' Enrolment to Vote [SEC=UNCLASSIFIED]

UNCLASSIFIED

○ Andrew – draft response for your review. Any comment re the citizenship or remand issue?

Dear Ms Irvine

I refer to you email of 5 April 2016 in which sought answers to a range of questions in relation to prisoner voting. Answers to your questions are provided below.

Automatic postal vote: The advice that I have received is that your interpretation of the power in subsection 184A(3) of the *Commonwealth Electoral Act 1918* (Electoral Act) is not correct. This subsection only applies to those categories of electors listed in paragraphs (e) and (f) of subsection 184A(2) (i.e. person who are incapable of signing an application form due to a physical incapacity). Those paragraphs do not relate to persons in custody. The relevant paragraph that applies to persons in custody to have an entitlement to lodge a postal vote application is paragraph 184A(2)(d). As there is a specific provision dealing with persons in custody, then it is clear that others are not legally able to make an application on their behalf. This legal requirement is also reflected in the approved form that I have previously referred you to. The provisions of the Electoral Act that enable the AEC to enrol and update the enrolment of an elector (see sections 103A and 103B of the Electoral Act) have no relevance to the legal requirements that apply for lodging a postal vote application. Accordingly, a person in custody is clearly eligible to lodge a PVA under sections 184A(2)(d) of the Electoral Act but is required to personally sign the application.

## MOU

Remand prisoners - The Electoral Act requires information on a person who is serving a sentence of imprisonment be provided to the AEC

Citizenship - The Electoral Act requires that name, address, occupation and sex information on a person who is serving a sentence of imprisonment be provided to the AEC

Copy of the MOU - A copy will not be provided.

Thanks for your enquiry.

**Doug Orr | Australian Electoral Officer and State Manager for NSW**  
 New South Wales Executive | NSW State Office  
 Australian Electoral Commission  
 T: (02) 9375 6300 | M: [REDACTED] | F: (02) 6215 9913



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## UNCLASSIFIED

**From:** Ja Team [<mailto:justiceaction.team@gmail.com>] **On Behalf Of** Justice Action  
**Sent:** Tuesday, 5 April 2016 4:58 PM  
**To:** Doug Orr <[Doug.Orr@aec.gov.au](mailto:Doug.Orr@aec.gov.au)>  
**Cc:** Brett Collins <[brett@justiceaction.org.au](mailto:brett@justiceaction.org.au)>  
**Subject:** Prisoners' Enrolment to Vote

Dear Mr. Orr,

Thank you for your response dated 30/03/2016,  
 We hope you can provide clarification of a few points:

### Automatic Postal vote:

Your email states that it is not possible under the Act to automatically provide postal voter status to prisoners, but we are unclear why that is the case. Section 184A(3) of the Commonwealth Electoral Act 1918, states that the postal vote application may be made on behalf of the electorate by another person, and *Electoral and Referendum Amendment (Protecting Elector Participation) Act 2012*, *The Electoral Referendum Amendment (Maintaining Address) Act 2012*, schedule 2, and *Parliamentary Electorates and Elections Act 1912* (NSW), grant the AEC the power to directly update and enrol eligible electors. What is the obstacle?

### MOU:

Does the Corrective Services NSW send you information on remand prisoners?  
 Does the information include citizenship status?  
 Would you please send us a copy of the MOU?

As I'm sure we can agree, the under-enrolment and under-participation of the incarcerated population is a serious concern to a system of mandatory democracy, perhaps too serious to consider the status quo as sufficient. We hope we work together in finding solutions.

Kind regards,

Released under the Freedom of Information Act 1982

## **REDACTION CODES**

- 1 Personal Information (name) redacted.
- 2 Personal Information (date of birth) redacted.
- 3 Personal Information (photograph) redacted
- 4 Personal Information (facsimile of signature) redacted.
- 5 Personal Information (facsimile of manuscript initialling) redacted.
- 6 Personal Information (Individual's address) redacted.
- 7 Personal Information (individual's telephone number) redacted.
- 8 Personal Information (individual's opinion) redacted.
- 9 Personal Information (opinion about individual) redacted.
- 10 Personal Information (employment history) redacted.
- 11 Personal Information (qualifications) redacted.
- 12 Personal Information (health) redacted.
- 13 Business information (Bank Account details) redacted.
- 14 Business information (Billing Account details) redacted.
- 15 Legal Professional Communication redacted.
- 16 Deliberative material redacted.
- 17 Irrelevant material redacted.
- 18 Electoral Roll material redacted.
- 19 Tests, examinations or audits material redacted.
- 20 Management or assessment of personnel material redacted.
- 21 Proper and efficient conduct of the operations of AEC material redacted.