

The State of Play – limitations to public interest journalism in Victoria in 2025

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ACKNOWLEDGEMENT OF COUNTRY

This project was conducted on the traditional lands of the Bunurong people of the Kulin Nations. Monash University recognises that its Australian campuses are located on the unceded lands of the people of the Kulin Nations, and pay our respects to their Elders, past and present.

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Executive summary

I'm scared to think of what my job will look like in a few years, let alone a decade. It's actually terrifying. I watch young journo after young journo come in and out of court reporting, just burning out and leaving...Everybody just hates you every single day and [it] is just getting worse and worse.

I think that's really scary for the public.

I think you should know who the convicted child rapist is that lives in your neighbourhood.

I think you should know whether or not there's a rise in domestic violence-related homicides going on, in real time.

(Interview Erin Pearson, court and justice reporter, *The Age*, 2025)

This research report, commissioned by the Melbourne Press Club and conducted independently by researchers from Monash University, investigated the state of play for public interest journalism in Victoria in 2025. It explored whether existing limitations - such as court suppression orders, restricted access to court documents, a dysfunctional Freedom of Information system, and barriers to accessing sources - are justified safeguards or whether they unduly hinder the practice of public interest journalism.

The overarching conclusion of this study is that the limitations to conducting public interest news journalism in Victoria are now so severe that the crucial role of news reporting holding powerful institutions and individuals to account is under significant strain. This conclusion is based on 12 interviews with senior journalists in Victoria, conducted across five media outlets for this study.

In the interviews the journalists shared their lived experience of these limitations with a particular focus on the deterioration of transparency and openness in the Victorian justice and court system. Suppression orders limit what can and cannot be reported from an ongoing trial. The Open Courts Act 2013 (Vic), OCA, was supposed to limit the use of suppression orders and increase public access to court documents. This report verifies that the OCA has failed in its principal aims. The table below shows the 2023 master count of suppression orders issued across all Australian jurisdictions.¹

¹ It should be noted that these are the total raw numbers of issued suppression orders. They are not calculated in relation to the size of the population in the jurisdictions or the court workloads (Bosland, 2020). The numbers are based on the number of orders reported to newsrooms in Australian jurisdictions in 2023. However, the numbers are likely conservative and incomplete as the reporting of suppression orders vary between jurisdictions and the interviews in this report allege that Victorian courts frequently do not notify media of suppression orders. The numbers do, however, indicate that suppression orders are frequently used in many Australian jurisdictions.

Table 1: Suppression orders 2023 Australia

Jurisdiction	Number of suppression orders issued
Australian Capital Territory	43
Federal/High Court	4
New South Wales	133
Northern Territory	52
Queensland	38
South Australia	308
Tasmania	12
Victoria	521
Western Australia	2
Total all jurisdictions	1,113

(Alliance for Journalists' Freedom, 2024) (author's emphasis)

This, combined with the increasing difficulty in accessing court documents and filings and a growing hostility among some judicial officers towards journalists and the media, means that independent court reporting in Victoria has reached a crisis point. In an ideal situation, news reporters are the eyes and ears of the public in courtrooms, holding courts accountable for how they exercise their considerable powers. As this report shows, this ideal is under severe threat, and with it, the entire concept of open justice and the courts. This is utterly serious as open justice is one of the cornerstones of healthy liberal democracies.

Based on the interviews, the report found that Victorian courts frequently and routinely breach the OCA with impunity. This is a serious situation and could damage the doctrine of natural justice on which the legitimacy of the courts rests.

The Chief Judges of the principal Victorian courts were invited (several times) to participate in the study to respond to the claims made by the journalists. They all declined to participate. This is a finding in itself as it illustrates the breakdown of engagement between the Victorian courts, the public, researchers and media outlets. This communication breakdown was mentioned frequently in the interviews. Clearly, outreach and public engagement are not prioritised by the leaders of the Melbourne Magistrates Court, the County Court of Victoria and the Supreme Court of Victoria.

The study also found:

- Access to sources within government has deteriorated significantly in the last ten years, further exacerbated by the COVID pandemic.
- Victorian government media sections offering information on background to reporters that cannot be directly attributed.
- The Victorian Freedom of Information system is broken.
- Access to human sources in the Victorian police force is increasingly challenging.

- Victoria ranks in the bottom half of the country when it comes to journalistic access to prisoners.

Based on the findings, we make the following recommendations to the Melbourne Press Club:

1. Advocate for a second review the Open Courts Act 2013 (Vic) for better functionality and implementation.
2. Advocate for a review of the Open Courts Act 2013 (Vic) regarding consequences for courts when breaching the act.
3. Advocate that the review of the Open Courts Act 2013 (Vic) include a consideration of explicitly mentioning that public access to court documents is part of open justice/courts.
4. Organise a round table with the Chief Judges and courts' media sections to restart communications between the courts and media outlets in the interest of open justice and quality court reporting and to restore public faith that justice is being administered transparently.
5. Lobby the courts to allow audio recording by default of court proceedings by accredited journalists in the interest of accuracy of reporting.
6. Consider collaborating with a university to design short courses for journalists on how to challenge court orders.
7. Follow up the round table with a Melbourne Press Club lunch including the Chief Judges.
8. Organise a roundtable with the media sections from key Victorian government agencies to discuss the deterioration in access to government sources – possibly also followed by a press club lunch.
9. Continue lobbying for Freedom of Information reform in Victoria starting with the government responding to the 101 recommendations in the 2024 report on FOI (Victorian Parliament, 2024).
10. Draft a state version of the suggested federal Media Freedom Act and lobby the Victorian government to pass it into law.

The authors would like to thank the Victorian journalists and the Victorian Director of Public Prosecution for participating in this study. Hopefully, we will hear from the Victorian Chief Judges regarding the alleged breaches of the Open Courts Act 2013 (Vic) and court transparency and openness at a later point in time.

Introduction

Oh, every day [Victorian courts breach the Open Courts Act 2013]. Every day there are suppression orders that do not meet the basic requirements, especially in terms of providing reasons...the requirement to give three days notice to the media is also routinely breached.

There are exceptions allowed for that, but they just drive a truck through it, so it's a meaningless requirement now.

The requirement for limitation of time periods also gets abused by just making those time periods really long...and [another breach is] where the bench has taken advantage of flexibility in the law designed to accommodate exceptional circumstances and made them routine.

(Interview Ben Butler, investigative journalist, ABC, 2025)

I had a case three weeks ago where the actual defendant's lawyer got up and argued on my behalf for more openness. He's like, 'Your Honour, this is an open court, these are senior members of the press. We have absolutely no problem with this material being released, minus their address'. I mean, the defence lawyer got up and defended us more than the judge did. It was nuts.

(Interview Chris Vedelago, senior reporter, *The Age*, 2025).

All journalists interviewed in this study unanimously agreed that the Open Courts Act 2013 (Vic) (OCA) is routinely breached by the state's courts. The Act was introduced to make the courts and proceedings **more** transparent, particularly in regard to the extensive use of suppression orders by Victorian courts. Instead, based on the interview data, the Act has made the courts **less** open in Victoria. Based on previous studies (Bosland, 2017; Bosland and Bagnall, 2013) and the interview data in this study, it can be concluded that the legal reforms aimed at by introducing the OCA have failed.

The evidence has existed for decades that the practice of public interest journalism in Australia is more challenging than in most other liberal democracies. Study after study has confirmed this (Environment and Communications References Committee, 2021; Alliance for Journalists' Freedom, 2024; Lidberg, 2006; Lidberg, 2018; Paterson, 2017). The limitations facing journalism in Australia are many, but Victoria stands out in increasing these limits, especially when it comes to reporting on the courts and judiciary. Unfortunately, this occurs at a time when independent journalism is more vital than ever to counter the spread of misinformation and disinformation published with impunity on global platforms such as X, Facebook, TikTok, Google, and Instagram.

This research report, commissioned by the Melbourne Press Club and conducted independently by researchers from Monash University, investigated the state of play for journalism in Victoria in 2025. It explored whether existing limitations - such as court suppression orders, restricted access to court documents, a dysfunctional Freedom of

Information system, and barriers to accessing sources - are justified safeguards or whether they unduly hinder the practice of public interest journalism.

Through a combination of literature reviews and interviews with journalists and legal professionals, this study aimed to provide an overview of the challenges facing journalism in Victoria. The findings sought to inform advocacy efforts and policymakers to ensure that journalism can continue to serve its essential role in holding power to account and informing the public so that they may be self-governing (Kovach and Rosenstiel, 2021).

These are the principal findings:

- Victorian courts routinely breach the Open Courts Act (OCA) 2013 (amended 2019).
- The openness and transparency of courts in Victoria have gone backwards since the introduction of the OCA.
- Access to court documents is as restrictive (and at times more restrictive) since the introduction of the OCA.
- The attitudes towards open courts and open justice have worsened among some judicial officers since the introduction of the OCA.
- The Victorian Freedom of Information Act 1982 (FOI) and its implementation are outdated and do not deliver on the promises and aims of the act.
- Media advisers and PR teams in government agencies have made it increasingly hard for journalists to access people in power to hold them to account via interviews.
- Victorian government media sections offering information on background to reporters that cannot be directly attributed.
- Access to human sources in the Victorian police force is increasingly challenging.
- Victoria ranks in the bottom half of the country when it comes to journalistic access to prisoners.

Based on the interviews in this study, it can be firmly concluded that public interest journalism in Victoria is now so pushed by the structural limitations outlined in this report that it is struggling to fulfil its vital role of holding societal powers to account. These powers are using all possible levers to avoid legitimate scrutiny by journalists in Victoria. A prime example of this is how consecutive Victorian governments, from all sides of politics, have not adequately funded Freedom of Information teams in government agencies, causing the current dysfunctional FOI situation (Victorian Parliament, 2024; Lidberg et al, 2024).

This report will focus on the very challenging situation for court reporters in Victoria, but it will also, to some extent, cover the other limitations to journalism mentioned above.

The authors would like to thank the interviewees who participated in this study and the Melbourne Press Club for initiating the project. The research team did not receive any funding from the MPC or other external funding.

Chapter 1: Background and previous studies

The courts and judiciary are bestowed with truly awesome and far-reaching powers. More than any other institution in society, they can reach into, impact and change the course of the lives of individuals and organisations. This is why it is crucial that courts are held to account for how they use their powers. If they are not scrutinised and held to account in a meaningful and independent way, they risk losing legitimacy in the eyes of the public. This is why the courts have a self-interest in making sure they operate openly and transparently. If the courts in Victoria continue down the path of increased secrecy, they risk losing the trust of the public and jeopardising the concept of natural justice². With this in mind, it is surprising that we have seen a rise in criticism of the open justice/court concept among some judicial officers in Victoria (Mortimer, 2024). We will return to this in the discussion part of the report.

At the core of the court accountability mechanism sits the concept of open justice and open courts. Rodrick et al define open justice thus:

One of the most fundamental and deeply-rooted characteristics of the common law tradition is that judicial proceedings are normally conducted in open court. Indeed, the fact that judicial proceedings are conducted in public and not in secret is regarded as an essential attribute of a court, and as a hallmark of judicial, as distinct from administrative, procedure (Rodrick et al, 2021, p. 205).

Open justice extends to all liberal democracies as one of the bedrocks of such political systems. The concept of open courts can be found in several international human rights instruments. Pearson and Polden point to one such example, The International Covenant on Civil and Political Rights, 1976. Article 14 reads in part:

All persons shall be equal before the courts and tribunals...everyone shall be entitled to a fair and **public** hearing (2019, p. 102) (authors' emphasis).

There are multiple further examples of how open justice is crucial, and to a great extent universally accepted, as a cornerstone of healthy liberal democracies. This agreement stretches back several hundred years, pre-dating parliamentary systems, making up the foundation for the rule of law concept. The importance of the open justice doctrine to our democratic system cannot be overemphasised (ibid).

It should be noted that the use of suppression orders, which restrict what can and cannot be reported and published about a case, plays an important role in keeping the administration of

² Natural justice: the legal doctrine that justice, in public perception, is seen to be done fairly, there is equality before the law and there is an avenue for appeal. The public can only assess this if the legal process is open and transparent. Court secrecy weakens natural justice (Pearson and Polden, 2019).

justice fair and equitable. However, suppression orders often come into conflict with the open justice concept as it limits how a case can be reported to the public (ibid).

This is the background to the crucial Bosland and Bagnall study of the use of suppression orders by courts in Victoria (2013). This study found that during the so-called “gangland war” violence and murders in Victoria, the use of suppression orders increased to very high levels.

Table 2 Overall suppression order use by courts in Victoria 2008-2012

Court	2008 (from 25 February)	2009	2010	2011	2012	Total
Supreme Court	54	57	48	68	54	281
County Court	91	149	135	145	150	670
Magistrates’ Court	72	110	115	147	106	550
Total	217	316	298	360	310	1501

(Bosland and Bagnall, 2013)

It should be acknowledged that it is understandable that suppression orders increased during the volatile gangland court proceedings in the early to mid 2000s. Many of the defendants were severely violent and witnesses needed protection to appear in court. However, when the gangland war period had passed, suppression order use did not return to pre-gangland war levels, as table 1 above shows. Bosland and Bagnall’s research prompted the drafting and passing of the Open Courts Act 2013 (Vic). The purposes/aims of the act are:

- recognise and promote the principle that open justice is a fundamental aspect of the Victorian legal system which—
- maintains the integrity and impartiality of courts and tribunals; and
- **strengthens public confidence in the system of justice** (Victorian Parliament, 2013, p. 7) (authors’ emphasis).

In 2017, Bosland conducted a follow-up study of the first two years of operation for the OCA. These were the principal findings:

1. There has been no notable reduction in the overall number of suppression orders since the OCA came into force.
2. The OCA has led to no improvements in terms of the scope and clarity of orders.

3. While there has been a significant reduction in orders being made without sufficient end dates, the County and Magistrates' courts frequently make orders that they do not have the power to make.
4. The Supreme Court has made fewer orders, but the County Court has seen an increase in the number of orders issued.
5. The Magistrates' Court has shown significant misunderstandings regarding the scope of its powers under the OCA.
6. The OCA has resulted in improvements in the duration of orders, but many orders were made for a 'default' period of five years.
7. The OCA has largely failed to achieve its aim of improving open justice in Victoria.

Table 3 below provides evidence for Bosland's conclusions.

Number of Suppression Orders Issued by Court and Year in Victoria

Court	2008	2009	2010	2011	2012	OC Act Year 1	OC Act Year 2
Supreme Court	41	56	42	60	48	34	32
County Court	59	84	84	99	106	106	124
Magistrates' Court	72	109	114	147	105	117	73
Total	172	249	240	306	259	257	229

(Bosland, 2017)

In 2018 the former Victorian Supreme Court of Appeal Judge, Frank Vincent, conducted an independent review of the OCA 2013 Act. It concluded that “There does not appear to be a significant overall decrease in the number of suppression orders made since the Act’s passage” (Vincent, 2018, p. 6) and that “More attention needs to be given to the education of judges with respect to their obligation not only to comply with the provisions of the Open Courts Act but with its objectives and, of course, to the validity of the foundational propositions upon which orders are regularly made” (ibid).

The review also found that greater clarity was needed in justifying suppression orders to make sure they were not unnecessarily issued. The government of the day supported 17 of the 18 recommendations and in 2020, the Open Courts and Other Acts Amendment Act 2019 came into force. The amended legislation aimed to deal with the deficiencies of the initial act in terms of the number of suppression orders issued by Victorian courts and their detrimental effect on open justice.

In spite of the good intentions of the 2019 amendments, current data shows that the suppression order trend in Victoria has not reversed – quite the opposite. Research done for the Alliance for Journalists’ Freedom (AJF) 2024 white paper shows the following master count for suppression orders in Australia at the end of 2023:

Table 4 Number of suppression orders issued in all jurisdictions 2023

Jurisdiction	Number of suppression orders issued
Australian Capital Territory	43
Federal/High Court	4
New South Wales	133
Northern Territory	52
Queensland	38
South Australia	308
Tasmania	12
Victoria	521
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Total all jurisdictions	1,113

(Alliance for Journalists’ Freedom, 2024) (authors’ emphasis)

As can be seen in table 4, Victorian courts still stand out, significantly, in issuing suppression orders compared to other Australian jurisdictions.³

Having established, quantitatively, that suppression orders are a major obstacle to open justice and for journalists to fulfil their role as accountability agents of the Victorian courts. Let us now turn to the findings of the interviews with journalists and judicial officers that were conducted for this report, as this sits at the heart of the study.

³ As pointed out in the executive summary, it should be noted that these are the total raw numbers of issued suppression orders. They are not calculated in relation to the size of the population in the jurisdictions or the court workloads (Bosland, 2020). The numbers are based on the number of orders reported to newsrooms in Australian jurisdictions in 2023. However, the numbers are likely conservative and incomplete as the reporting of suppression orders vary between jurisdictions and the interviews in this report allege that Victorian courts frequently do not notify media of suppression orders. The numbers do, however, indicate that suppression orders are frequently used in many Australian jurisdictions.

Chapter 2: Interview findings

In total, 12 interviews with senior journalists from five media outlets in Victoria were conducted. All interviewees were covering, or had, covered Victorian courts extensively. All interviewees agreed to be named in this report.

The Chief Magistrate, the Chief Judge of the County Court, and the Chief Justice of the Supreme Court in Victoria were all approached for interviews – they all declined. The Chief Prosecutor in Victoria was also approached and responded to the questions via email. This is an important finding in itself as it indicates that a worrying number of key judicial officers in Victoria seem to have little interest in discussing the importance of open justice. It was made clear when they were approached that this was an independent and impartial study and that the Monash University Human Research Ethics Committee had approved the methodology in the study.

Interview themes

When analysing the interviews with the journalists, a number of themes were identified. They are listed and illustrated with interview data below.

Victorian judiciary attitudes towards journalists and open justice

Summary of interviews:

- Hostile attitude of the judiciary toward journalists. Journalists are no longer viewed as part of the open justice system in Victoria.
- Tension between judiciary and journalists over accuracy of court reporting, yet reporters often have limited or no access to basic court documents (charge sheets, etc). Journalists not allowed, as a default, to audio record court proceedings for accurate transcription. Publications of judgments / findings is at the judge's discretion and no timeline for when publication will happen.
- Magistrates / Judges uncomfortable with public scrutiny.

Interview quotes:

It's so overwhelming and almost traumatic about how we are made to feel about just sitting in a courtroom and doing our jobs, that you kind of have to tune some of it out for your own mental health.

We spend so much time sitting in courtrooms covering things like murderers or child rapists and half the hearing is about the impact that the media reporting has had on the killer or the abuser.

Eighty per cent of them [judges and magistrates], I would say, don't want you there because they don't like the pressure of having scrutiny of their decisions.

I've been told multiple times [by the Children's Court] that I need to fill out a media application document form just to sit in a courtroom. I would quote the Open Courts Act to them, politely, 'I'm sorry, I'm allowed to be here, I'm doing my job' and it becomes a really tense and uncomfortable situation then.

I feel like I know the law better than the people working in the courtroom sometimes and that's frightening.

(Interview Erin Pearson⁴, court and justice reporter, *The Age*, 2025)

Anybody can walk into a court, right? You pass through security [and] if you behave yourself, anybody can be in any court for any reason. But sometimes now, with the links [virtual hearings online], they want to know who you are, where you're from.

(Interview, Chris Vedelago, senior reporter, *The Age*, 2025)

There has been a significant vibe shift on the bench where it is routine now to just get a ... curled lip attitude from them.

The sense of not just disdain, but I will genuinely say this – hatred - from some of these judges, is really out of control.

Some of the remarks made by judges towards journalists are really quite disgusting ... that reporting is always inaccurate and terrible and why should we do anything for you, and give you anything, when you are just going to get it wrong.

These kinds of things are routinely said, unfortunately, by judges.

(Interview Ben Butler, investigative journalist, ABC, 2025)

This issue came up in several interviews and is illustrated by the experience below.

One example was on a video link recently in the Magistrates Court. A reporter was kicked out of the court hearing. This was after that reporter was invited to make some submissions to the court. For reasons I couldn't really understand, the magistrate didn't like the reporter and said, 'boot her out' and she was kicked out."

⁴ Parallel to her fulltime job as a court and justice reporter at The Age, Erin Pearson is completing a law degree to be able to challenge, among other things, suppression orders in court as they are issued.

I think some judges see us and our reporting of stories as an extra layer of punishment...I think some of them have a deep distrust for what we do.

(Interview Kristian Silva, court reporter, ABC, 2025)

Suppression orders and the Victorian Open Courts Act 2013 (amended 2019)

Summary of interviews:

- Proper reasons for suppression orders not supplied. The required three-day notice to the media not adhered to.
- The bench takes advantage of flexibility in the law designed to accommodate exceptional circumstances and makes them routine (re suppression orders).
- Suppression orders are most commonly granted to wealthy people (sports stars / lawyers mentioned often) who journalists believe are coached by counsel to say they will harm themselves if a suppression order is not granted.
- Increase in use of interim suppression orders that do not need to meet the same standards as a substantive suppression order, but still limit journalists' ability to publish. Largely put in place to protect wealthy, famous people and staying in place for excessive amounts of time while defence gathers evidence to have a suppression order put in place.
- 10 – 15 years ago Magistrates / Judges used to ask if anyone wanted to be heard before applying a suppression order or closing a court. This is no longer the case.

Interview quotes:

What I found was they [suppression orders] are increasingly being made without notification to the press.

We're supposed to have three days notice so we can determine whether or not we think that there's validity to it...and whether or not we have to gather evidence or experts to fight an order. I would say in 90% of the cases, we don't get the three-day notice. Maybe more than 90%.

It is so rare that when I get one, I gasp and think – did they mean to send this to me?

I've noticed in the last couple of years, there's been a real increase in the use of interim suppression orders, and that is being absolutely abused. That's a real grey area in the Open Court Act⁵.

⁵ Erin Pearson conducted investigative research quantifying and analysing the use of interim suppression orders in the first three months of 2024. Her research is available here: <https://www.theage.com.au/national/victoria/secret-state-victoria-the-suppression-order-capital-of-australia-20240308-p5fayh.html>

You can pretty much suppress anything you want. There are no grounds that you have to prove. It's being abused by wealthy, powerful people to keep their names out [of the media].

An interim order is supposed to be brought back before the court at the earliest available opportunity, which is usually within a day or two. What we're seeing is interim orders put in place for six months or more.

(Interview Erin Pearson, court and justice reporter, *The Age*, 2025)

The Open Courts Act from 2013...It's a mess. It's useless. There are so many holes in it. It's not applied consistently.

In many ways, it's become common for us to train ourselves to represent ourselves in court, because we can't afford to send lawyers to every hearing for suppression orders.

I've been thrown out of court because I didn't show up with a lawyer. Under the Open Courts Act, they can't do that. I had a Supreme Court judge kick me out of court because he said 'come back with a lawyer'. I had a Federal Court judge do that to me as well.

(Interview Chris Vedelago, senior reporter, *The Age*, 2025).

There is a broadly held view among court reporters that the suppression orders are infecting the justice system. That they're not being used appropriately and that the Open Courts Act is unfortunately not able to serve its intention because, unfortunately, people are finding ways around the Act or, in our view, taking advantage of sections of the act and are exploiting it. So, suppression orders are probably our number one problem that we deal with.

(Interview Kristina Silva, court reporter, ABC, 2025)

Overuse of suppression orders

The judges, the courts, even our politicians, they don't seem to think this is a problem. They don't care and when no one cares we stand no chance of winning these suppression fights. Then the public isn't even told why something happened. In the end, it just eats away at one of the fundamental pillars of democracy, which is, the courts.

Victoria just seems to have this culture of secrecy, unfortunately.

(Interview Kristian Silva, court reporter, ABC, 2025)

There are hundreds of them. They limit the amount of truth that we can tell... We just constantly have to go to court and fight them sometimes, when we just want to tell a pretty basic story. We just need to look at what's fair, what's fair and reasonable. Because the more we're in the dark, the more mistakes the media are going to make.

(Interview Anthony Dowsley, senior journalist, *Herald Sun*, 2025)

The trend at the moment I'm seeing, which I find particularly problematic, is of high-profile people charged with serious offences who are able to argue for suppression orders using the evidence of people who say that it will be detrimental to their mental health if they are identified. I find that particularly problematic, and I think it's something that the courts shouldn't allow.

(Interview Nino Bucci, justice and court reporter, *The Guardian*, 2025)

You can see how bad it can get from the Lawyer X case where for years, until the High Court said 'enough', Victorians were prohibited from knowing about the criminal misconduct of Victoria Police and Nicola Gobbo. The judges now said it was a criminal conspiracy between Gobbo and at least four officers. We now have the names of two of them, but not the other two, because they're still fighting on and we've been prohibited from knowing about that for a long, long time.

That corruption of the justice system should never be kept secret.

There's very real consequences in terms of knowing both things that affect people's daily lives and the lives of their families. [From] childcare all the way up to the operation of the entire criminal justice system are at stake through lack of transparency.

(Interview Ben Butler, investigative journalist, ABC, 2025)

Access to court documents

Summary of the interviews:

- Changes to Magistrates Court listings where the column that contained the prosecuting Victoria Police unit has been removed. Journalists can no longer see if Homicide / Anti-Terror Squad, etc, has a case. So cannot pick up on any cases of public interest. Murder can no longer be differentiated from a drink driving charge. On meeting with the Magistrates Court, journalists told that column that showed the unit is not coming back.

- Every court has a different rules/forms/timelines for access to information. No uniformity. This makes access to court documents complex and time-consuming.
- Drastic reduction in courts granting access to documents over past ten years.

Interview quotes:

So, ten years ago, at the committal stage of a hearing, we would get the Brief of Evidence. We'd get everything. We would leave court with a book. We would have all the photos, all the statements, the summary of the allegations, all the charges - everything.

So, when the evidence is tested at committal hearing for the first time and counsel is cross-examining witnesses about their statements, or photos, or crime scene re-enactment diagrams, we could follow along, so we knew exactly what everybody's talking about.

[Now] We barely get any documentation granted anymore at all. Period. It is so different to ten years ago when I was doing court reporting. It's just a different job.

We're expected to fairly and accurately report on something with one per cent of the information that's actually available and before the court. So of course, prosecutors, or defence lawyers, or magistrates read the story and go, 'oh, well, that's [inaccurate]. But we only knew one per cent of the story and we can only write what we have.

Then they complain – lazy journalists, misinformation – but how do I write the full story if you're not telling me what it is? So, you're incredibly frustrated by that.

(Interview Erin Pearson, court and justice reporter, *The Age*, 2025)

During COVID, the Melbourne Magistrates Court public search terminal moved behind plexiglass. Journalists can no longer look up names/charges without asking staff to do it. Some court staff will, others won't. Some will charge fees, some won't. No one knows what is right or wrong, or what rights the public and journalists have to the information.

Sometimes you'd show up and they'd say you couldn't use it. Other times you'd show up and they say, well, it's \$29 for every name. Other times, like when [I covered the] James Gargasoulas when he killed all those people on Bourke Street, I spent four hours at the terminal and it cost me \$29. Whereas if I had been someone else, every search would have been \$29.

Some of them [Magistrates Court staff] don't know how to use it. Some of them don't have the password. It's just a mess.

On the same floor in the County Court, you can go into one court and make an application for an indictment and get it. You go to the next court, and you don't. The cases - one might be an aggravated burglary and one's arson - but there's no reason why the judges can't consistently release something. They have the power of redaction. They can redact personal details, phone numbers, addresses and all sorts of things like that, which the magistrates routinely do.

It's the luck of the draw when it comes to magistrates and judges about what you're going to get on any given day, based on what you know about that judge.

(Interview Chris Vedelago, senior reporter, *The Age*, 2025)

On Marilyn Warren, former Chief Justice of the Supreme Court of Victoria and former Lieutenant-Governor of Victoria.

She came in a little while after the Open Courts Act came in and she opened everything up. She basically put the default settings at - it has to be available, and it has to be free, unless there's a very specific reason why it shouldn't be. Which meant, when we went to the registry, I could go up there and copy 12 files and pay nothing.

You go to VCAT and [court staff] want \$140 to look at a file.

They [judges/magistrates] will deny access to materials for reasons that I cannot understand, such as charge sheets. There will be material that's tendered to the court that's produced as evidence in a trial, and they will refuse to release it, in my opinion, because they believe the media can't be trusted or that we will misuse it in some way. But our argument is that it's not their place to make those judgments. If it's been put before the court, if that piece of evidence is going to be used as part of their decision making, or a jury's decision making, the public should be able to see what that is, and it's not their place to be making assessments about whether we're good journalists or not, or whether our work is any good.

(ibid)

Are judges/magistrates breaching principles of open justice?

All the time. I think every time we're denied court documents, every time we're denied charge sheets, every time we are denied access to material that they clearly have. To me, that's a breach of the open justice principle.

I appreciate that there are certain times in a case where they don't want to release certain things. But sometimes the case is finished, or the person has pleaded guilty, or been found guilty - there's no piece of evidence that's going to come before a jury that could be prejudicial. Every time they knock us back on something like that, I think that it's a breach of the open justice principles because we should be entitled to it.

The public has an entitlement to know.

(Interview Chris Vedelago, senior reporter, *The Age*, 2025)

In Victoria, we have our Open Courts Act that is supposed to restrict the ability of judges to impose special orders without giving us notice.

It should be called the Closed Courts Act because it doesn't do any of those things and, in fact, just provides [judges / magistrates] with a method - they just rubber stamp [a suppression order] and say it meets all the requirements when it doesn't.

The requirement for notice is routinely ignored ... and there are no consequences for judicial official for failing to do any of this stuff.

(Interview Ben Butler, investigative journalist, ABC, 2025)

Communication and liaison with courts

Summary of the interviews:

- Complaints made by journalists to the courts ignored, meetings with Chief Magistrate denied. Used to have regular meetings with County Court media team. This is no longer the case.
- Court staff are not educated on what they can or cannot provide to journalists, meaning everything is denied.

Interview quotes:

On the influence of Chief Judges/Justices/Magistrate.

It would be lovely if people in those sorts of positions were able to say, 'alright, we're going to reset this and make it really clear that journalists have a right to get all of this information'.

(Interview Nino Bucci, justice and court reporter, *The Guardian*, 2025)

Other limitations to public interest journalism in Victoria

Victoria police

Summary of interviews:

- Victoria police no longer provide journalists with names of accused so they can follow them through the court system.
- Only alert journalists to alleged offenders attending court after the proceeding, making it hard for journalists to report what has taken place.
- Have told journalists they have enacted these policy changes due to their internal legal advice.

Interview quotes:

I have noticed since I began at the Herald Sun in 2004...the interaction between journalists and police has been filtered and limited. If you want to ask a question, you have to go through the media unit and it comes back in a very sanitised form a lot of the time.

It's very hard these days to call someone direct with direct knowledge of a job, like a detective, and say, 'am I right? Is this right?...You're not getting that kind of confirmation easily anymore because the relationships are, well, you're strangers now, whereas you used to have far more personal relationships with a lot more police officers.

(Interview Anthony Dowsley, senior journalist, *Herald Sun*, 2025)

Compared to when I started my career and now, I'd be very concerned about any police officer potentially being subject to disciplinary matters for speaking to me. Whereas at the start of my career ... if you called someone up, you could have a quick chat to them, you'd have a yarn and they'd say 'you can't quote me or anything like that, but happy to talk it out'. Whereas now I get the sense that they'd be so cowed by the threat of professional repercussions.

Having to go through official media channels all of the time is detrimental to the truth.

(Interview Nino Bucci, justice and court reporter, *The Guardian*, 2025)

Freedom of Information (FOI) in Victoria

Summary of interviews:

- Excessive delays. The statutory time period is 30 days. One example, Victoria Police will reply to some requests saying it will take at least six months to be processed.
- Unreasonable justifications given for rejecting applications. That a \$400,000 public report on underquoting was just a “cabinet briefing document”. That four weeks of data on the numbers of scam ads reported to META and Google from the ACCC’s Scamwatch would “endanger the public”.
- Journalists feel like they’re being deliberately exhausted into giving up, after making amendments to requests, granting extensions, etc, only to be told the FOI is rejected.

Interview quote:

On appealing late FOI decisions from government agencies.

I’ve had people inside the office of the Victorian Information Commissioner basically instruct me to instruct them to reject my application so I could go straight to VCAT [Victorian Civil and Administrative Tribunal].

They’re like, ‘don’t wait for us. It’s going to be like 14 months. We’re going to tell you we need more time. You say no, and then you can go right to VCAT’. So, they’re telling us, off the record, don’t use the system because it’s broken. And then you get to VCAT and VCAT can’t even process these things because they’re like a year, or two years behind.

(Interview Chris Vedelago, senior reporter, *The Age*, 2025)

The above experience correlates closely with two major reports finalised in 2024. The first one, *The Culture of implementing Freedom of Information in Australia* (led by Associate Professor Johan Lidberg, one of the co-authors to this report), compared the implementation of FOI in Victoria, South Australia and Western Australia (Lidberg, 2024). It found that the principal issue hampering functionality is poor resourcing of FOI teams making it very hard for FOI officers to process applications in time. The study found that FOI is not a prioritised area in Victoria. Of the 25 Victorian ministers invited to participate in the study, zero agreed to take part. The project made eleven recommendations in its final research report to the Victorian Information Commissioner. All recommendations were accepted by the commissioner, but to date, the Victorian government has not responded to the report.

The FOI Culture research team was asked to give evidence to the Victorian Parliament’s Committee of Integrity and Oversight’s review of the functionality of FOI in Victoria. The committee found that the FOI Act and system are severely outdated and made 101 recommendations in its final report (citing our FOI Culture report extensively). The Victorian government responded to the report (Victorian Parliament, 2024), stating that it needed more time to consider the many and complex recommendations made in the report.

No concrete suggestions amending FOI in Victoria have as yet been put forward by the government.

Access to sources

- Not allowing access to Brett Sutton, the then Victorian Chief Health Officer, for interview during COVID, even though he was happy to be interviewed.
- Anecdotal evidence that more decisions about media access to any corner of government have shifted towards the Premier's Private Office, PPO.
- The growing reach and influence of the PPO is led in evidence in a crucial Ombudsman Victoria report (Ombudsman Victoria, 2023).

The report identified a growing influence of the Premier's Private Office and raised concerns about a trend of "creeping politicisation" within the Victorian public service sector. It emphasised the increasing centralisation of decision-making within the PPO, which often circumvented traditional departmental processes. The report found that this shift has contributed to a culture characterised by excessive responsiveness to ministerial preferences (ibid).

Interview quote:

The state government has started issuing statements with content labelled "on background" that journalists cannot quote.

They've [started during the former Andrews government and continues during the current Allan government] started to give you a statement, but then they'll also have a bit down the bottom saying 'on background', and they'll put in some [further] sentences.

And I think it's kind of unclear to me what they want us to do with that. So, I just don't use that because I don't need a on background statement from the government. You're either telling me, or you're not. You're the government.

They've framed it to me that, you can use it, but it has to be framed as 'the ABC understands such-and-such, or 'we've learned such-and-such'. It's ridiculous, because we don't understand it, we know it because you told us. It's essentially the information they want you to put in, but they don't want it to be from their own mouths.

(Interview Jessica Longbottom, investigative reporter, ABC, 2025)

Responses from judicial officers

Taken together, the lived experiences of the Victorian journalists captured in the interviews describe a situation where they cannot not effectively deliver on their most important task – keeping societal powers to account. Based on the interviews, the most serious issue is connected to court reporting and access to court documents. Given this, the research team

was keen to capture the views of key judicial officers in Victoria. We invited to the study the Director of Public Prosecutions, the Chief Magistrate, the Chief Judge County Court and the Chief Justice of the Supreme Court.

The Director of Public Prosecutions (DPP) Victoria

The DPP, Mr Brendan Kissane KC, agreed to reply to our questions via email. The key questions and replies are below, with our comments regarding a few methodological aspects. The DPP's replies are indented and *italicised* as all other interview quotes in the report.

Please note that the Victorian Office of Public Prosecutions does not audit the issuing of suppression orders or keep statistics in relation to the orders.

1. Do you think there is value in journalists reporting daily court hearings to the public? If so, what is that value? If not, why not?

Yes. There is value in journalists reporting daily court hearings to the public to promote the principles of Open Justice, which include maintaining the integrity and impartiality of the courts and public confidence in them.

2. Why do Victorian courts issue such a high number of suppression orders compared to other Australian jurisdictions?

It is not clear that Victorian courts do issue a high number of suppression orders compared to other Australian jurisdictions.

The data provided is taken from the Alliance for Journalists' Freedom 2024 white paper and does not indicate whether the data includes both interim and substantive orders or excludes orders that vary or extend an existing order.

In Victoria, the Open Courts Act 2013 provides that an interim order may be made for a short period before a substantive application can be heard and final order issued. It would be double counting to include both, and not all jurisdictions in Australia have interim orders.

A substantial proportion of suppression orders issued in Victoria have a therapeutic purpose and are granted pursuant to s 75 of the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997.

In addition, orders are granted under s 279 of the Serious Offenders Act 2018, and a large proportion are issued by VCAT, which has a lower threshold for making an order than the courts.

3. Are the high number of suppression orders an issue, in your view? Why? or Why not?

The number of orders is not an issue if each order is necessary. The court must be satisfied based on evidence or sufficient credible information that one of the relevant grounds is made out and it is necessary, not merely desirable, to make the order.

No evidence has been provided to suggest that the courts are not applying the criteria appropriately.

5. Should the Victorian courts aim to limit the number of suppression orders – which is one of the aims of the Open Courts Act? Why? or Why not?

As stated above, we are not of the view that the number of suppression orders being issued by Victorian courts is inappropriate or excessive.

7. Have you noticed an increase in interim suppression orders being granted by the courts, allowing defence council additional time to seek evidence to support a formal suppression order?

We have seen no evidence of an increase in interim suppression orders being issued or issued inappropriately.⁶

When an application for a proceeding suppression order is made, an interim order can be put in place temporarily until the substantive application is heard. There must be a proper basis upon which the order is made that aligns with the grounds in the Open Courts Act 2013, notwithstanding that the merits of the application have not yet been determined.

11. Would you be positively disposed to allow audio recording by accredited journalists of court proceedings for the purpose of reporting matters before the court accurately as a matter of default? Meaning that judges would have to rule that audio recording would not be allowed of proceedings - an opt out regime.

We have no view on this.

12. The journalists in this study say that representatives for Victorian courts are no longer interested in meeting regularly with journalists and editors to maintain good relations between the courts and media. Is this an issue, in your view? Why? or Why not?

We are unable to comment on this issue.

⁶ This contradicts the observations and experience of the journalists interviewed. It also contradicts the evidence in the Erin Pearson's investigative article referred to above.

Chief Judges

The Chief Magistrate and Judges were invited three times to the study over the course of a month. Twice via the courts' media teams and once directly through the judges' associates or direct email to the Chief Judges. The Victorian Chief Magistrate, Ms Lisa Hannan, declined the invitation. The Chief Judge of the Victorian County Court, Ms Amanda Chambers, also declined the invitation. The Supreme Court Chief Justice, Mr Richard Niall, SC, replied but was not available before the deadline of this report. The fact that none of the three principal Chief Judges in Victoria participated is a finding in itself that we will return to in the discussion and analysis section at the end of the report.

Chapter 3: Domestic and international benchmarking

To provide context for the limitations to public interest journalism in Victoria, a high-level domestic and international benchmarking comparison, mainly based on scholarly studies, was made. The jurisdictions outside Australia included were: New Zealand, the USA, the United Kingdom, Sweden and Germany. As mentioned in the introduction, limitations beyond court suppression orders and access to court documents were included.

Court orders including suppression orders – domestic

A plethora of studies have identified Victoria as the state that issues the highest number of suppression orders (by some margin as pointed out above) followed by South Australia and New South Wales. (Bosland, 2013; South Australia Law Reform Institute, 2024; Mullins, 2014). The most recent comparison of the three states is a 2024 report by the South Australian Law Reform Institute (SALRI). The main findings are summarised in table 5 below.

Table 5 Suppression order comparison SA, NSW and Victoria

Category	SALRI (South Australia)	New South Wales (NSW)	Victoria
Legislative Framework	No major overhaul; recommends changing terminology to 'non-publication orders' and improving administrative clarity.	Structured under the Court Suppression and Non-publication Orders Act 2010; Court Information Act not yet proclaimed.	Open Courts Act 2013 with presumption of disclosure; undermined by broad suppression powers and court closures.
Grounds for Orders	Generally appropriate use; recommends clearer criteria and stronger protections for vulnerable groups.	Allows suppression to avoid distress or embarrassment to any party, including the accused in sexual offence cases; includes public interest balancing test.	Limits distress-based suppression to complainants and child witnesses; lacks a public interest balancing test.
Transparency / Media Access	Calls for better notification systems and public registers; media often unaware of orders.	Media notification required but often post-factum; limited opportunity to intervene.	Three-day notice required but often bypassed; silent listings prevent public awareness of hearings.

Judicial Culture	No systemic misuse; emphasizes necessity and judicial discipline.	Tendency toward convenience over necessity; some misuse noted.	Concerns about overuse and misunderstanding of jury capabilities; silent listings criticized.
Reform Recommendations	17 targeted reforms including terminology change, improved media notification, and protections for vulnerable parties.	Structural reforms in place but incomplete due to unproclaimed legislation.	Strong statutory presumptions; implementation undermined by opaque practices.

(SALRI, 2024)

As evident in table 5, Victoria suffers more issues when it comes to suppression orders compared to SA and NSW. In the category transparency/media access, the findings in the study correlate with the interviews done for the project described in this report. The SALRI study found that the three-day notice to media when a suppression order is to be issued is often bypassed in spite of the notice being a requirement in the Open Courts Act 2013 (Vic). The second major deficiency in the OCA (Vic) is that it lacks a public interest balancing test when deciding on whether a suppression order should be issued.

Based on the benchmarking above, we conclude that Victoria has, by some margin, the least transparent court system in Australia.

International benchmarking court orders

In an international context, Australia as a whole ranks poorly when it comes to court transparency. Table 6 provides a comparative summary.

Table 6 court orders international comparative summary

Country	Legal Framework	Grounds for Orders	Transparency	Criticism
Australia	State/Federal Acts (e.g., Open Courts Act)	Fair trial, safety, distress, national security	Varies by state; some opaque practices	Overuse, lack of notice, 'silent listings'
New Zealand	Criminal Procedure Act 2011	Hardship, fair trial, safety, national security	Courts must balance interests	Name suppression more common than elsewhere
United States	First & Sixth Amendments, case law	Fair trial, national	Strong First Amendment protections	Gag orders rare but

		security, victim protection		controversial in security cases
United Kingdom	Contempt of Court Act 1981, HRA 1998	Prejudice, identity protection, national security	Orders must be justified and published	Balancing test sometimes inconsistently applied
Sweden	Freedom of the Press Act, Secrecy Act	National security, victim protection	Strong presumption of openness	Rare secrecy criticized when used
Germany	Basic Law, Courts Constitution Act, Criminal Procedure Code	Privacy, national security, victim protection	Anonymization common; hearings public	Anonymity may reduce public scrutiny

(American Bar Association, 2023; Swedish Government, 2023; SALRI, 2024; Mullins, 2014; German parliament, 2023; New Zealand Equal Justice Project, 2024)

Access to court documents and filings - domestic

From a scholarly perspective, the issues around overuse of suppression orders have an impact on the general transparency of courts in Victoria and the other Australian jurisdictions. An assessment of the available studies led us to the conclusion that public, and media, access to court documents in Australia is severely hampered by the great differences between courts and jurisdictions when it comes to public access. Access is further complicated by digitisation, which at times makes it harder, rather than easier, to gain access. While some jurisdictions like Victoria and NSW have attempted to take steps toward transparency, significant gaps remain. In the case of Victoria, there is clear evidence that its Open Courts Act 2013 is not delivering on its goals, as shown multiple times in the literature review and interviews above. Scholarly studies consistently highlight the need for greater consistency across jurisdictions, inclusion of non-media stakeholders, and implementation of dormant legislative reforms.

Access to court documents and filings – international

Unsurprisingly, there is a strong correlation between the use of court orders and access to court documents. The table below provides a summary.

Table 7 access to court documents international

Country	Legal Framework	Access Mechanisms	Transparency	Criticisms
Australia	Varies by state; Open Courts Act 2013 (Vic); Court Suppression	Online portals (limited); Registrar discretion; FOI requests	Poor; Victoria and NSW have structured frameworks but	Overuse of suppression orders; lack of national standardization; limited access

	and Non-publication Orders Act 2010 (NSW)		inconsistent implementation	for non-media parties
New Zealand	Criminal Procedure Act 2011; NZ Bill of Rights Act 1990	Court registry access; name suppression provisions; FOI mechanisms	Moderate; courts balance public interest and individual harm	Overuse of name suppression; limited digital access
USA	First and Sixth Amendments; Case law (e.g., Nebraska Press Assn. v. Stuart)	PACER system; court filings generally public unless sealed	High; strong constitutional protections for press freedom	Sealing orders in national security cases; access fees
United Kingdom	Contempt of Court Act 1981; Youth Justice and Criminal Evidence Act 1999; Human Rights Act 1998	Court registry access; publication restrictions under specific orders	Strong; courts publish reasons for suppression; media can challenge	Balancing test inconsistently applied; limited access to some documents
Sweden	Freedom of the Press Act; Public Access to Information and Secrecy Act	Presumption of openness; court documents generally public	Very high; transparency is constitutional	Rare secrecy criticized when used; strong media access
Germany	Basic Law (Grundgesetz); Courts Constitution Act; Criminal Procedure Code	Public hearings; anonymization of parties; limited media coverage	Moderate; hearings public but documents less accessible	Anonymization may hinder scrutiny; filming restrictions

(Mullins, 2014; Rodrick, 2017; Townend, 2021)

One example of the stark differences between the countries in this comparison is access to court documents in Sweden. When someone is charged and the documents are lodged with a court, all documentation (including the full police investigation in criminal cases) connected to a case is available to the public by default. There are provisions to redact information that could be harmful to victims, etc. But redactions are rare. Access to documents is swift, same day access is the most common outcome. This means that in Sweden journalists have the opportunity to prepare for a trial and when it starts, they are able to follow and report on it in a well-informed manner. As we have seen in the interview data above, the polar opposite situation exists in Victoria.

It should also be noted that audio recording by journalists of court proceedings has been the default setting for several decades in Swedish courts. The judge has the right to revoke the recording right, but it works as an opt-out system. There are no cases where audio recording was deemed to threaten due procedure or fair justice – rather, the opposite, it supports due procedure by facilitating more accurate journalistic reporting.

One of the interviewees sums up the situation in Victoria thus:

I'm not advocating for the American system, but there's a lot of information over there that's just available because it's public. Anybody can get court records in the United States for almost nothing because this is what their taxes are paying for. Here, I've got to get an order from a judge to find out what someone is being charged with. This person might have a private lawyer, they might have a public defender, but they're going through the public system, they're accessing public resources, and we're made to feel like we're somehow invasive by asking to see materials.

Particularly when it comes to something like a sex offender, or terrorism offence - public safety and public order – we're made to jump through these massive hoops to get something that should be free as a matter of course, and available as a matter of course.

(Interview Chris Vedelago, senior reporter, *The Age*, 2025)

Freedom of Information functionality - domestic

As pointed out above, the Victorian Freedom of Information (FOI) Act and system are not delivering on their aims – far from it. So, how does it compare to the other FOI acts in Australia? The short answer is poorly. The larger jurisdictions that have implemented reforms and moved towards an information access system where information is accessible by default and FOI requests are a last resort have greater functionality but are not without faults. These jurisdictions are Queensland, NSW and the Commonwealth. Victoria's FOI Act from 1982 is now 43 years old. Only minor amendments have been made to it in close to half a century.

As observed above, reforms both to the act and the culture of implementation are long overdue. The research is in, we know what needs to be done to make FOI in Victoria work better – it is now all about political will. That will to reform FOI in Victoria is and has been at the very bottom of the agenda for the major political parties. There are currently no signs that this will change (Victorian Parliament, 2024; Lidberg, 2024).

Freedom of Information functionality – international

The comparative functionality of FOI systems reveals significant variation in legal frameworks, administrative cultures, and public engagement. Sweden and New Zealand

emerge as leaders in transparency, while Australia and Germany face challenges in implementation. The US and the UK have strong legal foundations but struggle with bureaucratic inefficiencies. Varieties of Democracy and Freedom House data corroborate these findings, highlighting the importance of institutional support and civic culture in FOI effectiveness (Coppedge et al, 2025; House, 2024).

Access to human sources in the police – domestic

In Victoria, The "Lawyer X" scandal led to heightened scrutiny of police informant management and journalist interactions. The Royal Commission into the Management of Police Informants (2020) emphasised the need for transparency and legal safeguards, which may deter police officers from speaking to journalists off the record (McMurdo, 2020).

NSW Police maintains a strong media presence and centralised communication strategy. Journalists often face challenges accessing unofficial sources due to tight control over public messaging (Anian-Welsh and Bosland, 2023).

Queensland's tailored shield laws offer slightly more protection for journalists, but institutional culture still discourages unauthorised disclosures (ibid).

The smaller Jurisdictions, South Australia, Tasmania, the Northern Territory, and the ACT, often lack formalised media engagement policies, which can result in more informal relationships between journalists and police officers. However, limited resources and smaller media markets may restrict investigative journalism (ibid).

Access to human sources in the police – international

Comparative analysis reveals that Australia offers the least protection for journalists accessing police human sources, while countries like Sweden and Germany provide robust legal safeguards. New Zealand, the United States, and the United Kingdom fall in between, with varying degrees of statutory and procedural protections. Reform in Australia could benefit from adopting elements of these international frameworks to enhance press freedom and accountability (Fletcher et al, 2024).

Access to government human sources - international

Our analysis showed that there is hardly any difference when it comes to access to government human sources in the different Australian jurisdictions. Meaningful answers to questions and formal and informal access to government sources have deteriorated significantly in the last ten years, as described above in the interview data.

Australia

Recent studies highlight challenges in accessing government sources due to increasing centralisation of communication and political hostility toward the press. Wilding (2021) emphasises the impact of digital platforms and government media strategies on limiting

informal access to sources. The ACCC report also notes the decline in local journalism and its implications for source diversity.

New Zealand

New Zealand maintains relatively high levels of press freedom and transparency. However, Fletcher et al. (2024) note a decline in trust in news, which may affect source willingness to engage. The country's structured media environment still supports journalistic access to government sources, albeit with growing concerns over digital influence.

United States

The USA presents a polarised media landscape. Newman and Cherubini (2025a) report increased attacks on the press and reduced access to government sources, especially under politically hostile administrations. Despite First Amendment protections, journalists face institutional barriers and legal risks when engaging with government insiders.

United Kingdom

The UK has seen a decline in trust in news and increased control over government communications. Fletcher et al. (2024) highlight the shift toward social media platforms and their impact on traditional journalistic practices. Government press offices have become more centralised, limiting informal access to human sources.

Sweden

Sweden continues to uphold strong press freedom norms. However, Fletcher et al. (2024) observe a modest decline in trust in news, which may influence source engagement. The country's decentralised media system supports diverse access to government sources.

Germany

Germany maintains robust legal protections for journalists. Fletcher et al. (2024) report stable trust levels and structured media use. Government transparency initiatives and public broadcasting systems facilitate access to human sources.

The principal takeaways from this comparison are the importance of a decentralised media system (in practice, this means taxpayer funding for the second largest media outlets in regional towns) for scrutiny of local government via accessing human sources, such as in Sweden. Australia and Victoria would do well to note this. Second, Victoria and Australia are not at the bottom of the list in this category – that place is now held by the USA. This can serve as a warning of what can happen when extreme political polarisation and culture wars dominate the agenda.

Access for journalists to interview prisoners - domestic

Finally, we compared journalistic access to prisoners. The justification for this is that how a country treats those who are most vulnerable says a lot about how willing the political and judicial system is to be open to scrutiny.

Access to prisoners by journalists in Australia is governed by state and territory legislation, correctional policies, and media protocols. Historically, journalists have faced significant barriers, including censorship, bans on interviews, and limited access to prison facilities (Miller, 2025).

Victoria

Victoria maintains strict controls over media access to prisoners. Journalists must obtain approval from Corrections Victoria, and interviews are rarely granted. This limits transparency and public oversight (ibid).

New South Wales

NSW has seen the emergence of prison publications like 'About Time', which are created by and for prisoners. These initiatives provide indirect journalistic access and reflect a growing recognition of prisoner voices (ibid).

Queensland

Queensland has historically imposed legal restrictions on journalists interviewing prisoners. A notable case in 2005 involved a journalist being charged for unlawful contact with a prisoner (ibid).

Western Australia

WA correctional policies allow limited media access, typically for approved stories that align with departmental messaging. Independent journalism faces institutional resistance.

South Australia

SA permits media access under strict conditions. Journalists must submit formal requests, and interviews are monitored. There is limited scholarly data on the effectiveness of these policies.

Tasmania

Tasmania has minimal public documentation on journalistic access to prisoners. Anecdotal evidence suggests restrictive practices similar to other jurisdictions.

Northern Territory

The NT correctional system allows media access on a case-by-case basis. However, there is little transparency in the approval process.

Australian Capital Territory

The ACT aligns with federal protocols under the Australian Federal Police. Media access is tightly controlled, with limited opportunities for independent reporting.

Challenges include censorship, lack of transparency, and institutional resistance to media scrutiny. Opportunities for reform include standardised access protocols, support for prison journalism, and legal protections for journalists engaging with prisoners (Miller, 2025).

Access for journalists to interview prisoners – international

Australia

Access to prisoners by journalists in Australia varies by jurisdiction. Some states allow limited interviews under strict conditions, while others impose significant restrictions. The 2025 Digital News Report highlights growing concerns over institutional opacity and the decline of investigative journalism (Newman, 2025b).

New Zealand

New Zealand maintains a relatively open framework for journalistic access to prisoners, though access is subject to approval by the Department of Corrections. The Worlds of Journalism Study (2025) indicates that New Zealand journalists report moderate levels of editorial freedom and institutional cooperation.

United States

In the United States, access to prisoners is highly variable across states and federal institutions. The 2025 Digital News Report notes that partisan media and political polarisation have impacted journalistic access, with some institutions favouring certain outlets (Newman, 2025b).

United Kingdom

The UK offers structured access to prisoners through formal requests, though journalists report challenges in navigating bureaucratic hurdles. The Reuters Institute's UK Journalists in the 2020s study highlights concerns about declining editorial autonomy and increased PR control (ibid).

Sweden

Sweden maintains strong protections for press freedom, and journalists generally have extensive access to prisoners under regulated conditions. The Worlds of Journalism Study (2025) found Swedish journalists enjoy high levels of trust and institutional transparency.

Germany

Germany provides access to prisoners through formal channels, with oversight from judicial and correctional authorities. The Worlds of Journalism Study (2025) indicates that German journalists face fewer institutional barriers compared to other countries, though privacy laws can limit reporting.

Journalistic access to prisoners reflects broader trends in press freedom and institutional transparency. Countries like Sweden and Germany offer more structured and open access, while Australia and the United States present more fragmented and restrictive environments. Continued monitoring and reform are essential to uphold journalistic integrity and public accountability.

Chapter 4: Analysis and discussion

Based on the review of previous studies and the interviews in this project, we conclude that public interest journalism in Victoria is at a crisis point. This is particularly true for court reporting in the state. But as seen above, it extends to access to human sources in government and the police force.

A limitation in this study is that none of the Chief Judges in the principal Victorian courts agreed to be interviewed. This is very disappointing given the need for courts to engage in public discourse to maintain public trust and remain legitimate. The fact that the Victorian courts frequently appear to be breaching the Open Courts Act 2013 (Vic) is very serious. It is not a good look for courts to break laws as their principal task is to uphold the law. However, the fact that the judges opted not to participate in the study is a finding in itself and signals that public engagement and outreach are not high on their agenda. This finding correlates with the interview data where the journalists pointed to what can only be characterised as a communication breakdown between the courts and Victorian media. According to the interviews, the court media teams, and at times the Chief Judges, used to meet regularly with court reporters and editors to discuss and sort out issues – this is no longer the case. It would seem that this type of communication is the most fruitful way to try to resolve the current unsustainable conflict between media in Victoria and the courts. It is in the highest public interest that both sides attempt to resolve this conflict in good faith.

In lieu of input from the Chief Judges, we can glean some insight into how the attitudes toward open justice have shifted over time from another source. In a speech in October 2024 by the Chief Justice of the Australian Federal Court, Debra Mortimer, the Chief Justice argued that ‘open justice’ is not absolute and that a better term would be ‘accessible justice’. She defines accessible justice thus:

*[It] includes practices such as using concise statements instead of complicated pleadings; creating online files; developing accessible and digestible judgment summaries; livestreaming trials and appeals; using remote hearing technology where appropriate to conduct hearings and permit members of the public to access hearings; engaging on social media to provide easy access to our website, to our remote hearings, to our livestream and to our online files. Accessible justice in a contemporary Court is more easily achieved by digitising court files, which facilitate many of the practices mentioned above. **Accessible justice is also enhanced through community engagement by judges and registrars, not only engagement with the legal profession.** I suggest that accessible justice is the concept that applies to the new modern information landscape (Mortimer 2024, p. 6, authors’ emphasis).*

It is quite extraordinary that a Chief Justice is prepared to replace a centuries-old legal concept that sits at the core of holding courts to account for how they wield their power. Accessible justice sounds good, but it challenges the doctrine that court documents should be publicly accessible by default and that courts must justify exemptions to this default rule.

According to Chief Justice Mortimer, accessible justice is not about secrecy. We note that the Chief Justice advocates for judges engaging with the wider community. Clearly, her colleague Chief Judges in Victoria disagree with this sentiment based on their non-participation in this study.

No one on our Court advocates secret justice. But we do believe in fair justice, and in a judicial system that recognises the tensions and challenges at a case-by-case level and a justice system level in ensuring fairness and avoiding harm. Accessibility to our work will come in our contemporary Court from a wide range of sources, and the legal profession and the community should be confident of our Court's commitment to these values (Mortimer 2024, p. 12).

We will have to wait and see if the Chief Justice's accessible justice concept works better in practice than the open justice doctrine.

There are clear parallels between OCA and FOI – both acts are being routinely breached by, in the case of the OCA, the courts, and in the case of FOI, government agencies. These breaches are being done with impunity as there are no meaningful consequences for the breaches, rendering both acts toothless and close to meaningless.

This begs the questions: what signal does it send to the public when courts are breaching the law? Does this impact the public's trust in the justice system and the courts? Likewise, how does government agencies routinely breaching the FOI Act impact the public's trust in politicians and governments?

Based on the findings in this study we make the following recommendations to the Melbourne Press Club:

1. Advocate for a second review of the Open Courts Act 2013 (Vic) for better functionality and implementation.
2. Advocate for a review of the Open Courts Act 2013 (Vic) regarding consequences for courts when breaching the act.
3. Advocate that the review of the Open Courts Act 2013 (Vic) that include an explicit mention that public access to court documents is part of open justice/courts.
4. Organise a round table with the Chief Judges and courts' media sections to restart communications between the courts and media outlets in the interest of open justice and quality court reporting.
5. Lobby the courts to allow audio recording by default of court proceedings by accredited journalists in the interest of accuracy of reporting.
6. Consider collaborating with a university to design short courses for journalists on how to challenge court orders.
7. Follow up the round table with a Melbourne Press Club lunch including the Chief Judges.

8. Organise a roundtable with the media sections from key Victorian government agencies to discuss the deterioration in access to government sources – possibly also followed by a press club lunch.
9. Continue lobbying for Freedom of Information reform in Victoria, starting with the government responding to the 101 recommendations in the 2024 report on FOI.
10. Draft a state version of the suggested federal Media Freedom Act and lobby the Victorian government to pass it into law.

Conclusion

This project aimed to investigate the state of play for public interest journalism in Victoria in 2025. It explored whether existing limitations - such as court suppression orders, restricted access to court documents, a dysfunctional Freedom of Information system, and barriers to accessing sources - are justified safeguards or whether they unduly hinder the practice of public interest journalism.

The overarching conclusion of this study is that the limitations to conducting public interest news journalism in Victoria are now so severe that the crucial role of news reporting holding powerful institutions and individuals to account is under significant strain. This conclusion is based on the 12 interviews with senior journalists in Victoria across five media outlets. The study found that the situation is particularly dire for reporters covering the courts in Victoria. Based on previous studies (Bosland 2017) and the interview data in this project, it is clear that courts in Victoria frequently breach the Open Courts Act 2013 (Vic).

This is a serious situation as it potentially undermines the legitimacy of Victorian courts. Given this, we requested interviews with the Chief Judges for the Magistrates, County and Supreme courts. They declined to participate in the study.

The final recommendation above mentions the suggested federal Media Freedom Act (MFA). This is because many of the issues captured in this study could be addressed by the MFA drafted by the Alliance for Journalists' Freedom. The MFA is needed because, uniquely among liberal democracies, Australia does not have a Bill of Rights as part of its constitution setting out the rights of its citizens, protecting basic rights such as freedom of expression and media freedom.

The proposed act “identifies four requirements essential to recognising, protecting and promoting media freedom”:

1. the media should be able to access and receive information, including on public affairs, political issues and matters of public interest, so it can carry out its functions; and
2. the public should be able to receive information, commentary, opinion, analysis and ideas from a diverse and independent range of media sources; and
3. media independence and editorial freedom should be protected; and
4. journalists should not be precluded or discouraged from carrying out their legitimate activities (Alliance for Journalists' Freedom MFA, 2024, p. 2).

The MFA is (should it pass into law) a federal act and for it to address the issues of limitations to public interest journalism in Victoria, a state version of the act would need to be passed. Given the serious limitations to public interest journalism in Victoria documented in this study, the arguments for a state MFA are strong indeed. It would be possible for a

Victorian Media Freedom Act and a reformed Open Courts Act 2013 (Vic) to work in tandem to address the current crisis for court reporting in Victoria.

That said, a much faster and easier way to start the process of resolving the apparent stand-off between the Victorian courts and the journalists and media outlets that report on them would be to organise and run the suggested round table in recommendation four above.

In the words of one of the journalists interviewed in the study – it is all about accountability:

Publicly funded justice-related institutions, they should be accountable to the public and their decision-making should be accountable to the public. The public should have a way of being able to see what they're doing, and why they're doing it, and who they're doing it to. That shouldn't be something that even necessarily relies on journalists to a large extent...I'm less interested in just making things better for me, than I am for there just being a level of accountability to the public.

(Interview Nino Bucci, *The Guardian*, justice and court reporter, 2025)

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