

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Portfolio

Question No. 137

Senator Humphries asked the following question at the hearing on 16 October 2012:

Freedom of Information

1. Has the department/agency received any updated advice on how to respond to FOI requests?
2.
 - a) What is the total cost to the department/agency to process FOI requests for 2011-12?
 - b) How many FOI requests did the department/agency receive in 2011-12?
 - c) How many requests were denied and how many were granted?
 - d) Did the department fail to meet the processing times outlined in the FOI Act for any requests? If so, how many? Do any of these requests remain outstanding?
3.
 - a) What is the total cost to the department to process FOI requests for this financial year to date?
 - b) How many FOI requests has the Department received for this financial year to date?
 - c) How many requests have been denied and how many have been granted?
 - d) Has the department failed to meet the processing times outlined in the FOI Act for any requests? If so, how many and why? Do any of these requests remain outstanding? If so, how many and why?

The answer to the honourable senator's question is as follows:

Attorney-General's Department

1. Yes, the Department has received updated advice on how to respond to FOI requests. The Office of the Australian Information Commissioner (OAIC) provides general advice to all agencies under the *Freedom of Information Act 1982*. The advice is available at http://www.oaic.gov.au/publications/guidelines.html#foi_guidelines and other FOI advice is available from the OAIC at http://www.oaic.gov.au/publications/agency_resources.html#FOI.

2.

a) The cost of processing the Department's FOI requests was approximately \$ 636,117.00 (staff and administrative costs).

b) The Department received 314 FOI requests during this period.

c) The Department granted 33 FOI requests in full, partially granted 44 requests and refused 127 requests. The remaining requests comprised requests in relation to which no documents were held by the Department, requests that were subsequently withdrawn by the Applicant and requests which were transferred to other agencies.

d) The Department failed to meet the statutory processing time for 76 requests received during this period and of those requests, 1 was still outstanding on 16 October 2012.

3.

a) Cost statistics are not yet available for the 2012-2013 financial year.

b) The Department received 52 FOI requests during this period.

c) The Department granted ten FOI requests in full, partially granted 18 requests and refused 19 requests. The remaining requests comprised requests in relation to which no documents were held by the Department, requests that were subsequently withdrawn by the Applicant and requests which were transferred to other agencies.

d) The Department failed to meet the statutory processing time for 14 requests received during this period. This delay was caused by the size and complexity of some of the requests and staff turnover. Of those requests which did not meet the statutory processing times, none was still outstanding on 16 October 2012.

Australian Crime Commission

1. Yes. The Office of the Australian Information Commissioner (OAIC) provides general advice to all agencies under the *Freedom of Information Act 1982* and this has been updated in recent months. The updated advice is available at:

http://www.oaic.gov.au/publications/guidelines.html#foi_guidelines . The OAIC has also published a series of resources for agencies relating to responding to FOI requests:

http://www.oaic.gov.au/publications/agency_resources.html#FOI .

2. a) Staff hours: 1,291. This amounts to approximately \$72,592.97* Non-labour costs: \$2,199.00

b) 33.

c) Access granted in full: 1. Access granted in part: 11. Access refused: 32.

d) Yes. The ACC had 8 requests where the response time was up to 30 days after the statutory period. None of these requests remain outstanding.

3. a) Staff hours: 301. This amounts to approximately \$16, 925.24*. Non-labour costs: \$890.00.

* Figures are based on an average gross annual salary of \$110,000.00 which includes allowances for superannuation and leave provision.

b) 14.

c) Access granted in full: 0. Access granted in part: 3. Access refused: 10. Transferred to another agency: 1.

d) No.

Australian Customs and Border Protection Service

1. Yes. The Office of the Australian Information Commissioner (OAIC) provides general advice to all agencies under the *Freedom of Information Act 1982*. The OAIC's advice is available at: http://www.oaic.gov.au/publications/guidelines.html#foi_guidelines.
2. Each year, Customs and Border Protection provides data to the Office of the Australia Information Commissioner (OAIC) concerning the processing of FOI requests. This data is compiled and published on the OAIC website in the *Freedom of Information Act 1982 Annual Report*. The tables below draw from information provided by Customs and Border Protection to the OAIC covering the period 1 July 2012 to 30 June 2012.

a) See table below. The input relates to estimated total staff time spent and non-labour costs.

Staff years	Non-labour costs (\$)
2.40	827

b) Customs and Border Protection received 116 requests from 1 July 2012 to 30 June 2012.

c) See table below.

Granted in full	Granted in part	Access refused	Transferred	Withdrawn	Total determined
33	37	26	3	15	96

d) Yes. See table below.

Where delays have occurred, these are usually associated with large or complex requests requiring extensive analysis and external consultation. Customs and Border Protection has an obligation under the FOI Act to ensure that it makes sound decisions. The number and volume of complex FOI requests has increased considerably since the reforms to the FOI Act in November 2010.

Response time within statutory timeframes	Response time up to 30 days after statutory period	Response time 31-60 days after statutory period	Response time 61-90 days after statutory period	Response time over 90 days after statutory period
56	26	10	3	1

As at 1 July 2012, Customs and Border Protection had 19 requests on hand.

3. For the period of 1 July 2012 to 30 September 2012, the following information is provided:
- a) See table below. The input relates to estimated total staff time spent and non-labour costs.

Staff years	Non-labour costs (\$)
0.41	35

- b) Customs and Border Protection received 40 requests from 1 July 2012 to 30 September 2012.
- c) See table below.

Granted in full	Granted in part	Access refused	Transferred	Withdrawn	Total determined
9	18	7	2	6	34

- d) Yes. See table below.

As advised above, where delays have occurred, these are usually associated with large or complex requests requiring extensive analysis and external consultation. Customs and Border Protection has an obligation under the FOI Act to ensure that it makes sound decisions. The number and volume of complex FOI requests has increased considerably since the reforms to the FOI Act in November 2010.

Response time within statutory timeframes	Response time up to 30 days after statutory period	Response time 31-60 days after statutory period	Response time 61-90 days after statutory period	Response time over 90 days after statutory period
18	14	2	0	0

□

□ As at 1 October 2012, Customs and Border Protection had 17 requests on hand.

Australian Federal Police

1. The Office of the Australian Information Commissioner (OAIC) provides general advice to all agencies under the *Freedom of Information Act 1982* (FOI Act). The most up to date advice is available at: http://www.oaic.gov.au/publications/guidelinesvhtml#foi_guidelines. The OAIC has also published a series of resources for agencies relating to responding to FOI requests at http://www.oaic.gov.au/publications/agency_resources.html#FOI.
2.
 - a) Each year, those agencies subject to the FOI Act provide data to the OAIC concerning the processing of FOI requests. For the 2011 - 2012 financial year information was compiled and published in the OAIC Annual report 2011 - 2012 and the accompanying data will be made available on the OAIC website. In relation to costs to agencies, the agency input relates to estimated total staff time spent and non-labour costs. The Australian Federal Police reported to the OAIC that 17,540 staff hours with \$59,043 non-labour costs were committed to processing FOI requests in 2011 - 2012.
 - b) The Australian Federal Police reported to the OAIC a total of 381 requests received during the 2011 – 2012 financial year.
 - c) The Australian Federal Police reported to the OAIC that the Australian Federal Police granted access to the requested information in full to 30 requests, partially for 223 requests, while 42 requests were withdrawn by the applicant and 86 were refused.
 - d) During 2011 - 2012, the Australian Federal Police have been unable to comply with the statutory processing time for two (2) requests, both of which have now been finalised.
3.
 - a) In relation to costs to agencies, the agency input relates to estimated total staff time spent and non-labour costs. The Australian Federal Police between 1 July and 30 September 2012 estimates that the agency's total costs were 4288 staff hours with no recorded non-labour costs.

- b) The Australian Federal Police between 1 July and 30 September 2012 has received 86 requests for information including the transfer to the AFP of two FOI requests initially received by other agencies.
- c) The Australian Federal Police between 1 July and 30 September 2012 granted access to the requested information in full to 11 requests, partially to 43 requests, while 3 requests were withdrawn by the applicant and 22 were refused.
- d) The Australian Federal Police have been unable to comply with the statutory processing times for 36 requests due to a range of factors including: awaiting legal advice; responses from courts and coroners; increase in number and complexity of requests. Only 12 of these requests remain outstanding at the beginning of November 2012.

Australian Government Solicitor

Australian Government Solicitor (AGS) is a government business enterprise operating on a commercial and competitive basis in providing legal and related services to government and its agencies. AGS does not receive any Budget or other appropriations and its employees are engaged outside of the Public Service Act 1999. The question is therefore not applicable to AGS.

Australian Human Rights Commission

1. No.
2. a) \$28,365 (ex GST)
 - b) 35
 - c) Granted in full 18, Access refused 11
 - d) No – All FOI requests were processed within the statutory time period.
3. Financial year to date is set as 1 July 2012 to 30 September 2012
 - a) The Commission is required to provide to the Office of the Australian Information Commissioner details of the costs to the Commission in processing FOI requests each financial year, by 31 July for inclusion in the FOI Annual Report. To identify the information sought at this early stage would require an unreasonable diversion of resources.
 - b) 11
 - c) Granted – 9, Access Refused -1
 - d) Yes – one request was 30 days overdue. The claim related to an old series of inquiries and the Commission experienced difficulty in searching for and locating files, having them returned from archives and then assessing the material.
No requests remain outstanding.

Australian Institute of Criminology

1. No.
2.
 - a) \$210
 - b) Refer to 2011-12 AIC annual report
 - c) All granted
 - d) One request exceeded the time limit. It has been finalised.
3. Financial year to date is set as 1 July 2012 to 30 September 2012
 - a) Nil
 - b) One request for basic information that was resolved outside the FOI process.
 - c) Not applicable.
 - d) Not applicable.

Australian Law Reform Commission

1. The ALRC has not received any updated advice on how to respond to FOI requests.
2.
 - a) \$2,073.32
 - b) The ALRC received two FOI requests in 2011-12.
 - c) All requests were granted.
 - d) No, the ALRC met the processing times outlined in the FOI Act.
3. For the period 1 July 2012 to 30 September 2012:
 - a)-d) Nil.

Australian Security Intelligence Organisation

ASIO is an exempt agency under the *Freedom of Information Act 1982* (Schedule 2, Part I, Division I).

Commonwealth Director of Public Prosecutions

1. No.
2.
 - a) The total cost to the CDPP to process FOI requests in the FY 2011-12 was \$16,396 incl GST.
 - b) 25 applications were received by the CDPP in the FY 2011-12.
 - c) Access to documents was granted in full or in part in 17 applications, access was refused in six applications, one application was transferred to another agency and one application was withdrawn.
 - d) All requests processed met the required processing time.
3. Financial year to date: 1 July 2012 to 30 September 2012

- a) The total cost to the CDPP to process requests for this financial year to date is estimated at \$350.
- b) Six applications were received between 1 July 2012 and 30 September 2012.
- c) Access to documents was granted in full or in part in four applications and two applications were withdrawn.
- d) Three requests processed met the required processing time. One was finalised within 31-60 days. The CDPP obtained an extension of time from the Information Commissioner's Office in relation to this application.

CrimTrac

- 1. No. CrimTrac continues to receive regular advice provided by the Office of the Australian Information Commissioner of a general nature that is publicly available and assists all Commonwealth government agencies. Since the last Budget Estimates, CrimTrac has neither sought nor received any advice on how to respond to any specific FOI requests.
- 2.
 - a) As set out in the FOI Annual Report 2011-12, \$95,073 was incurred in staff costs and \$685.00 was incurred by the agency in non-staff costs directly attributable to the processing of FOI requests or the publishing of the agency's Information Publication Scheme. In CrimTrac's 2011-12 annual statistical return to the Office of the Australian Information Commissioner, the agency estimated that 1,731 staff hours had been spent on FOI requests.
 - b) 14 requests (including 1 subsequently withdrawn and 1 transferred to another agency).
 - c) 2 requests refused and 11 requests granted.
 - d) No.
- 3. Financial year to date is set as 1 July 2012 to 30 September 2012
 - a) It is the normal practice to collate these figures for the statistical return to the OAIC closer to the end of the financial year. To identify the information sought at this early stage would require an unreasonable diversion of resources at this time.
 - b) Seven requests (including two subsequently withdrawn).
 - c) One request refused and three requests granted (one request outstanding).
 - d) No.

Family Court of Australia

- 1. No.
- 2.

- a) The Court estimates that approximately 4 hours of an APS 6 have been spent on this.
- b) Per page 116 of the Family Court's Annual Report, 3 applications for Freedom of Information were received in the 2011-12 financial year.
- c) See table below

FOI requests received	Access granted in full or in part	Access refused	Number of requests that failed to meet the processing time requirements	Status of requests that failed to meet the processing time requirements
3	2	1	0	NIL

3.

- a) The Court estimates that approximately 4 hours of an APS 6 have been spent on this.
- b) The Family Court of Australia has received applications for Freedom of Information YTD 30 September 2012.
- c) See table below
- d) See table below

FOI requests received	Access granted in full or in part	Access refused	Number of requests that failed to meet the processing time requirements	Status of requests that failed to meet the processing time requirements
2	1	1	NIL	NIL

Federal Court of Australia

1. The Australian Information Commissioner revised parts of the Guidelines issued under s93A of the *Freedom of Information Act 1982* on 8, 9 and 10 May 2012 and 11 September 2012 and issued additional 'Resources for Agencies' in April, June and September 2012.
- 2.
- a) This would include both direct and indirect costs. Specific data is not available to enable these to be calculated. Direct costs can be found in the 2011-12 OAIC annual report.
 - b) 6 FOI requests were received in the financial period 2011-12.
 - c) 2 requests were denied and none were granted in the financial period 2011-12. In addition, 3 were withdrawn and 1 was outstanding at the end of this financial year.

d) No. All processing times outlined in the FOI Act were met. Note: the 1 request outstanding at the end of the financial year was subsequently process within the timeframe allowed.

3. Financial year to date (i.e. 1 July 2012 to 30 September 2012)

a) This would include both direct and indirect costs. Specific data is not available to enable these to be calculated.

b) Three FOI requests have been received in the financial period 2012-13 to date.

c) One request has been denied and three requests have been granted. Note: this includes one request carried over from 2011-12.

d) No. All processing times outlined in the FOI Act were met. There were no outstanding requests.

Federal Magistrates Court

1. No.

2.

a) Nil.

b) As identified at page 116 of the Federal Magistrates Court's Annual Report, no applications for Freedom of Information were received in the 2011-12 financial year.

c) Nil.

d) Nil.

3.

a) Nil.

b) The Federal Magistrates Court of Australia has received no applications for Freedom of Information YTD 30 September 2012.

c) Nil.

d) Nil.

National Native Title Tribunal

1. No.

2. a) Nil cost

b) Nil, and reported nil in the 2011-12 Annual FOI statistics return

c) Not applicable

d) Not applicable
3. a) Nil cost

b) Nil, and reported nil in the 2012-13 first quarter FOI statistics return

c) Not applicable

d) Not applicable

Office of the Australian Information Commissioner

1. Yes. The Office of the Australian Information Commissioner (OAIC) provides general advice to all agencies under the Freedom of Information Act 1982 and this has been updated in recent months. The updated advice is available at:
http://www.oaic.gov.au/publications/guidelines.html#foi_guidelines.
The OAIC has also published a series of resources for agencies relating to responding to FOI requests: http://www.oaic.gov.au/publications/agency_resources.html#FOI, including a set of Frequently Asked Questions (FAQs):
http://www.oaic.gov.au/publications/FAQs/foi_policy_faqs_agencies.html
2.
 - a) The OAIC's total costs for processing FOI requests in 2011–12 is available on the OAIC website http://www.oaic.gov.au/publications/reports/foi_agency_statistics_11-12/index.html
 - b) The OAIC's total number of FOI requests in 2011–12 is available on the OAIC website: http://www.oaic.gov.au/publications/reports/foi_agency_statistics_11-12/index.html
 - c) The OAIC's number of FOI requests denied and granted in 2011–12 is available on the OAIC website: http://www.oaic.gov.au/publications/reports/foi_agency_statistics_11-12/index.html
 - d) The OAIC's processing times are available on the OAIC website:
http://www.oaic.gov.au/publications/reports/foi_agency_statistics_11-12/index.html
3.
 - a) The OAIC's total costs for processing FOI requests for the period 1 July 2012 to 30 September 2012 is \$6,360.
 - b) The OAIC received 16 FOI requests in the period 1 July 2012 to 30 September 2012.

c) During the period between 1 July 2012 – 30 September 2012, 17 FOI requests were finalised:

- 8 requests were granted in full
- 3 requests were granted in part
- 3 requests had access refused
- 3 requests were withdrawn

d) No.