

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

Portfolio

Question No. 88

Senator Humphries asked the following question at the hearing on 14 February 2012:

Freedom of Information

1. Has the Department/agency received any advice on how to respond to FOI requests?
2. What was the total cost to the department to process FOI requests for 2009-10 and 2010-11?
3. What is the total cost to the department to process FOI requests for this financial year to date?
4. How many FOI requests did the Department receive for the financial year 2009-10 and 2010-11? For each financial year, how many requests were denied and how many were granted? 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?
5. How many FOI requests has the Department received for this financial year to date? How many requests have been denied and how many have been granted? Has the department failed to meet the processing times outlined in the FOI Act for any requests? If so, how many? Do any of these requests remain outstanding?
6. How many conclusive certificates have been issued in relation to FOI requests for this financial year to date?

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

1. Guidance on Freedom of Information (FOI) matters was provided to this, and all other Departments, in a letter in April 2009 from the then Cabinet Secretary, a letter in October 2010 from the then Minister for Privacy and Freedom of Information, guidelines issued by the Department of Prime Minister and Cabinet (PM&C) prior to November 2010, guidelines issued after November 2010 by the Office of the Australian Information Commissioner and FOI Guidance notes issued by PM&C in July 2011. The Attorney-General's Department and its portfolio agencies have not received any advice this year on how to handle requests.

The Australian Government Solicitor and the Australian Security Intelligence Organisation are exempt from the operation of the *Freedom of Information Act 1982*. Therefore no advice on how to respond was sought or received by these two bodies.
2. Prior to 1 November 2010, the *Freedom of Information Act 1982* required the relevant Minister to present an annual report on the operation of the Act to Parliament, which included FOI costs. Details on FOI costs for 2009-10 can therefore be found at 'www.ag.gov.au/Freedomofinformation/Pages/Freedom-of-information-annual-reports.aspx'.

From 1 November 2010, section 30 of the *Australian Information Commissioner Act 2010* requires the Australian Information Commissioner to present an annual report on the operation of the Office of the Australian Information Commissioner (OAIC), which includes

FOI costs. Details on FOI costs for 2010-11 can therefore be found at 'www.oaic.gov.au/publications/reports/FOIAR_10-11/index.html'.

From 1 November 2010, section 30 of the *Australian Information Commissioner Act 2010* requires the Australian Information Commissioner to present an annual report on the operation of the Office of the Australian Information Commissioner (OAIC), which must include certain freedom of information matters.

3. This data is not yet readily available. The compiling and provision of this information would involve an unreasonable diversion of resources. Costs for 2011-12 will be included in the next FOI Annual Report to be published this year by the Office of the Australian Information Commissioner.
4. See table below.
5. See table below.
6. None. On 7 October 2009 the *Freedom of Information (Removal of Conclusive Certificates and Other Measures) Act 2009* repealed the power to issue conclusive certificates in the *Freedom of Information Act 1982*.

2009-10

Department/Agency	FOI requests received	Access granted	Access denied	Number of requests that failed to meet the processing time requirements	Do any of these requests remain outstanding?
Attorney-General's Department	67 (31 were either withdrawn, transferred to other agencies or refused on the grounds that the Department was not in possession of the documents requested)	9 in full 11 in part	16	16	No
Administrative Appeals Tribunal	4	1	3	0	n/a
Australian Commission for Law Enforcement Integrity	2	0	2	0	n/a
Australian Crime Commission	11	4 granted in part	7	1	No
Australian Customs and Border Protection Service	51 (10 withdrawn)	34	3	12	No
Australian Federal Police	278	138	33	9	No
Australian Human Rights Commission	8	5	3	2	No
Australian Institute of Criminology	0	0	0	0	n/a
Australian Law Reform Commission	0	0	0	0	n/a
Australian Transaction Reports and Analysis Centre	59	46	13	4 (Note: All 4 were transferred to AUSTRAC from another agency under section 16 of the FOI Act after the processing time had elapsed.)	No
Commonwealth Director of Public Prosecutions	14	11	2	1	No

CrimTrac	6 (one withdrawn)	5	0	0	n/a
Family Court of Australia	0	0	0	0	n/a
Federal Court of Australia	3	3	0	0	n/a
Federal Magistrates Court of Australia	0	0	0	0	n/a
High Court of Australia	0	0	0	0	n/a
Insolvency and Trustee Service Australia	8	7	0	4	No
National Native Title Tribunal	0	0	0	0	n/a
Office of the Australian Information Commissioner	n/a	n/a	n/a	n/a	n/a
Office of Parliamentary Counsel	0	0	0	0	n/a

2010-11

Department/Agency	FOI requests received	Access granted	Access denied	Number of requests that failed to meet the processing time requirements	Do any of these requests remain outstanding?
Attorney-General's Department	251 (183 were either withdrawn, transferred to other agencies or refused on the grounds that the Department was not in possession of the documents requested)	28 in full 38 in part	2	33	No
Administrative Appeals Tribunal	2	1	1	1	No
Australian Commission for Law Enforcement Integrity	4	3*	0	0	n/a
Australian Crime Commission	21	1 in part	20	4	No
Australian Customs and Border Protection Service	113 (2 transferred,	82	14	6	No

	5 withdrawn)				
Australian Federal Police	343	164	40	24	Yes, 1
Australian Human Rights Commission	19	12	4	1	No
Australian Institute of Criminology	2	1	One applicant referred to Department of Defence	0	n/a
Australian Law Reform Commission	1	1	0	0	n/a
Australian Transaction Reports and Analysis Centre	65	50	13	0	n/a
Commonwealth Director of Public Prosecutions	20 (one withdrawn)	15	4	1	No
CrimTrac	15 (one withdrawn)	14	0	0	n/a
Family Court of Australia	1	0	1	0	n/a
Federal Court of Australia	2 (one withdrawn)	1	0	0	n/a
Federal Magistrates Court of Australia	0	0	0	0	n/a
High Court of Australia	3	2	1	0	n/a
Insolvency and Trustee Service Australia	13	10	1	5	No
National Native Title Tribunal	0	0	0	0	n/a
Office of the Australian Information Commissioner (1 November 2010 to 30 June 2011)	15	12	1	0	n/a
Office of Parliamentary Counsel	0	0	0	0	n/a

*ACLEI: for one request received towards the end of 2010-11, access was granted in 2011-12

1 July 2011 to 29 February 2012

Department/Agency	FOI requests received	Access granted	Access denied	Number of requests that failed to meet the processing time requirements	Do any of these requests remain outstanding?
Attorney-General's Department	247	13 in full	1	23	Yes, 23

	(190 were either withdrawn, transferred to other agencies or refused on the grounds that the Department was not in possession of the documents requested)	43 in part			
Administrative Appeals Tribunal	3	1	3	0	n/a
Australian Commission for Law Enforcement Integrity	6 (one withdrawn)	6*	0	0	n/a
Australian Crime Commission	22	6 in part	14	8	No
Australian Customs and Border Protection Service	67 (10 withdrawn)	35	12	18	Yes, 3
Australian Federal Police	240	140	50	3	Yes, 3
Australian Human Rights Commission***	24 5 requests still under consideration	10	9	0	n/a
Australian Institute of Criminology	3 One request still under consideration	1 in full 1 in part	0	0	n/a
Australian Law Reform Commission	1	1 in part	0	0	n/a
Australian Transaction Reports and Analysis Centre	41	24	18	0	n/a
Commonwealth Director of Public Prosecutions**	10	6	4	1	No
CrimTrac	10 (one withdrawn)	9	0	0	n/a
Family Court of Australia	2	1	1	0	n/a
Federal Court of Australia	1 (later withdrawn)	0	0	0	n/a
Federal Magistrates Court of Australia	0	0	0	0	n/a
High Court of Australia	2	0	1 -	0	n/a

	One request still under consideration		nil response		
Insolvency and Trustee Service Australia	29	26	6	1	No
National Native Title Tribunal	0	0	0	0	n/a
Office of the Australian Information Commissioner	14	11	2	0	n/a
Office of Parliamentary Counsel	0	0	0	0	n/a

*ACLEI: for one request received towards the end of 2010-11, access was granted in 2011-12

** CDPP figures for the financial year to date are available to 31 December 2011.

*** AHRC figures for the financial year to date are available to 14 March 2012.