

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

Portfolio

Question No. 146

Senator Humphries asked the following question at the hearing on 12 February 2013:

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 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:

In the financial year to date (1 July 2012 – 31 January 2013 – Australian Federal Police 1 July 2012 – 5 March 2013)

Attorney-General's Department

1. Yes, the department accesses the advice provided by the Office of the Australian Information Commissioner (OAIC), which 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) Cost statistics are not yet available for the 2012-2013 financial year.
 - b) The department received 120 FOI requests during the period 1 July 2012 – 31 January 2013.
 - c) Of the requests the department received in the period 1 July 2012 – 31 January 2013 the department granted 17 FOI requests in full, partially granted 21 requests and refused 11 requests. The remaining requests comprised 11 requests that were subsequently withdrawn by the Applicant, 6 requests that were transferred to other agencies, 44 requests in relation to

which no documents were held by the department (s24A) and 10 requests that remain outstanding.

d) Of the 120 requests received in the period 1 July 2012 – 31 January 2013, 110 have been finalised and 10 remain outstanding. Processing has extended outside the statutory time limits for 26 of the finalised requests. Of the 10 requests outstanding, 6 are outside the statutory timeframe. Where delays have occurred, they have generally been associated with large or complex requests requiring extensive analysis and external consultation.

Administrative Appeals Tribunal

1. No.
2. a) \$7,211.63
 - b) Seven Freedom of Information requests were received by the Administrative Appeals Tribunal this financial year to date.
 - c) Three requests were granted and four requests were declined.
 - d) Yes, one request was completed outside of the required processing time as the due date fell during January 2013 when the relevant officer was unavailable. The request has now been finalised.

Australian Commission for Law Enforcement Integrity

1. The Australian Commission for Law Enforcement Integrity (ACLEI) 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 FOI Act). 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) Each year, ACLEI provides financial data to the OAIC concerning the processing of FOI requests. This data is compiled and published on the OAIC website in the FOI Act Annual Report. Accordingly, figures are not yet available for the 2012–13 financial year.
 - b) ACLEI received four FOI requests between 1 July 2012 and 31 January 2013.
 - c) One FOI request was granted between 1 July 2012 and 31 January 2013. No FOI requests were denied in that period.
 - d) As at 31 January 2013, ACLEI had three FOI requests on hand for which the processing times outlined in the FOI Act had not been met. All three requests have since been finalised. These requests took longer to process because of their size and complexity.

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: 516 This amounts to approximately \$29,014.69*.
- Non-labour costs: \$890.00.

- b) 24

- c) The outcome of the FOI requests are as follows:

- Access granted in full: 0
- Access granted in part: 4
- Access refused: 13
- Transferred to another agency: 1
- Withdrawn: 2

There are currently four requests being processed.

- d) Yes. The ACC had one request where the response time was up to 30 days after the statutory period. This request remains outstanding due to ongoing consultation by the ACC with a number of Commonwealth Departments as required by the FOI Act.

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 31 December 2012, and data from 1 January 2013 to 31 January 2013.

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

Staff Years	Non-labour costs (\$)
1.4	\$160

- b) Customs and Border Protection received 76 requests from 1 July 2012 to 31 January 2013.

- c) See table below:

Granted in full	Granted in part	Access refused	Transferred	Withdrawn	Total determined
13	39	10	4	9	62

- 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
34	20	6	2	0

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) 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 5 March 2013 estimates that the agency's total costs were 11638 staff hours with no recorded non-labour costs.

- b) The Australian Federal Police between 1 July and 5 March 2013 has received 301 requests for information including the transfer to the AFP of eleven (11) FOI requests initially received by other agencies.
- c) The Australian Federal Police between 1 July and 5 March 2013 granted access to the requested information in full to 28 requests, partially to 154 requests, while 21 requests were withdrawn by the applicant and 82 were refused.
- d) The Australian Federal Police have been unable to comply with the statutory processing times for 63 requests due to a range of factors including: awaiting legal advice; responses from courts and coroners; increase in number and complexity of requests. Only 11 of these requests remain outstanding at the beginning of March 2013.

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. Nil
- 2. a) The Commission is required to provide the Office of the Australian Information Commissioner with 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) The total number of FOI requests the Commission has received this financial year is 18.
- c) Granted in full = 4
 Granted in part = 8
 Withheld =
 No docs in existence – 5
 Outstanding = 1
- d) No

Australian Institute of Criminology

1. Yes
2. a) \$1,854
- b) Three (One request for basic information that was resolved outside the FOI process)
- c) Two granted, one not dealt with as an FOI.
- d) No, none are outstanding.

Australian Law Reform Commission

1. The ALRC has not received any updated advice on how to respond to FOI requests
2. a) NIL
- b) N/A
- c) N/A
- d) N/A

Australian Security Intelligence Organisation

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

AUSTRAC

1. Yes. The Office of the Australian Information Commissioner (OAIC) provides general advice to all agencies under the *Freedom of Information Act 1982* (FOI Act) and this has been updated in recent months. The updated advice is available at:
http://www.oaic.gov.au/publications/guidelines.html#foi_guidelines
2. a) Each year, agencies subject to the FOI Act provide data to OAIC concerning processing of FOI requests, which is compiled and published on the OAIC website in the *Freedom of Information Act 1982 Annual Report*. The costs for AUSTRAC for the financial year 1 July 2012 to 30 June 2013 will be only ascertained at the end of 30 June 2013 when AUSTRAC reports the second half (1 January 2013 to June 2013) of its FOI statistics to OAIC for that financial year. The approximate costs for processing FOI requests from 1 July 2012 to 31 January 2013 is \$ 129,570, calculated as a pro-rata amount based on the figures published by OIAC for the 2011-12 financial year.
- b) For the period 1 July 2012-31 January 2013, AUSTRAC received 42 FOI requests.
- c) 26 requests for access were refused and 16 requests were granted in full and/or in part.

d) No.

CrimTrac

1. No. CrimTrac continues to receive regular advice provided by the Office of the Australian Information Commissioner (OAIC) of a general nature that is publicly available and assists all Commonwealth government agencies. Since the last Supplementary Estimates, CrimTrac has neither sought nor received any advice on how to respond to any specific FOI requests.
2.
 - a) It is 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) Eight requests (including 2 subsequently withdrawn).
 - c) One request refused and 5 requests granted. As at 31 January 2013 there are no requests outstanding.
 - d) No.

Family Court of Australia

1. The Family Court is on the email address list for comprehensive OAIC advices and receives these regularly.
 2.
 - a) 4 staff hours (approx. \$168).
 - b) Two requests received from 1 July 2012 to 31 January 2013.
 - c) One request granted in full, one request denied on the grounds of s24A - no such document found.
- d) No processing times not met, and none outstanding.

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 24 and 25 January 2013.
2. Financial year to date (i.e. 1 July 2012 to 31 January 2013)
 - a) This would include both direct and indirect costs. Specific data is not available to enable these to be calculated.
 - b) 3 FOI requests have been received in the financial period 2012-13 to date.

- c) 1 request has been denied and 3 requests have been granted. Note: this includes 1 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. The Federal Magistrates Court of Australia receives regular comprehensive OAIC advices via email as to current FOI issues and updates.
- 2. a) 2 Staff hours (\$58.20)
 - b) Two requests received for this financial year.
 - c) Both these requests fell outside the scope of the FOI as there were no documents in existence.
 - d) No processing times not met, no outstanding requests.

High Court of Australia

- 1. No.
- 2. a) \$784
 - b) 3
 - c) 3 granted in part.
 - d) No.

Insolvency and Trustee Service Australia

- 1. No
- 2. a) approximately \$25,000 (including staff costs)
 - b) 22
 - c) 5 requests were granted full access
11 requests were granted partial access
3 requests had access refused
3 requests remain on hand as at 31/1/13

d) On one occasion ITSA was not able to meet the processing times due to the nature of the FOI request and the level of input required to provide a comprehensive response. No requests remain outstanding.

National Native Title Tribunal

1. No updated advice has been received in the period October 2012 to January 2013
2. a) Nil cost
b) Nil, and reported nil in the 2012-13 second quarter FOI statistics return
c) Not applicable
d) Not applicable

Office of the Australian Information Commissioner

1. Yes. Agencies must have regard to guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982* when they are performing a function or exercising a power under that Act. The Information Commissioner most recently updated the FOI Guidelines on 25 January 2013. The Guidelines and information about the most recent changes are available on:
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. This includes Agency Resource 14: Freedom of information *Access to government information — administrative access schemes* which was published in September 2012.

2.
 - a) The OAIC's total costs for processing FOI Requests for the period 1 July 2012 to 31 January 2013 is \$23,730 (excluding GST).

This does not include the OAIC's costs in processing requests for Information Commissioner review or other freedom of information functions under s 8 of the *Australian Information Commissioner Act 2010*.
 - b) The OAIC received 36 FOI requests in the period 1 July 2012 to 31 January 2013.

This does not include requests for documents that were responded to administratively and not required to be processed as formal FOI requests.
 - c) During the period 1 July 2012 to 31 January 2013, 28 FOI requests were finalised:
 - 9 requests were granted in full
 - 8 requests were granted in part

- 7 requests had access refused
- 4 requests were withdrawn.

d) No.

Office of the Commonwealth Director of Public Prosecutions

1. No
2. a) The estimated ancillary costs in processing the applications received this financial year is \$875.
b) 15 applications were received between 1 July 2012 and 31 January 2013.
c) Access to documents was granted in full or in part in 11 applications, access was refused in 2 applications and 2 applications were withdrawn.
d) All requests, except one, were processed within the statutory timeframe. One request took 31-60 days to process. The CDPP obtained an extension of time from the Information Commissioner's Office in relation to this application.

Office of Parliamentary Counsel

1. No
2. a) Nil
b) Nil
c) Not applicable
d) Not applicable