



Australian Government
Attorney-General's Department

FOI17/089; 17/5776

1 June 2017

Mr Michael Cohen

By email only: foi+request-3479-99625c92@righttoknow.org.au

Dear Mr Cohen,

Freedom of Information Request FOI17/089

I refer to your request to the Attorney-General's Department (the department) on 11 May 2017 under the *Freedom of Information Act 1982* (FOI Act) for access to documents relating to International Child Abduction. I also refer to the same request you made to the Attorney-General. As you are aware, the Attorney-General's Office transferred its request to the Attorney-General's Department on 24 May 2017.

You have requested:

The Australian Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction provides application statistics on the Attorney-General's Department website at the following web address:

<https://www.ag.gov.au/FamiliesAndMarriage/Families/InternationalFamilyLaw/Documents/Hague-Convention-application-statistics-2011-2016.PDF>

I request more detailed information be provided which includes statistics on a per country basis (i.e not a catch all "Proportion all other countries"), and outcomes of applications and/or cases for return of child and visitation. Parents need to know how and why children were returned, or not returned and the success of visitation applications on a per country basis. For example:

- * For return of child from country A, out of all cases resulting in successful returns, X number were successful enforcement of return orders, Y number were result of mediation etc.*
- * For return of child from country A, out of all cases resulting in denial of return petition, X number were denied due to place of habitual residence issues, Y number were denied due to <insert> ground for refusal etc.*

I, Ashleigh Saint, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests made to the Attorney-General's Department (the department).

I am writing to tell you that I consider that the work involved in processing your request in its current form would substantially and unreasonably divert the resources of this agency from its other operations due to its nature and broad scope. This is called a 'practical refusal reason' (section 24AA).

On this basis, I intend to refuse access to documents. However, before I make a final decision to do this, you have an opportunity to revise your request. This is called a 'request consultation process' as set out in section 24AB of the FOI Act. Subsection 24AB(2) of the FOI Act provides that you have 14 days to respond to this notice after the day it is provided.

I note that I have treated your two separate requests as a single request under section 24(2) of the FOI Act, noting that the requests are identical.

Why I intend to refuse your request

Having regard to the size and broad scope of your request, I have decided that processing it in its current form would substantially and unreasonably divert the resources of the department from its other operations.

In coming to this decision, I have considered the matter to which I must have regard under section 24AA(2) of the FOI Act, being the resources that would be used for the following:

- identifying, locating or collating the documents within the filing system of the department
- deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for examining the document or consulting with any person or body in relation to the request
- making a copy, or an edited copy, of the document, and
- notifying any interim or final decision on the request.

While your request does not specify a particular timeframe, our analysis is that even if the time period for your request was confined to one year, processing your request would take at least 70 hours and therefore, would unreasonably divert the resources of the department. The basis for this estimate follows:

- The requested material does not exist in discrete form in any document or documents, nor on a database or anywhere else on a departmental record. To obtain the information you have sought, individual case files would need to be examined.
- In 2015-16 there were 137 outgoing cases. An individual file exists in relation to each case.
- On average, I estimate it would take at least 30 minutes to review the documents on each of these 137 files to drill down to the exact information you have requested.
- The consistency of the data is also a factor as there are differing levels of departmental involvement, depending on how directly the country works with the applicant.
- Once the information you have sought was collated, additional time would be required to present it in the format you requested.

As indicated, the above analysis is based on case files for the 2015-16 financial year. I expect that there would have been a similar number of cases in other financial years, so a similar amount of resources would need to be spent for any other year.

I also note that given the sensitivity of cases of this kind, in providing any information the department would need to be particularly mindful of not revealing personal information about particular cases or individuals. This can occur when analysing very small caseloads. I expect that it would take significant time to carefully ensure that any documents released did not disclose, directly or indirectly, details about any particular case.

I understand you have a 1980 Hague Convention application with Japan. I understand that you discussed your issues with this matter and your broader 1980 Hague Convention concerns with Tracy Ballantyne on 1 June 2017.

Request consultation process

You now have an opportunity to revise your request to enable it to proceed.

Revising your request can mean narrowing the scope of the request to make it more manageable or explaining in more detail the documents you wish to access. For example, by providing more specific information about exactly what documents you are interested in, we will be able to identify the documents more quickly and avoid using excessive resources to process documents that are not of interest to you.

Before the end of the consultation period, you must do one of the following, in writing:

- withdraw your request
- make a revised request, *or*
- tell us that you do not wish to revise your request.

The consultation period runs for 14 days and starts on the day after you receive this notice.

During this period, you are welcome to seek assistance from the contact person I have listed below to revise your request. If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommence processing it. (Please note that the time taken to consult you about the scope of your request is not included in the 30 day time limit for processing your request.)

If you do not do one of the three things listed above during the consultation period or you do not consult the contact person during this period, your request will be taken to have been withdrawn.

Contact officer

If you would like to revise your request or have any questions, please contact Courtney by telephone on (02) 6141 6666 or by email foi@ag.gov.au.

Yours sincerely



Ashleigh Saint
A/g Assistant Secretary

