



Attachment A

DECISION RECORD

Request Details

FOI Request FA 15/11/00966
File Number ADF2015/62445

Scope of request

1. On 12 November 2015 you requested:

The following information regarding s501 Visa Cancellations:

- 1) *How many Visa Cancellations have been issued since the law came into effect (since December 2014)?*
- 2) *How many Visa Cancellations are yet to be processed? Eg. Prisoners whom meet the criteria but have not yet been processed*
- 3) *Of the Visa Cancellations made, could I please have a breakdown of the Nationalities represented*
- 4) *Of the Visa Cancellations made, how many have made a Revocation Appeal?*
- 5) *Of the Revocation Appeals, how many have been successful in reinstating their Visas / how many have been cancelled?*
- 6) *Of the Visa Cancellations made, how many persons are currently in detention?*
- 7) *Of the persons currently in detention, may I please have a breakdown of those currently awaiting deportation / those awaiting processing of their Appeals / and any other reasons for being in detention*

Documents in scope

2. There is one document within scope of your request, which contains the statistics addressing points 1-6 of your request. This document was created by the appropriate business areas in response to your request.

Section 24A - Requests may be refused if documents cannot be found, do not exist or have not been received

3. Following consultation with the relevant business areas I have determined that the information you seek in point 7 of your request did not exist in any documents held by the Department at the time of your request.

Section 17 of the FOI Act

4. Although the Department did not hold documents relevant to your request at the time of your request, s.17(1) of the FOI Act provides that if a request is for information held in an agency's computers and the agency can produce a document, using equipment and processes 'ordinarily available' for producing such documents; then the request must be treated as a request for documents that existed at the time of the request. The agency

must produce the documents for the purpose of responding to the FOI request, unless this would substantially and unreasonably divert the resources of the agency from its other operations (s.17(2)).

5. Following consultation with the Detention and Removal Operations Section I am satisfied that production of the information you seek from Departmental systems would unreasonably divert the resources of the agency from its other operations. I have made this determination based on the following:
 - The Detention and Removal Operations section has advised that while they hold data regarding persons in detention and removals, they do not hold the data in a form that can be reported in the way that you have requested
 - The section has further advised that to provide the data to meet your request, they would need to manually examine each client file to produce a new document, which would take a significant amount of time.
6. As the documents you requested do not exist, and cannot be created without a substantial and unreasonable diversion of resources, I have refused the request under s.24A of the Act.

Authority to make decision

7. I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate Departmental records.

Information considered

8. In reaching my decision, I have considered the following:
 - ✓ The *Freedom of Information Act 1982*;
 - ✓ Departmental files and/or documents (identified above); and
 - ✓ The Australian Information Commissioner's Guidelines relating to access to documents held by government.

Reasons for decision

9. I am satisfied that I have been provided with the relevant document to consider in my decision. I have considered the document and am satisfied that no exemptions apply. Therefore, I am releasing the relevant document in full.


Authorised decision maker
Department of Immigration and Border Protection
Email: foi@border.gov.au

14 July 2016



Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 15/11/00966
File Number ADF2015/62445

No.	Pages	Description	Decision on release	
1.	1-2	Data provided by business areas	Release in full	–

Attachment C – Extract of relevant legislation

17 Requests involving use of computers etc.

(1) Where:

(a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;

(b) it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and

(ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and

(c) the agency could produce a written document containing the information in discrete form by:

(i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or

(ii) the making of a transcript from a sound recording held in the agency;

the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

(2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.

23 Decisions to be made by authorised persons

(1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.

(2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) An agency or Minister may refuse a request for access to a document if:
 - (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

Document not received as required by contract

- (2) An agency may refuse a request for access to a document if:
 - (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
 - (b) the agency has not received the document; and
 - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.