

10 October 2023

Section 9(2)(a)

Section 9(2)(a)

Our ref: OIA 106781

Tēnā koe

Section 9(2)(a)

Cultural Reports

Thank you for your email of 14 August 2023 requesting, under the Official Information Act 1982 (the Act), information regarding cultural reports. Specifically, you requested:

Under the OIA please provide the total number of cultural reports by ethnicity (European, Maori, Pasifika, Asian etc) submitted to the courts from November 2017 through to July 30th, 2023.

Your request has been referred to me for response, as it falls within my responsibilities as Group Manager for National Service Delivery and is being managed in accordance with the provisions of the Act.

On 23 August 2023, the Ministry of Justice contacted you to advise that we had interpreted your request as asking for the number of reports submitted to the courts under section 27 of the Sentencing Act 2002. We asked that you confirm whether this interpretation was correct and followed up on 28 August 2023. On the same day, you asked the following:

Can I please confirm your previous email for clarification, that the Ministry of Justice doesn't collect or collate any data from cultural reports submitted around ethnicity whatsoever? Is this correct? If so I will withdraw this request upon your confirmation.

In response to your email, on 31 August 2023 the Ministry advised that the only information that we hold where ethnicity might have been recorded, would be for individuals who were legally aided and had disbursements for reports produced under section 27 of the Sentencing Act 2002, from 1 November 2017 to 31 July 2023.

We further advised that because more than 80% of applicants had their ethnicity recorded as "unknown" or "other" in recent years, this information would be misleading and inaccurate as the ethnicity totals would not be a true representation of the actual applicant ethnicity breakdown. On the same day, you responded to our request confirming:

As per your response, while recognising that the data held will not paint a full picture, I still require the limited (20% by your estimation) information on cultural reports that is held by the Ministry of Justice.

In line with s15(1AA) of the Act, as your request was clarified after the date it was received, it was treated as a new request for the purposes of the Act. The Ministry advised that you could expect a response by 28 September 2023.

On 27 September 2023, the Ministry contacted you to advise that pursuant to section 15(1) of the Act, the Ministry had decided to grant your request, but required more time to finalise the data for release. The Ministry advised that you could expect a response without undue delay and not later than 12 October 2023.

Before answering your request, I would like to provide some background information on section 27 reports. An offender, or their legal representative, may request a report be provided to the court under section 27 of the Sentencing Act 2002. The section requires a sentencing court to hear information the offender wants to present unless there are special reasons not to do so. The information can include the offender's personal, family, whānau, community, and cultural background and how those matters may be relevant to the offending, sentencing and rehabilitation.

Please refer to Table 1, below, in response to your request. As we had advised in our previous correspondence to you, although some ethnicity data has historically been collected for legal aid applications, this is only available for a very limited number of cases. This is because a person's ethnicity used to be included in the legal aid application form, but this field was removed in 2017 as part of work to simplify the forms and process for applying for legal aid. Additionally, Legal Aid Services only started recording section 27 reports as a specific category of disbursement after this change was made. As a result, almost all records of payments for these reports, will be on legal aid cases where ethnicity was not recorded. Please ensure that you interpret this data with caution, understanding that it does not capture a full or complete data set.

If you require any further information, please contact Media & Social Media Manager Joe Locke at media@justice.govt.nz.

Please note that this response, with your personal details removed, may be published on the Ministry website at: justice.govt.nz/about/official-information-act-requests/oia-responses/.

If you are not satisfied with this response, you have the right to make a complaint to the Ombudsman under section 28(3) of the Act. The Office of the Ombudsman may be contacted by email to info@ombudsman.parliament.nz or by phone on 0800 802 602.

Nāku noa, nā



Tracey Baguley
Group Manager, National Service Delivery

Table 1: Legal aid disbursements for section 27 reports, broken down by ethnicity from 1 November 2017 to 31 July 2023

Year	Cook Island Māori	New Zealand European or Pākehā	Samoan	New Zealand Māori	Other	Ethnicity Unknown
2017*	0	0	0	0	0	0
2018	0	0	4	14	4	36
2019	12	19	15	86	31	235
2020	10	49	32	237	78	1,006
2021	23	84	23	328	86	1,640
2022	14	98	28	291	83	1,743
2023**	15	89	17	177	64	1,060

* From November 2017

** Up until 31 July 2023

Notes for Table 1:

- This document contains data drawn from a database that is subject to change, as new data is continually recorded and/or recoded.
- The 'ethnicity' field was removed from the criminal legal aid application form in late 2017, so all ethnicity information held was provided to Legal Aid Services prior to this. The 'ethnicity' field on the form allowed the applicant to choose from the options available at the time, hence the headings of the columns in the table above. As a result of these changes, ethnicity is not recorded for applicants applying for the first time after November 2017. However, if the applicant applied for legal aid prior to November 2017, any subsequent legal aid applications will continue to have their ethnicity recorded.
- The table includes approved section 27 report-related disbursements, broken down by the calendar year it was approved. Legal Aid Services first recorded disbursements relating to section 27 reports in 2018.
- The number of section 27 reports commissioned by legal aid providers only and does not include the reports commissioned by the Public Defence Service.
- A legal aid grant may have more than one section 27 report-related disbursement. A legally aided person may also have more than one legal aid grant.