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**OIP'S REPORT OF STATE AGENCIES'
MASTER UIPA RECORD REQUEST
YEAR-END LOG for FY 2015**
(For record requests received from July 1, 2014 through June 30, 2015)

The Hawaii Office of Information Practices (“OIP”) has prepared this report based on information posted at data.hawaii.gov on the [Master UIPA Record Request Year-End Log for FY 2015](#) (“Master Log”) by 204 agencies¹ from all state Executive Branch departments, the Governor’s Office, the Lt. Governor’s Office, the Judiciary, the University of Hawaii, and the Oahu Metropolitan Planning Organization, and the Office of Hawaiian Affairs.

While this is the second year that most of the state agencies have used the UIPA Record Request Log² (“Log”), there continue to be reporting errors creating slight discrepancies in the results. OIP reviewed each agency’s Log to correct obvious errors and identify details not provided in the Master Log and made corrections to agencies’ entries on the Master Log. The revised Master Log totals are available at data.hawaii.gov and are summarized in the “Totals at a Glance” provided at the end of this report, along with a summary of fees and costs by department that OIP prepared from the agencies’ individual Logs.³

OIP notes that a single state agency accounted for 3,094 (59%) of the total 5,274 requests reported by all agencies on the year-end Master Log. While that agency appears to have properly reported its data, its numbers were eliminated from the following report so as to not skew the overall results.⁴

¹ “Agency” is defined by the Uniform Information Practices Act (“UIPA”) as “any unit of government ... but does not include the nonadministrative functions of the courts of this State.” § 92F-3, Hawaii Revised Statutes.

² For a sample form and training on the UIPA Record Request Log, go to OIP’s UIPA training page at <http://oiip.hawaii.gov/laws-rules-opinions/uipa/uipa-record-request-log/>.

³ For the Master Log, go to <https://data.hawaii.gov/Government-Wide-Support/OIP-Master-UIPA-Record-Request-Year-End-Log-For-FY/gf4v-varx>.

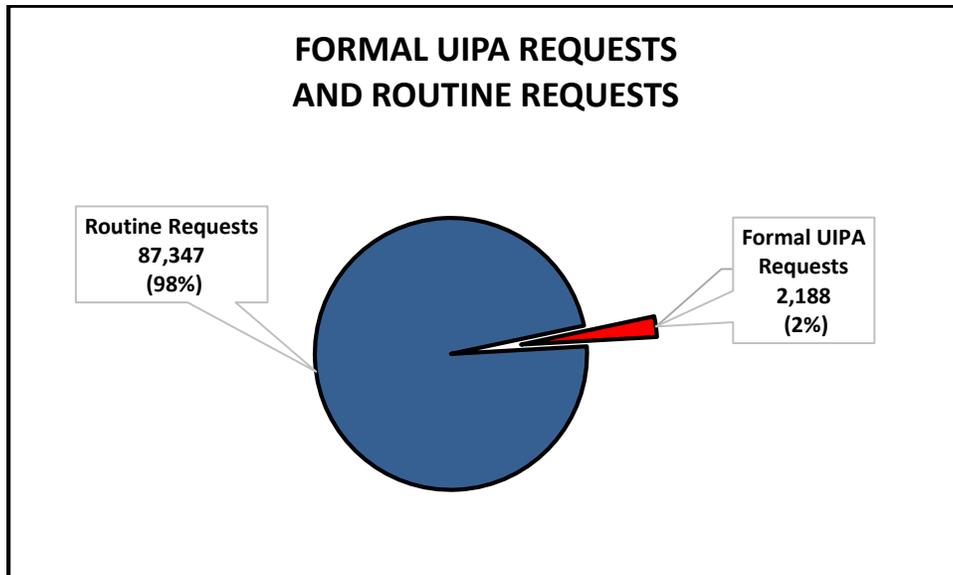
⁴The excluded agency was the Solid & Hazardous Waste Branch of the Department of Health, which receives the majority of its record requests from real estate agents seeking information as to whether a property has stored hazardous waste materials.

How many requests were made to state agencies in FY 2015?

Excluding the one agency, there were 2,188 formal written record requests requiring state agencies to send notices to the requester under the state’s Uniform Information Practices Act (“UIPA”), chapter 92F, HRS. Agencies estimated that they received 87,347 routine requests for information for which fee schedules have been established and no formal UIPA response is required, such as requests for University of Hawaii transcripts or Department of Health’s birth, marriage, and death records. Subpoenas for discovery of records in court cases, and responses to oral requests, or agency brochures provided to the public are also not tracked by the Log as formal written record requests. The following pie chart (**Chart 1**) shows that the 2,188 formal UIPA record requests constituted 2% and the estimated 87,347 routine requests comprised 98% of the 89,535 total requests reported by the agencies.

OIP notes that only 31 state agencies provided an estimated number of routine requests on their Logs, and that the estimate differs drastically from the 246,348 routine requests estimated in last year’s report. The reason for the large drop in estimated number of routine requests is because the Office of Health Status Monitoring (Department of Health) had reported last year the number of records it provided (230,000), and this year instead reported the number of requests received, which may have covered multiple record copies.

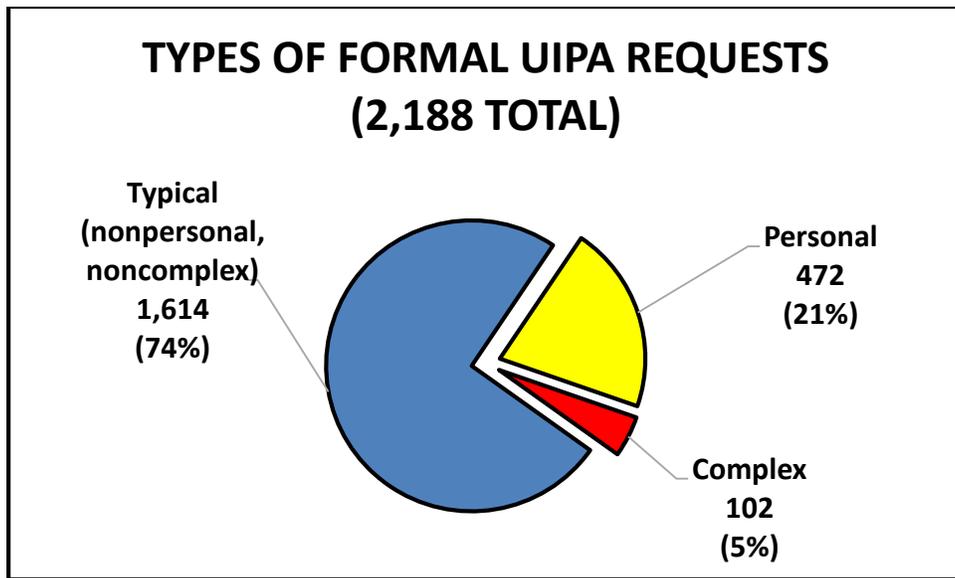
Chart 1



What kinds of requests were made?

The 2,188 formal requests can be broken down into 472 (21%) personal record requests and 102 (5%) complex requests, resulting in a balance of 1,614 (74%) nonpersonal and noncomplex requests, *i.e.* “typical” requests, as shown in **Chart 2** below.

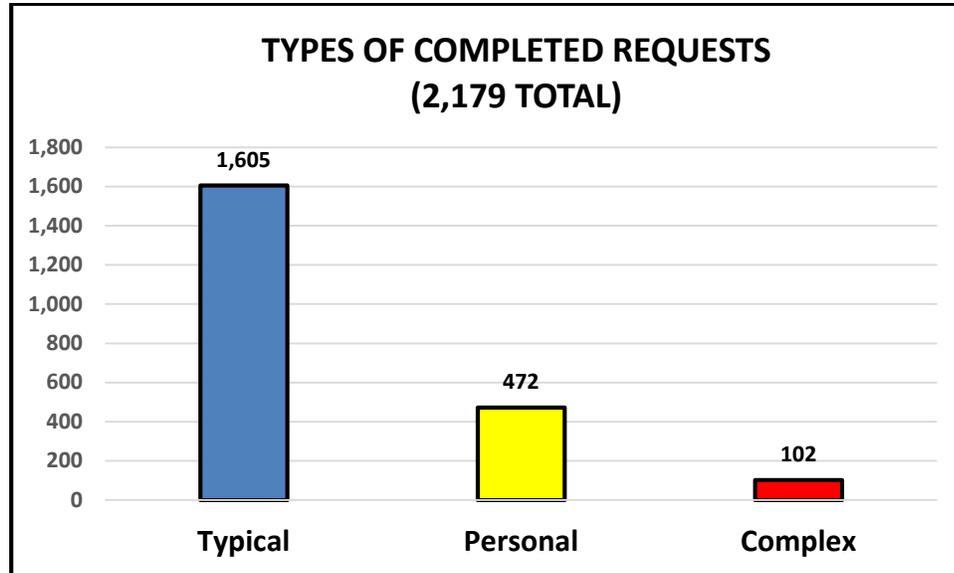
Chart 2



How many requests were completed?

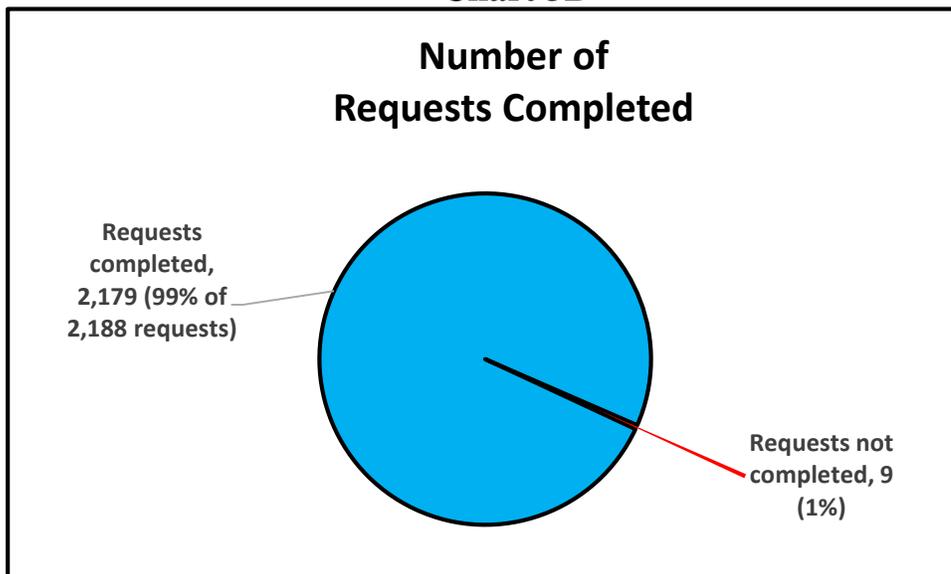
Out of 2,188 total requests, 2,179 requests were completed in FY 2015. Of the 2,179 completed requests, 472 were personal record requests, 102 were complex requests, and 1,605 were “typical” nonpersonal and noncomplex record requests. Note that all personal record requests and complex record requests received in FY 2015 were completed, and only 9 of the typical requests remained pending at the end of FY 2015.

Chart 3A



Of the 2,188 formal requests received by the agencies, 2,179 (99%) were completed and 9 (1%) were not completed as of June 30, 2014, as shown in **Chart 3B** below.

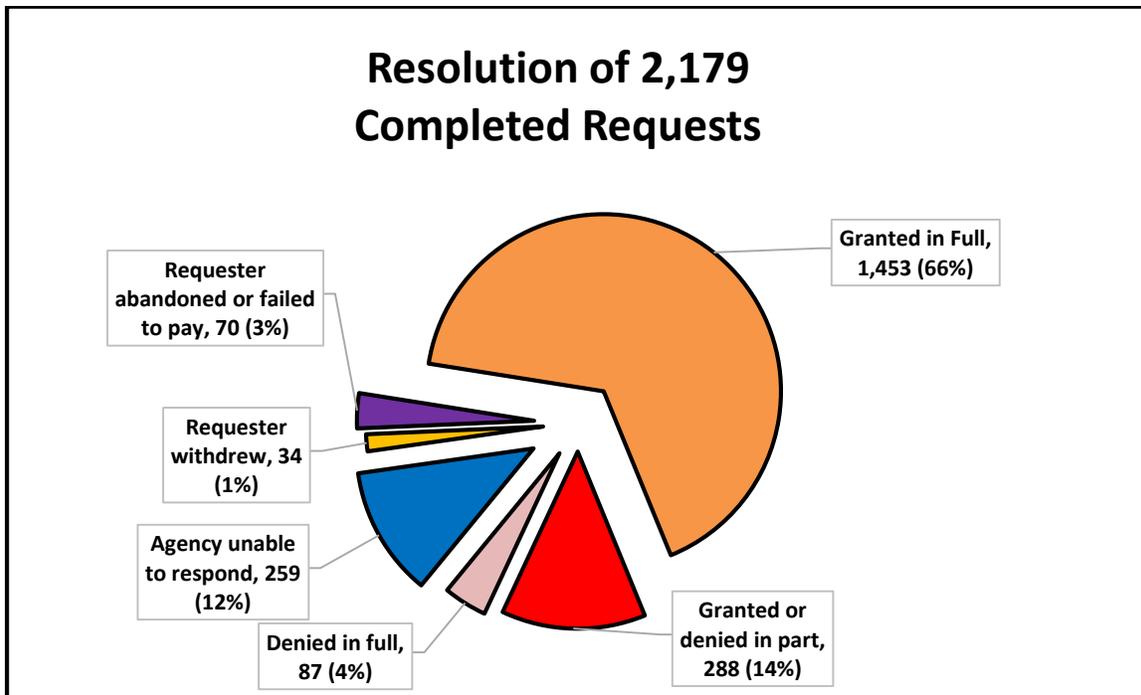
Chart 3B



How were requests resolved?

Of the 2,179 requests completed by the agencies, **Chart 4** below shows that 1,453 (66%) were granted in full; 288 (14%) were granted or denied in part; 87 (4%) were denied in full; in 259 (12%), the agency was unable to respond; 34 (1%) were withdrawn by the requester; and in 70 (3%), the requester abandoned or failed to pay for the request. Although these results total 2,191 and exceed the 2,179 completed requests by 12, the discrepancy may be due to reporting errors in checking off more than one outcome, underreporting the number of cases completed, or incorrectly reporting that the agencies were “unable to respond” to cases still pending at the end of FY 2015.

Chart 4



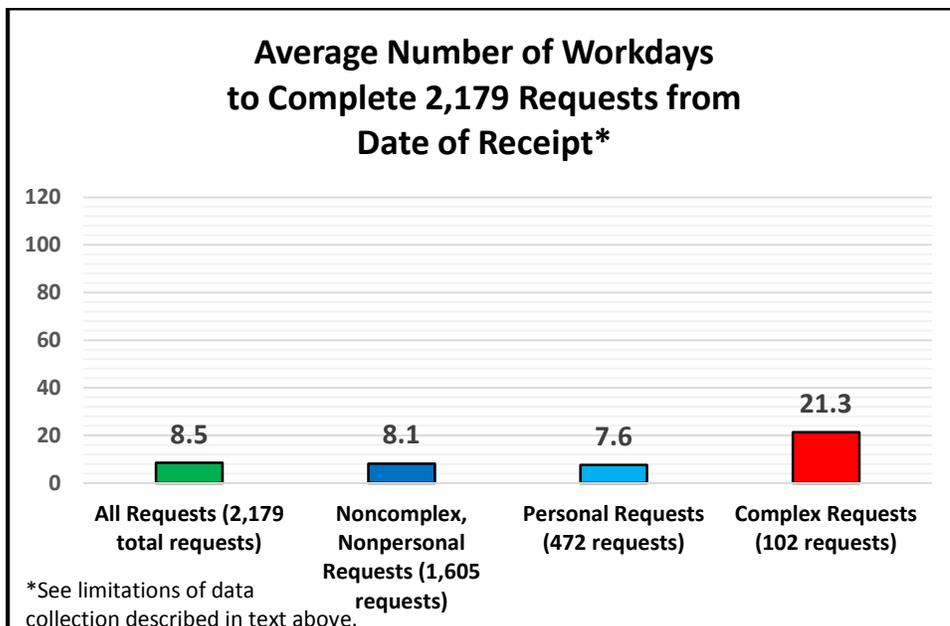
How long did it take to complete requests?

To calculate the number of working days taken to complete a request, the Log’s Excel formula excluded weekends but not state or federal holidays. Also, to avoid showing zero days for a request completed on the same day it was received, **the formula added an extra day** by including the date of the request (which is normally excluded when doing a manual count). **Thus, the Log’s calculation may inflate the days of completion by one or more days, depending on whether there were holidays or the request took more than one day to complete.** To account for the inexact calculations, agencies were instructed to manually enter an “x” in Column I of their Logs when they completed a request within ten business days.

With this understanding of the limitations of the underlying formula, the agencies reported providing initial responses within ten business days to 1,464 requests, or 67% of all requests. (Column I of the Master Log) In 154 (7%) of the requests, the agencies reported that they needed initial clarification of the request, which may partly explain why they were not able to send their notice or acknowledgement to requesters within ten workdays. Although in the remaining 26% of all cases the agencies did not check the Column I box to indicate that they provided their initial responses within ten days of receiving the requests, this appears to be an underreporting error as the average number of days to complete most requests was under ten days.

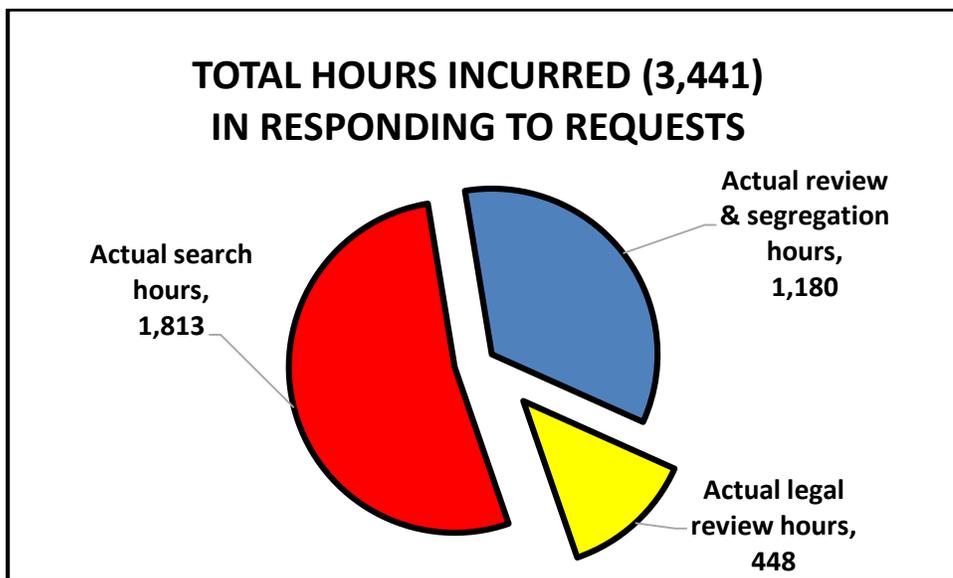
As shown in the following bar graph, **Chart 5**, it took an average of 8.5 workdays from date of receipt to complete all record requests, based on 18,602 workdays to complete 2,179 requests. (Columns N and AP of the Master Log) When broken down by type of request, Chart 5 shows that it took an average of 8.1 days to complete 1,605 typical noncomplex and nonpersonal record requests; 7.6 days to complete 472 personal record requests; and 21.3 days to complete 102 complex requests. (Columns AQ through AS of Master Log)

Chart 5



Agencies were also asked to keep track of the actual time that they spent on search, review (e.g., for confidentiality or privacy concerns), and segregation (e.g., redacting protected information) in 15-minute increments per hour. No less than .25 hour, or 15 minutes, was to be entered for search time for each request. Any legal research or other time spent to determine how the agency should respond or possible exemptions from disclosure could not be entered as search, review, or segregation (“SRS”), but could be separately logged by the agencies as “Legal Review” hours. As shown in the following pie **Chart 6**, the agencies reported incurring a total of 3,441 hours to respond to record requests, of which 1,813 hours were for search, 1,180 hours were for review and segregation, and 448 hours were for legal review. These figures also include the time spent by agencies working on the 9 pending cases that were not completed at the end of FY 2015.

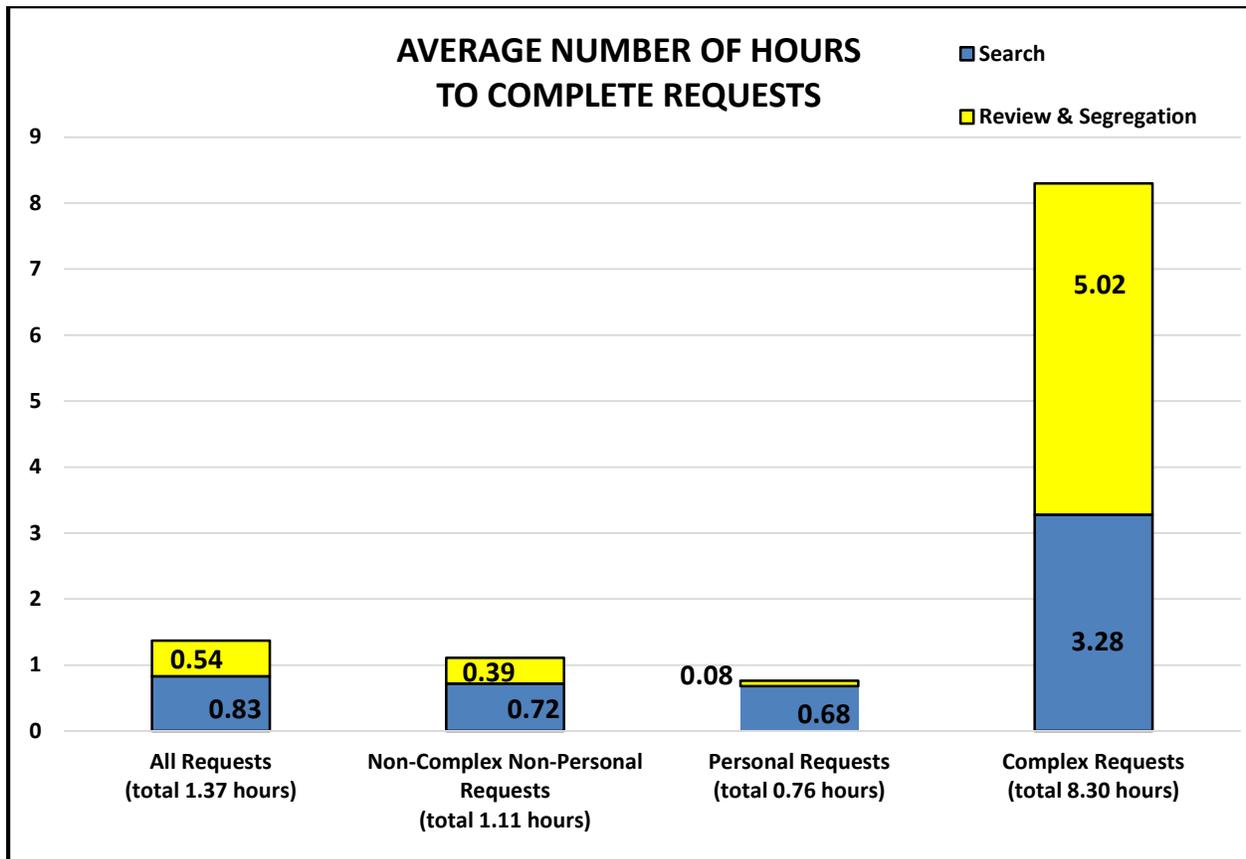
Chart 6



The totals in Columns AT through BA of the Master Log show the number of SRS hours that agencies worked on 2,188 record requests, including the 9 requests that were not completed at the end of FY 2015. Based on those SRS hours, and excluding legal review hours, it took an average of 1.37 total SRS hours of work, as shown below in **Chart 7** and the explanatory table that follows. The 1,614 “typical” noncomplex/nonpersonal record requests took an average of 1.11 SRS hours, and 472 personal record requests took an average of .76 SRS hours of agency work. The 102 complex record requests took 8.30 SRS hours on average, which is more than 7 times longer than the typical request.

	<u>Search</u>	<u>Review & Segregation</u>	<u>Total SRS hours</u>
All requests	.83	.54	1.37
Noncomplex/ Nonpersonal	.72	.39	1.11
Personal	.68	.08	.76
Complex	3.28	5.02	8.30

Chart 7



How much did it cost to complete record requests?

OIP's administrative rules, which were adopted in 1998, permit agencies to charge \$2.50 per 15 minutes, or fraction thereof, for search time (*i.e.*, \$10 per hour) and \$5.00 per 15 minutes, or fraction thereof, for review and segregation time (*i.e.*, \$20 per hour). Agencies are also allowed to recover their copying and delivery costs, which are governed by HRS § 92-21 and agency rules and are not set by OIP.

In order to get a better picture of the gross costs incurred by the government, the Log asked agencies to keep track of legal review time as well as additional response fees, such as special counsel's fees and court costs to defend lawsuit under the UIPA. These additional response fees, however, cannot be charged to the requester and they were excluded from the Log's automatic calculation of the amounts that the agencies could charge to the requester. Moreover, while agencies may incur copying or other costs for their own purposes in reviewing and segregating records, OIP's rules allow them to charge only for the copying and delivery of records actually provided to the requester. Finally, OIP's rules require that up to the first \$30 in SRS fees be waived for all requesters, and this waiver may be increased to \$60 instead (not \$30 plus \$60) for requests that are found by the agency to be in the public interest.

Thus, while the Log captured data about the gross fees and costs incurred by the agencies, it also calculated the net amounts, after waivers, that could be properly charged by the agencies. The agencies manually inputted into the Log the amounts that were actually paid by the requesters.

The visualizations and data on the following pages break down the fees and costs in various ways.

After subtracting fee waivers, the net chargeable amounts of fees and costs that agencies could properly charge requesters is compared to the gross fees and costs that agencies incurred and the total fees and costs that requesters actually paid, as shown in the **Chart 8A** and the descriptive table that follows. In summary, the agencies incurred gross fees and costs of \$79,423 but could only charge \$66,452 for fees and costs allowed under OIP’s rules, and they actually collected from requesters \$37,603.

Please note that the data in Chart 8A and the explanatory table on the next page include gross and net fees and costs for all 2,188 requests, even if they were not completed or charged to requesters. Moreover, the gross incurred SRS fees of \$37,603 (from Column Z of the Master Log and as shown in the left column of Chart 8A) do not include fees for legal review hours, SRS fees for personal records, or additional response fee estimates. If those nonchargeable amounts were included and \$41,603.91 (from Column AF of the Master Log) in gross copying and delivery costs were included, then the gross incurred fees and costs would total \$87,653.34 (as shown in Column AJ of the Master Log) and not \$79,423 as shown in the far left column of Chart 8A below.

Chart 8A

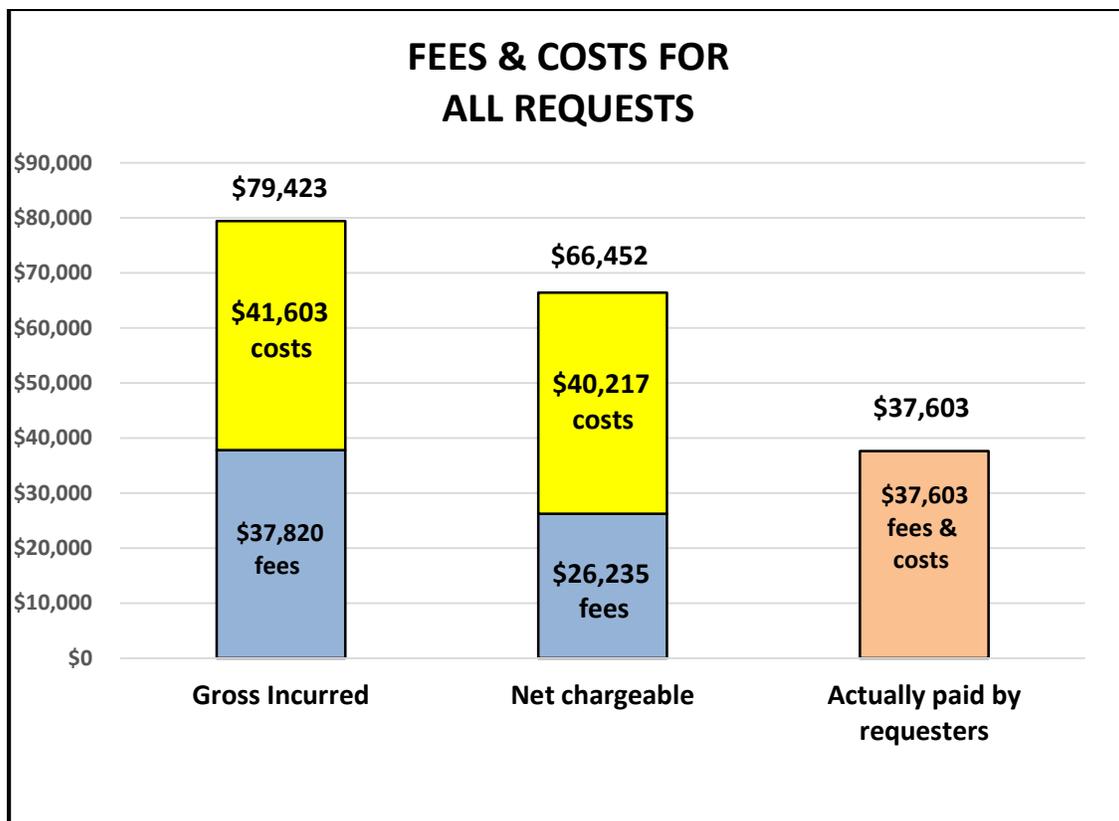


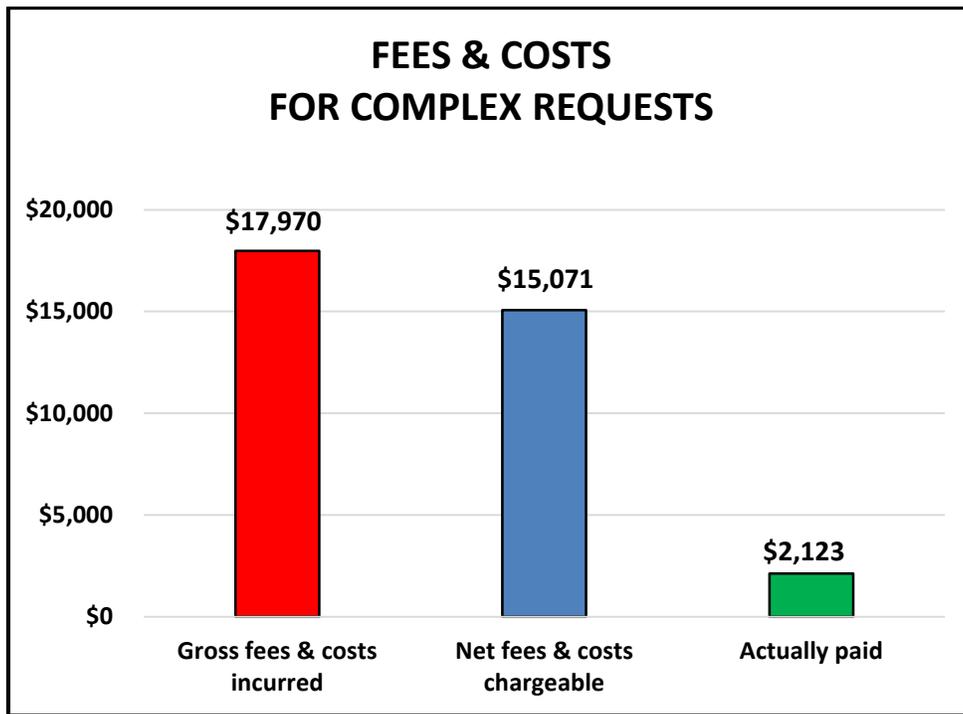
Chart 8A Fees & Costs for all 2,188 requests

	<u>Fees</u>	<u>Costs</u>	<u>Total Fees & Costs</u>
Gross incurred fees	\$37,820	\$41,603	\$79,423
Net chargeable fees	\$26,235	\$40,217	\$66,452
Actually paid by requesters			\$37,603

Based on the data entered by the agencies, the Master Log automatically calculated the gross fees and costs incurred (Master Log Column AM) for the 102 complex record requests as well as the net amount that was properly chargeable (Master Log Column AM). **Chart 8B** below visualizes the complex request totals reported on the Master Log as follows:

- \$17,970.01 gross fees and costs incurred in 102 completed complex cases
- \$15,071.00 net fees and costs chargeable in 102 completed complex cases
- \$2,123.65 actually paid in 102 completed complex cases

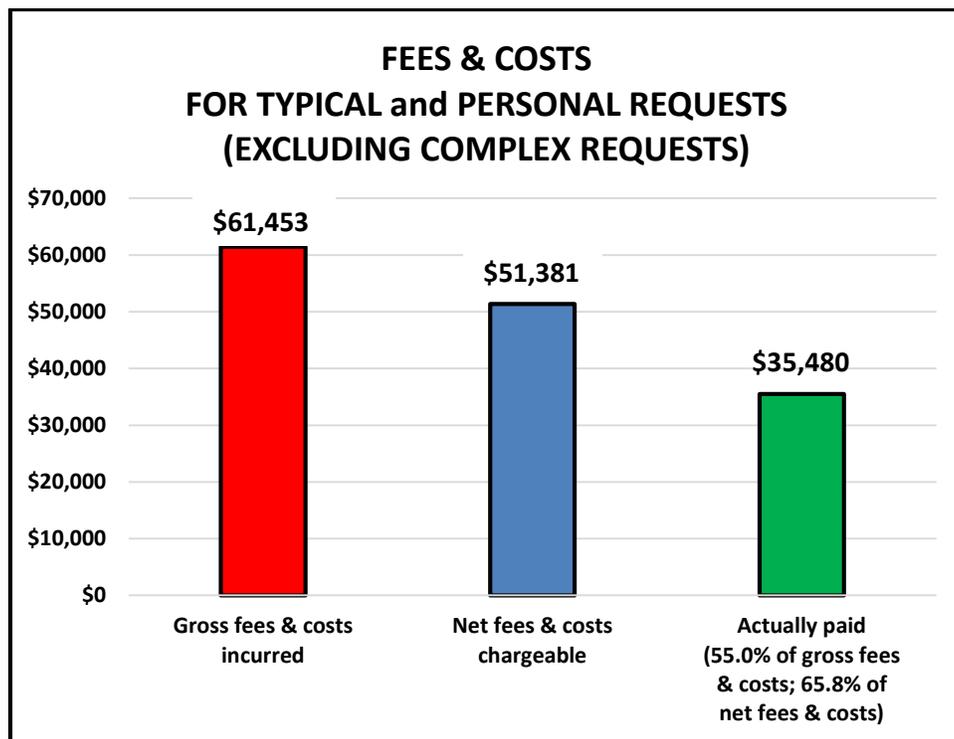
Chart 8B



By subtracting the totals shown for the 102 complex requests in Chart 8B from their counterparts for all 2,188 requests in Chart 8A, the bar graph in **Chart 8C** below shows that in the remaining 2,086 requests (consisting of 1,614 typical cases and 472 completed personal record cases—see Chart 2), the agencies incurred \$61,453 in gross and \$51,381 in net fees and costs. Assuming that requesters in only completed cases actually paid fees and costs, and after subtracting the nine typical cases that were not completed, Chart 8C shows that agencies recovered \$33,811 from the 2,077 total requesters (472 personal and 1,605 typical completed requests).

Based on a total of 2,077 completed **typical and personal record requests** and the amounts listed in Chart 8C, the average per request calculates to \$16.28 actually paid by requesters. This average is misleading, however, as 1,926 requesters paid nothing, as will be seen later in Charts 11 and 12.

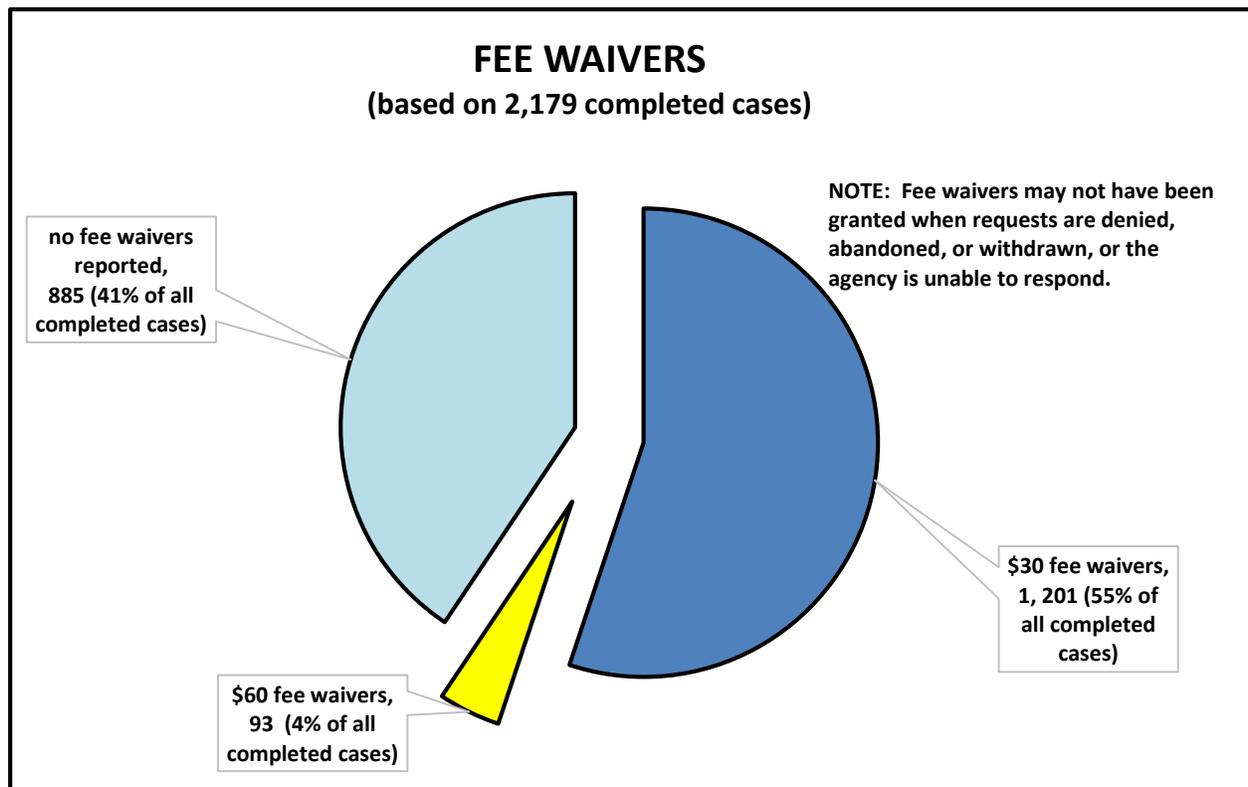
Chart 8C



The difference between the net amounts that agencies can charge versus the actual amounts paid by requesters may be explained in large part by the fee waivers that agencies must grant under OIP rules. Up to \$30 in SRS fees are waived in most cases; up to \$60 in SRS fees may be waived if the request meets the public interest requirements. Note that no refunds are given to requesters whose SRS fees are less than the waiver amounts. Moreover, fee waivers may not have been granted if requests are denied, abandoned, or withdrawn, or the agency is unable to respond, which may partly explain why there were no fee waivers in 885 cases. Fee waivers may also be underreported when charges do not exceed the fee waiver amount.

Using 2,179 as the total number of completed cases, **Chart 9** below shows that the agencies reported granting \$30 fee waivers for 1,201 requests (55%) and \$60 fee waivers for the 93 requests (4%).

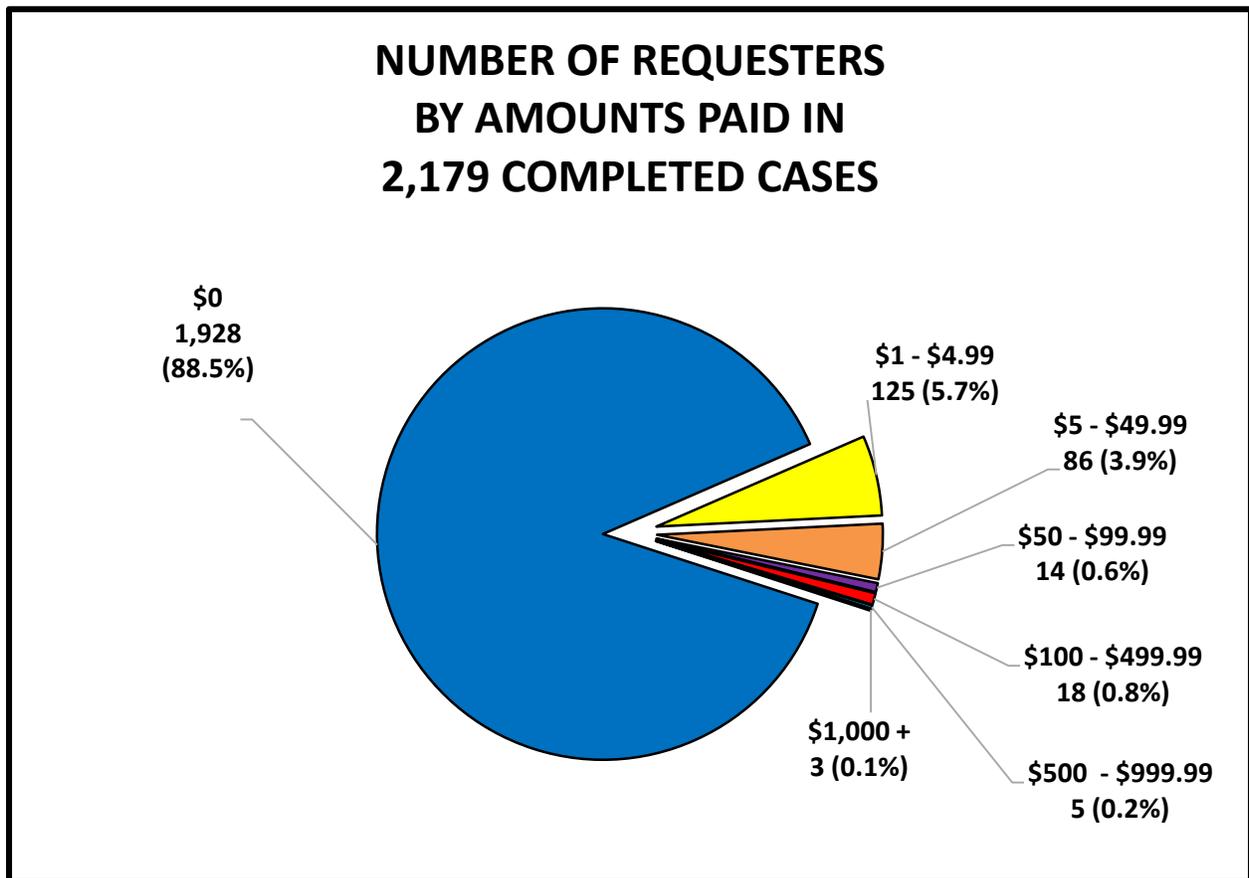
Chart 9



By reviewing each agency's Log, OIP compiled the data found in **Table 10**, which is attached at the end of this report. Based on 2,179 total completed requests, a total of \$37,603 was paid by requesters for fees and costs per Table 10.

Based on the 2,179 completed requests, **Chart 11** below shows that 1,928 requesters (88.5%) paid nothing, 125 requesters (5.7%) paid \$1 to \$4.99 per request; 86 requesters (3.9%) paid \$5 to \$49.99; 14 requesters (.6%) paid \$50 to 99.99; 18 requesters (.8%) paid \$100 to \$499.99; 5 requesters (.2%) paid \$500 to \$999.99; and 3 requesters (.1%) paid \$1,000 or more in fees and costs. Of the 40 requesters who paid \$50 or more, at least 28 requesters in the attached **Table 10 Supplement: Summary of Fees & Costs Paid by Requesters** appeared to represent attorneys, media, or commercial or nonprofit organizations. The two highest payments were both made by commercial entities in the amount of \$12,796.96 each, and consisted entirely of costs.

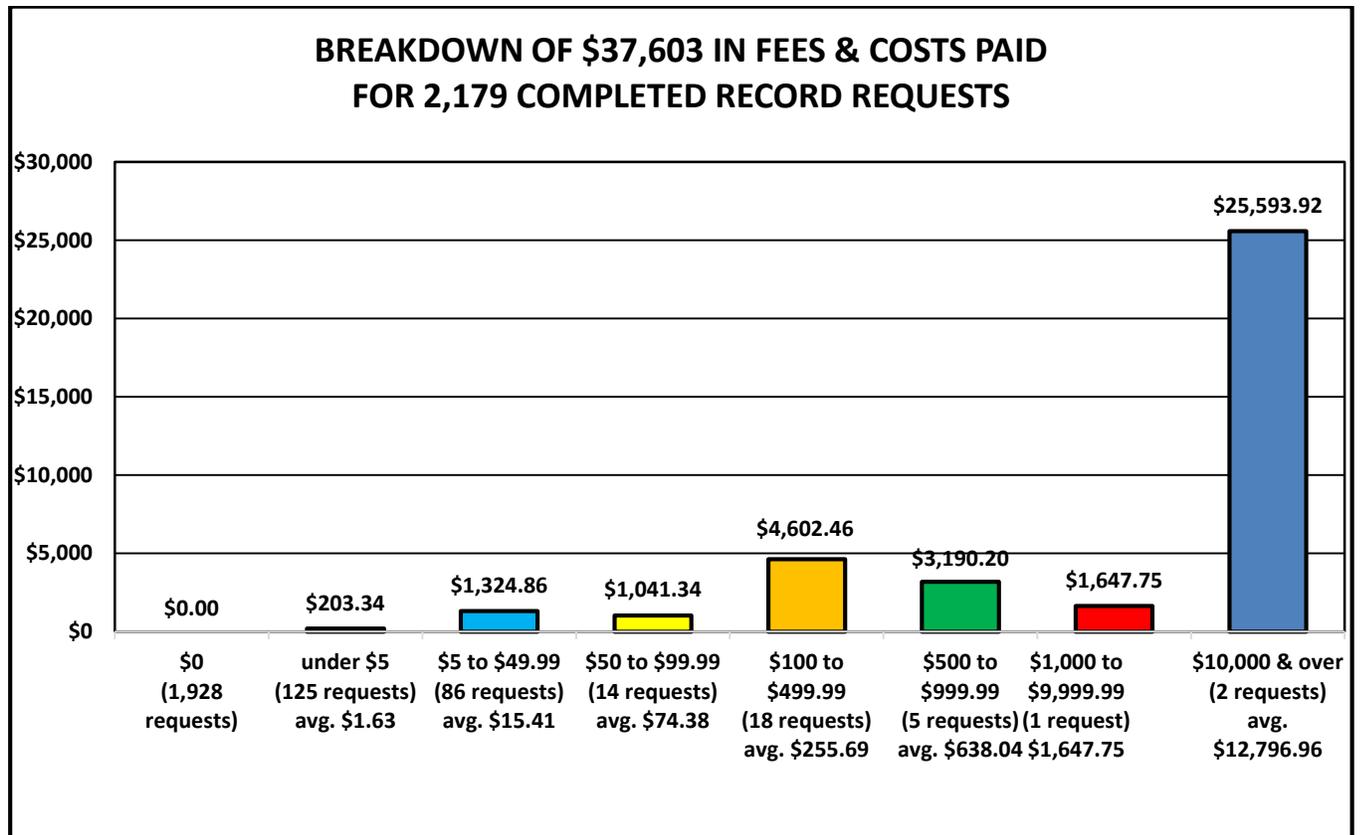
Chart 11



Again using Table 10's data, **Chart 12** below shows the breakdown of the \$37,603 in fees and costs paid in 2,179 completed cases. As Chart 12 shows, 1,928 requesters (88.5% of completed requests) paid nothing, and 251 requesters (11.5% of 2,179 requesters) paid a total of \$37,633. Of the 251 requesters that paid any amount, 125 requesters (49.8% of 251 paying requesters) paid less than \$5, for a total of \$203.34 or average of \$1.63 per request. Another 86 requesters (34.3% of paying requesters) paid between \$5 and \$49.99, for a total of \$1,324.86 or average of \$15.41.

Fourteen requesters (5.6% of paying requesters) paid between \$50 and \$99.99, for a total of \$1,041.34 or average of \$74.38. Eighteen requesters (7% of paying requesters) paid between \$100 and \$499.99, for a total of \$4,602.46 or average of \$255.69. Five requesters (2% of paying requesters) paid between \$500 and \$999.99, for a total of \$3,190.20 or average of \$638.04. One media requester (.4% of paying requesters) paid \$1,647.00. Finally, two commercial entities (0.8% of paying requesters) paid in costs a total of \$25,593.92; these two commercial entities paid 68% of the total amount recovered from all requesters.

Chart 12



STATE AGENCIES' SUMMARY

In closing, OIP would like to thank the state agencies that participated in recording their Log data and uploading it to the Master UIPA Record Request Log on data.hawaii.gov. The data collected has been very helpful in understanding how the UIPA is working in Hawaii to provide public access to records maintained by the state government. Overall, the data shows that the typical record request was granted in whole or in part and was completed in about seven work days, and the typical requester paid nothing for fees and costs.

Excluding an estimated 87,347 routine requests and the data provided by a single agency that would have skewed the entire report, agencies logged 2,188 formal UIPA record requests in FY 2015. (Chart 1) Of the 2,188 formal UIPA record requests that were received, 472 (21%) were personal record requests, 102 (5%) were complex requests, and 1,614 (74%) were the “typical” noncomplex/nonpersonal record requests. (Chart 2) Agencies completed 2,179 requests, or 99.5% of the 2,188 requests received in FY 2015. (Chart 3B) Of the 2,179 completed requests, over 80% were granted in full or in part, 4% were denied in full, and the agency was unable to respond or the requester withdrew or abandoned the request in the remaining 16% of the cases. (Chart 4)

After adjusting for the Log’s formulas causing the inflation of completion days, state agencies took approximately seven work days, on average, to complete 2,077 typical and personal record requests, which is 95% of all completed cases. (Chart 5) It took nearly four times as many days to complete 102 complex requests. (Chart 5)

In terms of hours worked per request, state agencies took a total of 3,441 hours to respond to all requests, which includes nonchargeable time for legal review and the 9 “typical” requests that were not completed in FY 2015. (Chart 6) When broken down into chargeable search, review, and segregation hours for both completed and pending cases, agencies worked an average of 1.11 hours for a typical request, .76 hour for a personal record request, and 8.3 hours for a complex request. (Chart 7)

Agencies incurred \$79,423 in gross fees and costs (excluding legal review hours, personal record fees, and additional response fee estimates) to respond to all requests, of which \$37,603 (47.4%) was actually paid by all requesters. (Chart 8A) Although the 102 complex requests comprised only 5% of all requests, they took over seven times as many SRS hours to complete than the typical request and accounted for \$17,970 (22.6%) of the gross fees and costs incurred by agencies. (Charts 2, 7, 8A and 8B) The 102 complex record requesters paid \$2,123 (5.6%) of the \$37,603 total amount recovered from all requesters. (Charts 8A and 8B)

Fee waivers were granted in 59% of 2,179 completed cases. The vast majority (1,201, or 55%) of completed requests were granted \$30 fee waivers, while 93 requests (4%) were allowed the \$60 public interest fee waivers. The 885 cases in which no fee waivers were granted could be explained by cases that that were denied (87), withdrawn (34), or abandoned (70); for which the agency was unable to respond (259); or for personal records (472) for which no fees may be charged. (Chart 3A and 9)

In 2,179 completed cases, 1,928 (88%) requesters paid nothing, and only 251 (12%) requesters paid any amount for fees or costs. (Table 10) Of the 251 requesters that paid any amount, 125 (49.8% of paying requesters) paid less than \$5, and 86 (34.3%) paid between \$5 and

\$49.99 for their requests. (Charts 11 and 12) Only 40 requesters (15.8% of all paying requesters) paid \$50 or more per request, of whom at least 28 requesters appear to represent law firms, media, commercial or non-profit entities. (Table 10 Supplement: Summary of Fees & Costs Paid by Requesters) The highest paying requesters were two commercial entities that were charged for costs only and paid a total of \$25,593.92, which accounted for 68% of the total (\$37,633.72) fees and costs paid by all requesters. (Table 10 Supplement)