



Highlights of [GAO-10-537T](#), a testimony before the Subcommittee on Information Policy, Census, and National Archives, Committee on Oversight and Government Reform, House of Representatives

Why GAO Did This Study

The Freedom of Information Act (FOIA) establishes that federal agencies must provide the public with access to government information, enabling them to learn about government operations and decisions. To help ensure proper implementation, the act requires that agencies annually report specific information about their FOIA operations, such as numbers of requests received and processed and other statistics. In work reported from 2001 to 2008, GAO examined the annual reports for major agencies, describing the status of reported implementation and any observable trends. GAO also reported on agency improvement plans developed in response to a 2005 Executive Order aimed at improving FOIA implementation, including reducing backlogs of overdue requests.

GAO was asked to testify on its previous work on FOIA implementation, as well as on selected changes in the FOIA landscape resulting from legislation, policy, and guidance.

To develop this testimony, GAO drew on its previous work, as well as publicly available information.

View [GAO-10-537T](#) or [key components](#). For more information, contact Valerie C. Melvin at (202) 512-6304 or melvinv@gao.gov.

FREEDOM OF INFORMATION ACT

Requirements and Implementation Continue to Evolve

What GAO Found

In reporting on annual report statistics over the years, along with agencies' improvement plans and backlog reduction efforts, GAO previously noted general increases in requests received and processed, as well as growing numbers of backlogged requests reported. GAO also found that the improvement plans of the agencies reviewed mostly included goals and timetables as required by the Executive Order. In subsequent reporting on backlog reduction efforts, GAO found that selected agencies had shown progress in decreasing their backlogs of overdue requests as of September 2007; however, GAO could not present a complete picture, because of variations such as differences in agencies' metrics and ability to track backlogs of overdue requests. GAO recommended that the Department of Justice issue guidance to address this issue. Justice agreed with the recommendation and issued further guidance in 2008. In addition, GAO made recommendations to selected agencies regarding the reliability of their FOIA data, with which the agencies generally agreed.

The Congress took steps to address FOIA issues by enacting the OPEN Government Act of 2007, which amended FOIA in several ways. Among other things, the act requires additional statistics on timeliness and backlog in the annual reports—including information on average processing times and ranges, as GAO had previously suggested to the Congress. In addition, the act requires agencies, among other things, to break down their response times in much greater detail: how many requests in the fiscal year reported on were responded to within the first 20 days, how many in the next 20 days, and so on in 20-day increments up to 200 days, in 100-day increments from 200 up to 400 days, and finally those that took longer than 400 days. These new requirements were reflected for the first time in the reports for fiscal year 2008.

These reports also reflected a significant change in the guidance that the Justice Department provided to agencies (in May 2008) on preparing the annual reports. In addition to providing information on the new statistics required by the OPEN Government Act, this guidance directed agencies to omit certain Privacy Act requests from their statistics, which had previously been included. (In a Privacy Act request, a requester asks for information on him- or herself.) This change had a major impact on the statistics for certain agencies, such as the Social Security Administration, whose reported requests dropped by more than 18 million from fiscal year 2007 to fiscal year 2008.

Currently, agencies are preparing Open Government plans, due in April 2010, in response to an administration directive issued in December 2009. Among other things, each plan is to describe measures to strengthen the agency's FOIA program, including milestones for reducing any significant pending backlog of outstanding requests by at least 10 percent each year. Assessing the effect on FOIA processes of these plans may be facilitated by the increased detail required in the annual reports, which should provide a clearer picture of FOIA implementation at individual agencies and governmentwide.