



Testimony

Before the Committee on the Judiciary,
United States Senate

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**FREEDOM OF
INFORMATION ACT
Selected Agencies
Adapted to COVID-19
Challenges but Actions
Needed to Reduce
Backlogs**

Statement of James R. McTigue, Jr., Director,
Strategic Issues

Accessible Version

GAO Highlight

Highlights of [GAO-22-105845](#), a testimony before the Committee on the Judiciary, United States Senate

Why GAO Did This Study

FOIA seeks to improve the public's access to government information and promote openness and accountability in government. However, the COVID-19 pandemic presented challenges for FOIA administration by significantly affecting how federal employees performed their work as agencies adopted a maximum telework posture and limited on-site work. GAO was asked to testify on FOIA government-wide performance and the associated impact of the pandemic. Specifically, this statement summarizes the results from GAO's previously issued reports on (1) government-wide FOIA performance for fiscal year 2020 compared to fiscal year 2019 and long-term trends from fiscal years 2012 through 2020; (2) selected agencies' initial pandemic-related challenges and their use of leading practices to maintain FOIA operations; (3) selected agencies' continuing challenges with FOIA request backlogs; and (4) selected agencies' use of proactive information disclosures—making records publicly available without waiting for specific requests. To address these objectives, GAO summarized the results of pertinent FOIA reports it issued from 2018 to 2022. It also followed up with selected agencies on the extent to which they had implemented GAO's prior recommendations related to FOIA operations.

View [GAO-22-105845](#). For more information, contact James R. McTigue, Jr. at (202) 512-6806 or McTigueJ@gao.gov.

March 29, 2022

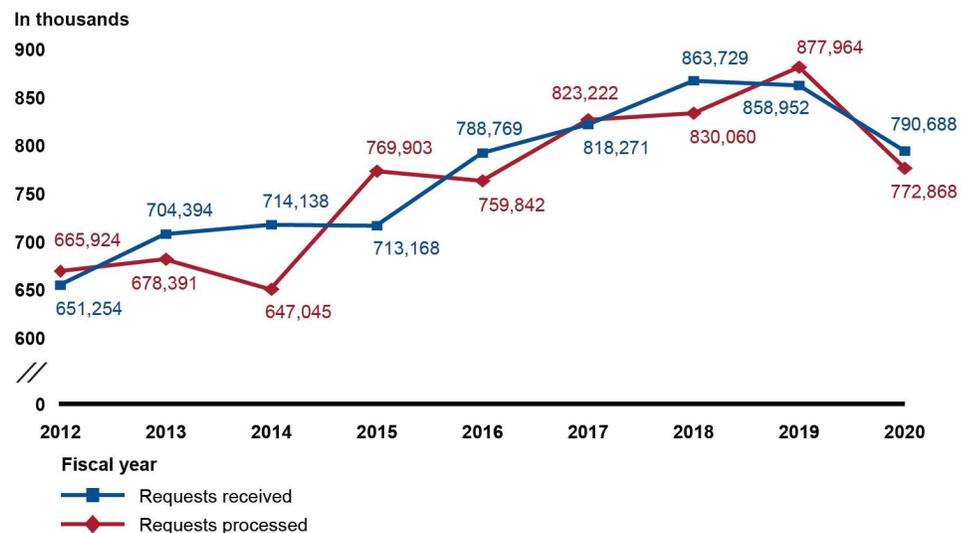
FREEDOM OF INFORMATION ACT

Selected Agencies Adapted to COVID-19 Challenges but Actions Needed to Reduce Backlogs

What GAO Found

In January 2022, GAO reported that the COVID-19 pandemic affected selected government-wide measures of Freedom of Information Act (FOIA) administration, while other indicators reflected ongoing longer-term trends. FOIA requests received declined by 8 percent and requests processed declined by 12 percent in fiscal year 2020, the first year of the pandemic, compared to the previous year.

FOIA Requests Received and Processed Government-wide, Fiscal Years 2012 through 2020



Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-22-105845

Accessible Data Table for Highlight Figure (part 1 of 2)

Requests Received

Fiscal Year	Number
2012	651,254
2013	704,394
2014	714,138
2015	713,168
2016	788,769
2017	818,271
2018	863,729
2019	858,952
2020	790,688

Accessible Data Table for Highlight Figure (part 2 of 2)

Requests Processed

Fiscal Year	Number
2012	665,924
2013	678,391
2014	647,045
2015	769,903
2016	759,842
2017	823,222
2018	830,060
2019	877,964
2020	772,868

This report also found that four of five selected agencies--the Departments of Agriculture, Homeland Security, and Labor, and the Environmental Protection Agency--initially encountered temporary challenges preparing employees to work in the maximum telework environment. These challenges including working in a virtual environment and ensuring access to equipment at home. The agencies subsequently used various practices, such as providing interim releases of requested information, to help maintain operations.

GAO has reported that selected agencies faced continuing challenges with FOIA request backlogs. From fiscal years 2012 to 2020, the government-wide backlog increased by 97 percent. GAO has made several recommendations to address these challenges, including that agencies develop specific plans to reduce backlogs. However, three of these recommendations from its January 2022 report and two from its 2018 review have not yet been implemented.

Further, in 2021, GAO found that selected agencies had not (1) updated their policies and processes to reflect current proactive disclosure requirements, and (2) accurately and completely reported disclosures. Accordingly, it made six recommendations to these agencies to improve their management of proactive disclosures, which have not yet been implemented.

Taking actions to address backlogs and make proactive disclosures could help enhance government transparency and the efficient use of agency resources.

Chairman Durbin, Ranking Member Grassley, and Members of the Committee:

I am pleased to be here today to discuss the Freedom of Information Act (FOIA) request processing during the COVID-19 pandemic. My statement is based on our previously issued reports on agencies' implementation and compliance with FOIA, including the use of proactive disclosures.¹

Signed into law more than 50 years ago, FOIA is one of several laws that seeks to improve the public's access to government information and promote the principles of openness and accountability in government.² FOIA requires federal agencies to provide the public with access to certain government records.³ Each year, individuals and entities file hundreds of thousands of FOIA requests for information on numerous topics that contribute to the understanding of government actions.

We recently reported that the COVID-19 pandemic significantly affected how federal employees performed their work as agencies adopted a

¹GAO, *Freedom of Information Act: Selected Agencies Adapted to the COVID-19 Pandemic but Face Ongoing Challenges and Backlogs*, [GAO-22-105040](#) (Washington, D.C.: Jan. 26, 2022); *Freedom of Information Act: Actions Needed to Improve Agency Compliance with Proactive Disclosure Requirements*, [GAO-21-254](#) (Washington, D.C.: Mar. 10, 2021); *Freedom of Information Act: Update on Federal Agencies' Use of Exemption Statutes*, [GAO-21-148](#) (Washington, D.C.: Jan. 12, 2021); *Freedom of Information Act: Federal Agencies' Recent Implementation Efforts*, [GAO-20-406R](#) (Washington, D.C.: Mar. 11, 2020); and *Freedom of Information Act: Agencies Are Implementing Requirements, but Additional Actions Are Needed*, [GAO-18-365](#) (Washington, D.C.: June 25, 2018).

²We recently reported on several of these federal efforts to increase government transparency. See GAO, *Federal Spending Transparency: Opportunities Exist to Further Improve the Information Available on USAspending.gov*, [GAO-22-104702](#) (Washington, D.C.: Nov. 8, 2021); and *Open Data: Agencies Need Guidance to Establish Comprehensive Data Inventories; Information on Their Progress is Limited*, [GAO-21-29](#) (Washington, D.C.: Oct. 8, 2020). The Open, Public, Electronic and Necessary Government Data Act, which is Title II of the Foundations for Evidence-Based Policymaking Act of 2018, Pub. L. No. 115-435, 132 Stat. 5534 (2019), the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538 (2016), and the Digital Accountability and Transparency Act, Pub. L. No. 113-101, 128 Stat. 1146 (2014), among other efforts, have sought to improve the availability, transparency, and quality of federal data.

³5 U.S.C. § 552(a).

maximum telework posture and only allowed on-site work for limited agency operations. In May 2020, the Office of Information Policy (OIP) in the Department of Justice (DOJ), which is responsible for encouraging and overseeing agency compliance with FOIA, published guidance for agencies to focus on finding workable solutions to maximize the efficiency and effectiveness of FOIA administration during the pandemic.⁴ In the guidance, DOJ acknowledged that many agencies faced challenges due to the pandemic, such as staffing and technology limitations, but affirmed that FOIA's statutory response times continued to apply.

My testimony today discusses (1) government-wide FOIA performance for fiscal year 2020 compared to fiscal year 2019, as well as long-term FOIA trends from fiscal years 2012 through 2020; (2) selected agencies' initial pandemic-related challenges and their use of leading practices to maintain FOIA operations; (3) selected agencies' continuing challenges with FOIA backlogs; and (4) selected agencies' use of proactive disclosures—making records publicly available without waiting for specific requests.

The products cited throughout this statement include detailed explanations of the methods used to conduct our work. In addition, for this testimony, we followed up with agencies on their implementation of our prior relevant recommendations. We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Key FOIA Measures Continued Longer-Term Trends with Some Shorter-Term Effects from the Pandemic

We previously reported that the COVID-19 pandemic affected selected measures of FOIA administration government-wide. For example, FOIA requests received and processed declined in fiscal year 2020, the first year of the pandemic, compared to fiscal year 2019. Other key measures

⁴Department of Justice, Office of Information Policy, *Guidance for Agency FOIA Administration in Light of COVID-19 Impacts*, May 28, 2020.

continued longer-term trends, such as increases in FOIA request backlogs.

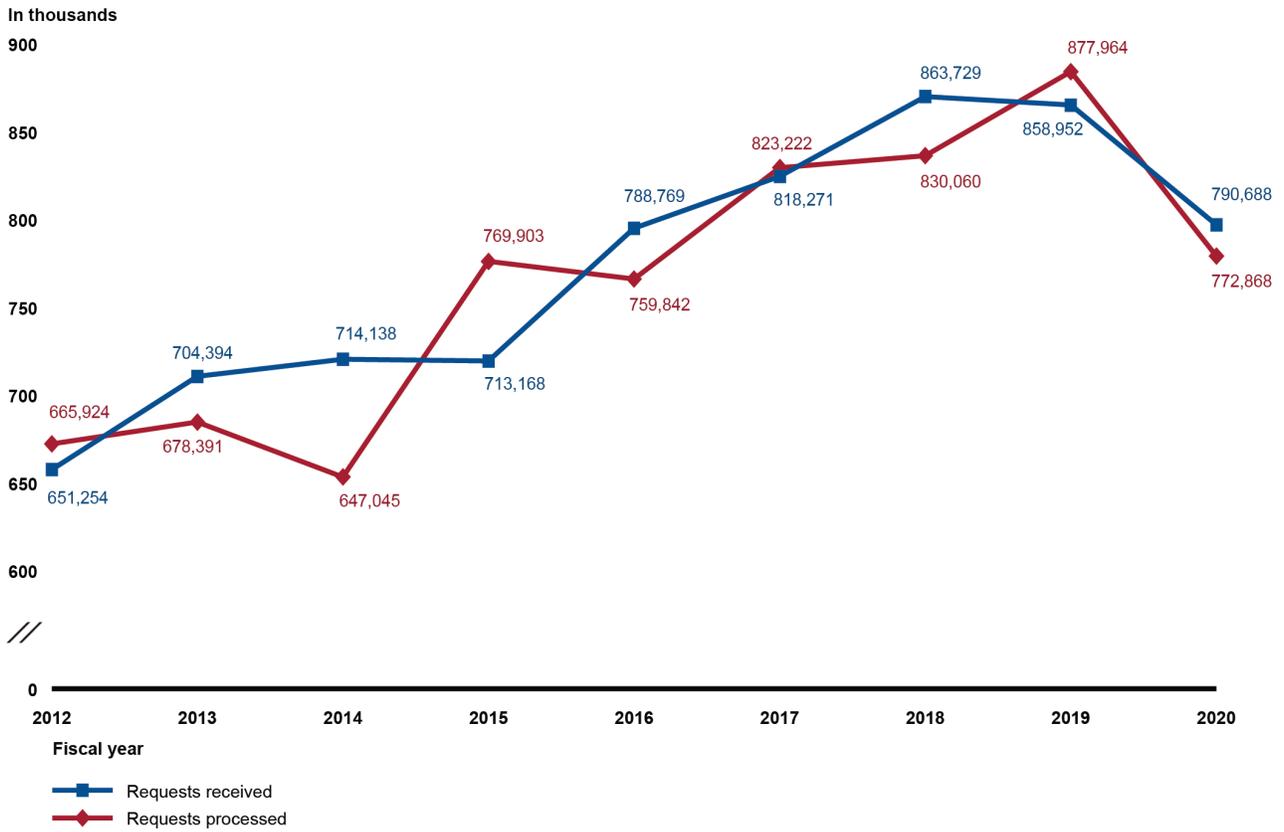
FOIA requests received and processed. As we previously reported, FOIA requests received declined government-wide by 8 percent in fiscal year 2020 (790,688) compared to fiscal year 2019 (858,952).⁵ Agencies processed 12 percent fewer requests in fiscal year 2020 (772,868) than in fiscal year 2019, when requests processed reached a record high (877,964).⁶ Prior to the pandemic, FOIA requests received and processed government-wide rose nearly every year, increasing by 32 percent from fiscal years 2012 through 2019.⁷ (See fig. 1.)

⁵In [GAO-22-104050](#), we discuss challenges related to receiving requests by mail, so the number of requests received may not account for unlogged requests.

⁶DOJ officials stated that FOIA statistics may have also been affected by a partial government shutdown in fiscal year 2019.

⁷We used fiscal year 2012 as the starting point for those analyses to be consistent with analyses presented in our prior work. [GAO-21-148](#); [GAO-20-406R](#); and [GAO-18-365](#).

Figure 1: FOIA Requests Received and Processed Government-wide, Fiscal Years 2012 through 2020



Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-22-105845

Accessible Data Table for Highlight Figure (part 1 of 2)

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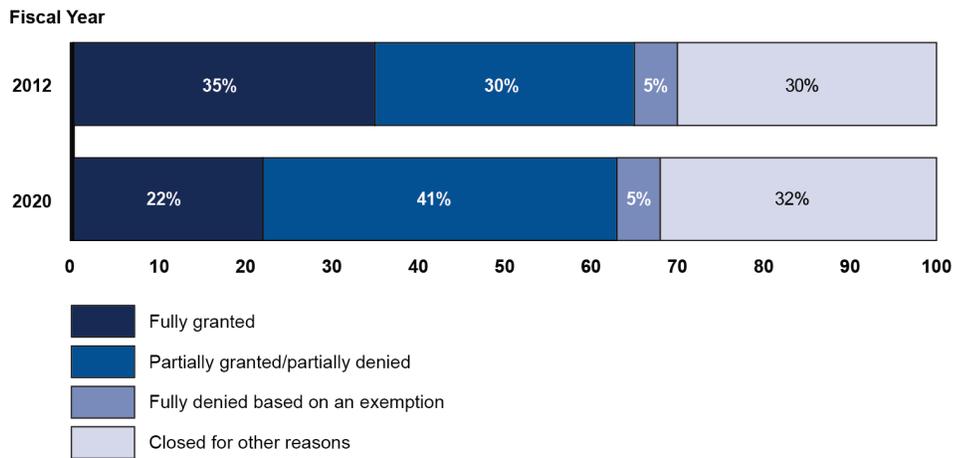
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FOIA-related employees and costs. Our prior report showed that the government-wide numbers of FOIA-related employees and costs had generally risen since fiscal year 2012. Both of these also increased from fiscal years 2019 to 2020.

- From fiscal year 2012 through fiscal year 2020, the total number of FOIA full-time equivalents increased by 1,494 (37 percent). Although FOIA-related employment across the federal government has grown, our selected agencies cited staffing-related issues as a limitation to addressing their backlogs.
- From fiscal year 2012 through fiscal year 2020, total FOIA-related costs increased 39 percent on a nominal basis (22 percent adjusted for inflation). Selected agency officials attributed increased costs to factors such as obtaining contractor support, investing in technology and software licenses, or addressing litigation.

FOIA request disposition. While FOIA request disposition government-wide remained about the same from fiscal year 2019 compared to fiscal year 2020, we previously reported that the percentage of partially granted and partially denied requests has increased since fiscal year 2012.⁸ Agencies government-wide reported 30 percent of their total requests as partially granted and partially denied in fiscal year 2012 and nearly 42 percent in fiscal year 2020. (See fig. 2.)

Figure 2: Comparison of Request Disposition Government-wide, Fiscal Years 2012 and 2020



Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-22-105845

Accessible Data Table for Figure 2

Fiscal Year	Fully Granted	Partially Granted or Denied	Fully Denied	Closed for Other Reasons
2012	35	30	5	30
2020	22	41	5	32

⁸FOIA specifies nine exemptions agencies may cite to withhold information when responding to requests, which can be applied to portions of records or the entire record. DOJ uses the disposition category of “partial grant/partial denial” when an agency provides the requester with some, but not all, of the information requested. This typically, but not always, means that an agency used exemptions in its response. The number of full denials reflects withholding all of the requested information based on a FOIA exemption list at 5 U.S.C. § 552(b). In GAO-21-148, we analyzed agencies’ increasing use of exemption 3, also referred to as the (b)(3) exemption, which specifically authorizes withholding information under FOIA on the basis of another federal statute that prohibits disclosure of that information.

Selected Agencies Addressed Pandemic-Related Challenges and Used Leading Practices to Maintain FOIA Operations

The COVID-19 Pandemic Presented Initial Challenges for Agencies

In our recent report, we discussed how selected agencies addressed pandemic-related challenges. Specifically, we reviewed a nongeneralizable sample of five agencies based on a variety of factors, including the number of FOIA requests received, processed, and backlogged, and the size of FOIA offices, among other criteria. In addition, we selected one component at each of the two largest agencies based on FOIA volume. We selected the

- Department of Agriculture,
- Department of Homeland Security (DHS) and Customs and Border Protection (CBP),
- DOJ and the Federal Bureau of Investigations (FBI),
- Department of Labor, and
- Environmental Protection Agency.

We found that four of the five selected agencies encountered temporary challenges preparing employees to work in the maximum telework environment in the early months of the pandemic, such as ensuring access to equipment at home or adjusting to a virtual environment.⁹ The pandemic also affected agencies' ability to receive FOIA requests by mail and access paper records.

The FBI's challenges differed from the other four agencies, given its dual law enforcement and intelligence mission, which requires FBI's staff to handle a large volume of sensitive and classified records within an on-site classified information technology system. As such, compared to other agencies, FBI had to ensure workforce safety in a physical office setting

⁹We considered the declaration of the national emergency related to COVID-19 on March 13, 2020 as the beginning of the pandemic.

rather than being able to rely on telework. However, FBI officials stated they had resumed limited on-site operations by the end of April 2020.

Although the five selected agencies said they effectively managed challenges related to the pandemic to maintain their FOIA operations, their experience was not necessarily representative of all federal agencies. Office of Government Information Services (OGIS) officials told us that some federal agencies had more difficulty managing these challenges or encountered additional challenges.

Selected Agencies Used Leading Practices to Maintain Operations during the Pandemic

OIP's COVID-19 guidance stated that agencies significantly affected by processing limitations due to the pandemic could consider strategies and leading practices to implement FOIA. In our recent report, we found that selected agencies used strategies and leading practices to maintain operations during the pandemic that included the following:

Increased communication with requesters. All selected agencies posted notices on their websites describing the effects of the pandemic on FOIA operations. These notices generally alerted requesters to potential delays in receiving requests by mail or other limitations related to processing.

Interim releases. OIP encouraged agencies to provide interim releases as another opportunity to communicate with requesters, such as asking whether the requester would like to reformulate or narrow the scope of the request based on the initial information received. All five selected agencies noted the helpfulness of such interim releases because they (1) sometimes fully satisfied a requester's information needs, causing them to close their requests, or (2) potentially reduced litigation when they could not fulfill requests within statutory timeframes.

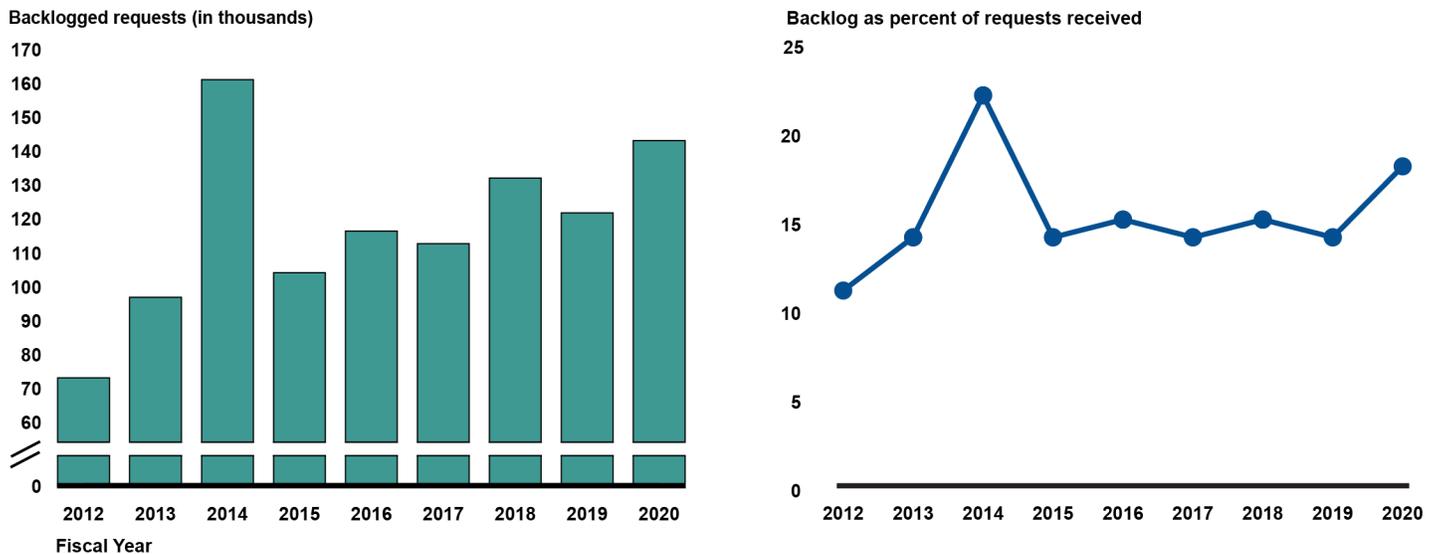
Proactive disclosures. OIP reiterated the practice of proactive disclosures—making records publicly available without waiting for specific requests.¹⁰

¹⁰5 U.S.C. § 552(a)(2).

Selected Agencies Faced Persistent FOIA Backlogs

As we previously reported, the government-wide FOIA request backlog increased by 18 percent (from 120,436 to 141,762 requests) from fiscal years 2019 to 2020. Backlogged requests have been trending generally upwards since fiscal year 2016. (See fig. 3.)¹¹ From fiscal years 2012 to 2020, backlogs increased by a total of 97 percent. During this same time period, the appeals backlog also increased by 63 percent.¹²

Figure 3: Request Backlogs Government-wide, Fiscal Years 2012 through 2020



Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-22-105845

In fiscal year 2020, most federal agencies had fewer than 100 backlogged requests, but these 87 agencies represented only 1 percent of the total backlogged requests government-wide. The 16 agencies with backlogs of more than 1,000 requests (an increase of three agencies from the

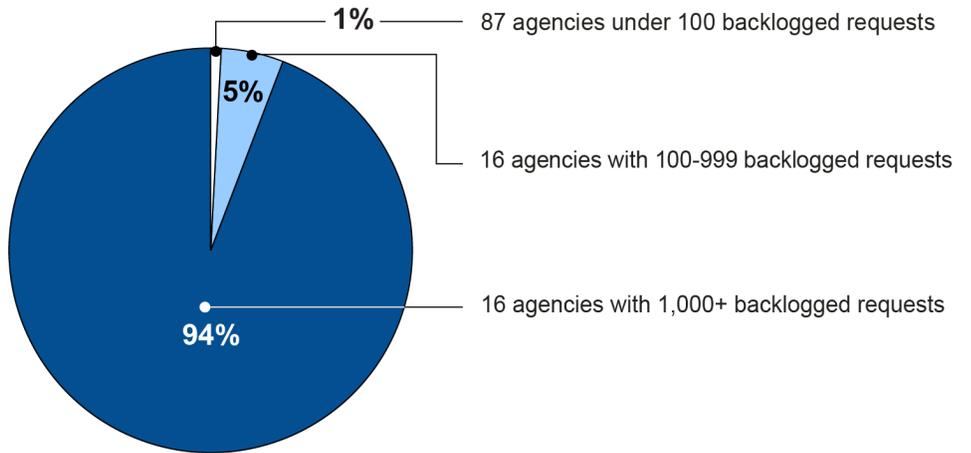
¹¹DOJ reported a 3-week government shutdown during which some agencies could not process requests in fiscal year 2014. The government-wide FOIA backlog rose 67 percent from fiscal year 2013.

¹²FOIA allows a requester to challenge an agency’s final decision on a request through an administrative appeal or a lawsuit. Agencies generally have 20 working days to respond to an administrative appeal.

previous fiscal year) represented 94 percent of the total backlogged requests government-wide. (See fig. 4.)¹³

Figure 4: Percentage of Total Backlogged Requests Government-wide by Number of Backlogged Requests for Fiscal Year 2020

FY 2020 Total backlogged requests government-wide



Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-22-105845

Accessible Data Table for Figure 4

Agencies under 100 backlogged requests	Agencies 100 ≥ 999 backlogged requests	Agencies with over 1,000 backlogged requests
1%	5%	94%
(87)	(16)	(16)

In our recent report, we discussed that the selected agencies identified several new or ongoing challenges that affected their backlog, such as the complexity of requests, increasing litigation, staffing limitations, and technology-related issues.

Increasing complexity of requests. Between fiscal years 2012 and 2020, the number of complex requests processed rose for four of the five selected agencies—Department of Agriculture (USDA), DHS, DOJ, and Department of Labor (DOL)—while the percentage of complex requests processed rose at three of the five agencies—USDA, DOJ, and DOL. (See table 1 below.) Complex requests typically seek a high volume of

¹³The top three agencies with request backlogs are DHS, DOJ, and the Department of Defense. For more information about the other agencies, see figure 11 in [GAO-22-105040](#).

material or require additional steps to process, such as the need to search for records in multiple locations. Agencies also may consider some FOIA requests as presenting “unusual circumstances” and seek to extend the statutory time limit.¹⁴

Table 1: Selected Agencies’ Complex FOIA Requests Processed in Fiscal Years 2012 and 2020

Selected Agency	Fiscal Year 2012		Fiscal Year 2020		Percent change from 2012 to 2020
	Complex Requests Processed	Complex Requests as Percent of Total	Complex Requests Processed	Complex Requests as Percent of Total	
Department of Agriculture	1,696	7.8%	2,190	9.5%	29
Department of Homeland Security	111,811	58.8%	184,957	50.8%	65
Department of Justice	9,738	16.0%	13,837	19.2%	42
Department of Labor	9,872	51.3%	10,639	68.0%	8
Environmental Protection Agency	4,135	49.2%	1,528	21.3%	-63

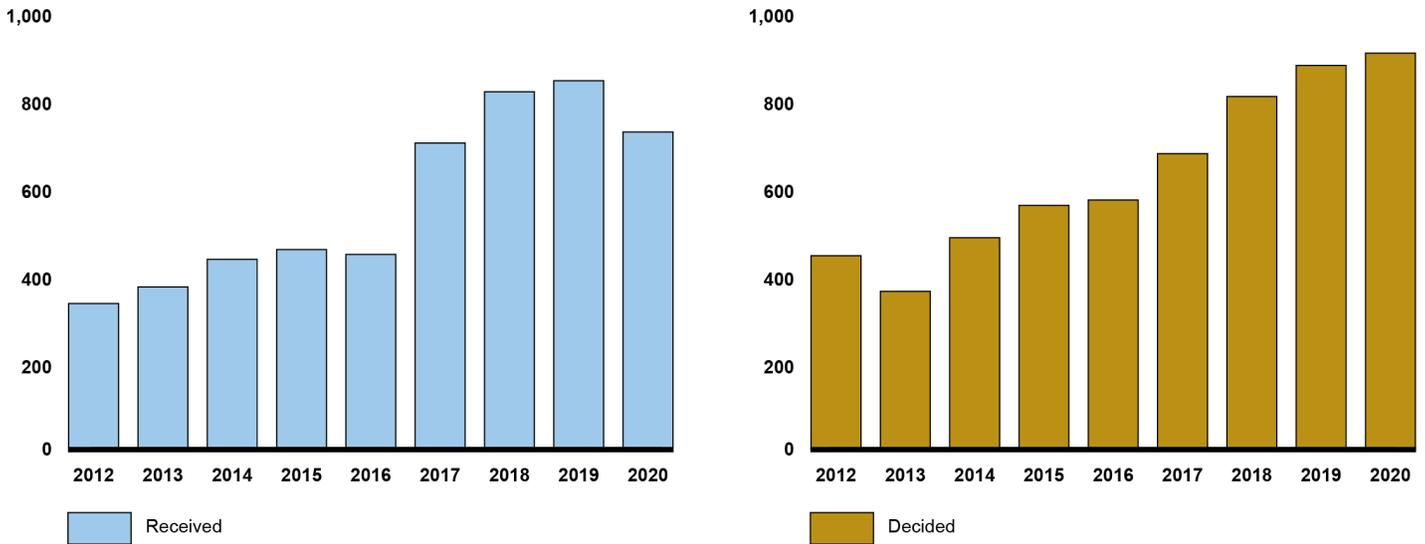
Source: GAO analysis of agency-reported Freedom of Information Act (FOIA) data on FOIA.gov. | GAO-22-105845

Litigation. The selected agencies stated that litigation affects the resources available for processing FOIA requests and administrative appeals. Further, they said litigation can negatively impact a FOIA program office’s ability to process nonlitigation FOIA requests in a timely manner by requiring them to prioritize work on responses in litigation. This can result in an increase in backlogged requests if an office has insufficient staff to process both litigation and nonlitigation requests.

All five selected agencies we reviewed in our recent report cited a general increase in litigation as a current or emerging challenge prior to the pandemic. Overall, DOJ’s annual reporting showed a more than 100 percent increase in the number of the FOIA litigation cases received and decided in federal district courts from 2012 to 2020. (See fig. 5.)

¹⁴“Unusual circumstances” is defined in statute as (1) the need to search for and collect records from field facilities or other establishments that are separate from the office processing the request; (2) the need to search, collect, and examine a voluminous amount of separate and distinct records which are demanded in a single request; and (3) the need for consultation with another agency having a substantial interest in the determination of the request, or among two or more components of an agency having substantial subject-matter interest. 5 U.S.C. § 552(a)(6)(B)(iii). The 20-working-day time limit may be extended by up to 10 days for a total of 30 working days by notifying the requester in writing, setting forth the unusual circumstances for an extension and the date the agency expects to send its determination. 5 U.S.C. § 552(a)(6)(B)(i).

Figure 5: FOIA Litigation Cases Received and Decided in Federal District Courts, 2012 through 2020



Source: GAO analysis of the Department of Justice Freedom of Information Act Litigation and Compliance Reports. | GAO-22-105845

In our report, we recommended that OIP reassess the reporting requirements, including collecting more information on current and emerging challenges, such as the use of the “unusual circumstances” designation and effects of FOIA litigation. By reassessing the reporting process, OIP could help align the workload required for agencies to meet the reporting requirements and ensure they have the information they need to meet their responsibilities under FOIA. In December 2021, OIP agreed with the recommendation and stated it will continue looking for ways to both reduce reporting burden and collect metrics that provide value. We will monitor OIP’s progress and follow up as necessary.

Resource Constraints. Selected agencies cited the loss of staff or increasing workload as a limitation to their ability to address backlogs. Several agencies made organizational changes to improve long-term FOIA implementation, such as speeding up request processing through centralization. Selected agencies also cited technology-related challenges such as the need for system upgrades. Several agencies continued long-term efforts for improving their FOIA operations by implementing a new case management system or planning for procurement.

Our recent report compared selected agencies’ backlog reduction plans to leading practices for performance management. (See fig. 6.) DOJ

guidance instructs agencies to have a backlog reduction plan if they have more than 1,000 backlogged requests in the previous year.¹⁵

Figure 6: Summary of GAO’s Assessment of Selected Agencies’ FOIA Backlog Reduction Plans

Selected Agency	Rating				
	Performance Goals	Performance Measures	Planned Actions	Milestones	Responsible Office/Official
Department of Agriculture	●	●	◐	○	●
Department of Homeland Security	●	●	●	●	●
Customs and Border Protection	●	●	◐	○	●
Department of Justice	See Table Note				
Federal Bureau of Investigation	●	●	●	●	●
Department of Labor	●	◐	●	●	●
Environmental Protection Agency	●	●	●	●	●

● Generally met ◐ Partially Met ○ Not met

Source: GAO analysis of agency Freedom of Information Act (FOIA) documentation. | GAO-22-105845

¹⁵DOJ’s guidance for agency *Chief FOIA Officer Reports* states that, as part of their reports, agencies with a backlog of more than 1,000 requests in the previous fiscal year should explain their plans to reduce backlogs in the next fiscal year. Agencies are also asked to detail how the agency developed and plans to execute their plan. Department of Justice, Office of Information Policy, *Guidelines for 2021 Chief FOIA Officer Reports* (Sept. 24, 2020); and *OIP Guidance for Further Improvement Based on 2019 Chief FOIA Officer Reports* (January 22, 2020).

Accessible Data Table for Figure 6

Rating

Selected Agency	Performance Goals	Performance Measures	Planned Actions	Milestones	Responsible Office/Official
Department of Agriculture	Generally met	Generally met	Partially Met	Not met	Generally met
Department of Homeland Security	Generally met	Generally met	Generally met	Generally met	Generally met
Customs and Border Protection	Generally met	Generally met	Partially Met	Not met	Generally met
Department of Justice					
Federal Bureau of Investigation	Generally met	Generally met	Generally met	Generally met	Generally met
Department of Labor	Generally met	Partially Met	Generally met	Generally met	Generally met
Environmental Protection Agency	Generally met	Generally met	Generally met	Generally met	Generally met

Note: For the purposes of our analysis, we are excluding the Department of Justice (DOJ). DOJ's FOIA program is decentralized, with 31 separate FOIA offices handling requests under Office of Information Policy oversight. Many DOJ components develop their own backlog reduction plans, such as the Federal Bureau of Investigation.

In 2018 and in our recent report, we made recommendations for agencies to improve their backlog reduction plans. In 2018, we reviewed selected agencies' documentation for methods to reduce backlogged requests, and then compared their procedures to best practices for reducing backlogs, as identified by the Office of Information Policy.¹⁶ We made eight backlog-related recommendations for agencies to address the need to develop and document a plan—six have been implemented and two are not yet implemented.¹⁷

¹⁶Department of Justice, *Office of Information Policy: Guidance on Reducing Backlogs and Improving Timeliness*, (August 15, 2014) and *Best Practices Workshop*, (May 20, 2014).

¹⁷The Department of Interior and Equal Employment Opportunity Commission had not yet implemented their respective recommendations to take steps to develop and document a plan that fully addresses best practices with regards to reduction of backlogged FOIA requests.

In January 2022, we made three recommendations—one each to the Departments of Agriculture, Homeland Security, and Labor—to address varying aspects of their backlog reduction efforts.¹⁸ All three agencies agreed with our recommendations and planned to take additional steps toward improving their backlog reduction efforts.

Improving Agency Compliance with Proactive Disclosure Requirements Could Make More Information Publicly Available

When agencies make proactive disclosures, they enhance transparency by ensuring that agencies readily and efficiently make certain information about the operations and activities of the government available to all. Additionally, publicly releasing records on a popular topic could reduce the number of FOIA requests for the same records an agency receives. For example, in our most recent report, one of our selected agencies told us they closed over 1,000 FOIA requests by directing the requester to information already posted online in fiscal years 2019 and 2020.

In our 2021 report, we found that some selected agencies had not fully updated their policies and processes to reflect the current proactive disclosure requirements.¹⁹ All three selected agencies had not fully complied with the statutory reporting requirements and DOJ guidance on their proactive disclosures. While the agencies have made progress, our six recommendations related to proactive disclosures have not yet been implemented. We also identified additional steps OIP could take to support agency compliance. OIP implemented two recommendations we made by requiring agencies that report zero proactive disclosures to

¹⁸Specifically, we recommended that the Department of Agriculture better document their backlog reduction efforts; the Department of Labor resolve data quality issues; and the Department of Homeland Security develop component-level backlog reduction plans.

¹⁹In our 2021 report, we reviewed three agencies—Federal Aviation Administration (FAA), Department of Housing and Urban Development (HUD), and Veterans Health Administration (VHA). We found that FAA should document proactive disclosure requirements and procedures and HUD should update its policies for compliance. [GAO-21-254](#).

provide an explanation and providing new guidance for agencies on counting disclosures.²⁰

In summary, making proactive disclosures helps enhance government transparency and the efficient use of agency resources. In addition, accurately and completely reporting disclosures could provide useful information for agencies to manage their FOIA programs as well as for the public to assess agencies' transparency.

The selected agencies we reviewed adapted to maintain operations during the COVID-19 pandemic. However, increasing FOIA request backlogs remain a persistent challenge. Current and emerging challenges, such as litigation, further threaten agencies' ability to reduce backlogs. Addressing these challenges by incorporating leading practices into backlog reduction plans and tracking emerging challenges could improve agencies' ability to respond to the needs of requesters and the public.

Chairman Durbin, Ranking Member Grassley, and Members of the Committee, this concludes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contact and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact me at (202) 512-6806 or mctiguej@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement.

Key contributors to this testimony include Shea Bader (Assistant Director), Giny Cheong (Analyst-in-Charge), Jacqueline Chapin, Samantha Lalian, Andrew Lobel, and Robert Robinson. Other staff who made key contributions to the reports cited in the testimony are identified in the source products.

²⁰Department of Justice, Office of the Attorney General, *Memorandum for Heads of Executive Departments and Agencies: Freedom of Information Act Guidelines* (March 15, 2022).

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