

Congress of the United States

Washington, DC 20515

April 28, 2016

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, D.C. 20548

Dear Mr. Dodaro:

The Freedom of Information Act (FOIA) is a vital tool that protects one of the cornerstones of our Nation: the American public's right to know what its government is up to. Given FOIA's importance, effective and complete implementation of its statutory requirements is necessary to ensure that the public can exercise its right to know.¹

Requesters repeatedly report to Congress the problems they have encountered with the FOIA process. These problems include indefinite delays, excessive redactions, and other unnecessary barriers to accessing information. According to a recent report, people who sought records under FOIA in Fiscal Year 2015 received censored files or simply nothing at all in response to 77 percent of all requests—a record high, according to the Associated Press.² During the same period, the number of FOIA lawsuits filed in federal court reached an all-time high.³ These are troubling statistics that warrant further investigation into how, and the extent to which, the federal government responds to FOIA requests.

The House Committee on Oversight and Government Reform and the Senate Committee on the Judiciary have jurisdiction over FOIA, and as such, are charged with conducting oversight of the government's FOIA operations. To gain better insight into problems that may be preventing requesters from obtaining the records that they are entitled to under the law, we respectfully request GAO conduct a comprehensive review of the federal government's compliance with FOIA and produce reports on the following topics:

¹ Wendy Ginsberg, "The Freedom of Information Act (FOIA): Background, Legislation, and Policy Issues," Cong. Research Service (Aug. 14, 2015).

² Ted Bridis and Jack Gillum, *US gov't sets record for failures to find files when asked*, ASSOC. PRESS, Mar. 18, 2016.

³ David Burnham, "FOIA Lawsuits Reach Record High," THE FOIA PROJECT, Jan. 6, 2016, *available at*: <http://foiaproject.org/2016/01/06/foia-lawsuits-reach-record-high/>.

- (1) audits of agencies on compliance with and implementation of the requirements of 5 U.S.C. §552;
- (2) a catalog of the number of exemptions described under 5 U.S.C. §552(b)(3) and the use of such exemptions by each agency;
- (3) the processing of requests by agencies for information pertaining to an entity that has received assistance under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) during any period in which the Government owns or owned more than 50 percent of the stock of such entity;
- (4) the feasibility of implementing a policy requiring non-custodians to search for records responsive to FOIA requests and requests from Congress;
- (5) methods agencies use to reduce backlogged FOIA requests and the effectiveness of those methods.;
- (6) a catalog of the number of times in the past sixteen years that, in accordance with 5 U.S.C. §552(a)(4)(F)—
 - (a) a court issued a written finding that the circumstances surrounding a withholding raised questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding;
 - (b) the Special Counsel initiated a proceeding to determine whether disciplinary action was warranted against the officer or employee who was primarily responsible for the withholding; and
 - (c) the administrative authority, to which the findings and recommendations of the Special Counsel were referred, took corrective action as recommended by the Special Counsel, and the results of such corrective action; and
- (7) the adequacy of current law to enforce—and deter violations of—the requirements of 5 U.S.C. §552, including the measures provided by 5 U.S.C. §552(a)(4)(F), and whether stronger enforcement tools are necessary to encourage and ensure compliance with 5 U.S.C. §552.

If you have any questions about this request, please contact Katy Rother of the House Committee on Oversight and Government Reform Majority staff at (202) 225-5074, Krista Boyd of the House Committee on Oversight and Government Reform Minority staff at (202) 225-5051, Kyle McCollum of the Senate Committee on the Judiciary Majority Staff at (202) 224-5225, or Chanda Betourney of the Senate Committee on the Judiciary Minority Staff at (202) 224-7703.

Thank you for your assistance with this request.

Sincerely,



Jason Chaffetz
Chairman
House Committee on Oversight and
Government Reform



Charles E. Grassley
Chairman
Senate Committee on the Judiciary



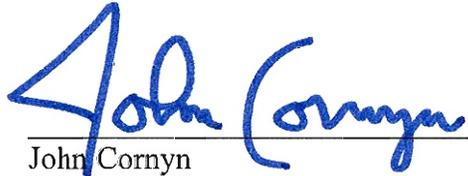
Elijah E. Cummings
Ranking Member
House Committee on Oversight and
Government Reform



Patrick Leahy
Ranking Member
Senate Committee on the Judiciary



Darrell Issa
Chairman
House Committee on the Judiciary,
Subcommittee on Courts, Intellectual Property,
and the Internet



John Cornyn
Chairman
Senate Committee on the Judiciary,
Subcommittee on the Constitution