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Report to the Chairman, Subcommittee on
Government Information, Justice, and
Agriculture, Committee on Government
Operations, House of Representatives

January 1989

FREEDOM OF INFORMATION ACT

State Department Request Processing





United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-221963

January 23, 1989

The Honorable Glenn English
Chairman, Subcommittee on Government
Information, Justice, and Agriculture
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This report is in response to your request that we examine Freedom of Information Act (FOIA) operations at the Department of State. The report addresses the organizational structure adopted by State for implementing the act, overall statistics on the timeliness of processing FOIA requests, and an analysis of key steps in the process.

As arranged with your office, unless you publicly announce the contents of the report earlier, we plan no further distribution until 30 days from the date of the report. At that time we will send copies to the Secretary of State, congressional committees having an interest in FOIA-related matters, and other interested parties. Additionally, we will make copies available to others upon request.

The major contributors to this report are listed in the appendix. Please contact me at 275-8676 if you or your staff have any questions concerning the report.

Sincerely yours,

A handwritten signature in black ink that reads 'L. Nye Stevens'. The signature is written in a cursive, flowing style.

L. Nye Stevens
Associate Director

GAO's Analysis

Time to Complete Cases

GAO analyzed the processing time for 7,567 FOIA requests that State received from January 1, 1985, to December 31, 1987. State took longer than 6 months to complete three-fourths of the requests. To determine why State takes so long to complete FOIA requests, GAO analyzed the procedures and time for State's principal FOIA processing activities—coordinating the response to the request, searching for requested documents, and reviewing the documents.

Coordination of FOIA Activities

The Foreign Affairs Information Management Center also processes Privacy Act and other information requests. GAO's analysis showed that FOIA case processing has been delayed at points where the Management Center is responsible for (1) sending FOIA requests to appropriate State components with instructions to search for requested documents, (2) forwarding retrieved documents to the Classification/Declassification Center for review, and (3) preparing responses to requesters. GAO noted that the Management Center had not fully used its automated FOIA case tracking system to monitor operations and identify problem areas because of the high error rate in the system.

Management Center officials were unaware of the delays at the first two points because they had not instituted the necessary managerial controls. They corrected the delays when GAO brought them to their attention. They also said they have improved the accuracy of their automated FOIA case tracking system and, as a result, have begun to generate management reports which will assist in monitoring case processing.

Management Center officials were aware of the delay in processing responses to requesters and attributed the problem to the inability to devote the necessary staff to this activity. This stage of the FOIA process is highly labor intensive and can require from 4 to 48 hours of actual staff time per response. The responsible branch chief estimated that during the 3 years of operations covered by GAO's review, the number of staff members devoted to this function ranged from three to eight and could not keep up with the workload. The situation was alleviated during the 6-month period ending September 30, 1988, when State hired, on a temporary basis, seven retired former employees who helped the Center reduce its backlog in this stage by over 50 percent.

Review of Documents

A 1985 Inspector General's review of the Classification/Declassification Center pointed out the lack of adequate internal controls and accountability in its operations. The Center took steps to correct the noted deficiencies, and GAO's analysis showed an improvement in the timeliness in this stage. (See pp. 22 to 24.)

Recommendations

Because State has corrected management weaknesses GAO brought to its attention, and because GAO did not determine whether competing priorities might suffer from a diversion of additional staff to FOIA activities, GAO is making no recommendations.

Agency Comments

The views of responsible agency officials were sought during the course of GAO's work and incorporated where appropriate. They believed the treatment of the issues was factual. The officials emphasized that the allocation of resources to FOIA operations is crucial and they have been able to hire approximately 20 additional staff since 1987. The officials pointed out, however, that an expansion of the permanent FOIA workforce to a level they believe would be sufficient is unlikely because of other priorities facing the Department. Further, the officials said that funding for recurring projects using annuitants hired on a temporary basis to assist in FOIA operations was denied within the State Department in October 1988.

Affairs Information Management Center (FAIM), which coordinates the process; (2) bureaus and offices, which in the course of carrying out their foreign affairs mission maintain information that is subject to FOIA requests; and (3) the Classification/Declassification Center (CDC), which was created in 1979 to centralize the review of documents to determine their releasability under information access statutes, including the FOIA.² The basic FOIA processing steps and responsibilities are summarized below.

- FOIA request receipt. The Information Access Branch within FAIM receives the request, enters it into its automated case tracking system, and creates a case file. The branch then sends an acknowledgement letter to the requester. It also identifies Department components most likely to have information responsive to the request.
- Search and return. The Information Access Branch sends the FOIA requests to one or more of approximately 300 State components, including FAIM's Information Research and Retrieval Branch, with instructions to search their files for documents responsive to the request. Once the search assignment is completed, the Access Branch is sent all retrieved documents. If no documents are found, the branch informs the requester.
- CDC review. The Access Branch forwards documents that were found during the search phase to CDC. CDC determines and indicates their releasability (in whole or in part) pursuant to any of the nine FOIA exemption categories, such as national security considerations. CDC drafts a letter to the requester describing review results and sends this letter and the reviewed documents to the Access Branch for final processing.
- Response to requester. The Access Branch examines the material from CDC, checking that all documents are accounted for and that all denied information is referred to in the review results letter, including the applicable exemption categories. The branch makes any excisions on the documents to be released and writes a cover letter to the requester. This letter provides such information as how the request was processed, what record systems were searched, and any fees owed. Finally, the branch mails the response package to the requester.

²Some bureaus and offices, such as Overseas Citizens Services and the Visa Office, determine the releasability of their documents. Because CDC is the Department's focal point for the classification/declassification of documents and did approximately 70 percent of the reviews during the period we examined, we limited our analysis to this component.

reviews on the basis of the date these tasks were assigned to State components. The universe of 7,567 requests was selected on the basis of the date that the request was received by State.

We interviewed State Department officials involved with processing FOIA requests in FAIM, CDC, and in 12 bureau or office components that do searches. Additionally, we reviewed applicable agency policies, procedures, and guidance and a 1985 Inspector General's report reviewing State's classification review process. Finally, we reviewed the 1987 "Justice Department Guide to the Freedom of Information Act," an annually updated issuance by Justice's Office of Information and Privacy. It provides interpretive guidance on various aspects of the act.

We did our work at the State Department, in Washington, D.C., from July 1987 to July 1988 in accordance with generally accepted government auditing standards. The views of responsible agency officials were sought during the course of our work and their comments were incorporated.

Data Sources

FAIM maintains a computerized database that contains, among other things, detailed information on assignment of cases and dates of receipt, search, review, and completion for each FOIA request. It was the primary source of data for our evaluation of the total turnaround time for FOIA request processing as well as the time required to conduct the search and review phases of the FOIA process. Aside from the thousands of actual hardcopy case files stored in various office and storage locations at State and elsewhere, this database is the only historical record of the processing of FOIA requests.

We previously reviewed the accuracy of State's computerized database and concluded in our report that it contained significant errors. Since it would be impractical and, in some cases, impossible to review and schedule this amount of data directly from the original hardcopy case files, we used this automated data, corrected as best we could, in our evaluation.

To lessen the impact of the errors in the database, we substituted corrected data, eliminated obviously incorrect data, and aggregated the remaining data into groups to lessen the effect that minor errors would have on our analysis. Specifically:

Staff Limitations and Insufficient Management Controls Have Contributed to State's FOIA Difficulties

The State Department has not been able to keep pace with its FOIA workload. Departmental statistics on 7,567 requests received during the 3-year period ending December 31, 1987, showed that approximately three-fourths took over 6 months to complete. We analyzed the primary activities of the FOIA process—the coordination function of the Foreign Affairs Information Management Center, the search and retrieval of requested documents by departmental components, and the review of documents by the Classification/Declassification Center to determine their releasability. We found that each contributed to time delays and/or backlogs in processing FOIA requests.

We attribute these difficulties in part to staff limitations and in part to the weakness of management controls necessary to help FOIA officials monitor operations and identify and correct problem areas. Two projects undertaken by the Department illustrate the relationship between FOIA operations and the availability/commitment of staff. On both occasions the temporary addition of staff resulted in an increase in FOIA output and a reduction in the overall backlog. We noted opportunities for the Department to establish better controls to manage its FOIA operations, monitor case progress, and avoid unnecessary delays. During our review State took corrective action.

Overall Turnaround Time for FOIA Requests

We analyzed 7,567 FOIA requests that State received during the period January 1, 1985, through December 31, 1987. Our analysis, as shown in figure 2.1, found that State took longer than 6 months to complete approximately three-fourths of its FOIA requests. In addition, the Department reported a backlog of approximately 3,700 pending requests as of January 1, 1988.

In many instances FOIA requests took significantly longer than 180 days to complete. For example, we analyzed 1,329 requests received during the first 6 months of calendar year 1986 and found that approximately 50 percent took longer than 360 days. We could not perform similar analyses for more recent 6-month periods because not enough calendar days had elapsed as of the date of our analysis.

Presented below is our analysis of the three major activities that comprise State's FOIA operations: the coordination function, searches for requested documents, and review of documents for releasability. We found that each activity involved delays; the review phase, however, showed considerable improvement during the period we reviewed.

Access Branch's Coordination Activities

The time delays and backlogs we identified in each of the branch's processing activities are summarized below.

- Search assignment. According to the branch chief, the initial processing steps—from receiving a FOIA request to sending out search assignments—should normally take no more than 1 week. We analyzed 867 cases that State received between January 1 and October 5, 1987, that involved a search assignment. We found that 690, or 80 percent, took over 2 weeks before being sent to appropriate components with instructions to begin document searches. Of these, 390 took over 28 days. The branch chief was unaware of the delays in assigning search responsibility; she told us that the need to resolve certain issues with requesters, such as the payment of fees, would explain some but not all of the delays. The branch chief was able to modify the processing of newly received requests. We monitored the processing of 153 requests received during February and March 1988, after the branch chief modified the process, and found that 88 percent were sent to components in 1 week or less.
- Completed searches. When search assignments are completed by components, any retrieved documents are returned to the Access Branch, which forwards them to CDC for review. If no documents are found, the branch notifies the requester and closes the case. We tested this stage of the process by monitoring the progress of a selection of completed searches awaiting action during a period of approximately 5 weeks. We monitored 54 completed searches between October 13 and November 20, 1987. The branch began to process only three of them. As with search assignments, the branch chief was not aware of the lack of action on completed searches. She later determined that the lack of action on completed searches was caused by a staff member not following work priorities. The branch chief emphasized to her staff that processing completed searches should be treated as a priority.

The branch chief agreed that reports that identified bottlenecks such as those just mentioned would be useful management tools for monitoring case processing and identifying areas needing improvement. She pointed out that FAIM had not in the past fully used its FOIA case tracking system to generate management reports because of the system's high error rate. Following our July 1987 report that addressed the inaccuracy of the system, State took steps to improve it. In January 1988, FAIM began to generate management reports that should enable responsible officials to monitor case processing and identify developing bottlenecks.

temporary basis to assist in various aspects of FOIA operations. The seven temporary staff assigned to the branch helped in reducing its backlog of completed reviews from over 600 to fewer than 300, a decrease of over 50 percent. The branch chief was doubtful that this trend would continue after the additional staff had left.

Improper Closing of FOIA Cases

In an effort to reduce the Department's backlog of FOIA cases, in 1986 the Access Branch prematurely closed, without notice to requesters, over 200 long-outstanding requests. FOIA does not authorize agencies to take such administrative actions, and the branch has resumed processing or has otherwise dealt with all cases involved in these closings.

The branch chief said that the cases involved were closed during the 3-month period ending September 1986 and were confined to FOIA requests received by State before 1984. Cases were closed where requesters had not followed up on their requests since the end of 1985. The branch chief said a case would be reopened if a requester followed up any time after the administrative closing. As of December 31, 1987, she estimated this had occurred only once or twice. The branch chief also said that exceptions to closing cases were made when branch staff knew that a specific requester, such as a reporter or author, had a continuing interest in a request's subject matter.

We discussed the authority by which the decision to close these cases was made. The branch chief acknowledged that FOIA does not provide for such agency actions or require requesters to follow up on the status of their requests. The branch chief conceded that a more prudent approach would have been to contact the requesters and inquire whether they still had an interest in their requests.

As of May 11, 1988, the branch chief said her staff had identified and begun to deal with all the improper closings, which consisted of 220 cases. The branch had resumed processing 58 requests and was attempting to contact the remaining 162 requesters to ask if they still wanted their requests processed. The branch chief acknowledged that contact with some of the requesters was unlikely because of changes of address.

Searches for Requested Documents

FAIM's Information Research and Retrieval Branch as well as individual bureaus and offices are responsible for searching for and retrieving documents to respond to FOIA requests. Our analysis showed that the availability and commitment of staff is the key to the timely completion of this

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According to the branch chief the section has been unable to apply sufficient staff to improve its search timeliness. He explained that the exception occurring in 1986 resulted from a project to alleviate the backlog of searches in State bureaus and offices, whereby retired annuitants were hired to do searches on a temporary basis. Eleven annuitants assisted the Retrieval Branch over a 2-month period. They expended approximately 190 staff days and completed about 350 searches.

With the exception of this period the Retrieval Branch staff level ranged from 9 as of December 31, 1984, to 13 as of December 31, 1987. However, not all the staff were available for FOIA searches. For example, of 12 staff members in June 1987, 6 (5 full-time and 1 part-time) were designated for FOIA and Privacy Act work, while the remainder handled internal projects.

Because of unexpected internal demands, however, the branch chief estimated that the five full-time staff could spend only about 40 percent of their time on FOIA matters. Thus, if the branch chief's estimate is accurate, the Retrieval Branch devoted the equivalent of about 3 staff members to FOIA searches during the 6-month period from July to December 1987. The branch chief cited few staff and the need to respond to internal requests, such as retrieving documents needed by State officials for the Iran-contra hearings, as the primary causes for the inability to respond to search requests quicker.

In April 1988, the Department again hired retired annuitants to assist in FOIA operations and assigned 10 to the Retrieval Branch. State officials estimated that during the 6-month period ending September 30, 1988, the temporary staff completed about 845 outstanding search assignments.

Bureaus and Offices

State's bureaus and offices other than FAIM's Retrieval Branch have also not handled search assignments quickly. As shown in table 2.2, search requests frequently require over 90 days to complete.

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After the project was completed the bureaus experienced a reduction in the number of searches completed and a corresponding increase in the backlog of outstanding search requests. During the first 6 months of 1987, the bureaus completed 504 fewer searches, resulting in a 14-percent increase in the overall backlog. FAIM officials attributed this change primarily to the absence of the eight retired annuitants.

A similar project was instituted in April 1988 when supplemental funds were devoted to hire retired annuitants. Thirteen staff were assigned to assist bureaus and offices in completing search assignments. During the 6-month period ending September 30, 1988, these individuals completed about 490 searches.

**Search Effort Is Less
Labor Intensive Than Time
Frames Suggest**

In January 1988, the Department began systematically to collect information on the actual hours spent by bureau personnel on doing FOIA searches. We examined the Department's data on 287 searches that were completed during January through March 1988. FAIM's Retrieval Branch completed 184 and the other bureaus and offices completed 103 of the searches. Our analysis of the actual staff time devoted to the searches compared to the number of calendar days that elapsed between the search assignment date and completion date shows that, in many instances, the search phase is far less labor intensive than the elapsed time would indicate.

Table 2.3 compares the actual staff time expended on searches and the number of calendar days that elapsed before completion.

Table 2.3: Staff Time Spent on Searches Completed During January - March 1988

Actual staff time expended (mins.)	Number of FOIA searches	Range of calendar days elapsed	Median days elapsed
FAIM/Retrieval Branch			
30 or less	87	7-968	190
31-60	27	22-384	203
Over 60	70	8-1,220	229
Bureaus			
30 or less	61	0-968	40
31-60	14	13-448	56
Over 60	28	8-1,220	116
Total	287		

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Table 2.4: Timeliness of CDC Reviews^a

Time frame	No. of reviews	Percent of Reviews ^b			
		30 days or less	31-60 days	61-90 days	Over 90 ^c days
1/1/85-6/30/85	612	9	14	8	69
7/1/85-12/31/85	689	24	22	16	38
1/1/86-6/30/86	1037	54	21	8	17
7/1/86-12/31/86	913	37	30	17	16
1/1/87-6/30/87	745	54	27	10	9
7/1/87-12/31/87	657	55	26	7	12
	4,653				

^aPercentages are based on calendar days.

^bPercentages rounded to equal 100 percent.

^cIncludes reviews that were still in process.

The table shows an improvement in the percentage of reviews done within 60 days, from less than 50 percent before 1986 to 81 percent in 1987. We discussed this improvement with CDC officials who indicated that in 1985 they undertook management initiatives to (1) track and monitor review progress, thereby establishing accountability; (2) schedule primary reviewers to provide greater work continuity; and (3) adopt a performance rating system to evaluate primary reviewers and weed out poor performers.

According to a CDC official, before 1985 CDC did not actively monitor review progress and, as a result, primary reviewers were not routinely held accountable for the expeditious completion of their work. Once cases were assigned to a primary reviewer no follow-up was done either by CDC or FAIM unless triggered by some external event such as an inquiry from the requester. Even when this occurred it was difficult to track a review because CDC used a different system to log FOIA request case numbers than did FAIM. FAIM, as State's official FOIA focal point, assigns an official case number to each request. Thus, when FAIM inquired about a review using the official case number, CDC could not readily match this number to its review log to identify the responsible primary reviewer.

Concurrent with a 1985 Inspector General's review that pointed out inadequate internal controls and accountability in CDC operations, the Center purchased a personal computer to track reviews coming into and leaving CDC, as well as those in process. Reviews are now logged in with the same case number that FAIM supplies. In addition, the name of the

of the bureaus' FOIA activities during the 6-month period ending December 31, 1986, which included the use of eight additional staff during this 2-month project, showed a decrease in the backlog of bureau searches by 32 percent. A FAIM official attributed the extent of this reduction to the eight temporary staff. During the first 6 months of 1987, the bureaus' backlog of outstanding searches increased by 14 percent. Officials attributed this change to the absence of the temporary staff.

In 1988, State again hired annuitants for a similar project to assist in processing FOIA requests. Our analysis again showed a significant decrease in the backlogs of FOIA-related work in each of the areas to which the additional staff were assigned. This project ended on September 30, and sufficient time has not elapsed to determine whether the absence of the additional staff will result in an increase of FOIA backlogs. State officials believe it will.

State's difficulties can also be attributed in part to managerial weaknesses and it has recognized the need to improve. It instituted tighter controls over the review phase, which resulted, in part, in an improvement in review timeliness. It also improved the accuracy of its automated case tracking system and began using it to generate management reports. The reports will allow officials to monitor more closely case progress, identify problems, and thus take corrective actions.

Recommendations

While the evidence shows that managerial weaknesses and resource limitations have contributed to State's inability to keep pace with its FOIA workload, we have not made recommendations in this report. First, State corrected managerial weaknesses brought to its attention, and it took other steps to improve controls over FOIA operations. Second, without an assessment of competing priorities and demands for the attention of State's employees, which was beyond the scope of our review, we could not compare the importance of improving FOIA response productivity with other functions that might suffer from diversion of resources to FOIA activities.

Agency Comments

The views of responsible agency officials were sought during the course of our work and incorporated where appropriate. They believed our treatment of the issues was factual. The officials emphasized that the allocation of staff to FOIA operations is crucial and they have been able to hire approximately 20 additional staff since 1987. The officials pointed out, however, that an expansion of the permanent FOIA

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workforce that they believe would be sufficient is unlikely because of other priorities facing State. Further, the officials said the funding for recurring projects using annuitants hired on a temporary basis to assist in FOIA operations was denied within the State Department in October 1988.

primary reviewer is entered as well as the date received, the date assigned to the reviewer, and the date the review is completed. According to the CDC official, this allows CDC to know where reviews are and how long they are taking.

In 1985, CDC took steps to provide greater continuity in the work schedules of its primary reviewers. Before 1985, the annuitants had wide flexibility in their work schedules and according to a CDC official would often work only 1 or 2 days a week or perhaps would work for a selected period and then take 1 or more months off. Reviews on which these individuals were working sat idle during their absence, which contributed to the length of the review process.

CDC changed the process in 1985. It required reviewers to adopt a more consistent work schedule, such as 4 days a week for a given number of months. When the annuitants go on leave for longer than 30 days they are now asked to fill out a status sheet on the cases in their possession. This status sheet details what phase each review is in so the cases can be turned over to another reviewer to complete rather than waiting long periods of time for the same reviewer to return and complete the review.

Also in 1985, CDC adopted a performance rating system for its reviewers. The annual rating covers various aspects of review performance and quality control as assessed by CDC's management. This serves as a basis for deciding whether a reviewer should return the next year.

Conclusions

The State Department's inability to keep pace with its FOIA workload has resulted in delays and backlogs in processing information requests. Over the 3-year period ending December 31, 1987, approximately three-fourths of the 7,567 requests we analyzed took over 6 months to complete. At the end of this period the Department reported a backlog of over 3,700 pending requests. Our analysis of the key stages in the FOIA process showed that each stage contributed to this condition. The Department's difficulties can be attributed in part to staff limitations and in part to the absence of internal controls necessary to help officials identify and correct problem areas.

Two projects undertaken by the Department illustrate the relationship between the availability of staff and FOIA output. During August and September 1986, State hired annuitants on a temporary basis to assist components in reducing their search assignment backlogs. Our analysis

As shown, months can elapse in completing a FOIA search assignment when, in reality, most require less than an hour of an individual's time. This in our opinion suggests that the search phase could be improved by placing a higher priority on this task. We have not, however, assessed the relative importance of the competing duties assigned the Retrieval Branch and bureau personnel compared to their FOIA duties.

Classification/ Declassification Center's Review Function

After documents are located, they are forwarded through FAIM's Access Branch to the Classification/Declassification Center (CDC). CDC is responsible for reviewing FOIA-requested documents to determine whether they should be withheld from release under any of the nine FOIA exemption categories, such as national security considerations. Our analysis of the timeliness of completing FOIA reviews processed during the period January 1, 1985, to December 31, 1987, showed a marked improvement in timeliness after CDC instituted improved internal controls in 1985.

CDC received a yearly average of approximately 1,550 FOIA review assignments between 1985 and 1987. In doing its case review, CDC uses a two-tier review system involving primary reviewers and senior reviewers. The reviewers are all retired annuitants who work part-time. At any one time CDC employs between 30 and 35 reviewers from a pool of about 200. After a primary reviewer reviews the case documents and drafts a letter to the requester describing the results of the review, the case is given to a senior reviewer to consider the review results. If the senior reviewer concurs with the primary reviewer's results, he or she signs the letter to the requester. If there are any questions or disagreements, these are resolved before the requester's letter is signed. Table 2.4 shows the number of FOIA reviews that CDC received in 6-month periods and the percentage of completed reviews displayed in monthly time-lapse categories.

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Table 2.2: Timeliness of Bureau Searches^a

Time frame	No. of searches	Percent of Searches ^b			
		30 days or less	31-60 days	61-90 days	Over 90 ^c days
1/1/85-6/30/85	846	33	11	5	51
7/1/85-12/31/85	632	22	12	5	61
1/1/86-6/30/86	748	34	14	9	43
7/1/86-12/31/86	558	33	22	6	39
1/1/87-6/30/87	694	38	16	9	37
7/1/87-12/31/87	762	31	14	11	44
	4,240				

^aPercentages are based on calendar days.

^bPercentages rounded to equal 100 percent.

^cIncludes searches that were still in process.

Similar to our analysis of searches done by the Retrieval Branch, we found that some of the bureau searches also took significantly longer than 90 days to complete. For example, of the 748 searches assigned during the first 6 months of 1986, approximately 29 percent took longer than 180 days.

An August 1985 State Department Inspector General's report that reviewed various aspects of FOIA operations cited similar delays in bureau searches and attributed the delays to the low priority given the search function by the bureaus. The former Assistant Secretary in charge of FOIA operations, in addition to FAIM officials, told us the bureaus do not give priority to searches because their foreign affairs responsibilities come first.

In response to the Inspector General's report, the Department acted to improve the search phase. The action taken illustrates the positive effect of concentrating staff on the search function. During August and September 1986, eight State annuitants were temporarily hired to work with the bureaus in reducing their search assignment backlogs. During the 6-month period ending December 31, 1986—which includes the 2 months when the temporary staff assisted in the search function—1,046 search assignments were completed. According to FAIM officials, the temporary staff completed approximately 538 searches and bureau personnel (over the 6 months) completed approximately 508. The bureaus reduced their backlog of 1,548 pending searches as of June 30, 1986, by 488, or 32 percent. A FAIM official attributed the extent of this reduction to the eight temporary staff.

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aspect of the FOIA process. Data maintained by FAIM (see table 2.3, p. 21) indicate that although this task frequently takes less than 1 hour of actual staff time, 40 or more days often elapse before it is completed. State officials cited limited staffing and the need for components to give first priority to their foreign affairs duties as the primary reasons for this condition.

**Information Research and
Retrieval Branch**

FAIM's Retrieval Branch is responsible for searching the Central Foreign Policy Files (the largest of State's record systems) for documents needed to respond to FOIA requests. The branch received 2,045 assignments during the period January 1, 1985, through December 31, 1987, and was unable to keep pace with the workload. Approximately 60 percent of the searches required over 90 days to complete. According to branch officials, as of March 1988, over 500 searches were awaiting action.

Table 2.1 shows in 6-month periods covering calendar years 1985 through 1987 the number of searches the branch received and the percentage of completed searches. The data are displayed in monthly time-lapse categories.

Table 2.1: Timeliness of FAIM Searches^a

Time frame	No. of searches	Percent of Searches ^b			
		30 days or less	31-60 days	61-90 days	Over 90 ^c days
1/1/85-6/30/85	306	30	9	10	51
7/1/85-12/31/85	325	11	12	9	68
1/1/86-6/30/86	316	16	15	16	53
7/1/86-12/31/86	245	27	34	15	24
1/1/87-6/30/87	418	7	8	13	72
7/1/87-12/31/87	435	6	4	1	89
	2,045				

^aPercentages are based on calendar days.

^bPercentages rounded to equal 100 percent.

^cIncludes searches that were still in process.

Our analysis showed that, with the exception of the 6-month period ending December 31, 1986, at least half of the searches required over 90 days to complete. In some instances searches took significantly longer. For example of the 316 searches assigned during the first 6 months of 1986, approximately 7 percent took longer than 180 days.

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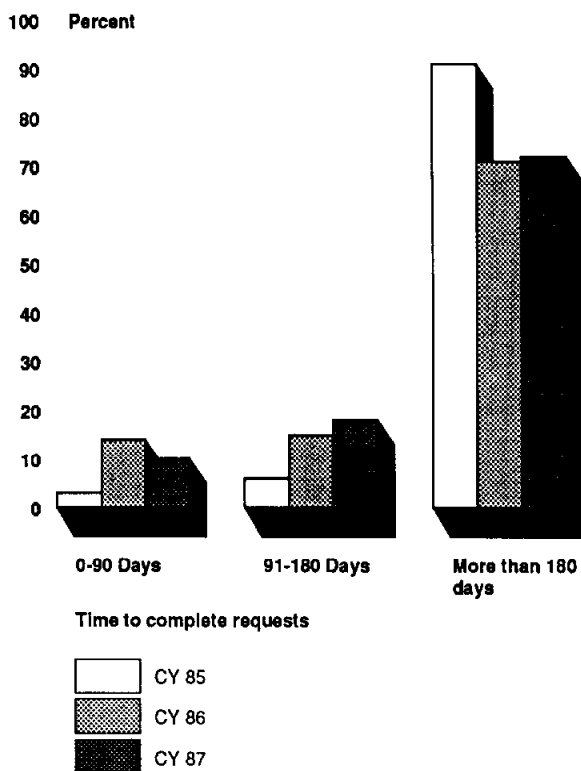
- **Completed reviews.** After reviewing retrieved documents for releasability under FOIA exemptions the CDC reviewer writes a release/denial letter and returns the case package to the Access Branch for processing and mailing out to the requester. Branch officials reported that as of May 1988, over 600 completed reviews were pending action. The branch chief attributed the backlog of completed reviews to the inability to devote the necessary staff to this highly labor-intensive activity. This step may require as many as 21 administrative tasks, such as
 - copying releasable documents;
 - excising the portions of documents that CDC has marked for denial;
 - copying the excised documents;
 - returning the review package to CDC when a task for which it is responsible has not been done or was done incorrectly; and
 - writing a cover letter to the requester identifying the record systems searched, how the request was processed, and any fees owed.

During the 3 years of FOIA operations covered by our review, the branch's staff level fluctuated between 9 in June 1985 and 18 in December 1987. The branch chief estimated that at any given time, the number of staff members available to process completed reviews ranged from three to eight. The remaining staff worked on the branch's other functions.

The branch chief estimated that, depending on the number and complexity of the documents to be released, processing each completed review could require from 4 to 48 hours of actual staff time. Her rough estimate for the average time of this step was 16 hours. We could not verify the section chief's estimates because the section does not record actual staff time spent on FOIA requests. However, if the estimate is accurate and we apply it to the approximately 1,844 document reviews that were both initiated and completed in 1986 and were forwarded to the branch for case completion, we find that eight staff members would not be able to keep up with the workload. For example, the eight staff members would only be able to complete a total of 880 completed reviews (8 staff members x 220 staff days = 1,760 staff days divided by 2 days required to process the request [16 hours] = 880). The remaining 964 would contribute to the backlog of cases remaining to be processed.

The impact that additional staff has on the ability of the Access Branch to complete cases upon return from review was recently illustrated with the temporary hiring of seven retired annuitants during the period April through September 1988. This was part of a project using about \$800,000 of supplemental appropriation funds to hire individuals on a

Figure 2.1: Timeliness of FOIA Cases
(1/1/85 - 12/31/87)^a



^aTimeliness is based on calendar days.

FAIM's Coordination Activities

Following receipt of FOIA requests, staff members of FAIM's Access Branch are responsible for ensuring that the requests meet certain criteria before processing can begin; for example, fee issues must be dealt with, and each request must reasonably describe the information sought. Once processing begins, branch personnel coordinate three sequential steps: (1) assign search responsibility to specific components; (2) transmit any retrieved documents to CDC for a releasability review; and (3) prepare a response to the requester, including, where indicated by CDC, making excisions to releasable documents. Our analysis of Access Branch operations identified time delays and backlogs in each of the three stages. It also showed that in 1986 the branch improperly closed, without notice to requesters, over 200 long-outstanding requests. The branch has either resumed processing these requests or is attempting to contact the requesters involved in these closings.

- 1) We used corrected data for 193 cases that were used as our sample in testing for accuracy in our prior report.
- 2) We eliminated from our analysis any clearly wrong data, such as negative time differences.
- 3) We categorized timeliness computations into 30-day or greater incremental time periods to reduce the consequences of relatively minor errors in the dates recorded in the database. We determined how many requests and/or FOIA activities were completed within these time periods. For the longest time periods—more than 180 days for the overall turnaround time for FOIA request processing and over 90 days for the search and review phases—we included requests that were not complete but still in process.

To determine whether processing times had improved, we divided the 3-year period covered by our review into 6-month periods and compared case processing times across each of these six periods.

In examining FOIA operations, we made additional audit tests. For example, to examine FAIM's coordination activities, we judgmentally selected a group of FOIA case files that were awaiting action and monitored their progress. We also monitored the results of State's projects using temporary staff to assist in FOIA operations and reported their results as of the date completed.

Resources and Workload

All of the components involved in State's FOIA operations have other, non-FOIA duties. The Foreign Affairs Information Management Center is also responsible for processing Privacy Act and Executive Order 12356 requests. The Privacy Act, among other things, permits individuals to access personal information on themselves that is maintained by federal agencies. The executive order requires that information be declassified or downgraded as soon as national security considerations permit. Bureaus and offices assigned to search for documents do so in addition to carrying out their overall foreign affairs missions. In addition to reviewing the releasability of FOIA-requested documents, CDC reviews Privacy Act and executive order documents.

Because resources are not devoted solely to FOIA matters, the question of resources and workload should be considered together with Privacy Act and executive order requests. During the 3 years from January 1, 1985, to December 31, 1987, State received 8,236 FOIA requests, 2,727 Privacy Act requests, and 2,116 executive order requests. The budget for FAIM's request processing averaged approximately \$600,000 per fiscal year. CDC's funding levels decreased somewhat, fluctuating between \$2.8 and \$2.4 million. We could not estimate resources devoted by bureaus that do searches because the necessary data are not maintained.

Objectives, Scope, and Methodology

Our objectives were to examine the organizational structure adopted by State for implementing the act, overall statistics on the timeliness of processing FOIA requests, and the key steps in the process. To accomplish these objectives we analyzed the overall time taken by State to process and respond to FOIA requests received during the period January 1, 1985, to December 31, 1987. We analyzed the case processing timeliness of 7,567 of the 8,236 (92 percent) requests that State recorded as received during this period. The remaining 669 requests had not been entered into the Department's case tracking system as of the time we did our analysis.

We also reviewed the time taken for the major steps, such as search and review, that comprise FOIA case processing. We analyzed statistical data on 6,285 searches that were assigned to components and 4,653 reviews that were assigned to CDC during the same 3-year period. The universe of searches and reviews does not correspond to the universe of 7,567 requests used to determine the overall timeliness of the process because the basis for selection differed. We selected the universe of searches and

Introduction

The Department of State collects and maintains information related to the foreign affairs activities of the federal government. By its nature, this information is of interest to journalists, historians, researchers, and others who request access under the Freedom of Information Act (FOIA). In June 1986, the Chairman, Subcommittee on Government Information, Justice, and Agriculture, House Committee on Government Operations, requested that we review the State Department's Freedom of Information Act operations.¹

FOIA's Timeliness Criteria

FOIA provides the basic authority and procedures for the public to obtain documents from the executive branch of the federal government. The act states that agencies are to determine within 10 working days after receipt of a FOIA request whether to comply and then are to immediately notify the requester of their decision. The act also provides that an agency can grant itself an extension of up to 10 working days in particular circumstances, such as when records need to be collected from field offices. When a requester has not received the agency's decision within these time limit provisions, the requester may seek legal action through a federal district court. According to the act, "if the government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request," the court may allow the agency additional time to complete its review of the request. The Department of Justice's Office of Information and Privacy, in studying the outcome of several court cases involving agencies other than State, has said that:

- the need to process an extremely large volume of requests has been held to constitute "exceptional circumstances" and
- the commitment of large amounts of resources to process requests has been held to constitute "due diligence."

According to State Department officials responsible for implementing FOIA, no action has been brought against State in which either "exceptional circumstances" or "due diligence" has been ruled on by a court.

State's FOIA Process

FOIA case processing at the State Department entails several stages. It requires coordination among the following components: (1) the Foreign

¹This is the second report issued pursuant to the June 1986 request. The first report, *Freedom of Information Act: Accuracy of the State Department's Automated Case Tracking System* (GAO/ GGD-87-95BR), was issued in July 1987.

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Abbreviations

CDC	Classification/Declassification Center
FAIM	Foreign Affairs Information Management Center
FOIA	Freedom of Information Act

GAO noted that in a 1986 effort to reduce its backlog of FOIA cases, State administratively closed, without notice to the requesters, 220 requests. State officials acknowledged that the act does not provide for such closings. As of May 11, 1988, the Department had resumed processing or otherwise dealt with all cases involved in the closings. (See pp. 14 to 17.)

Search for Documents

The Management Center's Information Research and Retrieval Branch, along with State components that have specific geographic or functional responsibilities, are tasked to search for and retrieve documents responsive to FOIA requests. GAO's analysis of searches completed by the Retrieval Branch and other components during the period January 1, 1985, to December 31, 1987, showed that over one-third took more than 90 calendar days to complete.

The Retrieval Branch searches State's central filing system; its FOIA workload consisted of approximately one-third of all requests. According to the branch chief, he has been able to devote the equivalent of approximately three staff members to FOIA searches because of competing demands, and this level is insufficient to keep up with the workload.

In components other than the Retrieval Branch, searches are normally assigned to staff members in conjunction with their other duties. The Department recently began systematically to record actual staff time devoted to individual FOIA searches. GAO's analysis of this data shows that the availability and/or commitment of staff is the key to completing searches in a timely manner. For example, bureaus completed 103 FOIA searches during January through March 1988. While actual staff time recorded by bureau personnel in doing 61 of these searches was 30 minutes or less, over 40 calendar days frequently elapsed before their completion.

Two State projects also illustrate this point. In 1986, the Department hired 19 annuitants on a temporary basis to help bureaus and the Retrieval Branch reduce their search assignment backlogs. The temporary staff completed approximately 888 searches during a 2-month period and succeeded in reducing search backlogs. In 1988, State devoted part of a supplemental appropriation to hire annuitants again to assist the bureaus and the Retrieval Branch in doing searches. During the 6 months ending September 30, 1988, 23 annuitants completed about 1,335 searches and again reduced the backlogs. State FOIA officials anticipated a subsequent increase in these backlogs after the project expired and the additional staff were no longer available. (See pp. 18 to 22.)

Executive Summary

Purpose

The Department of State collects and maintains information relating to diplomatic and foreign affairs. By its nature, this information is often of interest to historians, journalists, and researchers, as well as to the general public, who request access under the Freedom of Information Act (FOIA). State received about 2,700 FOIA requests a year during the 3-year period ending December 31, 1987.

Prompted by complaints about the slowness of State's responses to FOIA requests, the Chairman, Subcommittee on Government Information, Justice, and Agriculture, House Committee on Government Operations, requested that GAO examine the timeliness of State's FOIA operations.

Background

The Freedom of Information Act generally requires that agencies determine within 10 working days after receipt of an FOIA request whether to provide the information requested and then immediately notify the requester of their decision.

FOIA operations at the State Department involve multiple participants. The Foreign Affairs Information Management Center is State's focal point for implementing the act. It is responsible for the overall coordination of the FOIA process, including responding to the requester. Other offices are instructed to search for and retrieve documents covered by the request. The Classification/Declassification Center, another component within State, has the primary responsibility for reviewing documents to determine whether they should be released or denied under nine specified FOIA exemptions.

Results in Brief

The State Department has not been able to keep pace with its FOIA workload. It took longer than 6 months to complete most of the FOIA requests it received from January 1985 to December 1987, and there was a backlog of over 3,700 requests as of January 1, 1988.

The Department's difficulties can be attributed in part to staffing limitations and in part to inadequate managerial controls necessary to help FOIA officials monitor the FOIA process and identify and correct problem areas. During GAO's review, the Department provided additional FOIA-related staff and improved its automated case tracking system. The Department also took steps to deal with 220 cases that it had improperly closed in an effort to reduce its backlog.

