

Still Waiting After All These Years

Part I

*An in-depth analysis of FOIA
performance from 1998 to 2006*
August 8, 2007

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August 8, 2007

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CJOG Analysis Shows Growing Backlog Despite Increased Spending

The self-reported performance of federal departments and agencies in responding to Freedom of Information Act requests continues to deteriorate, despite a public nudge from the president, in a December 2005 executive order, to improve service, according to an analysis of those reports by the Coalition of Journalists for Open Government.

The Coalition findings provide a stark contrast to the rosy report the Justice Department sent to President Bush in early June advising that the response by government agencies to his presidential order was encouraging. How could the two sets of findings be so different? Justice focused on how agencies had progressed toward self-established bureaucratic goals. The Coalition analyzed the delivery of the requested information to the public.

The 2006 backlog of FOIA requests broke a record set last year, increasing 26%, and few agencies met the mandated 20-day response deadline. Across the board, basic indicators of efficiency declined significantly.

What has increased? The taxpayer dollars spent.

Over the past nine years, the number of FOIA requests processed has fallen 20%, the number of FOIA personnel is down 10%, the backlog has tripled, and costs of handling a request are up 79%.

But it's not all about money: Three agencies made sharp reductions in spending, both overall and per request: the Department of Energy, the State Department and the Treasury. And all three have reduced their backlogs from 1998 levels as well.

These are among the findings in the Coalition's examination of agency reports from 1998, the first year the data was reported, through the fiscal year ended Sept. 30, 2006. The analysis looks at the current figures and compares that performance with the previous eight years. Ironically — and typically — few agencies met their Feb. 1 deadline for reporting. Indeed, several did not file until June.

The Coalition collected performance data from 30 federal departments and agencies that handle the vast majority of all government FOIA requests. It then conducted a comparative analysis of the data from 26 agencies of those agencies that primarily handle

third-party requests. Excluded from the comparative analysis were four that primarily handle first-party requests, which are filed jointly under the Privacy Act and FOIA. These include requests from individuals seeking their own Social Security information and veterans inquiring about benefits. Those requests are generally handled quickly because no discretionary decision making is required.

Here's what the Coalition's study found:

Backlog: Two of every five requests filed in 2006 were not processed

The overall backlog rose 26% from 2005's record high. By the end of 2006, the 26 agencies had a combined backlog of 39%. That means that almost two out of every five requests filed did not get into the processing hopper before the year ended. The FOIA backlog has increased 200% since agencies began reporting in 1998. It nearly doubled in the past two years.

The worst 2006 performance came from the Department of Housing and Urban Development, which fell 188% behind. At that pace, it will be well into 2008 before HUD begins to work on some of the requests received in 2006.

Caseload: Requests fell for the second straight year, but the backlog still increased

The growing backlog cannot be blamed on increased workload, as the Justice Department suggested in its report. In 2006, the 26 agencies received the fewest requests since reporting began in 1998. The number of requests received was down 6% in the past year and 10% in the past two years. The backlog kept growing because the agencies processed fewer requests in each succeeding year since 2003.

Waiting Time: Long waits for information continue

Because of the way the government reports FOIA data, it's impossible to determine just how long the average person has to wait for a response and then for the requested information. The information that is reported — the median number of days it takes an agency to respond — suggests most people are waiting longer.

This past year, the National Archives and Records Administration's report provided an indication of how this data can be misleading in favor of the government. NARA said it had been misreporting its response times for a number of years, showing the "mean," or average, waiting time rather than the "median," or mid-point. What difference does that make? The "median" wait time reported in 2006 was five days to respond to a simple request. The "average" times reported in the three previous years were 31 in 2003, 35 in 2004 and 13.5 days in 2005. The difference is even more marked in the handling of complex requests: 20 "median" days in 2006, but an average waiting time of 312 days in 2003, 354 in 2004 and 252 in 2005.

Only one agency, GSA, has been able to consistently meet the statutory deadline for FOIA responses to complex requests.

In 1998, only five of the 26 agencies showed a median response time for "simple" requests that exceeded the 20 working-day statutory deadline. Last year, 14 of the agencies went past the deadline. In the handling of "complex" requests, only one of the 19 agencies that missed the 20-day deadline in 2005 was able to bring its response time in line in 2006. That was the Defense Department.

Information Released: Full grants hit an all-time low

There has been a clear shift toward less disclosure by the current administration. When agencies did get around to responding, they were increasingly stingy. The number of denials increased 10% in 2006 and the number of full grants, in which the requester got all the information sought, hit an all-time low.

The number of partial grants, in which requesters got at least some information, did increase slightly, however, pushing the overall percentage of requests granted to 64%, a single percentage point higher than 2005. In 1998, 69% of the request were granted all or in part.

The net effect of the slowdown in processing and the increased stinginess? In 2006, 135,963 fewer requesters got full grants than in 1998 and 101,696 fewer requesters got a grant of any kind.

Appeals: Don't bet on winning, the odds are against it

Agencies don't like to admit a mistake; particularly the Justice Department. It has consistently granted the lowest percentage of appeals of any agency — only 4% in 2006. (Its rate of grant-making is down 70% from that of the Justice Department in the previous administration.) And the odds of winning an appeal at other agencies aren't very good, either; only one requester in six got any relief in 2006.

By the way, the language of the reporting says something about the way agencies think. if you appeal and your appeal is "completely upheld" in agency report language, you've lost everything. It's only when they "reverse" your appeal that you've won. And the release of information that is by law public is called a "grant."

Costs, Efficiency: More spent on processing by fewer hands

The cost of processing FOIA requests is up 40% since 1998, even though agencies are processing 20% fewer requests. Perhaps that's because the additional money wasn't spent on people doing the work. Despite a 14% increase from 2005 levels, the number of FOIA workers in 2006 was still 10 percent below 1998 levels.

Here are two telling measures reflecting the lack of efficiency:

- The typical FOIA worker handled 136 requests a year in 1998. That had risen to 143 requests in 2005 but fell to 120 requests last year.
- The average cost of handling a request was \$294 in 1998; by 2005 it had increased to \$494, and institutional inflation did not stop then. The 2006 cost for each request processed: \$526.

FOIA Fees: Charges pay an insignificant part of the costs

The processing fees charged requesters recovers an insignificant portion of the reported cost of providing information to the public. The 26 agencies spent \$241.6 million in 2006 to handle FOIA requests. They took in fees of \$3.1 million. That's a meager 1.3% and on a par with the last five years.

Exemptions: Citations on the rise, particularly regarding law enforcement

In the last several years, agencies have made creative use of the nine FOIA exemptions to deny requests for information. Overall, the number of exemptions cited to support the withholding of information has increased 83% since 1998, even as the number of requests processed fell 20%.

The two exemptions getting the greatest additional attention were 7e and 2. Exemption 7e, which protects information about law enforcement sources and methods, was up 528% in 2006 from the 1998 usage. Exemption 2, which explicitly protects records "related solely to the internal personnel rules and practices of an agency," saw a notable surge after 2001-2002 memos from former Attorney General John Ashcroft and then-White House Chief of Staff Andrew Card urging agencies to show more restraint in disclosing information. Its use was up 344% by 2006.

Exemptions 6, covering personal privacy, and 7c, protecting privacy information in law enforcement records, were used 122% and 151% more frequently, respectively.

Expedited Requests: No real gain for those not rejected outright

Agencies reject about half of the requests they get to provide expedited handling of records under FOIA. And even when they do grant the request to expedite, it doesn't necessarily speed things up that much.

At 11 of the 26 agencies, the median response time reported was greater than 20 days, stretching up to 233 days. The State Department, for example, reported its median processing time for expedited requests in 2006 was 232 days. The median time for processing non-expedited "complex" requests was only 210 days.

* * *

Following are a series of tables containing the data from which these highlights were drawn.

Additional comparative tables covering the last nine years of FOIA performance data, including year-by-year accounting of FOIA data by category and agency, are available at the Coalition's Web site: www.cjog.net.

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Departments and Agencies Included in Study	
Agriculture	Department of Agriculture
Commerce	Department of Commerce
Defense	Department of Defense
Education	Department of Education
Energy	Department of Energy
Homeland Sec.	Department of Homeland Security
HUD	Department of Housing and Urban Development
Interior	Department of the Interior
Justice	Department of Justice
Labor	Department of Labor
State	Department of State
Transportation	Department of Transportation
Treasury	Department of the Treasury
AID	Agency for International Development
CIA	Central Intelligence Agency
CPSC	Consumer Product Safety Commission
EEOC	Equal Employment Opportunity Commission
EPA	Environmental Protection Agency
GSA	General Services Administration
NARA	National Archives and Records Administration
NASA	National Aeronautics and Space Administration
NLRB	National Labor Relations Board
NRC	Nuclear Regulatory Commission
NSF	National Science Foundation
SEC	Securities and Exchange Commission
SBA	Small Business Administration
HHS	Department of Health and Human Services
OPM	Office of Personnel Management
SSA	Social Security Administration
VA	Department of Veterans Affairs

The 26 agencies listed in the top section and shown in all of the Coalition comparisons in this study are those included in frequent Government Accountability Office reports on FOIA, and several others with a high number of third-party FOIA requests.

The four agencies listed in the section at the bottom are also regularly included in GAO studies. Annual data is provided in this report but these agencies are not included in the comparative charts because most requests are from individuals filing joint Privacy Act/FOIA requests and seeking personal records routinely granted with minimal delay.

Combined Agency Performance, 1998 to 2006

In 2006, the 26 agencies reviewed agencies processed the fewest requests since reporting began in 1998. But even as the number of new requests hit a nine-year low, the backlog rose to a record 39% of requests processed. The number of full grants continued to decline but the overall percentage of requests granted increased slightly because of the smaller number processed.

Year	Requests				Grants				
	Received	Processed	Backlog	Percent	Full	Partial	Percent	Denials	Other *
1998	573,772	575,198	72,076	13%	323,917	71,930	69%	24,129	184,631
1999	602,138	589,643	81,215	14%	377,926	76,444	68%	20,479	204,920
2000	653,724	648,315	84,340	13%	353,149	78,623	67%	22,065	202,318
2001	545,720	537,630	95,280	18%	302,558	81,067	73%	14,202	141,941
2002	505,390	515,860	81,081	16%	272,765	86,353	70%	13,949	142,793
2003	532,570	531,688	83,393	16%	253,109	108,375	68%	13,154	157,019
2004	547,193	524,909	105,119	20%	234,438	116,544	67%	15,383	166,227
2005	525,247	480,306	149,262	31%	198,635	106,184	63%	11,435	156,443
2006	494,546	459,044	178,837	39%	187,954	106,197	64%	12,558	130,086
Change 1998-2006	-79,226	-116,154	106,761	200%	-135,963	34,267	-7%	-11,571	-54,545

***Other Reasons for Non-Disclosure:** A series of reasons unrelated to FOIA exemptions that explain why a request was denied, such as "no such record", "request withdrawn" and "not an agency record".

FOIA Grants, Initial Requests and Appeals, 1998 to 2006

The number of requests processed annually declined by 116,154 over the nine years since reporting of performance data began. The percentage of requests granted declined as well. The numbers reflect a dramatic shift by agencies from full grants to the partial release of information sought by requesters, a trend that began in the Bush administration's first full fiscal year, 2002. Between the slowdown in processing and the more restrictive grant policies, 217,720 fewer requesters got full grants in 2006 compared with 1998, and 183,453 fewer got a grant of any kind. Also, fewer people were successful in their appeals. The number of appeal grants fell 43%.

Initial Requests	1998	1999	2000	2001	2002	2003	2004	2005	2006	Percent Change 1998-2006
Requests Processed	575,198	589,643	648,315	537,630	515,860	531,688	524,909	480,306	459,044	-20%
Full Grants	323,917	327,926	353,149	302,558	272,765	253,109	234,438	198,635	187,954	-42%
Partial Grants	71,930	76,448	78,623	81,067	86,353	108,375	116,544	106,184	106,197	48%
Total Full/Partial	395,847	404,374	431,772	383,625	359,118	361,484	350,982	304,819	294,151	-26%
Percent Granted	69%	69%	67%	71%	70%	68%	67%	63%	64%	
Appeals	1998	1999	2000	2001	2002	2003	2004	2005	2006	Percent Change 1998-2006
Appeals Processed	9,514	10,475	9,933	9,542	7,619	8,229	7,325	6,669	6,354	-33%
Full Grants	572	467	366	505	373	335	283	299	229	-60%
Partial Grants	1,308	1,732	1,391	1,094	1,096	826	947	938	842	-36%
Total Full/Partial	1,880	2,199	1,757	1,599	1,469	1,161	1,230	1,237	1,071	-43%
Percent Granted	20%	21%	18%	17%	19%	14%	17%	19%	17%	

Changes in Backlog and Agency Efficiency, 1998 to 2006

The backlog of FOIA requests has risen 138% and the cost of handling each request 80% since reporting began in 1998. Yet the number of requests has fallen. Performance continued to deteriorate in 2006 despite the president's December 2005 executive order to improve service to FOIA requesters. The agencies were 7% less efficient than in 1998 and 17% less efficient than in the peak request year of 2000.

Year	Requests Processed	Percent Change	Backlog	Percent Change	Cost per Request	Percent Change	Requests per FTE	Percent Change
1998	575,198	—	13%	—	\$301	—	136	—
1999	534,924	-7%	14%	8%	\$220	-27%	137	1%
2000	604,801	13%	13%	-7%	\$283	29%	145	6%
2001	484,545	-20%	18%	38%	\$416	47%	138	-5%
2002	515,860	6%	16%	-11%	\$429	3%	135	-2%
2003	531,688	3%	16%	0%	\$444	3%	136	1%
2004	524,909	-1%	20%	25%	\$437	-2%	144	6%
2005	480,306	-8%	31%	55%	\$494	13%	143	-1%
2006	459,044	-4%	39%	26%	\$526	6%	120	-16%
1998-2006		-20%		200%		75%		-7%
2000-2006		-24%		200%		86%		-17%

FOIA Workforce Changes as Backlog Grows

The FOIA workforce in the 26 agencies studied rose sharply in 2006 after a two-year decline. The added personnel helped reduce backlog in a number of agencies, but backlog increases at several large agencies drove the combined backlog higher.

Year	FTEs	Year to Year Change	Backlog	Year to Year Change
1998	4,239	—	13%	—
1999	3,901	-8%	14%	8%
2000	4,185	7%	13%	-7%
2001	3,507	-16%	18%	38%
2002	3,828	9%	16%	-11%
2003	3,903	2%	16%	0%
2004	3,650	-6%	20%	25%
2005	3,350	-8%	31%	55%
2006	3,830	14%	39%	26%

Median Days Requesters Waited for Response to Simple, Complex and Expedited Requests

Response time has steadily deteriorated since reporting began in 1998 with fewer agencies getting back to requesters within the required 20 working days and the "median" response times growing. In 1998, only five agencies failed to meet the response time for simple requests; in 2006, 14 agencies went over the simple request deadline. Response time on complex requests worsened through 2005, but showed slight improvement in 2006.

Department/ Agency	1998			2002			2005			2006		
	Simple	Complex	Expedited	Simple	Complex	Expedited	Simple	Complex	Expedited	Simple	Complex	Expedited
Agriculture	131	268	12	2 \ 85	9 \ 905	3 \ 76	2 \ 90	12 \ 1,277	3 \ 40	2 \ 100	8 \ 912	2 \ 15
Commerce	10	30	5	12	45	NR	12	40	8	12	45	44
Defense	16	39	2.5	20	58	1	15.5	85	NR	17	5 \ 15	NR
Education	13	30	3	5 \ 35	7 \ 180	2 \ 10	35	66	24	15 \ 478	13 \ 279	1 \ 15
Energy	NR	184	NR	75	238	118	5 \ 106	10 \ 170	1 \ 12	2 \ 108	34 \ 431	2 \ 6
Homeland Sec.	<i>Department of Homeland Security was established in 2003.</i>						16 \ 61	3 \ 242	2 \ 45	2 \ 365	17 \ 232	7 \ 233
HUD	22	NR	NR	15 \ 59	34 \ 83	5 \ 27	21 \ 65	35 \ 160	9 \ 70	60	145	9 \ 80
Interior	18	NR	4.5	10 \ 58	NR	5 \ 33	2 \ 43	28 \ 89	1 \ 15	2 \ 89	4 \ 79	2 \ 28
Justice	1 \ 40	1 \ 292	1 \ 18	3 \ 49	13 \ 621	1 \ 190	2 \ 139	12 \ 863	2 \ 185	1 \ 109	12 \ 510	3 \ 98
Labor	10	25	3	1 \ 25	7 \ 49	2 \ 28	6 \ 28	14 \ 60	2 \ 18	3 \ 30	4 \ 44	3 \ 19
State	333	NR	85	351	431	225	14	142	136	54	210	232
Transportation	14	40	9	8	39	29	1 \ 30	20 \ 134	5 \ 30	1 \ 36	14 \ 142	9 \ 60
Treasury	14	22	20	4 \ 17	6 \ 383	2 \ 5	2 \ 86	3 \ 251	1	2 \ 24	3 \ 224	1 \ 9
AID	NR	36	NR	52	NR	NR	55	NR	34	127	NR	46
CIA	NR	440	NR	7	83	NR	7	68	NR	7	59	NR
CPSC	7	30	NR	7	27	NR	6	35	NR	6	45	NR
EEOC	15.5	NR	4	19	NR	5	18	NR	5	19	NR	4
EPA	16	20 \ 27	7	17 \ 113	31 \ 123	6 \ 75	13 \ 32	4 \ 166	8 \ 109	15 \ 101	40 \ 156	8 \ 81
GSA	NR	NR	NR	NR	14	NR	NR	14	NR	NR	16	NR
NARA	29	NR	NR	7	20	NR	13.5	252	NR	5	20	21
NASA	17	27	20	19	29	3	19	49	15	5 \ 140	7 \ 91	1 \ 60
NLRB	10	NR	NR	12	NR	NR	9	NR	NR	6	NR	NR
NRC	15	15	NR	14	25	23	12	75	20	13	230	7
NSF	10	NR	NR	10	NR	NR	14	NR	NR	18	NR	NR
SEC	7	151	NR	16	137	5	26	410	14	15	706	NR
SBA	12	NR	9	1	NR	NR	7	NR	NR	7	NR	NR

KEY: Missed Response Deadline NR=None Reported

Agencies are required to respond to all FOIA requests within 20 working days. Those that reported a median response time beyond the 20 days are highlighted. Some agencies report only by component unit, providing no agency total. In those instances, the "Median Day" figures shown here reflect the lowest and highest processing times reported by the several components. Since there is no way to determine the average, we have used the highest time reported in determining agency compliance.

Comparing Agency Grants of FOIA Requests, 1998-2002-2005-2006

The data show a clear shift over the years toward less disclosure. The most significant change is the decline in the number of requesters getting a "full grant." There has been an increase in partial grants but not enough to offset the full grant loss.

Department/ Agency	1998			2002			2005			2006		
	Granted in Full	Partial Grant	Percent	Granted in Full	Partial Grant	Percent	Granted in Full	Partial Grant	Percent	Granted in Full	Partial Grant	Percent
Agriculture	84,144	1,908	98%	70,965	2,339	94%	46,352	2,277	94%	53,472	2,225	94%
Commerce	1,332	240	69%	855	380	60%	652	296	52%	672	382	53%
Defense	65,164	9,998	71%	40,458	11,133	67%	36,587	15,307	66%	35,452	12,886	67%
Education	1,144	319	87%	1,079	344	83%	806	732	69%	795	772	82%
Energy	1,183	355	66%	2,227	277	75%	3,126	269	89%	2,913	306	83%
Homeland Sec.	<i>Department of Homeland Security was established in 2003.</i>						28,631	48,564	61%	13,296	53,222	59%
HUD	2,631	313	88%	1,686	384	50%	1,165	485	56%	1,212	371	60%
Interior	3,225	647	77%	2,212	764	68%	2,145	2873	78%	2,443	1,186	71%
Justice	65,135	31,036	49%	81,426	40,571	66%	18,539	7,066	50%	19,537	7,045	48%
Labor	5,556	2,179	44%	5,514	6,442	66%	8,938	6,959	68%	9,046	6,954	68%
State	650	572	53%	634	818	31%	437	905	35%	418	864	33%
Transportation	8,918	2,047	63%	8,803	2,171	63%	3,695	2,180	63%	3,401	2,274	65%
Treasury	34,054	5,604	71%	21,144	4,622	54%	25,451	3,366	53%	22,966	2,959	66%
AID	117	76	73%	77	45	55%	70	58	65%	73	78	33%
CIA	3,188	1,652	68%	391	999	46%	334	1,051	45%	267	939	47%
CSPC	12,586	470	97%	8561	531	94%	4,447	454	91%	3,753	465	89%
EEOC	3,623	11,372	85%	1,335	11,853	79%	1,191	11,018	75%	973	10,787	69%
EPA	16,718	746	93%	9,080	603	50%	5,385	518	53%	4,204	612	38%
GSA	NR	205		945	169	79%	1,014	184	77%	905	161	73%
NARA	5,423	157	94%	8,141	48	93%	434	101	6%	454	161	7%
NASA	1,156	534	80%	693	592	75%	469	367	62%	387	334	64%
NLRB	5,342	180	90%	4304	455	86%	3560	386	84%	3,402	478	70%
NRC	232	93	73%	175	110	67%	108	99	60%	141	108	68%
NSF	69	92	76%	51	157	82%	29	197	85%	29	245	81%
SEC	889	416	41%	522	333	30%	1898	294	30%	2,065	181	27%
SBA	1,438	719	94%	1487	213	80%	3172	178	90%	5,678	202	94%
All	323,917	71,930	69%	272,765	86,353	70%	198,635	106,184	63%	187,954	106,197	64%
KEY:	Average and Below											

The Results of FOIA Appeals by Agency, 1998-2002-2005-2006

The appeals backlog has nearly quadrupled since 1998. The percentage of appeals granted fell sharply last year. The combined effect: the 26 agencies granted 50% fewer appeals in 2006 than 1998, and 24% fewer than 2005.

Department/ Agency	1998			2002			2005			2006		
	Appeals Processed	Percent Backlog	Percent Granted	Appeals Processed	Percent Backlog	Percent Granted	Appeals Processed	Percent Backlog	Percent Granted	Appeals Processed	Percent Backlog	Percent Granted
Agriculture	186	50%	48%	164	68%	59%	162	41%	51%	213	29%	40%
Commerce	56	27%	41%	78	0%	24%	40	43%	13%	84	0%	21%
Defense	1,098	0%	14%	928	0%	21%	798	0%	22%	747	35%	18%
Education	15	60%	20%	13	115%	15%	39	3%	26%	18	0%	31%
Energy	115	0%	35%	71	6%	24%	46	7%	11%	50	8%	16%
Homeland Sec.	<i>Department of Homeland Security was established in 2003.</i>						885	57%	12%	1,346	42%	13%
HUD	33	0%	18%	58	34%	14%	33	42%	15%	45	29%	14%
Interior	209	18%	62%	165	43%	50%	157	20%	40%	216	29%	17%
Justice	3,626	18%	15%	3,491	7%	8%	2,441	20%	6%	1,970	66%	4%
Labor	458	0%	32%	319	0%	44%	188	94%	31%	336	11%	37%
State	179	0%	63%	184	18%	68%	243	34%	61%	264	91%	42%
Transportation	334	0%	20%	184	0%	18%	136	0%	28%	136	0%	31%
Treasury	2,421	0%	13%	1,010	0%	19%	413	0%	13%	328	0%	14%
AID	9	0%	67%	6	0%	33%	1	33%	0%	7	75%	0%
CIA	195	12%	20%	224	0%	13%	233	0%	27%	203	0%	19%
CPSC	43	0%	14%	12	8%	0%	19	0%	0%	29	0%	17%
EEOC	326	0%	46%	416	0%	40%	345	0%	49%	321	0%	44%
EPA	38	226%	24%	105	0%	16%	110	6%	27%	202	0%	26%
GSA	17	0%	41%	11	27%	73%	13	0%	62%	27	0%	44%
NARA	14	7%	14%	19	5%	37%	29	0%	21%	26	100%	23%
NASA	24	0%	29%	21	0%	38%	22	0%	27%	13	8%	23%
NLRB	40	0%	15%	43	0%	28%	38	0%	26%	23	4%	22%
NRC	17	0%	35%	15	0%	20%	12	17%	58%	10	0%	45%
NSF	3	0%	67%	7	0%	14%	6	0%	17%	7	0%	14%
SEC	28	0%	11%	55	47%	31%	244	43%	18%	334	26%	15%
SBA	30	7%	53%	20	0%	45%	16	25%	56%	29	0%	27%
All	9,514	10%	20%	7,619	7%	19%	6,669	22%	19%	6,742	37%	14%

KEY: Average and Above Average and Below

"Percent Granted" includes both full and partial grants.

Agency Backlog, 1998-2002-2005-2006

The 26 agencies fell a record 39% behind in 2006 as they processed the fewest number of cases in the nine years since performance reporting began. Homeland Security was responsible for 60% of the backlog total, but HUD was the furthest behind – 188%.

Department/ Agency	1998			2002			2005			2006		
	Requests Processed	Yearend Backlog	Percent	Requests Processed	Yearend Backlog	Percent	Requests Processed	Yearend Backlog	Percent	Requests Processed	Yearend Backlog	Percent
Agriculture	88,204	1,506	2%	78,062	2,012	3%	51,922	1,965	4%	59,065	1,868	3%
Commerce	2,283	157	7%	2,063	298	14%	1,834	278	15%	1,987	309	16%
Defense	106,191	10,240	10%	76,943	12,543	16%	78,775	14,953	19%	72,266	18,216	25%
Education	1,679	137	8%	1,718	219	13%	2,219	545	25%	1,904	539	28%
Energy	2,314	741	32%	3,319	1027	31%	3,831	1159	30%	3,861	910	24%
Homeland Sec.	<i>Department of Homeland Security was established in 2003.</i>						126,126	82,591	65%	111,943	108,472	97%
HUD	3,354	1,456	43%	4,171	671	16%	2,923	3,725	127%	2,631	4,941	188%
Interior	5,002	545	11%	4,378	902	21%	6,420	1,910	30%	5,086	1,481	29%
Justice	195,105	25,304	13%	184,928	32,545	18%	51,435	8,637	17%	54,925	8,004	15%
Labor	17,540	994	6%	18,201	809	4%	23,284	780	3%	23,608	906	4%
State	2,317	5,349	231%	4,636	5,343	115%	3,870	2,728	70%	3,866	3,799	98%
Transportation	17,406	4,362	25%	17,540	3,885	22%	9,384	2,072	22%	8,758	2,197	25%
Treasury	56,184	7,014	12%	47,812	7,681	16%	53,987	4,883	9%	39,518	3,924	10%
AID	263	99	38%	222	148	67%	197	469	238%	458	267	58%
CIA	7,169	4,716	66%	3,046	1,547	51%	3,110	975	31%	2,579	896	35%
CPSC	13,467	239	2%	9,636	166	2%	5,387	112	2%	4,728	84	2%
EEOC	17,551	1,343	8%	16,735	1,701	10%	16,232	1,907	12%	16,936	1,779	11%
EPA	18,848	6,117	32%	19,259	4,567	24%	11,108	2,991	27%	12,685	1,973	16%
GSA	NR	NR		1,407	141	10%	1,561	93	6%	1,454	79	5%
Archives	5,930	1,111	19%	8,826	3,590	41%	8,878	6,382	72%	8,884	7,193	81%
NASA	2114	230	11%	1723	137	8%	1351	135	10%	1,132	241	21%
NLRB	6133	162	3%	5550	206	4%	4702	133	3%	5,553	269	5%
NRC	448	53	12%	426	55	13%	345	80	23%	364	36	10%
NSF	213	15	7%	254	2	1%	266	17	6%	340	5	1%
SEC	3,190	114	4%	2,888	821	28%	7,422	9,710	131%	8,268	10,403	126%
SBA	2,293	72	3%	2,117	65	3%	3,737	32	1%	6,245	46	1%
Subtotal	575,198	72,076	13%	515,860	81,081	16%	480,306	149,262	31%	459,044	178,837	39%
KEY:	Increase		NR=Not Reported									

Use of Exemptions in Denying Requests, 1998 to 2006											
Year	Exemption Cited										
	1	3	6	7a	7b	7c	7d	7e	7f	8	9
1998	4,638	6,891	24,645	11,988	340	27,350	14,672	4,484	2,084	78	7
1999	4,343	6,341	25,302	10,635	216	27,565	11,223	4,580	1,686	77	19
2000	4,599	7,197	60,841	16,384	136	49,638	12,979	7,487	2,157	5	8
2001	3,598	6,386	94,882	12,269	115	88,513	10,276	11,762	1,608	52	6
2002	2,446	8,598	187,820	16,918	135	196,536	11,775	16,446	1,686	89	5
2003	3,607	11,088	55,517	12,284	123	48,008	8,476	11,902	1,658	80	5
2004	3,419	8,154	60,349	10,124	883	55,378	8,351	12,835	2,016	108	188
2005	2,940	9,366	48,722	8,037	427	44,887	6,677	19,161	1,039	102	11
2006	4,301	9,991	54,728	6,424	272	68,550	7,335	28,173	966	119	39
Total	33,891	74,012	612,806	105,063	2,647	606,425	91,764	116,830	14,900	710	288
Change 1998-2006	-7%	45%	122%	-46%	-20%	151%	-50%	528%	-54%	53%	457%

The Nine Exemptions:

- 1: National Security
- 2: Internal Agency Rules
- 3: Statutory
- 4: Proprietary Information, Trade Secrets
- 5: Inter-Agency Memoranda
- 6: Personal Privacy
- 7: Law Enforcement Records
- 8: Ban Reports
- 9: Oil and Gas Well Data

Thanks to a surge that began in 2002, the use of the exemptions to withhold information has increased 83% since 1998. The use of Exemption 2 is up 344%. Along with Exemptions 4 and 5, it was cited by former Attorney General John Ashcroft and then-White House Chief of Staff Andrew Card in memos urging greater restraint in handling FOIA requests. The sharp increase in the use of Exemptions 6 and 7c in 2002 was the product of the Justice Department's INS division just prior to its transfer to the Department of Homeland Security.

Use of Exemptions in Denying Requests				
Year	Exemption Cited			
	2	4	5	All
1998	10,166	6,059	33,654	156,164
1999	6,813	5,880	27,735	139,827
2000	9,203	6,368	32,945	208,376
2001	10,849	7,096	32,344	258,556
2002	4,271	7,836	21,112	507,609
2003	10,386	9,293	37,147	209,571
2004	30,177	9,372	52,779	253,287
2005	41,211	9,185	55,205	245,344
2006	45,133	9,033	56,695	285,335
Total	168,209	70,122	349,616	
Change 1998-2006	344%	49%	68%	83%

The Growing Costs-Fee Gap, 1998 to 2006

Agency Spending on FOIA has risen 40% since 1998. Fees have increased only 18%.

Year	Total Cost	Total Fees	Percent of Total Cost
1998	\$172,708,118	\$2,672,274	1.5%
1999	\$128,159,232	\$2,963,815	2.3%
2000	\$183,877,611	\$2,909,858	1.6%
2001	\$213,308,903	\$3,354,060	1.6%
2002	\$221,396,534	\$2,788,451	1.3%
2003	\$236,277,888	\$3,147,123	1.3%
2004	\$229,230,338	\$3,065,809	1.3%
2005	\$237,095,617	\$2,795,643	1.2%
2006	\$241,614,994	\$3,142,486	1.3%

Total Processing Costs by Department/Agency, 1998 to 2006

Overall, FOIA processing costs at the 26 agencies increased by \$68,906,876, or 40 percent, over the nine years. The Department of Defense showed the greatest dollar increase but the percentage leaders were the NLRB (555%), HUD, (433%) and the Education Department (334%).

Department/ Agency	1998	1999	2000	2001	2002	2003	2004	2005	2006
Agriculture	\$6,292,615	\$6,626,448	\$7,823,328	\$21,192,010	\$16,515,516	\$8,833,920	\$11,324,192	\$9,862,348	\$10,990,198
Commerce	\$923,904	\$1,166,872	\$1,240,553	\$1,266,595	\$1,380,586	\$1,253,641	\$1,373,355	\$1,227,066	\$1,742,222
Defense	\$39,086,265	\$32,277,433	\$35,243,410	\$39,497,106	\$39,528,693	\$42,536,165	\$46,783,592	\$47,876,973	\$64,181,003
Education	\$576,613	\$541,989	\$454,379	\$389,658	\$321,159	\$498,339	\$809,158	\$1,063,860	\$2,502,689
Energy	\$4,369,353	\$3,641,888	\$2,442,974	\$2,478,599	\$2,874,379	\$3,086,455	\$3,297,469	\$4,020,094	\$3,992,699
Homeland Sec.	<i>Department of Homeland Security was established in 2003.</i>					\$21,514,060	\$20,585,515	\$28,343,072	\$27,384,371
HUD	\$451,688	\$586,627	\$1,645,000	\$2,664,635	\$2,322,395	\$2,322,395	\$1,998,632	\$1,998,632	\$2,408,504
Interior	\$4,030,094	\$4,630,260	\$5,044,570	\$5,475,634	\$6,233,400	\$7,406,231	\$7,252,721	\$7,666,403	\$7,895,813
Justice	\$49,314,198	\$23,018,806	\$65,661,649	\$70,599,889	\$77,448,577	\$64,039,375	\$54,531,828	\$56,610,612	\$43,529,174
Labor	\$4,350,000	\$4,450,000	\$5,200,000	\$4,950,000	\$11,865,900	\$15,242,160	\$14,645,397	\$16,027,360	\$15,787,200
State	\$12,600,000	\$9,943,435	\$11,616,361	\$12,347,045	\$13,904,439	\$12,107,000	\$12,656,689	\$9,926,300	\$5,471,349
Transportation	\$10,682,433	\$7,003,081	\$7,778,682	\$8,968,024	\$9,331,748	\$6,413,295	\$7,629,310	\$7,334,051	\$7,500,350
Treasury	\$19,934,736	\$10,804,419	\$12,795,289	\$12,360,213	\$10,296,453	\$12,586,700	\$13,577,037	\$12,920,599	\$12,231,174
AID	\$393,200	\$423,400	\$307,400	\$327,400	\$452,600	\$456,200	\$437,000	\$460,000	\$740,000
CIA	\$7,100,000	\$7,900,000	\$8,100,000	\$7,600,000	\$7,100,000	\$7,600,000	\$8,150,000	\$8,350,000	\$8,870,000
CPSC	\$1,626,500	\$1,443,892	\$1,407,044	\$1,580,413	\$1,611,755	\$1,513,924	\$1,627,309	\$1,142,756	\$1,011,376
EEOC	\$1,602,254	\$1,555,180	\$1,674,183	\$1,802,423	\$2,158,160	\$1,910,866	\$2,162,500	\$1,976,105	\$2,499,564
EPA	\$4,500,000	\$6,203,195	\$7,582,116	\$12,005,482	\$9,657,646	\$8,773,710	\$11,215,170	\$9,449,572	\$10,075,991
GSA	NR	NR	\$805,000	\$800,000	\$805,000	\$825,000	\$875,000	\$1,311,000	\$1,334,000
NARA	\$970,540	\$1,642,970	\$1,336,087	\$1,924,522	\$1,544,160	\$1,354,911	\$1,425,774	\$1,741,987	\$2,622,615
NASA	\$578,088	\$547,545	\$671,027	\$696,088	\$703,986	\$993,669	\$1,541,496	\$1,128,410	\$1,473,386
NLRB	\$112,072	\$120,540	\$128,859	\$191,110	\$759,923	\$824,963	\$706,148	\$779,187	\$734,538
NRC	\$1,115,402	\$1,350,659	\$1,381,965	\$1,235,303	\$1,273,026	\$1,275,998	\$1,127,003	\$1,016,677	\$1,060,923
NSF	\$137,620	\$139,465	\$146,710	\$171,753	\$17,396	\$172,137	\$179,567	\$214,166	\$241,816
SEC	\$1,700,621	\$1,859,700	\$3,052,213	\$2,443,098	\$2,933,058	\$12,237,000	\$2,564,726	\$3,835,658	\$4,283,262
SBA	\$259,922	\$281,428	\$338,812	\$341,902	\$356,578	\$499,774	\$753,750	\$812,729	\$1,050,777
Total	\$172,708,118	\$128,159,232	\$183,877,611	\$213,308,903	\$221,396,534	\$236,277,888	\$229,230,338	\$237,095,617	\$241,614,994
Key:		NR=Not Reported							

The Non-Granting of Expedited Handling Requests, 2002 to 2006

Agencies did not begin to report the number of requests received for expedited handling until 2002. Some still do not. Only nine of the 19 agencies reporting expedited requests indicated the number received in 2006. Among those reporting, the percentage of grants processed was the highest to date, 64%, but that may be primarily the result of a shift in agencies reporting. The State Department, which said it granted only 4% in 2005, did not report the number received in 2006. Homeland Security, 73%, reported for the first time.

Average Grants for Those Reporting	2002			2003			2004			2005			2006		
	25%			56%			51%			41%			64%		
Department/ Agency	2002			2003			2004			2005			2006		
	R	P	%	R	P	%	R	P	%	R	P	%	R	P	%
Agriculture	NR	797	—	1,526	840	55%	1,840	526	29%	940	325	35%	NR	255	—
Commerce	0	0	—	0	0	—	6	6	100%	2	2	100%	8	8	100%
Defense	1,238	677	55%	1,358	817	60%	1,057	841	80%	528	411	78%	955	708	74%
Education	25	25	100%	76	76	100%	74	74	100%	NR	16	—	NR	15	—
Energy	66	46	70%	8	4	50%	40	40	100%	54	19	35%	NR	58	—
Homeland Sec.	*	*	—	194	187	96%	NR	692	—	NR	1,016	—	1,674	1,229	73%
HUD	71	50	70%	NR	150	—	180	60	33%	NR	85	—	NR	90	—
Interior	53	46	87%	79	24	30%	133	63	47%	54	25	46%	NR	39	—
Justice	2,677	120	4%	290	123	42%	257	134	52%	536	177	33%	845	341	40%
Labor	NR	529	—	594	406	68%	NR	130	—	NR	174	—	NR	113	—
State	117	10	9%	177	13	7%	95	8	8%	170	7	4%	NR	16	—
Transportation	NR	162	—	400	103	26%	180	59	33%	208	74	36%	NR	81	—
Treasury	108	91	84%	77	67	87%	12	3	25%	6	1	17%	NR	9	—
AID	0	0	—	2	2	100%	3	3	100%	12	NR	—	3	3	100%
CIA	0	0	—	0	0	—	18	1	6%	53	0	0%	40	0	—
CPSC	0	0	—	0	0	—	0	0	—	0	0	—	4	0	—
GSA	0	0	—	0	0	—	0	0	—	0	0	—	0	0	—
EEOC	NR	343	—	NR	292	—	324	321	99%	485	215	44%	748	428	57%
EPA	50	14	28%	40	4	10%	39	21	54%	NR	5	—	NR	18	—
NARA	0	0	—	0	0	—	0	0	—	2	0	0%	8	2	25%
NASA	NR	4	—	51	51	100%	NR	44	—	5	3	60%	NR	9	—
NLRB	NR	0	—	NR	0	—	NR	0	—	NR	0	—	0	0	—
NRC	18	9	50%	23	10	43%	29	5	17%	34	14	41%	NR	2	—
NSF	0	0	—	1	0	0%	2	0	0%	0	0	—	0	0	—
SEC	5	4	80%	11	11	100%	10	10	100%	1	1	100%	NR	0	—
SBA	0	0	—	0	0	0	0	—	—	0	0	—	0	0	—

KEY: R=Requests P=Number Processed %=Percent Processed NR=Not Reported

* Department of Homeland Security was established in 2003.