

No 'Concrete Evidence' It Hinders Crime-Fighting Information Act Critics Challenged

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Law-enforcement officials repeatedly say the Freedom of Information Act and Privacy Act erode their investigative capability, but they cannot provide "concrete evidence" to document the effects, according to a study by the General Accounting Office.

After reviewing many actual cases the GAO, in a report released yesterday, concluded that "no agency could document the total impact the laws have had on overall investigative operations."

GAO, an investigative arm of Congress, performed its study at the request of Sen. James O. Eastland, D-Miss., chairman of the Senate Judiciary Committee.

The GAO's findings differ from the perceptions of Justice Department officials such as Kevin D. Rooney, an assistant attorney general, who said the information law had a "crippling impact" on work of the FBI and other federal investigators.

Rooney said some statements in the GAO report tended to undermine the case for Congress to re-examine and revise the information act.

IN RECENT SPEECHES, FBI Director William H. Webster has said repeatedly that his agency is hampered by the Freedom of Information Act.

To protect the identity of informants, he has proposed a moratorium that would allow the FBI to refuse disclosure of investigative files for 10 years after a case is closed.

Law-enforcement officials told GAO auditors that the Freedom of Information and Privacy Acts:

- Are a "financial and administrative burden."
- Inhibit their ability to collect information from the general public, from confidential informants and from institutions such as banks, hospitals and telephone companies.
- Diminish the quality and quantity of information exchanged with other federal, state, local and foreign law-enforcement agencies.

Officials at the FBI, Secret Service, Drug Enforcement Administration and Bureau of Alcohol, Tobacco and Firearms all said they were re-

ceiving less cooperation from informants and other persons who fear they might be identified in documents released under the freedom of information law.

BUT THE AUDITORS said, "This trend is not attributed solely to the Freedom of Information Act." Other laws, misinterpretation of the rules and "a general distrust of law enforcement agencies" also contribute to the problem.

Federal authorities cannot measure the erosion of their investigative capability and cannot provide concrete evidence of its effects, according to the GAO, because they cannot determine the significance of the information not being obtained.

While investigators receive less information, what they do get may be more accurate. Confidential sources have become cautious, knowing they might be sued if they are identified as the source of slanderous, defamatory information.

In one case cited in the GAO report, a county district attorney declined to release certain information to the Secret Service because it "could not be positively substantiated."

Civil Service officials investigating

federal job applicants reported "only a minor drop in the amount of derogatory information obtained from the general public."

But they expressed concern about limits imposed by the Privacy Act on collection of data about the way a person exercises his First Amendment rights.

GAO SAID MANY law-enforcement officials consider the information and privacy acts "beneficial to criminals."

DEA officials said about 40 percent of its FOI requests come from prisoners asking for their own files, for the agents' manual of instructions and for information such as data describing the manufacture of dangerous drugs.

An official from the Treasury's Bureau of Alcohol, Tobacco and Firearms said "about 50 percent of its requests come from prior offenders who use the FOI/PA in an attempt to find out how investigations are conducted and thus avoid capture in future crimes."

The auditors did not attempt to confirm these estimates or to verify the many examples given by FBI agents to illustrate damage to their investigations.