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*E-FOIA and the "Mother of All Complaints:" Information Delivery and Delay Reduction*

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Abstract by Meredyth S. Cooper

The author argues that attempts made in the Electronic Freedom of Information Act (E-FOIA) Amendments of 1996 to reduce the persistent problem of delay that has plagued agencies since enactment of the Freedom of Information Act (FOIA) are unlikely to have much impact. The author examines provisions of the E-FOIA Amendments including increasing the statutory ten-day time period for agency responses to FOIA requests to twenty days to increase agency compliance, expanding agency reading rooms to include on-line access, and formally recognizing an agency's ability to use a two-tier system to process FOIA requests based on urgency. However, the author notes that these multi-track processing provisions also pose great potential for abuse if agencies use the tracks to delay or bury records they are reluctant to release.

The E-FOIA Amendments also modify standards for excuses used by agencies that fail to comply with the statutory time period by refusing to allow solely the agency's backlog of requests to justify non-compliance. The author argues that while these provisions may minimally assist agencies in responding to FOIA requests in a timelier manner, they are unlikely to make a dent in the overwhelming problem of delay because the provisions are not aimed at the source of the problem. The author concludes that in order to more efficiently deal with delay, closer judicial scrutiny, more efficient processing methods, and increased funding are necessary.