

Access to Information by Offices of the Inspector General and Other Accountability Organizations

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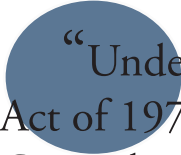
Inspectors General and other government oversight organizations play a critical role in ensuring accountability of government agencies by evaluating, investigating, and auditing their operations. At all levels - federal, state, and local - accountability organizations help improve the effectiveness and efficiency of government, as well as detect and deter waste, fraud, and abuse.

But to do our jobs effectively, we need timely and full access to information from government agencies. If full information is withheld, or if we are continually battling for access to such information, our effectiveness is diminished. Under the Inspector General Act of 1978, federal

Inspectors General are granted full access to their agencies' documents and information. Similarly, many state and local accountability organizations work under laws mandating that they receive access to government information. Yet, despite such legal requirements, government agencies can make it difficult to obtain the timely and complete information that is needed for vigorous oversight.

To provide information to the accountability community about the types and extent of any

access to information problems, the Government Accountability Office (GAO) Domestic Working Group and the Department of Justice Office of the Inspector General (OIG) conducted a nationwide survey of federal, state, and local accountability organizations. The survey asked these organizations about access to information issues they had encountered during audits, inspections, and investigations. Most important, we asked for examples of the most successful strategies they used to overcome any access to information problems.

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This article summarizes the results of the survey. In general, we found that most survey respondents did not experience significant access problems in terms of denial of information. However, many

organizations said they experienced delays in the receipt of information, which also can significantly hamper the effectiveness of their oversight work.

The Survey

The GAO's Domestic Working Group is an informal group, organized by the Comptroller General of the United States, consisting of the Comptroller General, five federal Inspectors General, seven state auditors, and six local

auditors from across the country. The Domestic Working Group meets annually to discuss matters of interest to accountability organizations.

Under the auspices of the Domestic Working Group, the Department of Justice OIG developed a survey that was sent to 355 accountability organizations throughout the country:

- GAO
- 59 federal Inspectors General
- 64 state audit organizations
- 231 county and city audit organizations

The survey population was compiled from membership lists maintained by the President's Council on Integrity and Efficiency; the National Association of State Auditors, Comptrollers and Treasurers; and the National Association of Local Government Auditors.

The survey was organized by financial audits, performance audits, evaluations and inspections, and investigations. It requested information about the organizations' legal authority for obtaining information, trends in any access problems, the main factors that affected access to information, and successful strategies for resolving access problems. The survey contained 47 questions, which included a mix of multiple choice and open-ended questions that requested narrative responses.

We received 128 responses to the survey request (a response rate of 36 percent). Federal OIGs provided the highest response rate (67 percent), followed by state audit organizations (34 percent), and local audit organizations (29 percent). Because of the response rate, we could not statistically project the survey results to the full survey population of 355 account-

ability organizations. However, we believe the responses provide insights on the current state of accountability organizations' access to information, along with the most common strategies used to overcome any problems.

Survey Results

The survey found that most respondents do not have significant access problems and are successful in obtaining the information they need. The survey responses indicated that it is rare for an accountability organization to be denied access to records or government employees. Rather, we found that the greater problem is delay in obtaining such access.

These findings were similar across all levels of government. They also were similar by the type of review seeking the information (financial audit, performance audit, evaluation and inspection, and investigation). In total, two-thirds of the respondents were "very satisfied" or "generally satisfied" with the current state of their ability to obtain access to records and people. Similarly, two-thirds of the respondents "never" or "rarely" face denials of access to records or people. Almost all of the respondents were satisfied with their legal authority for access to information. We found that the trend in access to information has been stable. Three-quarters of the respondents reported no change in their ability to access information over time during the last three years.

Yet, despite their general satisfaction with access to information, many respondents reported delays in obtaining access to records and people. More than three-quarters of survey respondents said they face delays in obtaining access to records, and almost two-thirds of respondents said they face delays in obtaining access to specific people.



Successful Strategies for Overcoming Access Problems

With few exceptions, most survey respondents said they resolved any access problems through a variety of strategies. The survey respondents provided various examples of successful strategies.

The reasons for the delays varied. Common factors for the access problems cited by the respondents included:

1. The government agency said it had too much work or insufficient personnel to satisfy the requests for information;
2. The government agency had privacy or confidentiality concerns about the requests for information;
3. The government agency had concerns about the security and safekeeping of the information;
4. The government agency was concerned about public issuance of the information in the final report;
5. The government agency did not understand the importance of the request;
6. The government agency thought the request was outside the scope of the review;
7. The government agency thought that providing the information would result in negative findings; and
8. The government agency could not provide the requested information because of incompatible data systems.

1. *Obtaining the support of management in providing access to information.* The support of top agency management in providing access to information is critical. If agency employees know that their top management supports the role of the accountability organization, and that management demands timely and full cooperation with the accountability organization, then obtaining access to information will be much smoother, fuller, and timelier. The expectation of cooperation and acknowledgement of the importance of the work of the accountability organization filters down from the top of the organization to employees who work with the accountability organization on a daily basis.

During my tenure as the Inspector General in the Department of Justice (DOJ), I have been fortunate to work with three Attorneys General (Janet Reno, John Ashcroft, and Alberto Gonzales) who have recognized the important role the OIG plays in the Department. They have understood and supported our need for access to information, including extremely sensitive DOJ information. The same is true of Robert Mueller, the Director of the Federal Bureau of Investigation (FBI). FBI employees know that he recognizes the importance of the OIG's oversight role, and they know that, in accordance with our statutory authority, they must provide us full access to FBI information. Without this support from Department leaders, our ability to obtain the information we need to perform our oversight role would be compromised.

2. *Communicating frequently with the government agency to explain your missions, authority, and information requirements.* Over time, protocols are developed to describe the way the accountability organizations operate and handle information from the government agency. However, it is important to communicate frequently with the government agency about the accountability organization's protocols, legal authorities, and requirements for timely access.

In the DOJ, we often find that new employees or new agency audit liaisons are not familiar with our processes and requirements, and it is critical that we constantly communicate and educate agency employees about the role and responsibilities of the OIG. This is especially true in organizations that experience significant turnover in management positions.

For example, in the FBI we regularly interact with new managers who do not have past experience with OIG reviews. We cannot take for granted that

because prior FBI reviews worked smoothly, the new reviews will progress in the same manner. Coordination and communication with the agency require constant attention. Consequently, OIG supervisors meet regularly with agency liaisons to reinforce our procedures and requirements and to discuss any issues with our access to information and the agencies' ability to respond timely to data requests. In this vein, survey respondents stated that their continual contact with agencies has improved working relationships and access to information.

3. *Addressing issues early in the review process to avoid access issues.* Equally important to avoiding problems is addressing access issues early in the review. The entrance conference is important for raising issues and establishing expectations about the agency's response to requests for information. Some survey respondents said they presented detailed information requests at the entrance conference and took time to discuss each requested item to ensure the agency understood what was needed. Other respondents stated that they hand-delivered engagement letters to ensure they were received timely by the appropriate agency personnel. Others said they made sure that the

engagement letters included a clear explanation of the review's objectives. Some respondents required all agency department heads involved in the review to attend the entrance conference. Others indicated that involving agency managers at the initiation of a review has reduced misunderstanding about the review's purpose

and the role of the agency in cooperating with the review.

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4. *Providing examples of acceptable documentation.* Some respondents commented that access problems were avoided

by making clear to the government agency what type of information they were seeking and providing examples of acceptable documentation. For example, one audit agency repeatedly had difficulty obtaining appropriate documentation that supported substantial adjustments that were made to financial statements. To address this situation, the auditors provided in-house instruction to agency employees about documenting such transactions.

5. *Having persons knowledgeable with information technology work with the agency undergoing the review to facilitate obtaining automated data.* Respondents required data maintained in agency automated databases. Several respondents stated that obtaining the correct data from those databases had been difficult. Some said they were not initially familiar with the data fields in the agency's databases and that they needed the technical capacity to ensure that the databases could be queried and information extracted in usable formats. To address problems with automated data, some respondents said they used their information technology staff to work directly with agency information technology staff to obtain needed data.



6. *Assuring the agency undergoing review that sensitive data will be protected and that public reports will not include sensitive data inappropriate for public issuance.* A common theme from survey respondents was the concern by the government agency about the sensitivity of the information requested and the concern about public release of sensitive government information. Survey respondents said they addressed this concern by assuring the agency that they would handle the sensitive information carefully and take steps to ensure that it is safeguarded.

For example, the DOJ OIG often needs access to classified or law enforcement sensitive information in our reviews. We take great care to handle that information responsibly, and we stress to OIG employees that they are entrusted with another agency's sensitive information that must be carefully handled.

We also assure the agency whose information we obtain that it will receive an opportunity to review the final report for sensitivity concerns before any information is disclosed outside the Department of Justice.

Conclusion

In sum, we found general satisfaction with the survey respondents' ability to obtain information and records, although there was more widespread dissatisfaction with the time it took agencies to provide the information. Even if accountability organizations ultimately are not denied access to the information, delays in obtaining the information can affect the quality and usefulness of their work. The most successful strategies in overcoming access issues, including delays, were clear communication and early intervention with agency managers. While these strategies will not completely eliminate access problems, they can reduce the impact of access problems on accountability organizations' ability to perform their critical missions.~



About the Author

Glenn A. Fine



Glenn A. Fine was confirmed by the United States Senate as the Inspector General of the Department of Justice on December 15, 2000. He served as the Acting Inspector General since August 2000.

Mr. Fine has worked for the Department of Justice Office of the Inspector General (OIG) since January 1995. Initially, he was Special Counsel to the Inspector General. In 1996, he became the Director of the OIG's Special Investigations and Review Unit.

Before joining the OIG, Mr. Fine was an attorney specializing in labor and employment law at a law firm in Washington, DC.

Prior to that, from 1986 to 1989, Mr. Fine served as an Assistant United States Attorney in the Washington, DC, United States Attorney's Office. In that capacity, he prosecuted more than 35 criminal jury trials, handled numerous grand jury investigations, and argued cases in the District of Columbia and U.S. Courts of Appeals.

Mr. Fine graduated magna cum laude from Harvard College in 1979 with an A.B. degree in economics. He was a Rhodes Scholar and earned B.A. and M.A. degrees from Oxford University. He received his law degree magna cum laude from Harvard Law School in 1985.

About the Department of Justice



The mission of the Department of Justice is to enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans.

Officially coming into existence on July 1, 1870, the Department of Justice, pursuant to the 1870 Act, was to handle the legal business of the United States. The Act gave the Department control over all criminal prosecutions and civil suits in which the United States had an interest.

The Department of Justice has become the world's largest law office and the central agency for enforcement of federal laws.