

# The Secret of Grey Unveiled Grey Literature and the Freedom of Information

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# *Introduction*

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- # Governmental infoculture 1990s: Data Smog in relation to: Digital government and distribution of information
  - # After 9/11 restrictions on access of US governmental sources
  - # Result: Dualism between secrecy and FOI
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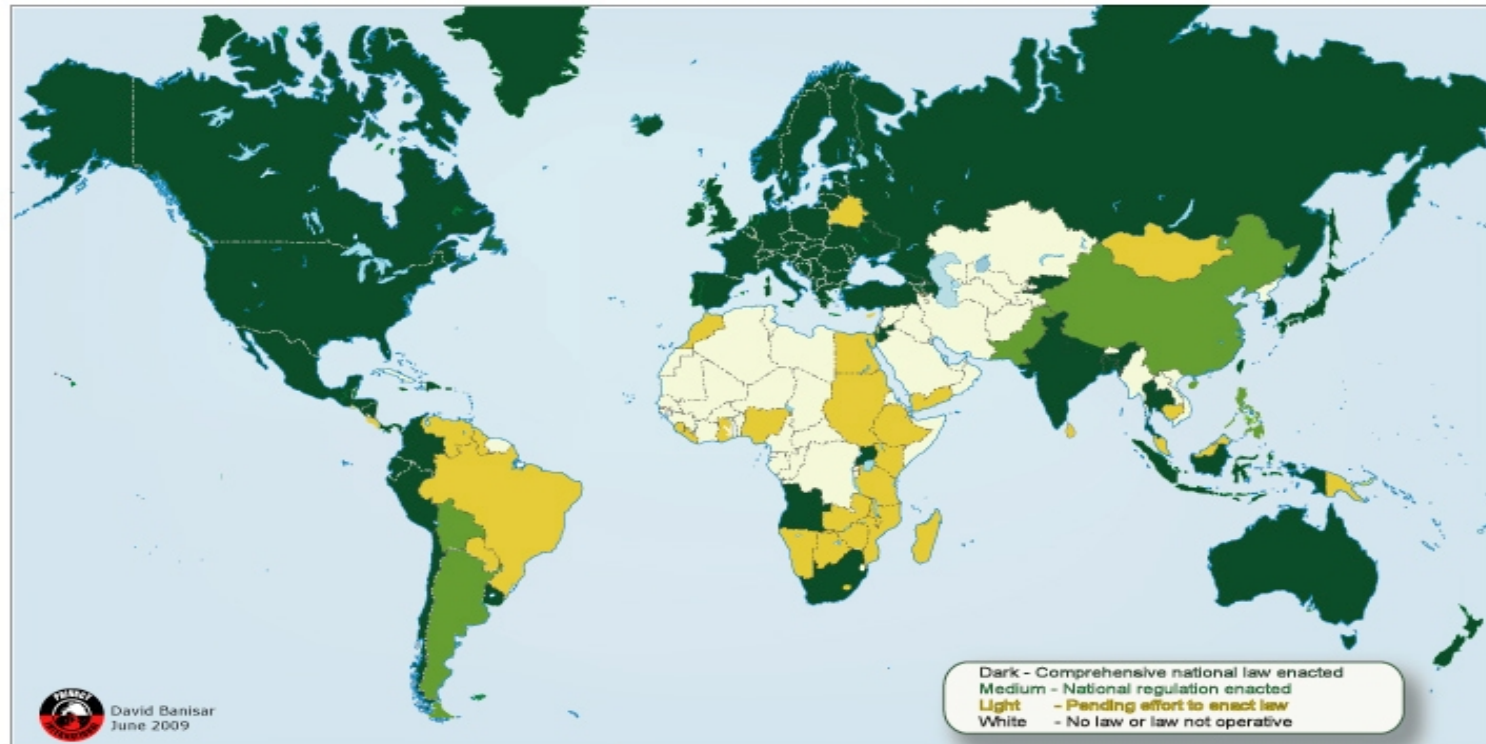
# *Freedom of Information*

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- # FOI: right to access information held by public bodies
  - # Not a constitutional right but derived from Freedom of Expression
  - # First Freedom of Information Act (USA) 1966
    - Few countries did have FOI: Cold War policy and security interests
  - # After 1984 downfall of authoritarian regimes:
    - Latin America, Eastern Europe, 1989: Fall of Berlin Wall
  - # US exemplary model of FOI for other states
  - # FOI legislation 2006: 68 countries, in 2009: 90 countries
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# National FOI laws 2009

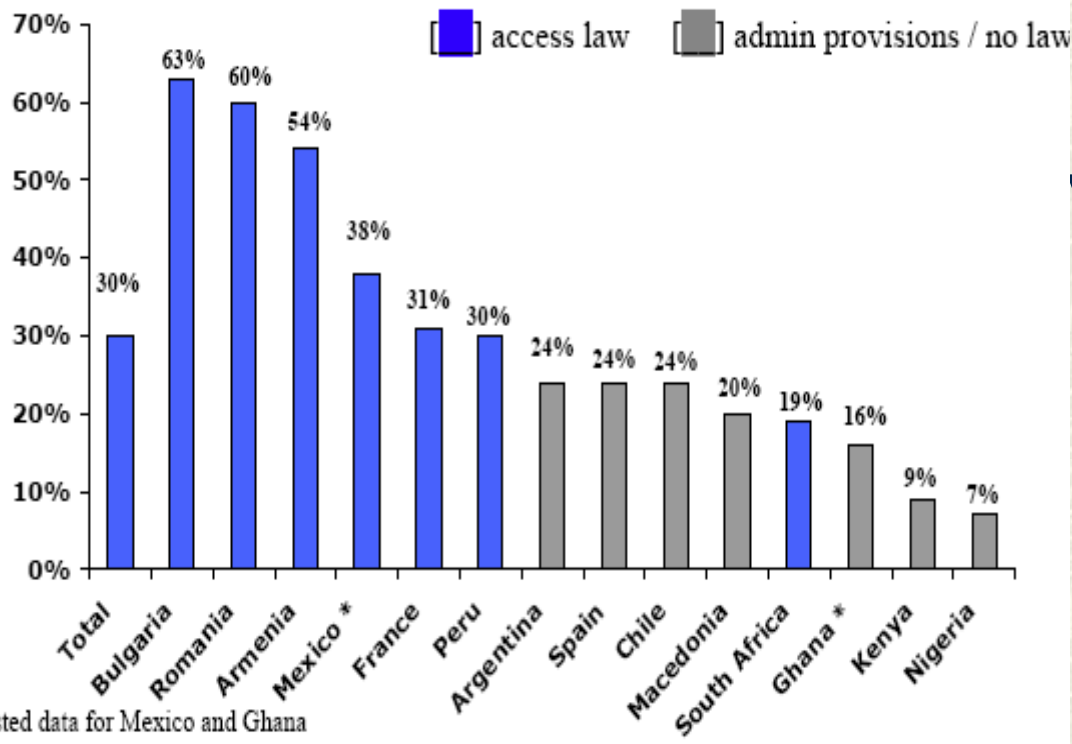
## National Freedom of Information Laws, Regulations and Bills 2009



\*Not all national laws have been implemented or are effective. See [www.privacyinternational.org/foisurvey](http://www.privacyinternational.org/foisurvey) for reviews of the laws and practices

# Open Justice survey FOI requests

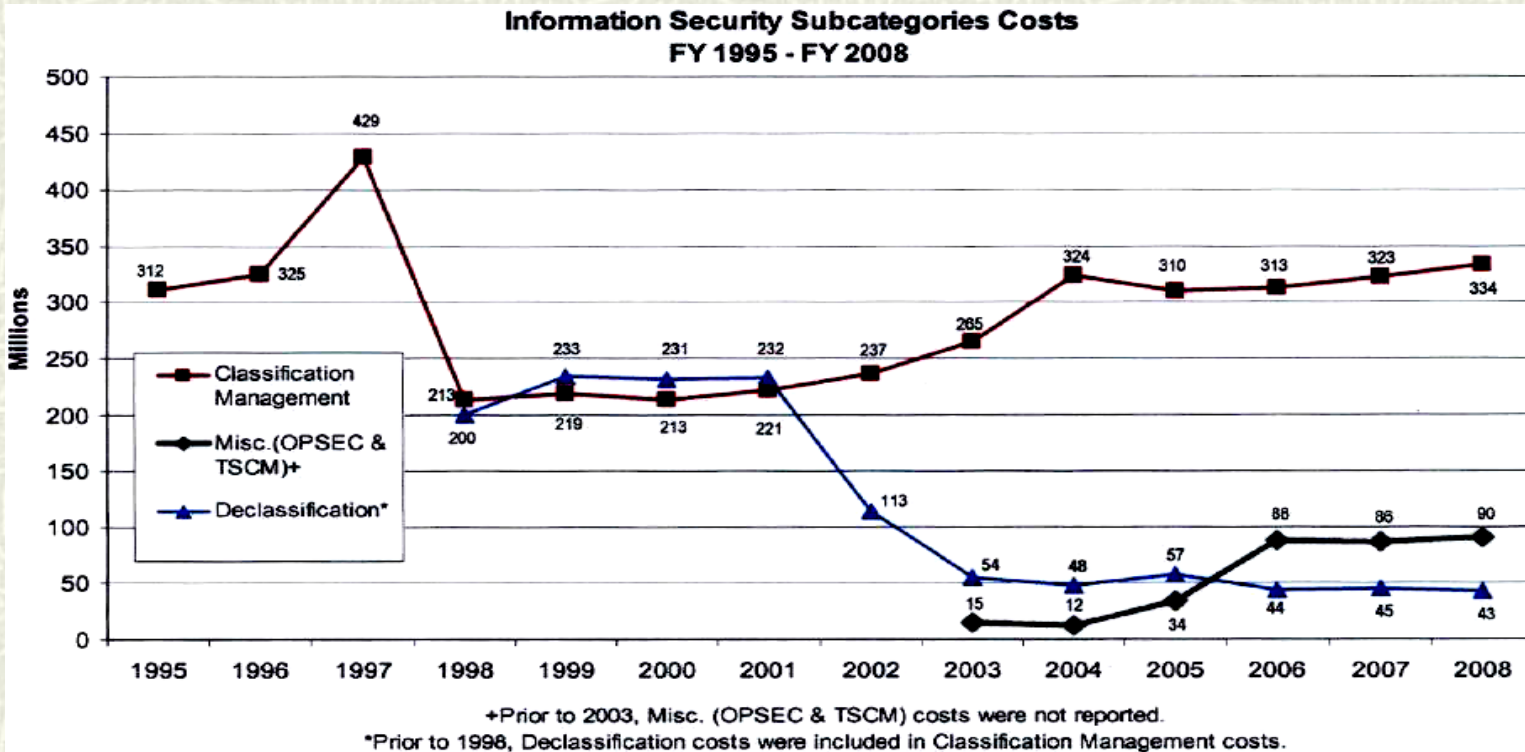
COMPLIANCE WITH REQUESTS FOR INFORMATION, BY COUNTRY



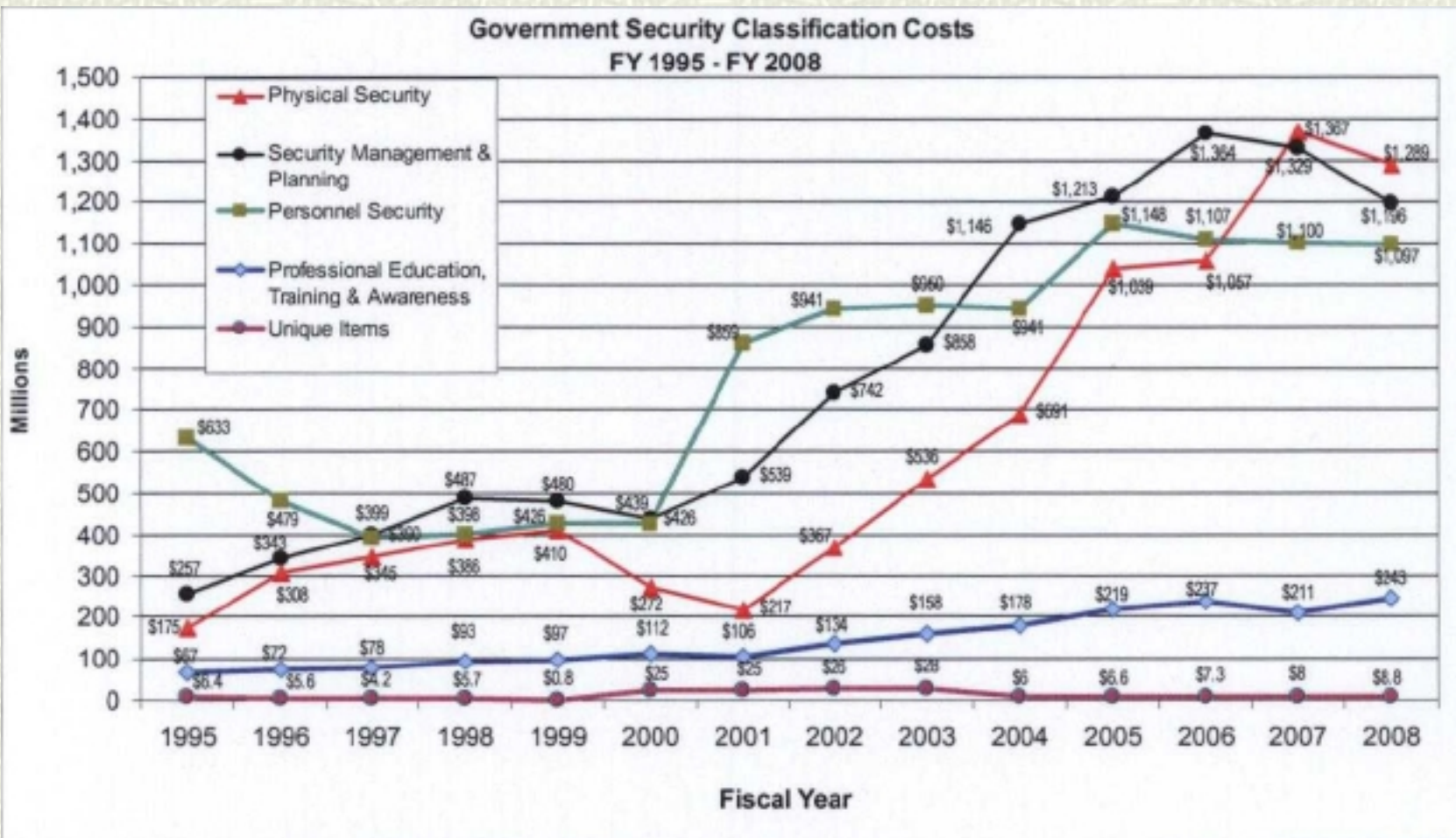
1,926 requests total  
56% unanswered  
38% unanswered /w FOI  
47% no answer at all

# Case study: 9/11 and FOI

- Agencies remove unclassified but “sensitive” information from web sites in effort to promote Administration views.
- Extent of removal is unknown
- Declassification: 1998-2008 decrease of \$ 157million



# Classification Costs of Government Security



Source: Information Security Oversight Office (2008)

# *Access v. Security*

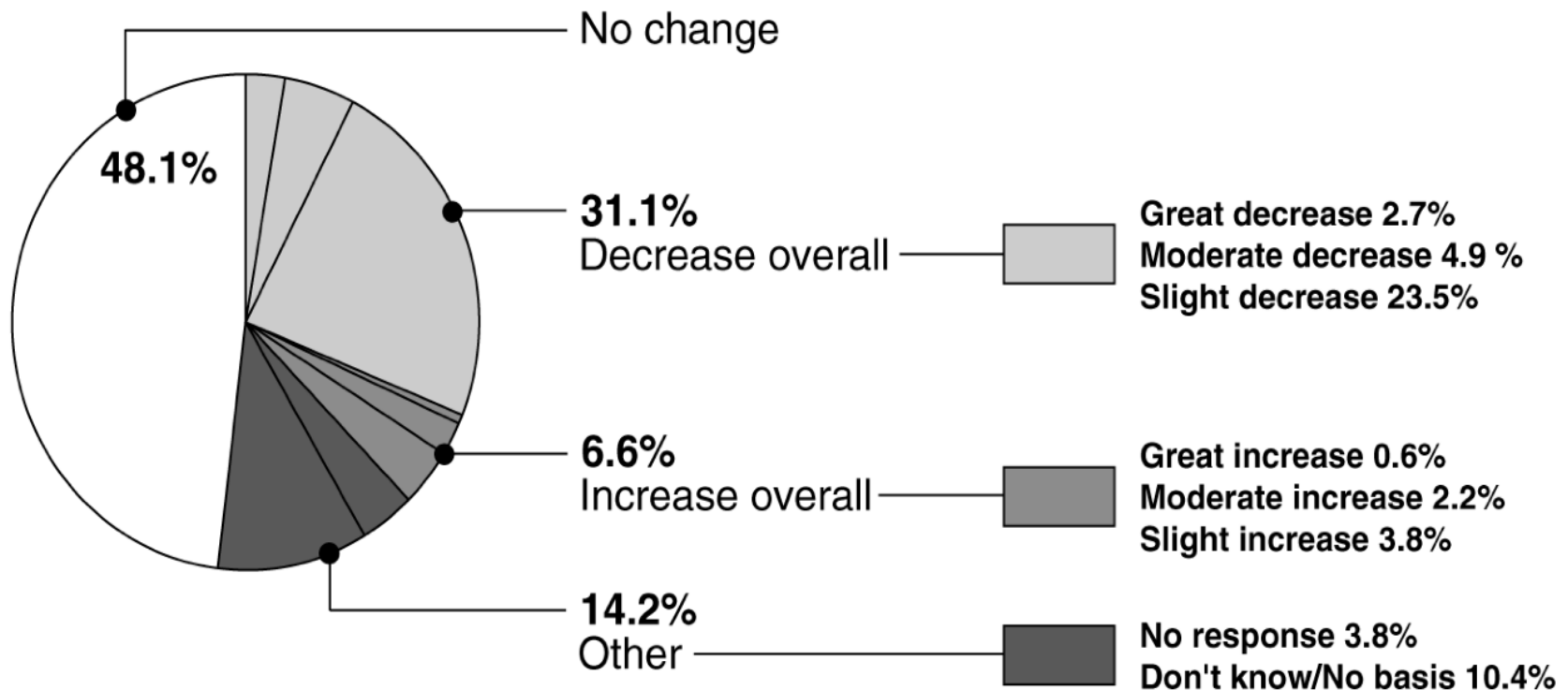
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- # Ashcroft memorandum on FOIA October 12, 2001
  - # Memorandum from White House CoS Andrew Card on March 19, 2002 on  
"Action to Safeguard Information Regarding Weapons of  
Mass Destruction and Other Sensitive Documents Related  
to Homeland Security"
  - >> Both encouraged greater use of FOIA exemptions  
by federal agency personnel.
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# General Accounting Office Survey concerning Ashcroft memo

## Effect of Ashcroft Policy on Likelihood of Agencies' Making Discretionary Disclosures



Source: GAO.

# *Post 9/11 FOIA characteristics*

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- # Quantative data indicate that some critical information was removed
  - # Processing of FOIA requests lowered, increasing backlogs
  - # In 2007 NSA survey: delay in processing not solved
  - # NSA Information audit confirms GAO
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# *European Union and public access*

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- # Multi-level governance
  - # In beginning lack of transparency
  - # 2001: General right of access
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# *Problems EU FOI*

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- # Problems on a national level
  - # Old habits of protecting security interests
  - # 9/11 did not trigger removal of public information from websites
  - # Problem central <->decentral governments
  - # Anti-terrorism has impact on privacy
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