



# Transportation Security Administration

## **TRANSPORTATION SECURITY ADMINISTRATION FREEDOM OF INFORMATION ACT (FOIA) REPORT FISCAL YEAR 2004**

### ***I. Basic Information Regarding Report***

#### **A. Person to be contacted with questions about the report:**

Catrina M. Pavlik  
Associate Director  
Freedom of Information Act/Privacy Act Division  
Office of Security  
Transportation Security Administration  
(571) 227-2499

#### **B. Electronic address for report on the World Wide Web:**

[foia.tsa@dhs.gov](mailto:foia.tsa@dhs.gov)

#### **C. Person to be contacted for a copy of the report in paper form:**

Anastazia Taylor  
Senior FOIA Analyst  
Freedom of Information Act and Privacy Act Division  
Office of Security  
Transportation Security Administration  
(571) 227- 2507  
Toll free (866) 364-3872

### ***II. How to Make a FOIA Request***

#### **A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.**

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**Transportation Security Administration**  
TSA Headquarters – West Tower  
11<sup>th</sup> Floor, TSA-20  
601 South 12<sup>th</sup> Street  
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(571) 227-2300 Toll free (866) 364-3872  
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### **B.** Brief description of the agency's response-time ranges.

The FOIAs are broken into two categories, "Simple" and "Complex." Those FOIAs that fall under the criteria of "Simple" are put on a fast track for processing. This allows a quicker response time. The FOIAs that are "Complex" need to have a more extensive search and review conducted. Documents need to be scoped for application of SSI exemption, along with other exemptions and necessary redactions made. Documents containing SSI need to be reviewed by our SSI experts in FOIA, Aviation Operations, Maritime & Land Security, and Chief Counsel, which causes in our response time to be longer.

### **C.** Brief description of why some requests are not granted.

TSA has been withholding Sensitive Security Information, which is exempt from release under FOIA Exemptions (b)(3) and 7(C) of the FOIA.

## **III. *Definitions of Terms and Acronyms Used in the Report***

### **A.** Agency-specific acronyms or other terms.

TSA – Transportation Security Administration

SSI - Sensitive Security Information

### **B.** Basic terms expressed in common terminology.

1. FOIA/PA Request -- Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests.
2. Initial Request -- a request to a Federal agency for access to records under the FOIA.
3. Appeal -- a request to a Federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the FOIA, or any other FOIA determination such as a matter pertaining to fees.
4. Processed Request or Appeal -- a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
5. Multi-track Processing -- a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex



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requests are placed in one or more other tracks. Requests in each track are processed on a first in/first out basis. A requester who has an urgent need for records may request expedited processing (see below).

6. Expedited Processing -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of the request over other requests that were made earlier.
7. Simple Request -- a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
8. Complex Request -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
9. Grant -- an agency decision to disclose all records in full in response to a FOIA request.
10. Partial Grant -- an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.
11. Denial -- an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA exemptions, or for some procedural reason (such as no record is located in response to a FOIA request).
12. Time Limits -- the time period pursuant to the FOIA for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).
13. Perfected Request -- a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.
14. Exemption 3 Statute -- a separate Federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
15. Median Number -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.



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16. Average Number -- the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

### ***IV. Exemption 3 Statute***

#### **List of Exemption 3 statutes relied on by agency during current fiscal year.**

Title 49 CFR Part 1520.5 Sensitive Security Information

##### **1. Brief description of type(s) of information withheld under each statute**

1520.5(a) In accordance with 49 U.S.C. 114(s), SSI is information obtained or developed in the conduct of security activities, including research and development, the disclosure of which TSA has determined would ---

- (1) Constitute an unwarranted invasion of privacy (including, but not limited to, information contained in any personnel, medical, or similar file);
- (2) Reveal trade secrets or privileged or confidential information obtained from any person; or
- (3) Be detrimental to the security of transportation

1520.5(b)(1) exempts from disclosure any security program or security contingency plan issued, established, required, received, or approved by DOT or DHS.

1520.5(b)(2) exempts from disclosure any security directive or order (i) issued by TSA under § 1542.303, § 1544/305, or other authority (ii) issued by the Coast Guard under the Maritime Transportation Security Act, 33 CFR Part 6, or 33 U.S.C. 121 et seq. related to maritime security ; or (iii) any comments, instructions, and implementing guidance pertaining thereto.

1520.5(b)(3) exempts from disclosure any notice issued by DHS or DOT regarding a threat to aviation or maritime transportation, including any (i) information circular issued by TSA under § 1542.303, § 1544.305, or other authority; and (ii) navigation or vessel inspection circular issued by the Coast Guard related to maritime security.

1520.5(b)(4) exempts any performance specification any description of a test object or test procedure, for (i) any device used by the Federal government or any other person pursuant to any aviation or maritime transportation security requirement of Federal law for the detection of any weapon, explosive, incendiary, or destructive device or substance; (ii) any communications equipment used by the Federal government or any other person in carrying out or complying with any aviation or maritime transportation security requirements of Federal law.

1520.5(b)(5) exempts any vulnerability assessment directed, created, held, funded, or approved by the DOT DHS, or that will be provided to DOT or DHS in support of Federal security program.

1520.5(b)(6)(i) exempts from disclosure details of any security inspection or investigation of an alleged violation of aviation or maritime transportation security requirements of Federal law that could reveal a security vulnerability, including the



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identity of Federal special agent or other Federal employees who conducted the inspection or audit.

1520.5(b)(7) exempts any information held by the Federal government concerning threats against transportation or transportation systems and sources and methods used to gather or develop threat information, including threats against cyber infrastructure.

1520.5(b)(8) exempts specific details of aviation or maritime transportation security measures, both operational and technical whether applied directly by the Federal government or another person.

1520.5(b)(9) exempt from disclosure is information regarding security screening under aviation or maritime transportation security requirements of Federal law.

1520.5(b)(10) exempt from release are records created or obtained for the purposes of training persons employed by, contracted with, or acting for the Federal government or another person to carry out any aviation or maritime transportation security measures required or recommended by DHS or DOT.

1520.5(b)(11) exempt are lists of names or other identifying information that identify personas as (A) having unescorted access to a secure area of an airport or a secure or restricted area of a maritime facility, port area, or vessel (B) holding a position as a security screener employed by or under contract with the Federal government, (C) holding a position with the Coast Guard responsible for conducting vulnerability assessments, security boardings, or engaged in operations to enforce maritime security requirements or conduct force protection; (D) holding a position as a Federal Air Marshal or identifying current or former or applicant Federal Flight Deck Officers.

1520.5(b)(12) exempts from disclosure any list identifying systems or assets, whether physical or virtual, so vital to the aviation or maritime transportation system that the incapacity or destruction of such assets would have a debilitating impact on transportation security.

1520.5(b)(13) exempt from release is any information involving the security of operational or administrative data systems operated by the Federal government that have been identified by the DOT and DHS as critical to aviation or maritime transportation safety or security.

1520.5(b)(14) exempt from disclosure is solicited or unsolicited proposals received by DHS or DOT, trade secret information, commercial or financial information including information required by regulation or security directive, obtained by DHS or DOT in carrying out aviation or maritime transportation security responsibilities.

1520.5(b)(15) exempt from release information obtained or developed in the conduct of research related to aviation or maritime transportation security activities, where such research is approved, accepted, funded, recommended, or directed by DHS or DOT, including research results.

1520.5(b)(16) exempts any information not otherwise described in this section that TSA determines is SSI under 49 U.S.C. 114(s) or that the Secretary of DOT determines is SSI under 49 U.S.C. 40119, upon request of another federal agency, TSA or the Secretary of DOT may designate as SSI information not otherwise described in this section.



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### 2. Statement of whether a court has upheld the use of each statute

N/A

### V. Initial FOIA/PA Access Requests

#### A. Numbers of Initial Requests:

1. Number of requests pending as of end of preceding fiscal year: **791**
2. Number of requests received during current fiscal year: **1346**
3. Number of requests processed during current fiscal year: **2130**
4. Number of requests pending as of end of current fiscal year: **7**

#### B. Disposition of initial requests.

1. Number of total grants: **352**
2. Number of partial grants: **369**
3. Number of denials: **144**

a. Number of times each FOIA exemption used (counting each exemption once per request).

- (1) Exemption 1 --**2**
- (2) Exemption 2--**170**
- (3) Exemption 3--**192**
- (4) Exemption 4--**52**
- (5) Exemption 5--**91**
- (6) Exemption 6--**174**
- (7) Exemption 7(A)--**18**
- (8) Exemption 7(B) – **2**
- (9) Exemption 7(C)--**101**
- (10) Exemption 7(D) -- **1**
- (11) Exemption 7(E) -- **2**
- (12) Exemption 7(F)--**60**
- (13) Exemption 8 --**0**
- (14) Exemption 9 --**0**

4. Other reasons for nondisclosure (total): **1265**

- a. No records-- **881**
- b. Referrals-- **60**
- c. Request withdrawn --**40**
- d. Fee-related reason--**5**
- e. Records not reasonably described -- **1**
- f. Not a proper FOIA request for some other reason--**4**



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- g. Not an agency record--**4**
- h. Duplicate request--**22**
- i. Other (Specify)
  - Non-possession--**0**
  - Administratively closed --**68**
  - Litigation--**2**
  - No Perjury Statement received -- **178**

### **VI. Appeals of Initial Denials of FOIA/PA Requests**

#### **A. Number of appeals.**

- 1. Number of appeals received during fiscal year: **66**
- 2. Number of appeals processed during fiscal year: **55**

#### **B. Disposition of appeals.**

- 1. Number completely upheld: **49**
- 2. Number partially reversed: **6**
- 3. Number completely reversed: **0**

#### a. Number of times each FOIA exemption used:

- (1) Exemption 1 --- **0**
- (2) Exemption 2---**16**
- (3) Exemption 3---**20**
- (4) Exemption 4---**4**
- (5) Exemption 5---**8**
- (6) Exemption 6---**9**
- (7) Exemption 7(A)---**0**
- (8) Exemption 7(B)---**0**
- (9) Exemption 7(C)---**6**
- (10) Exemption 7(D)---**0**
- (11) Exemption 7(E)---**0**
- (12) Exemption 7(F)---**4**
- (13) Exemption 8 --- **0**
- (14) Exemption 9 --- **0**

#### 4. Other reasons for nondisclosure (total): **30**

- a. No Records-- **5**
- b. Referrals
- c. Request withdrawn
- d. Fee - related --**5**





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- e. Records not reasonably described
- f. No a proper FOIA request for some other reason
- g. Not an agency record
- h. Duplicate request
- i. Other (specify)
  - Privacy Act – k(6)--8
  - Privacy Act – k(2)--2
  - Glomar -- 5

### **VII. *Compliance with Time Limits/Status of Pending Requests***

#### **A. Median processing time for requests processed during the year.**

- 1. Simple requests (if multiple tracks used).
  - a. number of requests processed: **828**
  - b. median number of days to process: **8**
- 2. Complex requests (specify for any and all tracks used).
  - a. number of requests processed: **1307**
  - b. median number of days to process: **29**
- 3. Requests accorded expedited processing.
  - a. number of requests processed: **2**
  - b. median number of days to process: **44.5**

#### **B. Status of pending requests.**

- 1. Number of requests pending as of end of current fiscal year: **0**
- 2. Median number of days that such requests were pending as of that date: **0**

### **VIII. *Comparisons with Previous Years***

- A. Comparison of numbers of requests received: FY2003 – 1123 (FY2004–1346) (FY2002 – 401)**
- B. Comparison of numbers of requests processed: FY 2004 – 2137 (FY 2003 – 522) (FY2002 – 208)**
- C. Comparison of median number of days requests were pending at the end of fiscal year: FY 2002 – 138 (FY 2003 – 126) (FY2004 – 29)**





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### C. Other statistics significant to agency

The Transportation Security Administration (TSA) was created as a result of the Aviation and Transportation Security Act - Public Law 107-71, signed on November 19, 2001.

**D.** Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public (e.g., backlog-reduction efforts; specification of average number of hours per processed request; training activities; public availability of new categories of records).

The agency hired seven contract FOIA analysts in order to eliminate the backlog. The staff has now been reduced to two as of September 30, 2004.

Each program office has assigned one employee to be the FOIA Point of Contacts (POCs). These individuals received extensive training from the FOIA/PA Division on what to do with a FOIA request when their offices receive one. In addition, this helps the FOIA/PA Division expedite the retrieval of responsive records.

A FOIA training module was developed to help assist the FOIA POCs with handling and responding to a FOIA/PA request.

The extensive SSI knowledge by all the specialists has dramatically increased our ability to process documents that contain SSI, along with the coordination of Aviation Operations. Because of the sensitivity of these documents, this is not a subject we take lightly. In addition, this past year the SSI regulations were modified to be more detailed as to what records fall under this statutory regulation.

### *Costs/FOIA Staffing*

#### **A.** Staffing levels.

1. Number of full-time FOIA personnel: **15\***
2. Number of personnel with part-time/occasional FOIA duties (in total work years): **0** work years
3. Total number of personnel (in total work years): **15\*** work years

**\*This includes seven FOIA contract analysts.**

#### **B.** Total costs (including staff and all resources).

1. FOIA processing (including appeals): \$1,066,868.52\*\*



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2. Litigation-related activities (estimated): \$ 130,552.00
3. Total costs: \$ 1,197,420.52\*\*

**\*\*This includes the dollar amount for the FY04 contract support**

- C. Statement of additional resources needed for FOIA compliance.

For FY 2004 the IT support and maintenance for the FOIA tracking system cost \$23,232.64. This amount is included in line item 1 above.

### **X. Fee**

**A. Total amount of fees collected by agency for processing requests: \$1,688.98**

**B. Percentage of total costs: 0.1%**

### **XI. FOIA Regulations (Including Fee Schedule)**

Attached is a copy of the Department of Homeland Security (DHS) FOIA Regulations, 6 CFR Chapter 1 and Part 5, Freedom of Information Act and Privacy Act Procedures; Interim Final Rule