

2012 National Transportation Safety Board
Chief FOIA Officer Report

Time frame for Report March 2011 to March 2012

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

NTSB held FOIA training for staff as well as included FOIA training during offices' all-hands meetings. FOIA Information is posted on the NTSB webpage and is included in the General Counsel's Newsletter. Updates are provided to staff whenever needed.

2. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

FOIA professionals attended DOJ's training including the Chief FOIA Officer's meetings as well as FOIA training offered by other sources.

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

3. Did your agency make any discretionary releases of otherwise exempt information?

Yes, discretionary releases of exempt information were made. NTSB is an investigative agency, and analytical deliberations abound. After careful review, however, it was determined that discretionary releases could be made in many cases without compromising our deliberative process. An example is found in our "field notes," which were previously almost always withheld. After considerable review, however, we have begun to release field notes when, after review, it is determined that deliberative material is minimal.

4. What exemptions would have covered the information that was released as a matter of discretion?

5 U.S.C. § 552(b)(5)

5. Describe your agency's process to review records to determine whether discretionary releases are possible.

The Office of General Counsel provides assistance in making discretionary releases.

6. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

When an appeal is received by the NTSB, records or portions of records that were previously withheld are reviewed and the presumption of disclosure is applied. This has been particularly evident when reviewing field notes, as discussed above, that were previously withheld; they have been released upon appeal, when appropriate.

In Section V.B.(1) of your agency's Annual FOIA Report, entitled "Disposition of FOIA Requests – All Processed Requests" the first two columns list the "Number of Full Grants" and the "Number of Partial Grants/Partial Denials." Compare your agency's 2011 Annual FOIA Report with last year's Annual FOIA Report, and answer the following questions:

7. Did your agency have an increase in the number of responses where records were released in full?

No.

8. Did your agency have an increase in the number of responses where records were released in part?

Yes.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests."

This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in

responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

1. Do FOIA professionals within your agency have sufficient IT support?

Yes, the FOIA professionals are part of the Office of the Chief Information Officer (OCIO) who is also the Chief FOIA Officer. The OCIO ensures that updated tools and technologies are available to efficiently run the FOIA program and IT resources are provided whenever needed.

2. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer? Yes, the CIO and agency FOIA professionals meet at least bi-weekly
3. Do your FOIA professionals work with your agency's Open Government Team?

Yes, goals are set within the OCIO which encompasses the FOIA professionals, IT staff, and the Open Government Team.

4. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA administration.

Progress and needs of the FOIA program are discussed at bi-weekly staff meetings. The agency is assessing whether, in addition to contract support, additional FTEs may be available based on increased funding.

5. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

Currently plans are in place to contract FOIA support for the FOIA program. If this proves to be insufficient, then additional FTEs will be further explored. Our agency FOIA professionals are also evaluating several technical capabilities to improve the efficiency of our FOIA processes.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including

providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2011 to March 2012). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Has your agency added new material to your website since last year?

NTSB continuously posts new records to ntsb.gov. New accident dockets were posted in FY 2011.

2. Provide examples of the records, datasets, videos, etc., that have been posted this past year.

Significant records posted to ntsb.gov include accident reports, probable cause reports, accident data, and safety recommendations, all of which are of interest to the public and need no FOIA request.

3. Describe the system your agency uses to routinely identify records that are appropriate for posting.

As part of the normal accident investigation process, the NTSB routinely posts reports and supporting documentation to ntsb.gov in publicly available dockets and accident databases. Investigators make the initial determinations of the docket contents, with the assistance and collaboration of agency records management and legal personnel.

4. Beyond posting new material, is your agency taking steps to make the information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities, providing explanatory material, etc.?

The accident databases are searchable by keywords and by many data fields such as date, geographic location, vehicle make and model, categories of operations, and investigation status. Public dockets are searchable by a subset such of categories.

5. Describe any other steps taken to increase proactive disclosures at your agency.

In both training and our review of FOIA appeals we have emphasized the policies articulated in the President's FOIA memorandum and the Attorney General's FOIA Guidelines to agency leadership and staff.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. In 2010 and 2011, agencies reported widespread use of technology in handling FOIA requests. For 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency?

Yes.

2. If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?

Not applicable.

Online tracking of FOIA requests:

3. Can a FOIA requester track the status of his/her request electronically?

Not at this time.

4. If not, is your agency taking steps to establish this capability?

The NTSB invested in an off-the-shelf software to establish electronic tracking of requests which will be operational in FY 2012.

Use of technology to facilitate processing of requests:

5. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

Yes.

6. If so, describe the technological improvements being made.

The NTSB is investigating the use of software to de-duplicate records in order to speed review and production in response to FOIA requests.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests and appeals. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2011 Annual FOIA Report.*

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.
 - a. Does your agency utilize a separate track for simple requests?

Yes.
 - b. If so, for your agency overall, for Fiscal Year 2011, was the average number of days to process simple requests twenty working days or fewer?

Yes.
 - c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

Not applicable.
2. Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2011 as compared to Fiscal Year 2010. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2010 and Fiscal Year 2011 should be used for this section.
 - a. If your agency had a backlog of requests at the close of Fiscal Year 2011, did that backlog decrease as compared with Fiscal Year 2010?

Yes, NTSB's request backlog decreased by 11.

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2011, did that backlog decrease as compared to Fiscal Year 2010?

Yes, NTSB's administrative appeals backlog decreased by 1.

- c. In Fiscal Year 2011, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2010?

Yes.

- d. In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2010?

Yes.

3. If you answered "no" to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:

Request Backlog:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

Not applicable.

- b. Was the lack of a reduction in the request backlog caused by a loss of staff?

Not applicable.

- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

Not applicable.

- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

Not applicable.

Administrative Appeal Backlog:

- e. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

Not applicable.

- f. Was the lack of a reduction in the appeal backlog caused by a loss of staff?

Not applicable.

- g. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?

Not applicable.

- h. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

Not applicable.

All agencies should strive to both reduce any existing backlogs or requests and appeals and to improve their timeliness in responding to requests and appeals. Describe the steps your agency is taking to make improvements in those areas. In doing so, answer the following questions and then also include any other steps being taken to reduce backlogs and to improve timeliness.

1. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

Agency FOIA professionals continually strive to meet timelines, reduce backlogs, and provide efficient public access to NTSB records, taking into account FOIA exceptions, exclusions, and policy statements of the President and Attorney General. We periodically assess the reduction of our backlog in light of those goals.

2. Has your agency increased its FOIA staffing?

No. Although the NTSB has not increased its FOIA staffing, it is evaluating such an increase in light of the current budget and also plans to contract some FOIA support for FY 2012.

3. Has your agency made IT improvements to increase timeliness?

The NTSB is currently evaluating software to provide de-duplication capability, which we expect will improve timeliness of record review and production.

4. If your agency receives consultations from other agencies, has your agency taken steps to improve the efficiency of the handling of such consultations, such as utilizing IT to share the documents, or establishing guidelines or agreements with other agencies on the handling of particular information to speed up or eliminate the need for consultations?

Not applicable.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2011?

No.

2. If so, what is the total number of times exclusions were invoked?

Not applicable.

Spotlight on Success

Out of all the activities undertaken by your agency since March 2011 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency's efforts.

In an effort to further keep the public informed the new website homepage features a content rotator which features images and links to the latest Agency news and other items of interest to Agency stakeholders, such as accident investigation response, Board meetings and other events, and investigation updates.