

# National Transportation Safety Board 2011 FOIA ANNUAL REPORT

FOR  
10/01/2010  
THROUGH  
09/30/2011

Monday, November 28, 2011

The following **Annual Freedom of Information Act** report covers the Period 10/01/2010, through 09/30/2011, as required by 5 U.S.C. 552.

## I. BASIC INFORMATION REGARDING REPORT

1. Name, title, address, and telephone number of persons to be contacted with questions about the Report.

Melba D. Moyer-FOIA Officer  
Joy White-FOIA Specialist  
Tamara P. Crawford-FOIA Specialist  
National Transportation Safety Board  
Attn: FOIA Requester Service Center (CIO-40)  
490 L'Enfant Plaza, SW  
Washington, DC 20594

2. Provide an electronic link for access to the Report on the agency Web site.
  - <http://www.nts.gov/info/foia.htm>
  - <http://www.nts.gov/open.htm>

3. Explain how to obtain a copy of the Report in paper form.

National Transportation Safety Board  
Attn: FOIA Requester Service Center, (CIO-40)  
490 L'Enfant Plaza, S.W.  
Washington, D.C. 20594-2000

## II. MAKING A FOIA REQUEST

1. Provide names, addresses, and telephone numbers of all individual agency components that receive FOIA requests.

National Transportation Safety Board  
Attn: FOIA Requester Service Center, (CIO-40)  
490 L'Enfant Plaza, S.W.  
Washington, D.C. 20594-2000  
(202) 314-6540

2. Provide a brief description of why some requests are not granted and an overview of certain general categories of the agency's records to which the FOIA exemptions apply.

The National Transportation Safety Board is an independent Federal agency charged by Congress with investigating transportation accidents, determining the probable cause and issuing safety recommendations aimed at preventing future accidents.

Requests are made for accident investigation records. The records most commonly withheld are those containing proprietary information, and draft reports. The most commonly redacted information is that involving matters of personal privacy.

## III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Provide any agency-specific acronyms or terms used in this Report.

None

2. Include the following definitions of terms used in this Report:

- a. **Administrative Appeal** - a request to a federal agency asking that it review at a higher administrative

level a FOIA determination made by the agency at the initial request level.

- b. **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.
- c. **Backlog** - the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
- d. **Component** - for agencies that process requests on a decentralized basis, a "component" is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
- e. **Consultation** - the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
- f. **Exemption 3 Statute** - a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request** - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. **Full Grant** - an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial** - an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.

- j. **Median Number** - the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
  - k. **Multi-Track Processing** - a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
    - i. **Expedited Processing** - an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
    - ii. **Simple Request** - a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
    - iii. **Complex Request** - a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
  - l. **Partial Grant/Partial Denial** - in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
  - m. **Pending Request or Pending Administrative Appeal** - a request or administrative appeal for which an agency has not taken final action in all respects.
  - n. **Perfected Request** - a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
  - o. **Processed Request or Processed Administrative Appeal** - a request or administrative appeal for which an agency has taken final action in all respects.
  - p. **Range in Number of Days** - the lowest and highest number of days to process requests or administrative appeals.
  - q. **Time Limits** - the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).
3. Include the following concise descriptions of the nine FOIA exemptions:
- a. **Exemption 1:** classified national defense and foreign relations information
  - b. **Exemption 2:** internal agency rules and practices
  - c. **Exemption 3:** information that is prohibited from disclosure by another federal law

- d. **Exemption 4:** trade secrets and other confidential business information
- e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
- f. **Exemption 6:** information involving matters of personal privacy
- g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual
- h. **Exemption 8:** information relating to the supervision of financial institutions
- i. **Exemption 9:** geological information on wells

#### IV. Exemption 3 Statutes

<b>A. For Initial Requests</b>			
Statute	Type of Information Withheld	Case Citation	Total Number of Times Relied upon by Agency
49 U.S.C. § 1114 (c) (1)	Any portion of cockpit voice recorder (CVR) or the portions of a transcript of a CVR that the Board did not find relevant to an investigation.	N/A	
49 U.S.C. § 1114 (f)	Any information relating to Board participation in foreign aircraft accidents, where the country conducting the investigation has not issued its report or two years have not elapsed from the date of the accident.	N/A	2
49 U.S.C. § 1114 (b) (3)	Voluntarily provided safety-related information if it is not related to the exercise of the NTSB's accident or incident investigation authority and if the NTSB finds that the disclosure would inhibit the voluntary provision of that type of information.	N/A	3
			4

## V. FOIA REQUESTS

<b>A. Received, Processed and Pending FOIA Requests</b>				
	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
AGENCY OVERALL	92	293	304	81

<b>B.(1) Disposition of FOIA Requests All Processed Requests</b>													
	Number of Full Grants	Number of Partial Grants/Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									
				No records	All Records Referred to Another Component or Agency	Request withdrawn	Fee-related reason	Records not reasonably described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in chart below	TOTAL
AGENCY OVERALL	44	84	108	45	3	2	0	1	7	8	2	0	304

<b>B.(2) Disposition of FOIA Requests Other Reasons for Full Denials Based on Reasons Other than Exemptions</b>		
Component	Description of Other Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
AGENCY OVERALL	N/A	0

<b>B.(3) Disposition of FOIA Requests Number of Times Exemptions Applied</b>														
	(b) (1)	(b) (2)	(b) (3)	(b) (4)	(b) (5)	(b) (6)	(b) (7) (A)	(b) (7) (B)	(b) (7) (C)	(b) (7) (D)	(b) (7) (E)	(b) (7) (F)	(b) (8)	(b) (9)
AGENCY OVERALL	0	52	8	36	165	63	96	0	0	0	0	0	0	0

## VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

<b>A. Received, Processed and Pending Administrative Appeals</b>				
	Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
AGENCY OVERALL	1	9	10	0

<b>B. Disposition of Administrative Appeals All Processed Appeals</b>					
	Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
AGENCY OVERALL	3	1	0	6	10

<b>C.(1) Reasons for Denial on Appeal Number of Times Exemptions Applied</b>														
	(b) (1)	(b) (2)	(b) (3)	(b) (4)	(b) (5)	(b) (6)	(b) (7) (A)	(b) (7) (B)	(b) (7) (C)	(b) (7) (D)	(b) (7) (E)	(b) (7) (F)	(b) (8)	(b) (9)
AGENCY OVERALL	0	0	1	1	2	1	1	0	0	0	0	0	0	0



**VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS**

**A. Processed Requests Response Time for All Processed Perfected Requests**

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	22	17.81	<1	71	37	75.05	<1	297	0	0	0	0

**B. Processed Requests Response Time for Perfected Requests in Which Information Was Granted**

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	25	31.14	<1	71	129	120.77	<1	297	0	0	0	0

**C. Processed Requests Response Time in Day Increments**

Simple Requests															
	< 1 Day	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
AGENCY OVERALL	3	7	9	1	1	0	0	0	0	0	0	0	0	0	21

  

Complex Requests															
	< 1 Day	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
AGENCY OVERALL	12	94	42	9	13	11	13	16	20	14	19	20	0	0	283

Requests Granted Expedited Processing															
	< 1 Day	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

D. Pending Requests All Pending Perfected Requests									
	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
AGENCY OVERALL	0	0	0	81	72	96	0	0	0

E. Pending Requests Ten Oldest Pending Perfected Requests										
	10th Oldest Request and Number of Days Pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Request and Number of Days Pending
AGENCY OVERALL	12/17/2010 205	11/18/2010 226	11/16/2010 228	11/16/2010 228	11/12/2010 230	11/01/2010 239	09/24/2010 265	08/23/2010 289	07/30/2010 305	07/29/2009 567*

\*Initial records released and re-opened for further release of records.

**VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER**

<b>A. Requests for Expedited Processing</b>					
	<b>Number Granted</b>	<b>Number Denied</b>	<b>Median Number of Days to Adjudicate</b>	<b>Average Number of Days to Adjudicate</b>	<b>Number Adjudicated Within Ten Calendar Days</b>
AGENCY OVERALL	0	0	0	0	0

<b>B. Requests for Fee Waiver</b>				
	<b>Number Granted</b>	<b>Number Denied</b>	<b>Median Number of Days to Adjudicate</b>	<b>Average Number of Days to Adjudicate</b>
AGENCY OVERALL	0	0	0	0

**IX. FOIA PERSONNEL AND COSTS**

	<b>PERSONNEL</b>			<b>COSTS</b>		
	<b>Number of Full-Time FOIA Employees</b>	<b>Number of Equivalent Full-Time FOIA Employees</b>	<b>Total Number of Full-Time FOIA Staff</b>	<b>Processing Costs</b>	<b>Litigation-Related Costs</b>	<b>Total Costs</b>
AGENCY OVERALL	3.00**	3.75	6.75	\$1,494,943.56	\$0.00	\$1,494,943.56

\*\*Personnel in offices that search for responsive records are not included in the count for full-time FOIA Employees.

**X. FEES COLLECTED FOR PROCESSING REQUESTS**

	<b>Total Amount of Fees Collected</b>	<b>Percentage of Total Costs (Rounded to nearest hundredth decimal)</b>
AGENCY OVERALL	\$2,620.03	0.18



**D. Comparison of Numbers of Requests from Previous and Current Annual Report Requests Received, Processed, and Backlogged**

	<u>NUMBER OF REQUESTS RECEIVED</u>		<u>NUMBER OF REQUESTS PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY OVERALL	314***	293	270***	304

\*\*\*Case amended.

	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
AGENCY OVERALL	92	81

**E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report Appeals Received, Processed, and Backlogged**

	<u>NUMBER OF APPEALS RECEIVED</u>		<u>NUMBER OF APPEALS PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY OVERALL	5	9	7	10

	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
AGENCY OVERALL	1	0

**F. Discussion of Other FOIA Activities (Optional)**

Agency hired a student to assist with FOIA processing and tracking of all incoming requests.