

National Transportation Safety Board 2010 FOIA ANNUAL REPORT

FOR
10/01/2009
THROUGH
09/30/2010

Monday, January 31, 2011

The following **Annual Freedom of Information Act** report covers the
Period 10/01/2009, through 09/30/2010, as required by 5 U.S.C. 552.

I. BASIC INFORMATION REGARDING REPORT

1. Name, title, addresses, and telephone numbers of person(s) 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. 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
(202) 314-6540

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

| A. For Initial Requests | | | | |
|-------------------------|--|---------------|---|---|
| Statute | Type of Information Withheld | Case Citation | Number of Times Relied upon per Component | Total Number of Times Relied upon by Agency |
| 49 U.S.C. § 1114(c)(1) | Any portion of cockpit voice recording (CVR) or the portions of a transcript of a CVR that the Board did not find relevant to an investigation. | N/A | 3 | 3 |
| 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 2 years have not elapsed from the date of the accident. | N/A | 5 | 5 |

| B. For Appeals | | | | |
|----------------|------------------------------|---------------|---|---|
| Statute | Type of Information Withheld | Case Citation | Number of Times Relied upon per Component | Total Number of Times Relied upon by Agency |
| None | N/A | N/A | N/A | N/A |

V. FOIA REQUESTS

| A. Received, Processed and Pending FOIA Requests | | | | |
|---|---|--|---|---|
| | 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 | 48 | 315 | 271 | 92 |

| B.(1) Disposition of FOIA Requests All Processed Requests | | | | | | | | | | | |
|--|-----------------------|---|--|---|-------------------|--------------------|----------------------------------|-------------------|---|-------------------------------|-------|
| | 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 | | | | | | Other *Explain in chart below | TOTAL |
| | | | | No records | Request withdrawn | Fee-related reason | Records not reasonably described | Duplicate Request | | | |
| AGENCY OVERALL | 51 | 72 | 83 | 48 | 5 | 0 | 0 | 0 | 0 | 12 | 271 |

| B.(2) Disposition of FOIA Requests Other Reasons for Full Denials Based on Reasons Other than Exemptions | | |
|---|--|-------|
| Component | Description of Other Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon | TOTAL |
| AGENCY OVERALL | Not a proper FOIA request 4 Not an agency record 8 | 12 |

C.(2) Reasons for Denial on Appeal Reasons Other than Exemptions

| | No records | Request withdrawn | Fee-related reason | Records not reasonably described | Duplicate Request or Appeal | Request in Litigation | Appeal Based Solely on Denial of Request for Expedited Processing | Other * Explain in chart below | TOTAL |
|----------------|------------|-------------------|--------------------|----------------------------------|-----------------------------|-----------------------|---|-----------------------------------|-------|
| AGENCY OVERALL | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |

C.(3) Reasons for Denial on Appeal Other Reasons

| Component | Description of Other Reasons for Denials from Chart C (2) & Number of Times Those Reasons Were Relied upon | TOTAL |
|-----------|--|-------|
| N/A | N/A | N/A |

C.(4) Response Time for Administrative Appeals

| | Median Number of Days | Average Number of Days | Lowest Number of Days | Highest Number of Days |
|----------------|-----------------------|------------------------|-----------------------|------------------------|
| AGENCY OVERALL | 36 | 86 | 4 | 245 |

C.(5) Ten Oldest Pending Administrative Appeals

| | 10th Oldest Appeal and Number of Days Pending | 9 th | 8 th | 7 th | 6 th | 5 th | 4 th | 3 rd | 2 nd | Oldest Appeal and Number of Days Pending |
|----------------|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|--|
| AGENCY OVERALL | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 07/21/2010 51 |

| 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 | 92 | 44 | 57 | n/a | n/a | n/a |

| E. Pending Requests Ten Oldest Pending Perfected Requests | | | | | | | | | | |
|--|--|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|---|
| | 10th Oldest Request and Number of Days Pending | 9 th | 8 th | 7 th | 6 th | 5 th | 4 th | 3 rd | 2 nd | Oldest Request and Number of Days Pending |
| AGENCY OVERALL | 03/10/2010 146 | 03/10/2010 146 | 03/10/2010 146 | 03/10/2010 146 | 03/10/2010 146 | 03/08/2010 148 | 03/08/2010 148 | 02/23/2010 157 | 02/02/2010 172 | 01/26/2010 177 |

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

| A. Requests for Expedited Processing | | | | | |
|---|----------------|---------------|-------------------------------------|--------------------------------------|---|
| | Number Granted | Number Denied | Median Number of Days to Adjudicate | Average Number of Days to Adjudicate | Number Adjudicated Within Ten Calendar Days |
| AGENCY OVERALL | 0 | 2 | 11 | 11 | 1 |

| B. Requests for Fee Waiver | | | | |
|-----------------------------------|----------------|---------------|-------------------------------------|--------------------------------------|
| | Number Granted | Number Denied | Median Number of Days to Adjudicate | Average Number of Days to Adjudicate |
| AGENCY OVERALL | 2 | 0 | 3.5 | 3.5 |

IX. FOIA PERSONNEL AND COSTS

| | PERSONNEL | | | COSTS | | |
|----------------|------------------------------------|---|--------------------------------------|------------------|--------------------------|----------------|
| | Number of Full-Time FOIA Employees | Number of Equivalent Full-Time FOIA Employees | Total Number of Full-Time FOIA Staff | Processing Costs | Litigation-Related Costs | Total Costs |
| AGENCY OVERALL | 3.00* | 0.86 | 3.86 | \$1,086,158.13 | \$3,571.62 | \$1,089,729.75 |

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

X. FEES COLLECTED FOR PROCESSING REQUESTS

| | Total Amount of Fees Collected | Percentage of Total Costs |
|----------------|--------------------------------|---------------------------|
| AGENCY OVERALL | \$3,126.30 | 0.29 |

XI. FOIA Regulations (Including Fee Schedule)

49 C.F.R. Part 801: Fee Schedule: See 49 C.F.R. Part 801, subpart G

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

| | Number of Backlogged Requests as of End of Fiscal Year | Number of Backlogged Appeals as of End of Fiscal Year |
|----------------|--|---|
| AGENCY OVERALL | 92 | 1 |

Discuss/Explain the backlog here (Optional)

Due to the complexity, requests may not be processed within 20 days.

B. Consultations on FOIA Requests Received, Processed, and Pending Consultations

| | Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>Start of the Fiscal Year</u> | Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year | Number of Consultations Received from Other Agencies that Were <u>Processed</u> by Your Agency During the Fiscal Year | Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>End of the Fiscal Year</u> |
|----------------|--|--|---|--|
| AGENCY OVERALL | n/a | n/a | n/a | n/a |

C. Consultations on FOIA Requests Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

| | 10th Oldest Consultation and Number of Days Pending | 9 th | 8 th | 7 th | 6 th | 5 th | 4 th | 3 rd | 2 nd | Oldest Consultation and Number of Days Pending |
|----------------|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|--|
| AGENCY OVERALL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

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

| | NUMBER OF REQUESTS <u>RECEIVED</u> | | NUMBER OF REQUESTS <u>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 | 319 | 315 | 306* | 271 |

*One request processed retroactively during fiscal year.

| | 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 | 48 | 92 |

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

| | NUMBER OF APPEALS <u>RECEIVED</u> | | NUMBER OF APPEALS <u>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 | 9 | 5 | 7 | 7 |

| | 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 | 3 | 1 |

F. Discussion of Other FOIA Activities (Optional)

Agency hired a contractor for approximately 90 days to assist with FOIA processing and tracking of all incoming requests.
