

**National Transportation Safety Board
Freedom of Information Act (FOIA)
Annual Report for Fiscal Year 2006
(October 1, 2005 through September 30, 2006)**

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I. Basic Information Regarding Report

- A. Name, title, address, and telephone number of person(s) to be contacted with questions about this report:

Melba D. Moyer - FOIA Officer
Joy White - FOIA Specialist
Tamara Pleasant Crawford - FOIA Specialist
National Transportation Safety Board
Attn: FOIA Requester Service Center (CIO-40)
490 L'Enfant Plaza, S.W.
Washington, D.C. 20594
(202) 314-6540

- B. Electronic address for this report on the World Wide Web:

<http://www.nts.gov/info/foia.htm>

- C. How to obtain a copy of this report in paper form:

Write to the following (include your mailing address in your request):

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. How to Make a FOIA Request

For basic information on how to obtain FOIA information, visit our web site at nts.gov/info/foia.htm.

- A. Names, addresses, and telephone numbers of all individual agency components and offices 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

B. Brief description of NTSB’s response-time ranges:

From one day to over a year, depending on the complexity of the request.

C. Brief description of why some requests are not granted:

- request lacks information (accident date, location, etc.);
- requested record is not reasonably described;
- request poses a question;
- no records were responsive to the request;
- records had been previously destroyed and were no longer available;
- request was withdrawn;
- request was referred to another agency;
- a duplicate request was submitted; or
- one or more exemptions to the FOIA warranted withholding.

III. Definitions of Terms and Acronyms Used in this Report

A. Agency-specific acronyms or other items

NTSB - National Transportation Safety Board

CVR- Cockpit Voice Recorder

ICAO – International Civil Aviation Organization

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; the NTSB considers each Privacy Act request under the FOIA to ensure the maximum releasable material is provided. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)
2. Initial Request – a request to a federal agency for access to records under the Freedom of Information Act.
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 Freedom of Information Act, 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.

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 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 – in accordance with regulations and case law, 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 his or her 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, redacting information determined to be exempt under one or more of the FOIA’s 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 record(s) is determined by the agency to be exempt under one or more of the FOIA’s exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
12. Time limits – the time period in the Freedom of Information Act 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 the average, number. For example, of 3, 7, and 14, the median number is 7.
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.
17. Day – working day.

IV. Exemption 3 Statutes

A. List of Exemption 3 statutes on which the NTSB relied during the 2006 fiscal year

1. Brief description of type(s) of information withheld under each statute:
 - a) 49 U.S.C. § 1114(c) and (d). Any portion of a cockpit voice recording (CVR) or the portions of a transcript of a CVR that the Board did not find relevant to an investigation.
 - b) 49 U.S.C. § 1136(d). Passenger lists.
 - c) 49 U.S.C. § 1114(e). Drug tests and medical information.
 - d) 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.
2. Statement of whether a court has upheld the use of each statute.

The agency has not needed to defend its assertion of the Exemption 3 statutes listed above in court.

V. Initial FOIA/PA Access Requests

A. Numbers of initial requests

1. Number of requests pending as of end of preceding fiscal year	<u>1325</u> ¹
2. Number of requests received during current fiscal year	<u>555</u>
3. Number of requests processed during current fiscal year	<u>548</u>
4. Number of requests pending as of end of current fiscal year	<u>1332</u>

B. Disposition of initial requests

1. Number of total grants	<u>97</u>
2. Number of partial grants	<u>77</u>
3. Number of denials	<u>16</u>
a. number of times each FOIA exemption used (counting each exemption once per request)	
(1) Exemption 1	<u>0</u>
(2) Exemption 2	<u>21</u>
(3) Exemption 3	<u>24</u>
(4) Exemption 4	<u>41</u>
(5) Exemption 5	<u>64</u>
(6) Exemption 6	<u>55</u>
(7) Exemption 7(A)	<u>1</u>
(8) Exemption 7(B)	<u>0</u>
(9) Exemption 7(C)	<u>4</u>
(10) Exemption 7(D)	<u>0</u>
(11) Exemption 7(E)	<u>0</u>
(12) Exemption 7(F)	<u>0</u>

¹The NTSB closed sixty-nine requests retroactively following the processing of the FOIA Annual Report for the preceding fiscal year.

(13) Exemption 8	<u>0</u>
(14) Exemption 9	<u>0</u>

4 . Other reasons for nondisclosure (total)	<u>358</u>
a . No records	<u>53</u>
b . Referrals	<u>50</u>
c . Requests withdrawn	<u>27</u>
d . Fee-related reason	<u>0</u>
e . Records not reasonably described	<u>0</u>
f . Not a proper FOIA request for some other reason	<u>10</u>
g . Not an agency record	<u>3</u>
h . Duplicate request	<u>3</u>
i . Other (specify)	<u>212</u>
1. Request poses a question	<u>1</u>
2. Records previously destroyed and no longer available	<u>4</u>
3. Records already publicly available	<u>50</u>
4. Requester no longer resides at specified address	<u>17</u>
5. No longer wants info	<u>124</u>
6. Cannot comply with request	<u>3²</u>
7. Other than released records, no other records found	<u>13</u>

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Numbers of appeals

1 . Number of appeals received during fiscal year	<u>4</u>
2 . Number of appeals processed during fiscal year	<u>13</u>

B. Disposition of appeals

1 . Number completely upheld	<u>2</u>
2 . Number partially reversed	<u>3</u>

² Privacy information requested; cannot search by name.

3.	Number completely reversed	<u>0</u>
	a. Number of times each FOIA exemption used (counting each exemption once per appeal)	
	(1) Exemption 1	<u>0</u>
	(2) Exemption 2	<u>0</u>
	(3) Exemption 3	<u>0</u>
	(4) Exemption 4	<u>0</u>
	(5) Exemption 5	<u>5</u>
	(6) Exemption 6	<u>2</u>
	(7) Exemption 7(A)	<u>0</u>
	(8) Exemption 7(B)	<u>0</u>
	(9) Exemption 7(C)	<u>0</u>
	(10) Exemption 7(D)	<u>0</u>
	(11) Exemption 7(E)	<u>0</u>
	(12) Exemption 7(F)	<u>0</u>
	(13) Exemption 8	<u>0</u>
	(14) Exemption 9	<u>0</u>
4.	Other reasons for nondisclosure (total)	<u>8</u>
	a. No records	<u>3</u>
	b. Referrals	<u>0</u>
	c. Request withdrawn	<u>4</u>
	d. Fee-related reason	<u>0</u>
	e. Records not reasonably described	<u>0</u>
	f. Not a proper FOIA request for some other reason	<u>0</u>
	g. Not an agency record	<u>1</u>
	h. Duplicate request	<u>0</u>
	i. Other (specify)	<u>0</u>

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 423
 - b. Median number of days to process 368
- 2. Complex requests (specify for any and all tracks used)
 - a. Number of requests processed 125
 - b. Median number of days to process 787
- 3. Requests accorded expedited processing
 - a. Number of requests processed 0
 - b. Median number of days to process 0

B. Status of pending requests.

- 1. Number of requests pending as of end of current fiscal year 1332
- 2. Median number of days that such requests were pending as of that date 450

VIII. Comparisons with Previous Year(s) (Optional)

Other statistics significant to agency.

The NTSB did not receive any requests for expedited processing.

Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public: See § XII, Report on FOIA Executive Implementation, below.

IX. Costs/FOIA Staffing

A. Staffing levels.

- 1. Number of full-time FOIA personnel 3
- 2. Number of personnel with part-time or occasional FOIA duties 7
- 3. Total number of personnel 10

B. Total costs (including staff and all resources).	
1. FOIA processing (including appeals)	<u>\$749,941.60</u>
2. Litigation-related activities (estimated)	<u>\$38,146.12</u>
3. Total costs	<u>\$788,087.72</u>

C. Statement of additional resources needed for FOIA compliance (optional)
The agency needs additional full-time staffing to aid in FOIA compliance.

X. Fees

A. Total amount of fees collected by agency for processing requests	<u>0</u>
B. Percentage of total costs	<u>0.00%</u>

XI. FOIA Regulations:

- [49 C.F.R. Part 801](#)

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

XII. Report on FOIA Executive Order Implementation

A. Description of supplementation/modification of agency improvement plan

The NTSB added a further milestone to ensure that it continues to reduce the current backlog of pending FOIA requests. The milestone states as follows:

By April 1, 2007, reduce the large complex requests received from 1997 – 2005 by 50 percent. By October 1, 2007, complete the remaining large complex requests received from 1997 – 2005.

B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area

In response to Executive Order 13,392, the NTSB submitted its FOIA Improvement Plan on June 14, 2006. In initially reviewing the agency’s FOIA program in accordance with Executive Order 13,392, the NTSB recognized the need to reduce the backlog, disseminate helpful information to FOIA requesters, change policies regarding the processing of FOIA requests, acquire additional human capital resources, and

improve use of information. The FOIA Improvement Plan addressed each of these areas by including several goals and milestones.

The NTSB has met every goal due by February 1, 2007 that the Plan contains. In achieving these goals, the NTSB has already seen improvement in reducing its backlog of FOIA requests, and supplying helpful information regarding the FOIA program to the public, among other improvements. Specifically, with regard to reducing the agency's backlog of pending FOIA requests, the NTSB closed 124 requests in which requesters no longer sought the records they had requested. In addition, the NTSB also responded to 75 requests that were located in the agency's Office of General Counsel because they presented unique legal or policy issues. The NTSB also completely alleviated the backlog of administrative appeals, and implemented a policy in which the agency addresses appeals immediately upon receipt. The NTSB found that calling requesters to inquire about whether they still sought the requested records greatly aided in reducing the backlog. In addition, such communication afforded the NTSB the opportunity to provide helpful information to requesters regarding the FOIA program and concerning the agency's records management policies. Many requesters, who are likely to seek NTSB records in the future, were very pleased to receive this information.

In September 2006, the NTSB changed its FOIA processing policies and procedures to increase efficiency and overall responsiveness to the public. Specifically, the NTSB implemented new processing standards regarding FOIA requests for information from large investigations. These new policies require employees who have records responsive to a particular request to submit those records to the FOIA Office in an organized fashion, and in a timelier manner. The FOIA Office, in conjunction with the agency's Office of General Counsel, trained all investigative offices regarding these policies. Employees received guidance on the legal requirements of the FOIA, and instructions regarding how to organize items in order to increase efficiency for processing requests. Staff from the FOIA Office and Office of General Counsel held a total of 11 training sessions to train employees in all investigative offices. The NTSB will train all remaining offices before August 2007.

In addition, the NTSB took steps to increase accountability among employees with regard to fulfilling obligations to submit records in a timely, specific manner, and respond to questions from the FOIA Service Center. Such steps included the agency's designation of 29 employees to serve as internal Central Points of Contact in each office. These Central Points of Contact received training regarding the legal requirements of the FOIA, the agency's FOIA policies in general, agency employees' obligations and responsibilities with regard to the FOIA, and overall guidance regarding how to keep track of their office's FOIA requests and

records. Personnel in the agency's FOIA Requester Service Center are confident that this designation of Central Points of Contact will serve to increase accountability and ensure that the agency does not lose FOIA requests.

The NTSB also updated its internal web page regarding the legal requirements of the FOIA and agency policies concerning employee obligations for submitting records and answering inquiries from the FOIA Requester Service Center. This internal web page provides specific information and tips on records retention and organization of records. Likewise, the NTSB issued an internal Operations Bulletin to all agency employees containing this information, and notifying employees of the existence of this internal web page. Such guidance has served to inform employees in general about the FOIA, standardize the agency's policies regarding the collection and submission of and search for records in response to FOIA requests. Overall, the training of agency employees, designation of Central Points of Contact, and updating and issuance of the internal FOIA web page and agency Operations Bulletin has increased employees' awareness of the FOIA in general, and their responsibilities with regard to records management and the FOIA.

In accordance with the agency's FOIA Improvement Plan, the NTSB purchased a new FOIA software program. The FOIA Officer and personnel in the FOIA Requester Service Center are confident that this program will increase efficiency with regard to tracking, organizing, and responding to FOIA requests. The agency's purchase of this new software program, and award of the corresponding contract for implementation of the program, shows that the NTSB is serious about improving its FOIA program and using resources for FOIA duties in the most efficient manner. The NTSB will complete its implementation of this software and begin using it some time in February 2007.

In addition, the NTSB acquired contract support for FOIA processing services, and has made progress on closing several dated, complex requests for information from large investigations. The NTSB acquired this contract support for fiscal year 2007, and expects to meet or surpass its upcoming milestones with regard to the processing and closing of these requests, which seek voluminous amounts of records.

With the assistance of this contract support, the NTSB has processed and closed 82 requests for very voluminous amounts of information from large investigations. The NTSB has also updated its regulations regarding the public availability of information and the FOIA program. The NTSB published this Notice of Proposed Rulemaking in the Federal Register on November 22, 2006, which was five weeks before the milestone deadline of January 1, 2007. The NTSB looks forward to these regulations

becoming effective in February 2007, and anticipates that they, in conjunction with the agency's new FOIA web page on the public NTSB website, will further serve to educate requesters regarding information that is already publicly available, and how to make a proper FOIA request.

Finally, the NTSB selected a new Chief Information Officer (CIO) in December 2006; the selectee will report to duty in February 2007 joining a Deputy CIO who entered duty at the NTSB in November 2006. Previously, an Acting CIO led NTSB's Information Office. The NTSB anticipates that the new leadership team will serve to increase awareness of the FOIA program and the importance of compliance with the FOIA among all offices in the agency.

C. Identification and discussion of any deficiency in meeting plan milestones

Due to lack of resources and staffing, combined with other deadlines and obligations, the NTSB was unable to publish its public web page on the public NTSB website by October 1, 2006. However, the NTSB has now posted this new web page within this reporting period, and anticipates that it will assist in educating requesters regarding what agency records are already publicly available, and how to submit a proper FOIA request. Given that the NTSB has met this goal, it does not need to set forth a strategy for attaining the goal.

D. Additional narrative statement regarding other executive order-related activities (optional)

As stated above, the NTSB is pleased with the ongoing implementation of its FOIA Improvement Plan, and has already experienced improvements in many areas of its FOIA program.

E. Concise descriptions of FOIA exemptions

There are nine exemptions to the FOIA which authorize federal agencies to withhold information covering: (1) classified national defense and foreign relations information; (2) internal agency rules and practices; (3) information that is prohibited from disclosure by another federal law; (4) trade secrets and other confidential business information; (5) inter-agency or intra-agency communications that are protected by legal privileges; (6) information involving matters of personal privacy; (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 of 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; (8) information relating to the supervision of financial institutions; and (9) geological information on wells.

F. Additional statistics:

1. Time range of requests pending, by date of request (or, where applicable, by date of referral from another agency)

January 7, 1999 to January 23, 2007

2. Time range of consultations pending with other agencies, by date of initial interagency communication

The NTSB does not have any consultations pending with any other agencies.

G. Attachment: Agency improvement plan (in current form)

The FOIA Improvement Plan for the National Transportation Safety Board http://www.nts.gov/info/FOIAPlan_Exec_Order_13,392.pdf