

# National Transportation Safety Board FOIA Annual Report

10/01/2011 – 09/30/2012

The following **Annual Freedom of Information Act** report covers the Period 10/01/2011, through 09/30/2012, as required by 5 U.S.C. 552.

## **I. BASIC INFORMATION REGARDING REPORT**

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

Melba D.Moye - FOIA Officer  
Joy White - FOIA Specialist  
Tamara 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

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.

Contact the FOIA Officer or FOIA Specialist at the address, telephone number, or email listed below.

## 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  
(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 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, 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 entireties 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. **Perfect 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.

#### 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 (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.	N/A		2
49. U.S.C. § 1114 (F)	Any information relating to Board participation in foreign aircraft accidents, where the country	N/A		2
49. U.S.C. § 1136 (d)	conducting the investigation has not issued its report or two years have not elapsed from the date of the accident.	N/A		3

	<b>Passenger lists.</b>			
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<b>B. For Appeals</b>				
<b>Statute</b>	<b>Type of Information Withheld</b>	<b>Case Citation</b>	<b>Number of Times Relied upon per Component</b>	<b>Total Number of Times Relied upon by Agency</b>
N/A	N/A	N/A	N/A	N/A

**V. FOIA REQUESTS**

<b>A. Received, Processed and Pending FOIA Requests</b>				
	<b>Number of Requests Pending as of Start of Fiscal Year</b>	<b>Number of Requests Received in Fiscal Year</b>	<b>Number of Requests Processed in Fiscal Year</b>	<b>Number of Requests Pending as of End of Fiscal Year</b>
AGENCY OVERALL	*80	294	185	189

\*81 - Closed one request retroactively after September 30, 2012.

**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	TOTAL
				No records	Request withdrawn	Fee-related reason	Records not reasonably described	Duplicate Request	*Explain in chart below		
AGENCY OVERALL	23	33	65	43	3	2	0	2	14	185	

**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	Referrals 1 Not a proper FOIA request for some other reason 5 Not an agency record 8	14

**B.(3) Disposition of FOIA Requests Number of Times Exemptions Applied**

	(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	13	7	13	60	28	42	0	0	0	0	0	0	0

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

**A. Received, Processed and Pending Administrative Appeals**

	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	0	7	7	0

**B. Disposition of Administrative Appeals All Processed Appeals**

	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	-	4	-	7

**C.(1) Reasons for Denial on Appeal Number of Times Exemptions Applied**

	(b)(1)	(b)(2)	PIA2	PA2	(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	0	0	0	0	2	0	2	0	0	0	0	0	0	0

**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	0	0	0	0	0	0	0	0	0

**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

**C.(4) Response Time for Administrative Appeals**

	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	0	0	0	0	33	32.29	<1	67	0	0	0	0

**C.(5) Ten Oldest Pending Administrative Appeals**





AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
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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	3	65	255	184	131	147	1	34	34

E. Pending Requests Ten Oldest Pending Perfected Requests										
	10th Oldest Request and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
AGENCY OVERALL	06/08/2011 342	06/08/2011 342	06/01/2011 347	04/21/2011 376	04/15/2011 380	04/08/2011 385	04/07/2011 386	03/22/2011 398	04/02/2010 650	04/02/2010 650

**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	1	0	<1	<1	1

B. Requests for Fee Waiver				
	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
AGENCY OVERALL	1	0	<1	<1

**IX. FOIA PERSONNEL AND COSTS**

	<b>PERSONNEL</b>	<b>COSTS</b>
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	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	**2.00	3.75	5.75	\$386,060.70	\$0.00	\$386,060.70

\*\*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

	Total Amount of Fees Collected	Percentage of Total Costs (Rounded to nearest hundredth decimal)
HQ	\$6,950.70	1.80
AGENCY OVERALL	\$6,950.70	1.8

### XI. FOIA Regulations (Including 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	62	0

### Discuss/Explain the backlog here(Optional)

Due to the complexity of accident investigations, 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 Pending at Your Agency as of Start of the Fiscal Year	Number of Consultations Received from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Processed by Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Pending at End of the Fiscal Year
AGENCY OVERALL	0	0	0	0

**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	9th	8th	7th	6th	5th	4th	3rd	2nd	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 RECEIVED		NUMBER OF REQUESTS PROCESSED	
	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	293	294	304	185

	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	13	62

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

	NUMBER OF APPEALS RECEIVED		NUMBER OF APPEALS PROCESSED	
	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	7	10	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

0

0

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

Agency hired two students to assist with FOIA processing and tracking of all incoming requests and also hired one full-time FOIA Support contractor.