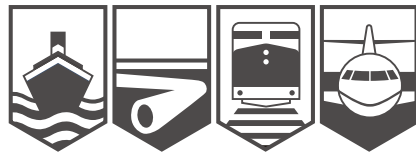


Transportation Safety Board
of Canada



Bureau de la sécurité des transports
du Canada



ANNUAL REPORT TO PARLIAMENT
ON THE MANAGEMENT OF
THE ACCESS TO INFORMATION ACT
AND
THE PRIVACY ACT

1 APRIL 2003 TO 31 MARCH 2004

Canada

Transportation Safety Board
of Canada



Bureau de la sécurité des transports
du Canada

Executive Director

Directeur exécutif

Place du Centre
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4th Floor
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The Honourable Lucienne Robillard
President of the Queen's Privy Council for Canada
House of Commons
Ottawa, Ontario
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Honourable Minister:

In accordance with subsection 72(1) of the *Access to Information Act* and subsection 72(1) of the *Privacy Act*, the Transportation Safety Board of Canada is pleased to submit to Parliament this report on activities relating to the application of these two Acts for the period 01 April 2003 to 31 March 2004.

Sincerely,

David N. Kinsman

Canada

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1.0 Introduction

Pursuant to section 72 of the *Access to Information Act* and section 72 of the *Privacy Act*, the Transportation Safety Board of Canada (TSB) is pleased to table in Parliament this report on activities relating to the application of these two Acts. The report covers the period from 01 April 2003 to 31 March 2004.

The TSB's administration of its Access to Information and Privacy (ATIP) activities is in accordance with the government's stated principles that government information should be available to the public with only specific and limited exceptions. Furthermore, the TSB treats personal information in compliance with the code of fair information practice expressed in the *Privacy Act*.

The ATIP function of the TSB operates within the Information Management (IM) Division. This ensures effective integration of ATIP requirements into IM planning, policy development, records management systems and practices, and training and awareness activities.

In 2003-04, IM renewal was one of the TSB's top Business Plan priorities. As part of this, the ATIP unit participated in a number of IM improvement initiatives, including:

- development and provision of an integrated Records Management/ATIP training session for all TSB staff at Head Office and in the regional offices;
- development of IM policy and guidelines that incorporate an ATIP dimension; and
- an IM review of the TSB *Manual of Investigations*, which documents best practices associated with the TSB's primary business process.

In addition, the ATIP unit continues to provide functional advice and guidance to managers and employees concerning the release of information and protection of privacy.



2.0 Access to Information

2.1 Delegation of Authority

As required by the legislation, a delegation of authority is in place. For the purpose of the *Access to Information Act*, the “head of the institution” as defined in section 3 of the Act is the Executive Director. The Director General, Information Strategies and Analysis Directorate and the Manager, Information Management Division have been delegated powers by the Executive Director deemed appropriate for the effective administration of the programs.

2.2 Formal Requests

2.2.1 Disposition of Requests

Eighty-seven (87) requests were received under the *Access to Information Act* and fifteen (15) requests were brought forward from the previous fiscal year. Twelve (12) requests have been carried forward to the next fiscal year.

Ninety (90) requests were completed during the current reporting period. Of these, records were fully disclosed to twenty-three (23) applicants. Records pertaining to fifty-three (53) requests were released with some portions exempted under paragraphs 13(1)(a) and (c), 14, 15(1), 16(1)(a) and (c)(iii), 16(2)(c), 18(1)(a), 19(1), 20(1)(a), (b), (c) and (d), 21(1)(a),(b) and (c), 23 and section 24 of the Act. Six (6) requests were abandoned by the applicant, records did not exist for four (4) requests, one (1) request was transferred to another federal department and three (3) were fully exempt from disclosure under sections 16(1)(c), 19(1) and 24.

2.2.2 Clients

The majority of requests, sixty-four (64), came from business/legal firms representing clients who are affected by or involved in transportation occurrences. Twenty-five (25) requests were received from media sources. Nine (9) requests were received from members of the public and four (4) requests were received from organizations. The distribution of requesters has remained steady over the past few years.

2.2.3 Processing of Requests

The number of requests received by the ATIP unit increased by five (5) formal requests over fiscal year 2002-03. Of the requests received in reporting period 2003-04, fifty (50) were for records pertaining to aviation occurrences, ten (10) for marine occurrences, five (5) for rail occurrences and one (1) for a pipeline occurrence. The remaining requests pertained to other



records held under the control of the TSB. The distribution of requests among the modes has remained steady over the past few years. The request pertaining to the pipeline occurrence is the first in several years.

Under normal circumstances, all requests are processed within the 30-day time limit as required by the legislation. Of the ninety (90) requests processed during the reporting period, forty-five (45) were completed within the 30-day time limit, thirty-seven (37) were completed between 31 and 120 days, and eight (8) took longer than 121 days to complete.

Some extensions were taken to process the ninety (90) requests that were completed during this reporting period. Eighteen (18) 30-day extensions were taken for searching and consulting with other government departments and third parties. In thirty-seven (37) cases, extensions longer than 31 days were taken to complete the processing of files. Eighty (80) of the ninety (90) requests were completed on time (i.e. within the 30-day limit or within the extension period).

During this reporting period, the ATIP section was involved in the search, preparation and review of 57,810 pages of information and the reproduction and release of 24,803 pages of information, including reprints of photographs, videotapes and CD-ROM diskettes comprising digital photographs.

The average time taken to process a request during the 2003-04 reporting period was 50.8 calendar days. This represents a 31% increase from last year's average of 38.7 calendar days to process a formal request. However, the average number of pages per request increased by 155%—from 252 pages in fiscal year 2002-03 to 642 pages for the current reporting period. Another factor contributing to longer processing times was an increase in other types of work for the ATIP unit. In addition to more formal requests, there was an increase in the number of informal requests. Further, the unit's staff were directly involved in providing a number of ATIP awareness training sessions to TSB employees.

2.3 *Fees*

In accordance with the ATIP-TSB fee policy implemented on 01 January 2001, the TSB collected \$1886.40 in application and reproduction fees. The TSB maintains the right to reduce or waive fees, and does so on a case-by-case basis according to the criteria outlined in the ATIP fees policy. Along with most departments, the TSB waives the requirement for a requester to pay fees, other than the application fee, if the amount payable is less than \$25.00.



2.4 *Informal Requests*

During the reporting period, 245 informal requests were received by the ATIP unit and a total of 13,172 pages of information were sent to requesters. This represents an increase of 82 informal requests from the last reporting year. This increase may be due, in part, to ATIP awareness training sessions provided to TSB staff during 2003-04. With a better understanding of the ATIP unit's role, staff may have been more likely to refer requesters to the unit.

The processing of requests for TSB publications was transferred in fiscal year 2001-02 to the TSB Communications Division, which now not only responds to all requests for TSB publications but encourages TSB clients to access information via the Communications Division wherever possible rather than resort to formal means via ATIP.

Many of these publications are available on the TSB web site, such as occurrence investigation reports, safety studies, statistical reports, communiqués and investigation updates. The TSB receives an average of 49,212 daily hits and an average of 1,863 daily visits to its web site (which can be accessed at www.tsb.gc.ca). During the current reporting period, the Communications Division responded to 1,357 requests for information received via the TSB web site.

Also during 2003-04, the Macro-Analysis Division responded to 632 requests for transportation occurrence database information, which is more complex than that already posted on the TSB web site. ATIP staff were consulted by the Division, when necessary, to ensure that no privileged information was inadvertently released.

The above figures for informal requests do not include those directly responded to by other areas of the TSB at Head Office or in the regional offices.

2.5 *Complaints and Investigations*

One (1) complaint, which was filed in the 2001-02 reporting year, was resolved in this reporting period. The complaint was filed with the Office of the Information Commissioner (OIC) and pertained to TSB's exemptions applied in response to a request regarding a foreign occurrence. The applicant asked for a complete copy of an aviation occurrence file investigated by the Mexican Government. The accident occurred in Toluca, Mexico, in March 2000. The TSB had an accredited representative on site. TSB authorities verbally consulted with the Mexican Government on the request. The Mexican Government indicated that under no circumstances do they release any records (including the findings of their investigation) to the public or any foreign government. The records were originally withheld pursuant to paragraph 13 (1)(a) of the *Access to Information Act*. As a result of this complaint, and because the U.S. Government was a part of the investigation team, the TSB consulted the Department of Foreign Affairs and



International Trade (DFAIT), which consulted with the U.S. Government. As a result, DFAIT recommended that the TSB release some photographs but maintain the exemption for one document. The OIC accepted this argument and the complaint was closed.

One (1) complaint, also filed in the 2001-02 reporting year with the OIC, was carried forward to this reporting period with the investigation still ongoing. The complaint addressed the TSB's exemptions, invoked pursuant to subsections 16(1) and 19(1) of the *Access to Information Act*, in response to a request for a complete copy of the investigation file on an aviation occurrence in the Republic of Maldives in December 1999. The Maldivian Government investigated the accident. The TSB had an accredited representative present at the investigation. Although some information was withheld as per the exemptions in question, more than 700 pages of records held under the control of the TSB were released to the applicant. The department was challenged on the use of exemption 16(1)(c) of the Act as it pertained to confidential draft representations. The OIC is still considering our representations on this complaint.

One (1) complaint was filed during the reporting period 2003-04. This complaint was filed with the OIC and addressed the TSB's decision to withhold all records pursuant to subsections 16(1), 19(1) and 24 of the *Access to Information Act*, in response to a request for copies of the reports made to the TSB Confidential Reporting System, Securitas, regarding air and rail occurrences for the period 01 September 2002 to 01 August 2003. In an attempt to resolve the complaint, the TSB created and provided the requester with brief summaries of each report. The information was sent to the requester and, as of the end of the current reporting period, a response from the OIC on the status of this complaint was still outstanding.

2.6 *Appeals to the Federal Court*

Four (4) applications for review by the Federal Court were made during the fiscal year 2002-2003 and carried forward to the current fiscal year. All four involved the subject of Air Traffic Control (ATC) tapes and transcripts and the application of sections 19(1) and 20(1) of the *Access to Information Act*. The four cases are pending and are expected to be reviewed at the same time. NAVCAN has been granted co-respondent status together with the TSB for these cases.

2.7 *Training and Education*

TSB ATIP officers attended various workshops organized by the Treasury Board Secretariat throughout the fiscal year. These workshops provided ATIP staff with valuable information on trends and best practices within the ATIP community, updates on recent complaints and court cases, and learning tools to help improve service standards within the field.

ATIP staff also provided awareness sessions to all TSB employees at Head Office and in the regional offices. These sessions addressed both Records Management and ATIP, and the government-wide requirements and TSB-specific practices associated with each. This approach



was extremely effective: employees first learned what constitutes government records and their obligation for managing them, and then learned about the requirements around information release and protection of privacy. The sessions were very well received and provided the ATIP office with feedback that will help improve the way service is provided to employees, as well as the public.

2.8 *Statistics Required by Treasury Board*

The statistics required by Treasury Board are found in Appendix A.



3.0 Privacy

3.1 Delegation of Authority

As required by the legislation, a delegation of authority is in place. For the purpose of the *Privacy Act*, the "head of the institution" as defined in s. 3 of the Act is the Executive Director. The Director General, Information Strategies and Analysis Directorate and the Manager, Information Management Division have been delegated powers by the Executive Director deemed appropriate for the effective administration of the programs and ensure that the TSB meets all of its obligations fairly and consistently.

3.2 Requests for Personal Information

Twelve (12) formal requests for personal information were received and completed during this reporting period, compared to 5 in the previous period. Of these, records were fully disclosed to four (4) applicants. The remaining eight (8) requests were released with some portions exempted under paragraphs 22(1)(c) and 26 of the *Privacy Act*. All twelve (12) requests were processed within the 30-day time limit, as required by the legislation.

The TSB's policy of openness allows for the disclosure of information to individuals without necessarily requiring that they invoke the *Privacy Act*. Personnel officers and support staff handle this kind of request as part of their routine duties.

The TSB remains vigilant in meeting requirements under the Act to protect personal information under its control. This is achieved by ensuring that employees are cognizant of their responsibility to protect the personal information they handle in the course of their duties and by respecting the code of fair information practice enshrined in the legislation.

3.3 Complaints and Investigations

No complaints were received during this reporting period.

3.4 Training and Education

On-the-job training is provided to ATIP staff on an ongoing basis. In 2003-04 reporting period, two staff members attended a three-day *Privacy Act* course that covered current issues within the Privacy field and provided an update on recent court cases and their implications in regard to how *Privacy Act* legislation can be used. ATIP staff also attended the Canadian Access and Privacy Association (CAPA) workshop and do so on an annual basis.



As training and education providers, ATIP staff held awareness sessions for all TSB employees (including sessions at the regional offices). These sessions provided participants with information concerning Records Management and ATIP and the requirements for both across the government. They were very well received and provided the ATIP office with feedback that will help improve the way service is provided to employees, as well as the public.

3.5 Statistics Required by Treasury Board

The statistics required by Treasury Board are found in Appendix B.



Appendix A - Report on the *Access to Information Act* 01 April 2003 - 31 March 2004

Source

Business (Legal Representatives)	64
Media	25
Public	9
Organization	4
TOTAL	102

I Requests under the *Access to Information Act*

Received during reporting period	87
Outstanding from previous period	15
TOTAL	102
Completed during reporting period	90
Carried forward	12

II Disposition of requests completed

1. All disclosed	23
2. Disclosed in part	53
3. Nothing disclosed (excluded)	—
4. Nothing disclosed (exempt)	3
5. Transferred	1
6. Unable to process	—
7. Abandoned by applicant	6
8. Treated informally	—
9. Does not exist	4
TOTAL	90



III Exemptions invoked

13(1)(a)	6
13(1)(c)	17
14	8
15(1)	10
16(1)(a)	3
16(1)(c)(iii)	24
16(2)(c)	1
18(1)(a)	1
19(1)	47
20(1)(a)	9
20(1)(b)	26
20(1)(c)	21
20(1)(d)	4
21(1)(a)	26
21(1)(b)	25
21(1)(c)	3
23	8
24	7

IV Exclusion cited

68(1)(a)	5
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V Completed time

≤30 days	45
31 to 60 days	17
61 to 120 days	20
≥121 days	8

VI Extensions	<u>≤30 days</u>	<u>≥31 days</u>
Searching	5	10
Consultation	11	—
Third Party	2	27

VII Translations

Translations requested	—
Translations prepared	—



VIII Method of Access

Copies given	76
Examination	—
Copies and examination	—
TOTAL	76

IX Fees

Net fees collected

Application fees	\$415.00
Reproduction	\$1471.80
Searching	—
Preparation	—
Computer Processing	—
TOTAL	\$1886.80

Fees Waived

	<u>Number of times</u>	<u>Fees</u>
\$25 or under	43	\$347.40
Over \$25	21	\$3107.20

X Costs

Financial (all reasons)

Salary	\$130,066
Administration (O and M)	\$ 32,062
TOTAL	\$162,128

FTE (all reasons)

FTE (decimal format)	2.60
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Appendix B - Report on the *Privacy Act* 01 April 2003 - 31 March 2004

I	Requests under the <i>Privacy Act</i>	
	Received during reporting period	12
	Outstanding from previous period	—
	TOTAL	12
	Completed during reporting period	12
	Carried forward	—
	TOTAL	12
II	Disposition of requests completed	
	1. All disclosed	4
	2. Disclosed in part	8
	3. Nothing disclosed (excluded)	—
	4. Nothing disclosed (exempt)	—
	5. Unable to process	—
	6. Abandoned by applicant	—
	7. Treated informally	—
	8. Transferred	—
	TOTAL	12



III Exemptions invoked

18(2)	—
19(1)(a)	—
(b)	—
(c)	—
(d)	—
20	—
21	—
22(1)(a)	—
(b)	—
(c)	1
22(2)	—
23(a)	—
(b)	—
24	—
25	—
26	8
27	—
28	—

IV Exclusions cited

[69(1)(a),(b) and 70 (1)(a) to 70 (1)(f)]	—
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V Completed time

≤30 days	12
31 to 60 days	—
61 to 120 days	—
≥121 days	—

VI Extensions

	<u>≤30 days</u>	<u>≥31 days</u>
Interference with operations	—	—
Consultation	—	—
Translation	—	—
TOTAL	—	—



VII	Translations	
	Translations requested	—
	Translations prepared	—
	English to French	—
	French to English	—
VIII	Method of Access	
	Copies given	12
	Examination	—
	Copies and examination	—
IX	Corrections and Notations	
	Corrections requested	—
	Corrections made	—
	Notations attached	—
X	Costs	
	<u>Financial (all reasons)</u>	
	Salary	\$6,845
	Administration (O and M)	\$1,030
	TOTAL	\$7,875
	<u>FTE utilization (all reasons)</u>	
	FTE (decimal format)	0.15

