

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

01 APRIL 2004 TO 31 MARCH 2005

Canada

Transportation Safety Board
of Canada



Bureau de la sécurité des transports
du Canada

Executive Director

Directeur exécutif

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17 August 2005

The Honourable Lucienne Robillard
President of the Queen's Privy Council for Canada
House of Commons
Ottawa, Ontario
K1A 0A6

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 2004 to 31 March 2005.

Sincerely,

A handwritten signature in black ink, appearing to read "David N. Kinsman".

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 2004 to 31 March 2005.

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.

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 purposes 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, Corporate Services, 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

Fifty-eight (58) requests were received under the *Access to Information Act* and ten (10) requests were brought forward from the previous fiscal year. Eight (8) requests have been carried forward to the next fiscal year.

Sixty (60) requests were completed during the current reporting period. Of these, records were fully disclosed to seven (7) applicants. Records pertaining to thirty-five (35) requests were released with some portions exempted under paragraphs 13(1)(a) and (c), subsection 15(1), paragraphs 16(1)(a), (b) and (c)(iii), subsection 19(1), paragraphs 20(1)(a), (b), (c) and (d), 21(1)(a), (b) and (c), and sections 23 and 24 of the Act. Six (6) requests were abandoned by the applicant, records did not exist for four (4) requests, two (2) requests were transferred to another federal department, three (3) were treated informally, and three (3) were fully exempt from disclosure under subsections 16(1) and 19(1).

2.2.2 Clients

The majority of requests, thirty-seven (37), came from business/legal firms representing clients who are affected by or involved in transportation occurrences. Twelve (12) requests were received from media sources. Eight (8) requests were received from members of the public, and one (1) request was received from an organization.

2.2.3 Processing of Requests

The number of requests received by the ATIP unit decreased by twenty-seven (27) formal requests compared with fiscal year 2003-2004.



Under normal circumstances, all requests are processed within the 30-day time limit as required by the legislation. Of the sixty (60) requests processed during the reporting period, thirty-seven (37) were completed within the 30-day limit, eighteen (18) were completed in 31 to 120 days, and five (5) took longer than 121 days to complete.

The average time taken to process a request during the 2004-2005 reporting period was 42.1 calendar days, compared with last year's average of 50.8 days.

During this reporting period, the ATIP unit was involved in the search, preparation and review of 27,676 pages of information and the reproduction and release of 11,104 pages of information, including reprints of photographs, videotapes and CD-ROM disks comprising digital photographs.

2.3 Fees

In accordance with the TSB ATIP fee policy implemented on 01 January 2001, the TSB collected \$1,374.60 in application and reproduction fees. The TSB maintains the right to waive fees, and the decision to reduce or waive fees is made on a case-by-case basis according to the criteria outlined in its ATIP fees policy. Also, like most departments, the TSB waives the requirement 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, 189 requests were received and more than 4,300 pages of information were sent to requesters.

Many of TSB's publications are available on the TSB Web site (www.tsb.gc.ca), including occurrence investigation reports, safety studies, statistical reports, communiqués and investigation updates. The TSB Web site receives a daily average of 51,206 hits and 2,311 visits. During the current reporting period, the Communications Division responded to 1,289 requests for information received via the TSB Web site.

Also during 2004-2005, the Macro-Analysis Division responded to 602 requests for transportation occurrence database information, which is more complex than the information 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 requests 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, filed in the 2001-2002 reporting year with the Office of the Information Commissioner of Canada (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 2003-2004. This complaint was filed with the OIC and addressed the TSB's decision to withhold all records pursuant to subsections 16(1) and 19(1) and section 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 fiscal year 2002-2003 and carried forward to the current fiscal year. All four involved the subject of Air Traffic Control tapes and transcripts and the application of subsections 19(1) and 20(1) of the *Access to Information Act*. The four cases were reviewed at the same time. Together with the TSB, NAV CANADA was granted co-respondent status for these cases.

On 18 March 2005, the four (4) applications were dismissed in their entirety. The Information Commissioner is appealing the decision.

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.

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 purposes of the *Privacy Act*, the “head of the institution” as defined in section 3 of the Act is the Executive Director. The Director, Corporate Services, and the Manager, Information Management Division, have been delegated powers by the Executive Director deemed appropriate for the effective administration of the programs and to ensure that the TSB meets all its obligations fairly and consistently.

3.2 Requests for Personal Information

Two (2) formal requests for personal information were received and completed during this reporting period, compared with twelve (12) in the previous period. Of these, records were fully disclosed to one (1) applicant. The other one (1) request was released with some portions exempted under paragraph 22(1)(c) and section 26 of the *Privacy Act*.

The TSB’s policy of openness allows for the disclosure of information to individuals without necessarily requiring that they invoke the *Privacy Act*. Human Resources 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. ATIP staff attended the Canadian Access and Privacy Association workshop and do so on an annual basis.

3.5 Statistics Required by Treasury Board

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

4.0 Appendices

Appendix A – Report on the Access to Information Act 01 April 2004 to 31 March 2005

Source

| | |
|---|-----------|
| Business (legal representatives) | 37 |
| Media | 12 |
| Public | 8 |
| Organization | 1 |
| TOTAL | 58 |
| I Requests under the Access to Information Act | |
| Received during reporting period | 58 |
| Outstanding from previous period | 10 |
| TOTAL | 68 |
| Completed during reporting period | 60 |
| Carried forward | 8 |
| II Disposition of requests completed | |
| 1. All disclosed | 7 |
| 2. Disclosed in part | 35 |
| 3. Nothing disclosed (excluded) | — |
| 4. Nothing disclosed (exempt) | 3 |
| 5. Transferred | 2 |
| 6. Unable to process | 4 |
| 7. Abandoned by applicant | 6 |
| 8. Treated informally | 3 |
| 9. Does not exist | — |
| TOTAL | 60 |



| | | | |
|------------|--------------------------|-----------------|-----------------|
| III | Exemption invoked | | |
| | 13(1)(a) | 7 | |
| | 13(1)(c) | 7 | |
| | 15(1) | 1 | |
| | 16(1)(a) | 2 | |
| | 16(1)(b) | 1 | |
| | 16(1)(c)(iii) | 16 | |
| | 19(1) | 39 | |
| | 20(1)(a) | 16 | |
| | 20(1)(b) | 17 | |
| | 20(1)(c) | 12 | |
| | 20(1)(d) | 1 | |
| | 21(1)(a) | 19 | |
| | 21(1)(b) | 14 | |
| | 21(1)(c) | 2 | |
| | 23 | 4 | |
| | 24 | 1 | |
| IV | Exclusion cited | — | |
| V | Completed time | | |
| | ≤30 days | 37 | |
| | 31 to 60 days | 6 | |
| | 61 to 120 days | 12 | |
| | ≥121 days | 5 | |
| VI | Extensions | <u>≤30 days</u> | <u>≥31 days</u> |
| | Searching | 3 | 7 |
| | Consultation | 4 | 2 |
| | Third party | 2 | 8 |
| VII | Translation | | |
| | Translation requested | — | |
| | Translation prepared | — | |



VIII Method of Access

| | |
|------------------------|-----------|
| Copies given | 45 |
| Examination | — |
| Copies and examination | — |
| TOTAL | 45 |

IX Fees

Net fees collected

| | |
|---------------------|-------------------|
| Application | \$245.00 |
| Reproduction | \$1,129.60 |
| Searching | — |
| Preparation | — |
| Computer processing | — |
| TOTAL | \$1,374.60 |

Fees Waived

| | <u>Number of times</u> | <u>Fees</u> |
|---------------|----------------------------|-------------|
| \$25 or under | 3 | \$15.00 |
| Over \$25 | 1 | \$77.60 |

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 |
|----------------------|------|



Appendix B – Report on the *Privacy Act* 01 April 2004 to 31 March 2005

| | | |
|-----------|--|----------|
| I | Requests under the <i>Privacy Act</i> | |
| | Received during reporting period | 2 |
| | Outstanding from previous period | — |
| | TOTAL | 2 |
| | Completed during reporting period | 2 |
| | Carried forward | — |
| | TOTAL | 2 |
| II | Disposition of requests completed | |
| | 1. All disclosed | 1 |
| | 2. Disclosed in part | 1 |
| | 3. Nothing disclosed (excluded) | — |
| | 4. Nothing disclosed (exempt) | — |
| | 5. Unable to process | — |
| | 6. Abandoned by applicant | — |
| | 7. Treated informally | — |
| | 9. Transferred | — |
| | TOTAL | 2 |



III Exemption invoked

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

IV Exclusion cited

| | |
|---|---|
| [69(1)(a),(b) and 70(1)(a) to 70(1)(f)] | — |
|---|---|

V Completed time

| | |
|----------------|---|
| ≤30 days | 1 |
| 31 to 60 days | 1 |
| 61 to 120 days | — |
| ≥121 days | — |

VI Extensions

| | <u>≤30 days</u> | <u>≥31 days</u> |
|------------------------------|-----------------|-----------------|
| Interference with operations | — | 1 |
| Consultation | — | — |
| Translation | — | — |
| TOTAL | — | 1 |



| | | |
|-------------|--------------------------------------|----------------|
| VII | Translation | |
| | Translation requested | — |
| | Translation prepared | — |
| | English to French | — |
| | French to English | — |
| VIII | Method of Access | |
| | Copies given | 2 |
| | 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 |

