

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 2005 TO 31 MARCH 2006**

**Canada**



Transportation Safety Board  
of Canada



Bureau de la sécurité des transports  
du Canada

Executive Director

Directeur exécutif

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The Honourable Michael D. Chong  
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 2005 to 31 March 2006.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerard McDonald".

Gerard McDonald

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 2005 to 31 March 2006.

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 General, 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**

Sixty-six (66) requests were received under the *Access to Information Act* and eight (8) requests were brought forward from the previous fiscal year. Twenty-three (23) requests have been carried forward to the next fiscal year.

Fifty-one (51) requests were completed during the current reporting period. Of these, records were fully disclosed to eight (8) applicants. Records pertaining to twenty-six (26) requests were released with some portions exempted under paragraphs 13 and 14, subsection 15(1), paragraph 16(1)(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. One (1) request was abandoned by the applicant, records did not exist for six (6) requests, three (3) requests were transferred to another federal department, three (3) were treated informally, and four (4) were fully exempt from disclosure under subsections 16(1) and 19(1).

#### **2.2.2 Clients**

The majority of requests, thirty-one (31), came from business/legal firms representing clients who are affected by or involved in transportation occurrences. Twenty-four (24) requests were received from media sources. Eleven (11) requests were received from members of the public.

#### **2.2.3 Processing of Requests**

The number of requests received by the ATIP unit increased by eight (8) formal requests compared with fiscal year 2004-2005.

The ATIP unit makes every possible effort to process all requests within the 30-day time limit as required by the legislation. Of the fifty-one (51) requests processed during the reporting period, twenty-six (26) were completed within the 30-day limit, twenty (20) 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 2005-2006 reporting period was 53 calendar days, compared with last year's average of 42.1 days. Factors affecting average processing time include number of requests received, number of pages reviewed and number and type of consultations required during the reporting period.

During this reporting period, the ATIP unit was involved in the search, preparation and review of 21,039 pages of information and the reproduction and release of 13,243 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 \$2,650.60 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, 145 informal requests were received by the ATIP unit and more than 2,780 pages of information were sent to requesters. These figures do not include requests directly responded to by the Communications Division, the Macro-Analysis Division and other areas of the TSB at Head Office or in the regional offices.

In addition, many of the TSB's publications are available on the TSB Web site ([www.tsb.gc.ca](http://www.tsb.gc.ca)), including investigation reports, safety studies, statistical reports, communiqués and investigation updates.

### **2.5 Complaints and Investigations**

One (1) complaint, which was filed in the 2001-2002 reporting year, was resolved in this reporting period. The complaint was filed with the Office of the Information Commissioner of Canada (OIC), and pertained to the TSB's exemptions applied in response to a request regarding a foreign occurrence. The complaint addressed the TSB's exemptions, invoked pursuant to subsections 16(1) and 19(1) of the *Access to Information Act*. The applicant had asked for a complete copy of the investigation file on an aviation occurrence in the Republic of Maldives in December 1999. The Maldivian government had investigated the accident, with a TSB 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 TSB revisited the application of those exemptions. This review resulted in additional records being released to the applicant, with some remaining information withheld under the original provisions. The OIC was satisfied that the remaining information qualified for exemptions under paragraph 16(1)(c) and subsection 19(1) and that discretion was properly exercised. With the release of the additional information, the OIC's view is that all records to which the applicant is entitled under the Act have been provided.

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. As of the end of the current reporting period, a response from the OIC on the status of this complaint was still outstanding.

One (1) complaint was filed during the reporting period 2004-2005. This complaint was filed with the OIC and pertained to the TSB's exemption applied, pursuant to subsection 16(1), in response to a request for a Director of Investigations briefing to the Board. At the time of the request, the records withheld were related to an ongoing investigation. When the TSB met with the OIC, the investigation had been completed and the investigation report had been released to the public. A copy of the withheld records were provided to the applicant. 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 has appealed 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 General, 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***

One (1) formal request for personal information was received and completed during this reporting period, compared with two (2) in the previous period. No relevant records existed for that request.

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 2005 to 31 March 2006

#### Source

Business (legal representatives)	31
Media	24
Public	11
Organization	0
<b>TOTAL</b>	<b>66</b>
<b>I Requests under the Access to Information Act</b>	
Received during reporting period	66
Outstanding from previous period	8
<b>TOTAL</b>	<b>74</b>
Completed during reporting period	51
Carried forward	23
<b>II Disposition of requests completed</b>	
1. All disclosed	8
2. Disclosed in part	26
3. Nothing disclosed (excluded)	—
4. Nothing disclosed (exempt)	4
5. Transferred	3
6. Unable to process	6
7. Abandoned by applicant	1
8. Treated informally	3
9. Does not exist	—
<b>TOTAL</b>	<b>51</b>



<b>III</b>	<b>Exemption invoked</b>		
	13(1)(a)	2	
	13(1)(c)	3	
	14	1	
	15(1)	2	
	16(1)(c)(iii)	18	
	19(1)	29	
	20(1)(a)	20	
	20(1)(b)	16	
	20(1)(c)	13	
	20(1)(d)	4	
	21(1)(a)	9	
	21(1)(b)	8	
	21(1)(c)	1	
	23	3	
	24	2	
<b>IV</b>	<b>Exclusion cited</b>	—	
<b>V</b>	<b>Completed time</b>		
	≤30 days	26	
	31 to 60 days	9	
	61 to 120 days	11	
	≥121 days	5	
<b>VI</b>	<b>Extensions</b>	<u>≤30 days</u>	<u>≥31 days</u>
	Searching	7	4
	Consultation	0	6
	Third party	1	12
<b>VII</b>	<b>Translation</b>		
	Translation requested	—	
	Translation prepared	—	



**VIII Method of Access**

Copies given	34
Examination	—
Copies and examination	1
<b>TOTAL</b>	<b>35</b>

**IX Fees**

Net fees collected

Application	\$275.00
Reproduction	\$2,375.60
Searching	—
Preparation	—
Computer processing	—
<b>TOTAL</b>	<b>\$2,650.60</b>

Fees Waived

	<u>Number of times</u>	<u>Fees</u>
\$25 or under	2	\$10.00
Over \$25	0	\$0

**X Costs**

Financial (all reasons)

Salary	\$155,102
Administration (O and M)	\$10,000
<b>TOTAL</b>	<b>\$165,102</b>

FTE (all reasons)

FTE (decimal format)	2.75
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## Appendix B – Report on the *Privacy Act* 01 April 2005 to 31 March 2006

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

<b>III</b>	<b>Exemption invoked</b>		
	18(2)	—	
	19(1)(a)	—	
	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	—	
<b>IV</b>	<b>Exclusion cited</b>		
	[69(1)(a), (b) and 70(1)(a) to 70(1)(f)]	—	
<b>V</b>	<b>Completed time</b>		
	≤30 days	1	
	31 to 60 days	—	
	61 to 120 days	—	
	≥121 days	—	
<b>VI</b>	<b>Extensions</b>	<u>≤30 days</u>	<u>≥31 days</u>
	Interference with operations	—	—
	Consultation	—	—
	Translation	—	—
	<b>TOTAL</b>	—	—

<b>VII</b>	<b>Translation</b>	
	Translation requested	—
	Translation prepared	—
	English to French	—
	French to English	—
<b>VIII</b>	<b>Method of Access</b>	
	Copies given	2
	Examination	—
	Copies and examination	—
<b>IX</b>	<b>Corrections and Notations</b>	
	Corrections requested	—
	Corrections made	—
	Notations attached	—
<b>X</b>	<b>Costs</b>	
	<u>Financial (all reasons)</u>	
	Salary	\$6,845
	Administration (O and M)	\$1,030
	<b>TOTAL</b>	<b>\$7,875</b>
	<u>FTE utilization (all reasons)</u>	
	FTE (decimal format)	0.15

