

Transportation Safety Board
of Canada



Bureau de la sécurité des transports
du Canada

**ANNUAL REPORT TO PARLIAMENT
ON THE APPLICATION OF
THE *ACCESS TO INFORMATION ACT***

1 APRIL 2012 TO 31 MARCH 2013

Canada

Transportation Safety Board
of Canada



Bureau de la sécurité des transports
du Canada

Chair

Présidente

Place du Centre
200 Promenade du Portage
4th Floor
Gatineau, Quebec
K1A 1K8

The Honourable Peter Van Loan, P.C., M.P.
Leader of the Government in the House of Commons
House of Commons
Ottawa, Ontario
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Honourable Minister:

In accordance with section 72 of the *Access to Information Act*, the Transportation Safety Board of Canada is pleased to submit to Parliament this report on its activities relating to the application of the *Act* for the period 1 April 2012 to 31 March 2013.

Sincerely,

Wendy A. Tadros

Canada

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1.0 Introduction

Pursuant to section 72 of the *Access to Information Act*, the Transportation Safety Board of Canada (TSB) is pleased to table in Parliament this report on its activities relating to the application of the *Act*. The report covers the period from 1 April 2012 to 31 March 2013.

The purpose of the [Access to Information Act](#) is to provide a right of access to information in records under the control of government institutions such as the TSB.

The [Canadian Transportation Accident Investigation and Safety Board Act](#) provides the legal framework that governs TSB activities. Our mandate is to advance transportation safety in the marine, pipeline, rail and air modes of transportation by:

- conducting independent investigations, including public inquiries when necessary, into selected transportation occurrences in order to make findings as to their causes and contributing factors;
- identifying safety deficiencies, as evidenced by transportation occurrences;
- making recommendations designed to eliminate or reduce any such safety deficiencies; and
- reporting publicly on our investigations and on the findings in relation thereto.

More information on the TSB is available at www.bst-tsb.gc.ca.

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 practices expressed in the [Privacy Act](#).

2.0 ATIP Office Organization

The ATIP Office operates within the Information Management (IM) Division of Corporate Services. This ensures effective integration of ATIP requirements into IM planning, policy development, records management systems and practices, and training and awareness activities. The office consists of four full-time permanent employees and one part-time employee: the coordinator, who is also responsible for the information management function and dedicates approximately half of his time to ATIP, three analysts, and one administrative assistant to support the program.

The ATIP Office administers both formal requests made pursuant to the *Act* and informal requests, and provides functional advice and guidance to managers and employees concerning the release of information and protection of privacy. In addition, ATIP analysts are required to exhibit strong consultative and negotiating skills when meeting with requesters, TSB personnel and representatives of the Office of the Information Commissioner.

The majority of access to information requests made to the TSB pertains to transportation occurrences. Such requests present many challenges to the TSB ATIP Office. In many cases, for example, requests are for a copy of the complete investigation file. Depending on the nature and scope of the investigation, there may be many thousands of often complex records in a variety of media. In addition, the status of the investigation itself may affect the availability of records – for example, early on in the investigation when investigators are still in the field collecting information. As well, the status of the investigation can also affect when certain information may be released under the *Act*. As considerable expertise is required in the processing of requests, the TSB ATIP function is organized so that ATIP analysts are responsible for centrally reviewing and severing all records. This requires that the analysts establish and maintain good working relationships with the offices of primary interest (OPI) for each request and to remain current with the operations of the various Investigative Modes and their particular activities.

3.0 *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 Chair. The Chief Operating Officer, the Director General Corporate Services and the Manager, Information Management Division have been delegated powers by the Chair deemed appropriate for the effective administration of the *Act* and to ensure that the TSB meets all its obligations fairly and consistently.

A copy of the Delegation Order is attached as Appendix A.

4.0 *Disposition of Requests*

4.1 *Formal Requests*

Fifty-three (53) new requests were received under the *Access to Information Act* in 2012-13 and thirty-seven (37) requests were brought forward from the previous fiscal year, for a total of ninety (90) active requests. Of these, sixty-six (66) requests were completed during the current reporting period, and twenty four (24) were carried forward to the next fiscal year.

Of the sixty-six (66) requests completed during the current reporting period, records were fully disclosed to eleven (11) applicants. Records pertaining to forty-four (44) requests were released with some portions exempted under paragraphs 13(1)(a), 13(1)(c) and 14(a); subparagraph 16(1)(a)(i), and paragraphs 6(1)(c) and 16(2)(c); subsections 16(3) and 19(1); paragraphs 20(1)(a), (b), (c) and (d); paragraphs 21(1)(a), (b), (c) and (d); sections 22, 23, and subsection 24(1) of the *Act*. Records were all exempted in the case of two (2) requests. Records did not exist for two (2) requests, while four (4) requests were abandoned by their requester. Two (2) requests were transferred to another federal government institution and only one (1) was treated informally.

4.2 *Clients*

The majority of new requests, thirty-nine (39) came from business/legal firms representing clients affected by or involved in transportation occurrences. Four (4) requests were received from media sources. Nine (9) requests were received from members of the public and only one (1) from another organization.

4.3 *Processing of Requests*

The number of new requests received by the ATIP Office in 2012-13 decreased by eleven (11) or 17% compared with the number received in 2011-2012. The number of completed requests in 2012-13 increased by eleven (11) or 20% more compared with 2011-12.

The ATIP Office makes every possible effort to process requests within the 30-day time limit as required by the legislation. However, many of the requests received by the TSB involve a large volume of records and also pertain to third-party information, which requires consultation with the third parties before the information can be released. In addition, the ATIP office is facing recurrent organizational challenges due to staff turnover. Similar to the previous year, the TSB engaged temporary staff in 2012-13, to reduce the backlog of requests carried forward from 2011-12. A considerable amount of training and oversight was required during 2012-13 in order to ensure that requests were handled appropriately and consistently by the temporary staff as well as two new ATIP analysts. These measures significantly reduced the productivity in the ATIP Office given the learning curve relevant to TSB operations.

Of the sixty-six (66) requests processed during the reporting period, twenty-four (24) were completed within the 30-day limit, four (4) were completed within 31 to 60 days, eight (8) were completed within 61 to 120 days, eight (8) were completed within 121 to 180 days, nine (9) were completed within 181 to 365 days and thirteen (13) were completed in over 365 days. The average time taken to process a request during the 2012-13 reporting period was 178.8 calendar days, compared with last year's average of 164.8 calendar days. This processing time is primarily explained by the high number of complex requests, thirty-seven (37), from previous years that were completed in 2012-13.

During this period, the ATIP Office was involved in the search, preparation and review of 167,448 pages of information and the reproduction and release of 82,997 pages of information, including reprints of photographs, videotapes and CD-ROM disks containing photographs. Last year, 61,483 pages were reviewed and 23,902 pages were released. As compared to the last reporting period, we see a significant increase in the number of pages reviewed: 172%, and in the number of pages disclosed: 247%, during this period.

4.4 *Fees and Costs*

In accordance with the TSB ATIP fee policy implemented on January 1, 2001, the TSB collected \$310.00 in fees during 2012-13. 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. Like most departments, the TSB waives the requirement to pay fees, other than the application fee, if the amount payable is less than \$25.

During 2012–13, the ATIP Office incurred an estimated \$323,633 in costs to administer the *Access to Information Act*. These costs include salaries, overtime, goods and services, and professional services contracts for temporary help staff but do not include the resources expended by other areas of the TSB to meet the requirements of the *Act*.

4.5 *Other Requests*

The ATIP Office received thirty-three (33) consultation requests from other departments involving TSB records in 2012–13, compared with sixteen (16) in 2011–12.

Fifty (50) new informal requests were also received during the reporting period, compared with one hundred and four (104) last year. The ATIP Office reviewed 4,452 pages of information and released 3,399 pages to requesters, compared with 13,747 pages reviewed and 12,441 pages released last year. These figures do not include other information requests responded to directly by the Communications Branch, the Macro-Analysis group in the Operational Services Branch, and other areas of the TSB at Head Office and in the regional offices.

In addition, many publications – such as investigation reports, safety studies, statistical reports, communiqués, investigation updates, and annual reports, including ATIP reports to Parliament – are readily available on the TSB website.

5.0 *Training and Education*

In terms of internal training activities, the TSB has an orientation program in place for new employees. The ATIP Office prepared and delivered two (2) ATIP awareness sessions in 2012–13 to twenty-one (21) employees from Head Office and three regional offices. The ATIP office also provides advice and guidance upon request to individuals and small groups of employees on an informal basis.

Given the responsibilities and knowledge requirements of the TSB ATIP Office, there is a long learning curve for its staff. Continuous on-the-job training is provided to ATIP staff to ensure sound and current knowledge of ATIP requirements and procedures, as well as TSB operations. In this context, ATIP staff attended the annual Canadian Access and Privacy Association workshop, as well as 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 tools to help improve service standards within the field.

6.0 *Policies, Guidelines and Procedures*

There were no significant revisions to access to information policies or guidelines implemented by the TSB during the reporting period.

7.0 *Complaints and Investigations*

One new complaint was received from the Office of the Information Commissioner (OIC) and resolved in the 2012-13 fiscal year.

The complaint alleged that the TSB failed to respond to an access request within the time frames set out by the *Access to Information Act* (Act). The OIC determined that the TSB claimed a notice of a 30-day extension pursuant to paragraph 9(1)(b) which was outside of the legislated due date, due to a misinterpretation of the Act. As a result, the extension was not valid, placing the TSB in a deemed refusal position. It was clear for the OIC that the TSB had failed in its duty to assist when it delayed processing the request. The OIC recorded the complaint as well founded and resolved, without having made recommendations.

Two other complaints with the OIC from years 2009-10 and 2010-11 were resolved during this reporting year.

The first complaint was received in November 2009, and objected the TSB's decision to withhold some records pursuant to Section 16(1) and Section 19(1) of the Act in response to a request for copies of the reports made and documents concerning an occurrence still under investigation. As the investigation report was made public on October 2010, the TSB subsequently released additional information to the requester in July 2011 and advised the OIC. Finally, in August 2012, following a recommendation from the OIC, both the complainant and the TSB agreed to consider this complaint as settled.

The second complaint, received in August 2010, relates to a list of requested documents concerning an occurrence in 1996. The requester alleges that certain documents should have been made available by the TSB. After meeting with the OIC investigator, an exhaustive search was conducted, wherein additional documents were identified which had been withheld pursuant to Section 19(1) of the Act. Subsequently it was advised by the OIC that pursuant to Section 19(2) of the Act, an effort should be made to obtain permission for the release of a witness statement. The TSB acted and obtained permission from the witness to release his statement on tape and in a written summary. The OIC was satisfied with all the TSB's representations and responses to the requester, and considered the complaint to be well founded and resolved without recommendations.

Finally, one complaint with the OIC from year 2011-12 is still outstanding. This complaint alleges that the TSB has improperly applied exemptions, so as to unjustifiably deny access to records, or portions thereof, requested under the Act; and that the institution failed to provide all records responsive to the request. The complainant is also questioning TSB's processing of

the request under the *Act*. However, as of March 31, 2013, the OIC had not yet assigned an investigator nor requested any documentation related to this complaint.

8.0 *Appeals to the Courts*

There were no appeals before the Courts in the current reporting period.

9.0 *Statistics Required by Treasury Board*

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

Appendix A – Delegation Order

Transportation Safety Board
of Canada



Bureau de la sécurité des transports
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DESIGNATION ORDERS

Access to Information Act

The Chair of the Transportation Safety Board of Canada, pursuant to Section 73 of the *Access to Information Act*, hereby designates the persons holding the positions of Chief Operating Officer, Director General, Corporate Services and Manager, Information Management Division, Corporate Services, or the persons occupying on an acting basis those positions, to exercise the powers and perform the duties and functions of the Chair as the head of a government institution under the *Act*.

A handwritten signature in black ink that reads 'Wendy A. Tadros'.

Wendy A. Tadros
Chair

Date: JAN 25 2010

Canada

Appendix B – Statistical Report

Statistical Report on the *Access to Information Act*

Name of Institution: Transportation Safety Board of Canada

Reporting Period: 2012-04-01 to 2013-03-31

PART 1 - Requests under the Access to Information Act

1.1 Number of Requests

	Number of Requests
Received during reporting period	53
Outstanding from previous reporting period	37
Total	90
Closed during reporting period	66
Carried over to next reporting period	24

1.2 Sources of Request

Source	Number of Requests
Media	4
Academia	0
Business (Private Sector)	39
Organization	1
Public	9
Total	53

PART 2 - Requests closed during the reporting period

2.1 Disposition and completion time

Disposition of requests	Completion Time							Total
	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	
All disclosed	1	6	1	1	1	0	1	11
Disclosed in part	1	6	3	7	7	8	12	44
All exempted	0	2	0	0	0	0	0	2
All excluded	0	0	0	0	0	0	0	0
No records exist	1	1	0	0	0	0	0	2
Request transferred	2	0	0	0	0	0	0	2
Request abandoned	1	2	0	0	0	1	0	4
Treated informally	1	0	0	0	0	0	0	1
Total	7	17	4	8	8	9	13	66

2.2 Exemptions

Section	Number of requests	Section	Number of requests	Section	Number of requests	Section	Number of requests
13(1)(a)	2	16(2)(a)	0	18(a)	0	20.1	0
13(1)(b)	0	16(2)(b)	0	18(b)	0	20.2	0
13(1)(c)	2	16(2)(c)	3	18(c)	0	20.4	0
13(1)(d)	0	16(3)	2	18(d)	0	21(1)(a)	6
13(1)(e)	0	16.1(1)(a)	0	18.1(1)(a)	0	21(1)(b)	10
14(a)	1	16.1(1)(b)	0	18.1(1)(b)	0	21(1)(c)	6
14(b)	0	16.1(1)(c)	0	18.1(1)(c)	0	21(1)(d)	2
15(1)-I.A.*	0	16.1(1)(d)	0	18.1(1)(d)	0	22	2
15(1)-Def.*	0	16.2(1)	0	19(1)	47	22.1(1)	0
15(1)-S.A.*	0	16.3	0	20(1)(a)	13	23	3
16(1)(a)(i)	2	16.4(1)(a)	0	20(1)(b)	25	24(1)	9
16(1)(a)(ii)	0	16.4(1)(b)	0	20(1)(b.1)	0	26	0
16(1)(a)(iii)	0	16.5	0	20(1)(c)	17		
16(1)(b)	0	17	0	20(1)(d)	4		
16(1)(c)	36						
16(1)(d)	0						

* I.A.: International Affairs

Def.: Defence of Canada

S.A.: Subversive Activities

2.3 Exclusions

Section	Number of requests	Section	Number of requests	Section	Number of requests
68(a)	0	69(1)(a)	0	69(1)(g) re (a)	0
68(b)	0	69(1)(b)	0	69(1)(g) re (b)	0
68(c)	0	69(1)(c)	0	69(1)(g) re (c)	0
68.1	0	69(1)(d)	0	69(1)(g) re (d)	0
68.2(a)	0	69(1)(e)	0	69(1)(g) re (e)	0
68.2(b)	0	69(1)(f)	0	69(1)(g) re (f)	0
				69.1(1)	0

2.4 Format of information released

Disposition	Paper	Electronic	Other formats
All disclosed	7	4	0
Disclosed in part	6	37	1
Total	13	41	1

2.5 Complexity

2.5.1 Relevant pages processed and disclosed

Disposition of requests	Number of pages processed	Number of pages disclosed	Number of requests
All disclosed	2667	2586	11
Disclosed in part	163083	80411	44
All exempted	1698	0	2
All excluded	0	0	0
Request Abandoned	0	0	4

2.5.2 Relevant pages processed and disclosed by size of requests

Disposition	Less than 100 pages processed		101-500 pages processed		501-1000 pages processed		1001-5000 pages processed		More than 5000 pages processed	
	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed	Number of requests	Pages disclosed
All disclosed	8	117	1	266	1	747	1	1456	0	0
Disclosed in part	5	153	9	1462	4	2186	13	18103	13	58507
All exempted	1	0	0	0	0	0	1	0	0	0
All excluded	0	0	0	0	0	0	0	0	0	0
Abandoned	4	0	0	0	0	0	0	0	0	0
Total	18	270	10	1728	5	2933	15	19559	13	58507

2.5.3 Other complexities

Disposition	Consultation required	Assessment of fees	Legal advice sought	Other	Total
All disclosed	1	0	0	6	7
Disclosed in part	29	0	0	26	55
All exempted	0	0	0	1	1
All excluded	0	0	0	0	0
Abandoned	0	2	0	2	4
Total	30	2	0	35	67

2.6 Deemed refusals

2.6.1 Reasons for not meeting statutory deadline

Number of requests closed past the statutory deadline	Principal Reason			
	Workload	External consultation	Internal consultation	Other
33	30	3	0	0

2.6.2 Number of days past deadline

Number of days past deadline	Number of requests past deadline where no extension was taken	Number of requests past deadline where an extension was taken	Total
1 to 15 days	3	5	8
16 to 30 days	1	0	1
31 to 60 days	1	2	3
61 to 120 days	0	1	1
121 to 180 days	1	5	6
181 to 365 days	5	4	9
More than 365 days	2	3	5
Total	13	20	33

2.7 Request for translation

Translation Requests	Accepted	Refused	Total
English to French	0	0	0
French to English	0	0	0
Total	0	0	0

PART 3 - Extensions

3.1 Reasons for extensions and disposition of requests

Disposition of requests where an extension was taken	9(1)(a) Interference with operations	9(1)(b) Consultation		9(1)(c) Third party notice
		Section 69	Other	
All Disclosed	3	0	0	1
Disclosed in part	21	0	7	4
All exempted	1	0	0	0
All excluded	0	0	0	0
No records exist	0	0	0	0
Request abandoned	0	0	0	0
Total	25	0	7	5

3.2 Length of extensions

Length of extensions	9(1)(a) Interference with operations	9(1)(b) Consultation		9(1)(c) Third party notice
		Section 69	Other	
30 days or less	1	0	0	0
31 to 60 days	5	0	6	5
61 to 120 days	11	0	1	0
121 to 180 days	1	0	0	0
181 to 365 days	7	0	0	0
365 days or more	0	0	0	0
Total	25	0	7	5

PART 4 - Fees

Fee Type	Fee Collected		Fee Waived or Refunded	
	Number of requests	Amount	Number of requests	Amount
Application	61	\$ 310.00	1	\$ 5.00
Search	0	\$ 0.00	0	\$ 0.00
Production	0	\$ 0.00	0	\$ 0.00
Programming	0	\$ 0.00	0	\$ 0.00
Preparation	0	\$ 0.00	0	\$ 0.00
Alternative format	0	\$ 0.00	0	\$ 0.00
Reproduction	0	\$ 0.00	0	\$ 0.00
Total	61	\$ 310.00	1	\$ 5.00

PART 5 - Consultations received from other institutions and organizations

5.1 Consultations received from other government institutions and organizations

Consultations	Other government institutions	Number of pages to review	Other organizations	Number of pages to review
Received during the reporting period	33	388	1	18
Outstanding from the previous reporting period	1	15	0	0
Total	34	403	1	18
Closed during the reporting period	31	356	1	18
Pending at the end of the reporting period	3	47	0	0

5.2 Recommendations and completion time for consultations received from other government institutions

Recommendations	Number of days required to complete consultation requests							Total
	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	
Disclose entirely	11	2	1	1	0	0	0	15
Disclose in part	9	3	1	0	0	0	0	13
Exempt entirely	0	0	0	0	0	0	0	0
Exclude entirely	2	0	0	0	0	0	0	2
Consult other institution	1	0	0	0	0	0	0	1
Other	0	0	0	0	0	0	0	0
Total	23	5	2	1	0	0	0	31

5.3 Recommendations and completion time for consultations received from other organizations

Recommendations	Number of days required to complete consultation requests							Total
	1 to 15 days	16 to 30 days	31 to 60 days	61 to 120 days	121 to 180 days	181 to 365 days	More than 365 days	
Disclose entirely	1	0	0	0	0	0	0	1
Disclose in part	0	0	0	0	0	0	0	0
Exempt entirely	0	0	0	0	0	0	0	0
Exclude entirely	0	0	0	0	0	0	0	0
Consult other institution	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0
Total	1	0	0	0	0	0	0	1

PART 6 - Completion time of consultations on Cabinet confidences

Number of days	Number of responses received	Number of responses received past deadline
1 to 15	0	0
16 to 30	0	0
31 to 60	0	0
61 to 120	0	0
121 to 180	0	0
181 to 365	0	0
More than	0	0
Total	0	0

Part 7 - Resources related to the Access to Information Act

7.1 Costs

Expenditures		Amount
Salaries		\$ 239 695.00
Overtime		\$ 10 603.00
Goods and Services		\$ 73 335.00
<input type="checkbox"/> Professional services contracts	\$ 43 904.00	
<input type="checkbox"/> Other	\$ 29 431.00	
Total		\$ 323 633.00

7.2 Human Resources

Resources	Dedicated full-time to ATI activities	Dedicated part-time to ATI activities	Total
Full-time employees	0.00	3.56	3.56
Part-time and casual employees	0.00	0.00	0.00
Regional staff	0.00	0.00	0.00
Consultants and agency personnel	0.00	0.23	0.23
Students	0.00	0.00	0.00
Total	0.00	3.79	3.79

Statistical Report on the *Access to information Act* – 2012-13

Appendix A

Previously released ATI package released informally

Institution	Number of informal releases of previously released ATI packages
Transportation Safety Board of Canada	4