

Chief FOIA Officer Report for the National Transportation Safety Board
March 4, 2011

I. Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

1. Description

As an independent accident investigative agency it is important to maintain our integrity, which we accomplish by being open with the public and transparent in the release of information. We continue to focus on limiting the use of the (b)(5) exemption, and redact only as much as is absolutely necessary to protect our deliberative privilege, rather than withholding entire documents or even significant portions of them.

"Transparency and open government are key components of NTSB's agenda to improve transportation safety." A Twitter account and a YouTube channel have been established in order to broaden our communication efforts by venturing into social media. The President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been incorporated into our agency-wide annual FOIA training and into specific modal training opportunities. All of our FOIA staff and our General Counsel advisor have attended OIP's training regarding the Memorandum and Guidelines, and in our agency of approximately 400 employees, we have conducted training regarding those documents on approximately six occasions, and have reached virtually 100% of our personnel. We have made discretionary release of a great deal of otherwise exempt information, primarily in the area of investigator notes and communications. As indicated above, the primary exemption that would have applied is (b)(5). We review records to determine whether discretionary releases are possible primarily by analyzing whether release would harm our investigative procedures.

The NTSB's internal guidance has been modified in that the presumption of openness is the very first looking glass that we employ when looking at responsive documents. For our small agency, this is particularly easy to do, in that our FOIA staff is comprised of only two individuals, each of whom has now been programmed to look at releasable documents through an "openness in government" lens. Whereas our previous process was to first consider how we might go about exempting information from release, our current review, under the openness standard, is to first consider how we might discretionarily release otherwise exempt information. We determine to withhold information only when we believe that its release would harm our investigative independence (or even an ongoing investigation), or our ability to conduct effective investigations in the future.

2. Disclosure Comparisons

Year	Full Grants	Partial Grants	Withheld in Full
2009	41	72	119
2010	51	72	83

II. Steps Taken to Ensure that Your Agency has an Effective System In Place for Responding to Requests

In order to ensure that our system for responding to requests is effective and efficient, we have implemented an electronic FOIA database in order to enable our procedures regarding openness and transparency. With a FOIA staff of only two personnel, this system enables us to effectively and efficiently process requests and responses, and even to respond to queries regarding our processing. The recent request from the Congressional oversight committee is a key example of this. For the most part, we were able to push a button in order to produce a report that was provided to Chairman Issa and his committee. Our FOIA team and our Open Government team are in the same division, making interaction with each other smooth, coordinated, and efficient. While our responses to FOIA requests is timely, efficient, and effective, we are always looking for ways to improve the process. The fact is that FOIA staffing is probably not adequate and needs to be further explored. Last year we contracted for temporary administrative support, but that contract had to be terminated based on inefficiencies of the contractor employee. The agency has not been able to remedy the situation in the interim, and we are pushing for another full-time equivalent position.

III. Steps Taken To Increase Proactive Disclosures

We have added significant new material to our website since last year. Now, rather than providing our public docket investigative records to a contractor for production to the public, we provide a link to those dockets on our website. We also routinely post photographs of accident scenes to the website and the public docket, photos that, in the past, could be acquired only by FOIA request. Our primary means of identifying what records are appropriate for web-posting are those accident investigations which garner significant media attention or other public interest. As indicated above, we now utilize Twitter and YouTube for further dissemination of information.

IV. Steps Taken To Greater Utilize Technology

1. Electronic receipt of FOIA requests:

Our small agency has only one component for receipt of FOIA requests. We receive requests electronically by Fax, Email and online request form.

2. Electronic tracking of FOIA requests:

Requests are tracked electronically using a FOIA database.

3. Electronic processing of FOIA requests:

We process requests electronically using a FOIA database.

4. Electronic preparation of Annual FOIA Report:

A FOIA specific database is used to prepare the Annual FOIA Report

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

In 2009, there was a backlog of 48 FOIA requests. The oldest overdue request was December 19, 2008 and there were 3 pending administrative appeals. In 2010, there was a backlog of 92 FOIA requests. The oldest overdue request was January 26, 2010 and there was 1 pending administrative appeal. Currently all ten oldest pending requests and appeals are closed.

Although there was a slight decrease in requests received the complexities of the requests required longer processing time. As stated in section II above we always look for ways to improve the process. We lost an administrative support contractor and will explore hiring a full-time equivalent position.

Spotlight on Success

The posting of accident public dockets to the agency website is the highlight of our success story in openness and transparency.