

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 2015 TO 31 MARCH 2016

Canada

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Annual report to Parliament on the application of
the Access to Information Act 2015-16

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15 June 2016

The Honourable Dominic LeBlanc, P.C., M.P.
Leader of the Government in the House of Commons
House of Commons
Ottawa, Ontario
K1A 0A6

Dear 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 2015 to 31 March 2016.

Sincerely,

Kathleen Fox
Chair

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 2015 to 31 March 2016.

The purpose of the [Access to Information Act](#) is to provide a right of access to information to 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

During 2015-16, the General Counsel assumed the responsibilities of the ATIP Coordinator. The remainder of the ATIP Office consisted of five full-time positions and one term position.

The ATIP Office centrally 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 dealing 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, 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. For example, an investigation file can contain data records, voice recordings, witness statements, laboratory reports, and third-party records of the transport operator, the

manufacturer of components, maintenance logs for engines and pilots' logs, etc. Because of the volume of records and required consultations, the time required to process such requests is extensive. The status of the investigation itself also affects the access to records and when information may be released under the *Act*.

As considerable expertise is required in the processing of requests, the TSB ATIP function is organized to enable ATIP analysts to obtain proper recommendations from expert areas and to ensure that analysts remain current with the investigation operations of the various transportation modes and their particular activities, as well as maintain good working relationships with the expert areas and investigators.

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 of the TSB. The incumbents of the positions of General Counsel and Chief Operating Officer have been delegated powers by the Chair deemed appropriate for the effective administration of the *Act*. These employees ensure that the TSB meets all its obligations fairly and consistently. The delegation authority was updated in 2015–16. A copy of the Delegation Order is attached as Appendix A.

4.0 Disposition of Requests

4.1 Formal Requests

Eighty-nine (89) new requests were received under the *Access to Information Act* in 2015–16 and twenty-nine (29) requests were brought forward from the previous fiscal year (including two (2) files created in error) for a total of one hundred and eighteen (118) active requests. Of these, ninety-four (94) requests were completed during the current reporting period and twenty-four (24) were carried forward to the next fiscal year.

Of the ninety-four (94) requests completed during the current reporting period, records were fully disclosed to twenty-two (22) applicants. Records did not exist for nine (9) requests, while seventeen (17) requests were abandoned by their requester. Records pertaining to forty (40) requests were released with some portions exempted while four (4) were all exempted from release. Two (2) requests were transferred to other departments. The TSB invoked the following exemptions (the number of times the exemption was applied is provided in parentheses):

- Section 13: Exempting records obtained in confidence from other levels of government (23);
- Section 16: Exempting records containing law enforcement and investigation information (13);
- Section 19: Exempting records containing personal information (38);
- Section 20: Exempting records containing third-party business information (46);
- Section 21: Exempting records containing information related to the internal decision-making processes of government (25);

- Section 23: Exempting records related to solicitor-client privilege (6); and
- Section 24: Statutory prohibitions against disclosure, stemming from the *Canadian Transportation Accident Investigation and Safety Board Act* (5).

During 2015–16, the TSB also applied two (2) exclusions pursuant to section 68 of the *Access to Information Act*.

4.2 Clients

The majority of new requests – forty-one (41) – came from business/legal firms representing clients affected by or involved in transportation occurrences. Twenty-three (23) requests were received from media sources; eighteen (18) from members of the public, six (6) from academia and one (1) from an organization.

4.3 Processing of Requests

The number of new requests received by the ATIP Office in 2015–16 (89) was higher than the number received in 2014–15 (72). There remains an increased interest in information on rail occurrences following the tragic accident in Lac-Mégantic in July 2013.

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 consultations, both domestically and internationally, before the information can be released.

The TSB increased the human resources dedicated to ATIP in 2015–16 by 0.5 full time–employee compared to 2014–15. The number of completed requests in 2015–16 also increased by nineteen (19) to a total of ninety-four (94), or 12% more than in 2014–15. The TSB was able to respond within 30 days or less in 66 (70%) of the 94 completed cases (up from 32 (42%) in 2014–15). The completion times for the remaining requests are depicted in the table below. It is important to note that the deadlines for many of these requests were legally extended under the *Act*.

Percentage of Files per Completion Time Category		
Completion Time	Fiscal Year 2015-2016	Fiscal Year 2014-2015
30 days or less	70%	42%
31-60 days	9%	11%
61-120 days	3%	11%
121-180 days	3%	9%
181-365 days	10%	16%
Over 365 days	5%	11%

The average time taken to process a request during the 2015-16 reporting period was 75 calendar days, compared with last year's average of 145 calendar days. The shorter processing time is primarily explained by a number of requests that involved a smaller number of pages, such as requests pertaining to laboratory reports. Some delays were due to slow responses by other departments when completing consultations.

During this period, the ATIP Office was involved in the search, preparation and review of 73,981 pages of information (150,717 pages in 2014-15) and the reproduction and release of 43,724 pages of information (87,530 pages in 2014-15), including reprints of photographs, videotapes and CD-ROM disks containing photographs.

4.4 Fees and Costs

The TSB collected \$420 in fees during 2015-16 and waived \$120 in application 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. The TSB waives the requirement to pay fees, other than the application fee, if the amount payable is less than \$25. In 2014-15, the TSB did not collect any fees other than application fees.

The ATIP Office incurred an estimated \$459,668 in costs to administer the *Access to Information Act* in 2015-16. 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 nineteen (19) consultation requests from other departments and organizations in 2015-16, compared with thirty (30) in 2014-15. This decrease in volume in the current year is explained by the fact that consultation requests received in the past two years were exceptionally high following the Lac-Mégantic train derailment.

Fifty-two (52) informal requests were received during the reporting period, compared with eighty five (85) last year. These figures do not include other information requests responded to directly by the Communications Branch, the Operational Services Branch, and other areas of the TSB. In addition, many publications – such as investigation reports, safety studies, statistical reports, occurrence database extracts, communiqués, investigation updates, and annual reports, including ATIP reports to Parliament – are readily available on the TSB website.

5.0 Training and Education

The TSB has an orientation program in place for new employees, which includes training on ATIP awareness. In addition, the TSB has now made it mandatory for all staff to attend more comprehensive ATIP training sessions given by the ATIP Office. During 2015-16, the ATIP

Office provided two (2) training sessions to personnel at headquarters and two (2) sessions at its regional offices. Other sessions are planned in 2016-17 to ensure that all employees are trained. The ATIP Office also continues to provide advice and guidance upon request to individuals and small groups of employees.

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 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 was no change to the policies, guidelines and procedures for 2015-16.

7.0 Complaints and Investigations

Three (3) new complaints were received by the Office of the Information Commissioner of Canada (OIC) during 2015-16 and one (1) *complaint* was outstanding from a prior year. One (1) complaint was closed during 2015-16.

Two (2) of the complaints received by the OIC allege that the TSB has improperly applied exemptions, so as to unjustifiably deny access to records, or portions thereof, requested under the *Access to Information Act*. The TSB provided records to the OIC, and the complaints are pending.

The third complaint to the OIC alleges that the TSB has claimed an unreasonable extension of time for responding to a request for records under the *Access to Information Act*. The TSB provided records and rationales to the OIC. The complaint remains pending.

A complaint received in 2014-15 by the OIC alleged that the TSB had improperly applied exemptions, so as to unjustifiably deny access to records, or portions thereof, requested under the *Access to Information Act*. The complaint was investigated by the OIC during 2015-16 and continues. The TSB disclosed additional information to the requester, but also maintained protections on portions of the responsive records. The TSB is responding to additional questions by the OIC.

Finally, a complaint received in 2013-14 by the OIC alleged that the TSB had improperly applied exemptions, so as to unjustifiably deny access to records, or portions thereof, requested under the *Access to Information Act*. The complaint was discontinued by the complainant during 2015-16.

8.0 *Monitoring Process*

The TSB monitors the time to process access to information requests, through weekly bilateral meetings between the General Counsel (ATIP Coordinator) and the Senior ATIP Analyst during which the status of outstanding requests are reviewed. Any significant issues, such as the need for assistance in processing a particularly complex request, are raised and discussed with the Chief Operating Officer on an ad hoc basis.

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

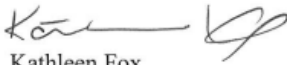


Bureau de la sécurité des transports
du Canada

June 1, 2015

Designation Order - *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 and General Counsel, 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.


Kathleen Fox
Chair

Appendix B – Statistical Report



Government
of Canada

Gouvernement
du Canada

Statistical Report on the *Access to Information Act*

Name of institution: Transportation Safety Board of Canada

Reporting period: 2015-04-01 to 2016-03-31

Part 1: Requests Under the *Access to Information Act*

1.1 Number of requests

	Number of Requests
Received during reporting period	89
Outstanding from previous reporting period	29
Total	118
Closed during reporting period	94
Carried over to next reporting period	24

1.2 Sources of requests

Source	Number of Requests
Media	23
Academia	6
Business (private sector)	41
Organization	1
Public	18
Decline to Identify	0
Total	89

1.3 Informal 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	
28	2	10	4	2	4	2	52

Note: All requests previously recorded as “treated informally” will now be accounted for in this section only.

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	8	11	2	0	0	0	1	22
Disclosed in part	9	9	6	3	3	8	2	40
All exempted	4	0	0	0	0	0	0	4
All excluded	0	0	0	0	0	0	0	0
No records exist	7	2	0	0	0	0	0	9
Request transferred	2	0	0	0	0	0	0	2
Request abandoned	14	0	0	0	0	1	2	17
Neither confirmed nor denied	0	0	0	0	0	0	0	0
Total	44	22	8	3	3	9	5	94

2.2 Exemptions

Section	Number of Requests	Section	Number of Requests	Section	Number of Requests	Section	Number of Requests
13(1)(a)	7	16(2)	0	18(a)	0	20.1	0
13(1)(b)	2	16(2)(a)	0	18(b)	0	20.2	0
13(1)(c)	12	16(2)(b)	0	18(c)	0	20.4	0
13(1)(d)	2	16(2)(c)	3	18(d)	0	21(1)(a)	5
13(1)(e)	0	16(3)	0	18.1(1)(a)	0	21(1)(b)	19
14	0	16.1(1)(a)	0	18.1(1)(b)	0	21(1)(c)	1
14(a)	0	16.1(1)(b)	0	18.1(1)(c)	0	21(1)(d)	0
14(b)	0	16.1(1)(c)	0	18.1(1)(d)	0	22	0
15(1)	2	16.1(1)(d)	0	19(1)	38	22.1(1)	0
15(1) - I.A.*	0	16.2(1)	0	20(1)(a)	9	23	6
15(1) - Def.*	2	16.3	0	20(1)(b)	26	24(1)	5
15(1) - S.A.*	0	16.4(1)(a)	0	20(1)(b.1)	0	26	0
16(1)(a)(i)	0	16.4(1)(b)	0	20(1)(c)	10		
16(1)(a)(ii)	1	16.5	0	20(1)(d)	1		
16(1)(a)(iii)	1	17	0				
16(1)(b)	1						
16(1)(c)	7						
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)	2	69(1)	0	69(1)(g) re (a)	0
68(b)	0	69(1)(a)	0	69(1)(g) re (b)	0
68(c)	0	69(1)(b)	0	69(1)(g) re (c)	0
68.1	0	69(1)(c)	0	69(1)(g) re (d)	0
68.2(a)	0	69(1)(d)	0	69(1)(g) re (e)	0
68.2(b)	0	69(1)(e)	0	69(1)(g) re (f)	0
		69(1)(f)	0	69.1(1)	0

2.4 Format of information released

Disposition	Paper	Electronic	Other Formats
All disclosed	4	18	0
Disclosed in part	5	35	0
Total	9	53	0

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	8449	2721	22
Disclosed in part	35324	20981	40
All exempted	2	0	4
All excluded	0	0	0
Request abandoned	30208	20022	17
Neither confirmed nor denied	0	0	0

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	19	285	1	243	0	0	1	341	1	1852
Disclosed in part	16	370	5	906	6	1961	12	14322	1	3422
All exempted	4	0	0	0	0	0	0	0	0	0
All excluded	0	0	0	0	0	0	0	0	0	0
Request abandoned	14	0	0	0	1	215	1	301	1	19506
Neither confirmed nor denied	0	0	0	0	0	0	0	0	0	0
Total	53	655	6	1149	7	2176	14	14964	3	24780

2.5.3 Other complexities

Disposition	Consultation Required	Assessment of Fees	Legal Advice Sought	Other	Total
All disclosed	6	0	0	0	6
Disclosed in part	25	1	1	0	27
All exempted	0	0	0	0	0
All excluded	0	0	0	0	0
Request abandoned	3	0	0	0	3
Neither confirmed nor denied	0	0	0	0	0
Total	34	1	1	0	36

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
15	10	3	0	2

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	0	2	2
16 to 30 days	1	0	1
31 to 60 days	0	2	2
61 to 120 days	0	4	4
121 to 180 days	0	2	2
181 to 365 days	0	1	1
More than 365 days	0	3	3
Total	1	14	15

2.7 Requests 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	1	0	1	0
Disclosed in part	7	0	12	11
All exempted	0	0	0	0
All excluded	0	0	0	0
No records exist	0	0	0	0
Request abandoned	3	0	1	2
Total	11	0	14	13

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	1	3
31 to 60 days	3	0	6	5
61 to 120 days	6	0	4	4
121 to 180 days	0	0	3	1
181 to 365 days	1	0	0	0
365 days or more	0	0	0	0
Total	11	0	14	13

Part 4: Fees

Fee Type	Fee Collected		Fee Waived or Refunded	
	Number of Requests	Amount	Number of Requests	Amount
Application	69	\$345	19	\$120
Search	1	\$75	0	\$0
Production	0	\$0	0	\$0
Programming	0	\$0	0	\$0
Preparation	0	\$0	0	\$0
Alternative format	0	\$0	0	\$0
Reproduction	0	\$0	0	\$0
Total	70	\$420	19	\$120

Part 5: Consultations Received From Other Institutions and Organizations

5.1 Consultations received from other Government of Canada institutions and organizations

Consultations	Other Government of Canada Institutions	Number of Pages to Review	Other Organizations	Number of Pages to Review
Received during reporting period	19	384	1	18
Outstanding from the previous reporting period	1	73	0	0
Total	20	457	1	18
Closed during the reporting period	19	457	1	18
Pending at the end of the reporting period	1	0	0	0

5.2 Recommendations and completion time for consultations received from other Government of Canada institutions

Recommendation	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	10	0	1	0	0	0	0	11
Disclose in part	4	1	2	0	0	0	0	7
Exempt entirely	0	1	0	0	0	0	0	1
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	14	2	3	0	0	0	0	19

5.3 Recommendations and completion time for consultations received from other organizations

Recommendation	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

6.1 Requests with Legal Services

Number of Days	Fewer 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
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0

6.2 Requests with Privy Council Office

Number of Days	Fewer 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
1 to 15	0	0	0	0	0	0	0	0	0	0
16 to 30	0	0	0	0	0	0	0	0	0	0
31 to 60	0	0	0	0	0	0	0	0	0	0
61 to 120	0	0	0	0	0	0	0	0	0	0
121 to 180	0	0	0	0	0	0	0	0	0	0
181 to 365	0	0	0	0	0	0	0	0	0	0
More than 365	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0

Part 7: Complaints and Investigations

Section 32	Section 35	Section 37	Total
4	3	0	7

Part 8: Court Action

Section 41	Section 42	Section 44	Total
0	0	0	0

Part 9: Resources Related to the Access to Information Act

9.1 Costs

Expenditures	Amount
Salaries	\$433,251
Overtime	\$0
Goods and Services	\$26,417
• Professional services contracts	\$0
• Other	\$26,417
Total	\$459,668

9.2 Human Resources

Resources	Person Years Dedicated to Access to Information Activities
Full-time employees	5.95
Part-time and casual employees	0.00
Regional staff	0.00
Consultants and agency personnel	0.00
Students	0.00
Total	5.95