



NZ TRANSPORT AGENCY  
WAKA KOTAHI

**NATIONAL OFFICE**

50 Victoria Street  
Private Bag 6995  
Wellington 6141  
New Zealand  
T 64 4 894 5400  
F 64 4 894 6100

**[www.nzta.govt.nz](http://www.nzta.govt.nz)**

18 July 2016

Richard Law

[fyi-request-4037-457cce04@requests.fyi.org.nz](mailto:fyi-request-4037-457cce04@requests.fyi.org.nz)

Dear Richard

**Request made under the Official Information Act 1982**

Thank you for your email of 21 May 2016 requesting the following information under the Official Information Act 1982:

“... any written reports over the period January 2015 – May 2016 that relate to the decision to stop providing public downloads of the data behind the Crash Analysis System.”

“The requested documents should include, if relevant:

- Any Privacy Impact Assessments (PIAs)
- Advice taken from the Privacy Officer and/or the Chief Information Officer
- Advice from the Privacy Commission
- Other internal reviews and reports related to the decision”

**The Crash Analysis System (CAS)**

The NZ Transport Agency manages the Crash Analysis System (CAS) – New Zealand’s primary tool for capturing information on where, when and how road crashes occur. The CAS provides tools to analyse and map crashes, and enables users to identify high-risk locations and monitor trends and crash sites. This information helps inform transport policy and design, and the prioritisation of road safety improvements as well as monitoring their effectiveness.

The CAS is used by a range of organisations all with the broad aim of improving road safety. It is an essential tool in supporting ‘Safer Journeys’, the strategy designed to guide New Zealand’s efforts to improve road safety from 2010–2020. Safer Journeys’ vision is for a ‘safe road system increasingly free of death and serious injury’. It enables the transport sector, over the long term, to improve road safety through knowledge, research and the measurements of the effects of changes to the network and network user behaviour.

*Access to the CAS*

As advised to you in our email of 14 April 2016, the Transport Agency allows free access to the CAS to approved organisations and individuals for the purposes of:

- informing transport policy and regulations
- designing and prioritising a range of network user behaviour and road safety initiatives
- supporting funding applications for network and road safety improvements
- monitoring and evaluating the effectiveness of road safety initiatives
- providing information for research purposes connected with road network user behaviour, road safety and transport policy.

As explained to you in our emails of 8 and 21 December 2015, in order to gain access to the CAS, approved organisations and individuals are required to sign an agreement that places some conditions on how information may be used. This includes the purposes for which it may be used and a requirement that the information must not be published or further disclosed unless the information is in a form in which individuals cannot be identified, in accordance with Principle 11 of the Privacy Act 1993. This agreement is signed in order to ensure that information is kept appropriately secure and to protect the privacy of those individuals represented in the data set.

#### *Availability of the CAS information on the Transport Agency's website*

The Transport Agency makes certain information from the CAS publicly available on our website. Prior to November 2015, data relating to individual crashes was made publicly available in a comma separated values '.csv' file, which was updated every three months.

The information contained in the .csv files was initially provided in hard copy form in the 1970s. Following a request for open data, the Transport Agency (known then as the Land Transport Safety Authority) started making this information available on the website around the year 2000.

#### **Decision to review the CAS information made available online**

There are no written reports that relate to the decision to stop making the .csv files from the CAS available for download on our website. However, we thought it would be helpful to provide a bit of background, and explain the circumstances that led to that decision being made.

The decision to stop providing information about individual crashes from the CAS in the .csv format was made as part of a wider ongoing initiative to implement data collection management systems and protocols (privacy and security) to ensure the privacy and security of our data collection is best practice.

This is what we were referring to in our previous communication to you of 30 November 2015 where we advised that *'we are currently reviewing the CAS information that we have available on our website to make sure it meets our privacy and security standards...'*

As we looked at the information that we were releasing from the CAS, we became aware that we had not taken the necessary steps to ensure we were meeting our obligations under the Privacy Act 1993 when the .csv files were originally made publicly available on our website. Principle 11 of the Privacy Act 1993 is the basis upon which we provide access to the CAS under the CAS Privacy Agreement, a copy of which we have previously provided to you. Under this Principle we are required not to disclose any personal information unless we believe on reasonable grounds that one of the exceptions to that Principle is met. We should therefore not have released the CAS information without first assessing the privacy implications and being satisfied as to whether any of the exceptions to Principle 11 were met.

Although the .csv files did not identify individuals directly, they did provide information that could enable individuals to be identified, as they contained information about individual crashes. We considered that we could not be satisfied that any of the exceptions to Principle 11 of the Privacy Act 1993 (as referred to above), were met in respect of this data. Therefore, we decided to cease publishing disaggregate CAS data in the form of .csv files on our website, and on 10 November 2015, we removed the .csv files from the website. Since then, we have been exploring ways to maximise the information from the CAS that is publicly available, while ensuring the privacy of individuals is protected.

This is the reason behind our previous advice to you, sent by email on 21 December 2015, that:

'[w]e are in the process of making a new aggregated CAS data set freely available using the Government's Open Data initiative. This is the data set that will be publically available from now on without the signing of an agreement', and again on 14 April 2016 that: '[w]e are currently working to provide as much aggregated data as possible on our website while maintaining our obligations under the Privacy Act. We will be making this information available over the coming weeks, and will also be providing information as to why the csv files are no longer available...'

We have responded to any queries that we have received following the removal of the .csv files from our website. However, we were not aware at the time of the extent to which this information was used or relied on by users. With the benefit of hindsight, and with an understanding of the impact that this decision has had on you and others, we acknowledge that it would have been preferable to provide information relating to this decision on our website at the time, or even prior to the removal of the information from our website, rather than just removing it without any notice or explanation. We apologise for this lack of communication, and are taking steps to inform others of this decision and engage with them on how we can meet their needs while still meeting our obligations under the Privacy Act 1993. A message has now been added to our website asking people to contact us about how they use the information from the CAS, and how else we might be able to meet their data needs.

In March 2016 we made information available about grouped crash locations<sup>1</sup>, and national crash statistics were released in June 2016. Regional crash statistics will be released in August 2016.

### **Privacy Impact Assessment**

We commissioned an external Privacy Impact Assessment (PIA) on 16 November 2015. This had a broad scope, however, it confirmed our assessment and subsequent decision to remove the .csv files from our website. The section of the PIA confirming that we were correct in our interpretation of personal information is provided to you below in response to your request. The PIA as a whole is covered by legal professional privilege, and therefore would ordinarily be withheld under section 9(2)(h) of the Official Information Act 1982 on the grounds that the withholding of the information is necessary to maintain legal professional privilege. We consider that the public interest in releasing this particular section of the PIA in order to help explain our position outweighs the need to withhold that information in order to maintain legal professional privilege in this case. On that basis, we have decided to release this part of the PIA to you, thereby waiving legal professional privilege in that part of the document, as follows:

'For the purposes of the Privacy Act, 'personal information' is any information that is capable of identifying a living human being. It does not have to be particularly sensitive or negative information

...

We have considered whether information about a crash is personal information if that information does not include the names and vehicle details of those involved in the crash (which we have referred to as personal identifiers').

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<sup>1</sup> [www.nzta.govt.nz/resources/crash-analysis-reports/grouped-crash-sites/](http://www.nzta.govt.nz/resources/crash-analysis-reports/grouped-crash-sites/)

In our view, the Transport Agency should take the view that the information about a crash that is held in the CAS database...could include 'personal information', even if such information does not include 'personal identifiers'.

In its report, 'Review of the Privacy Act 1993', the Law Commission made the observation that:

- a) the definition of 'personal information' in the Privacy Act does not require that an individual be 'identified' in the information, but that he or she must be 'identifiable'; and
- b) an individual does not have to be identifiable to the world at large. It is enough that those who know the individual can identify him or her from the information in question.

Also, in the case *Proceedings Commissioner v Commissioner of Police* [2000] NZAR 277, the Complaints Review Tribunal held that so long as information 'had the capacity to identify [the individual] to some members of the public', it was personal information for the purposes of the Privacy Act. In that case, only those who were already familiar with the complainant would have been able to identify her from media reports that attempted to disguise her identity.

A user ... may have access to other information that facilitates the user associating the information in the CAS database with an identifiable individual. For example, a user may be aware that a family member was involved in a crash at a particular location on a particular date (also general crash information is frequently reported in newspapers). The user would not be able to find personal identifiers about that family member such as their name.

However, the user may have sufficient knowledge of the family member's crash to determine that crash information held in the CAS database relates to that family member. That could mean that the user is disclosed personal information, even perhaps sensitive personal information such as whether the family member was intoxicated. Therefore, we consider that it is appropriate for the Transport Agency to treat all information held in the CAS database as personal information.'

### **Next steps**

As previously discussed with you, we do appreciate the value the CAS data provides in terms of road safety, and we are continuing to explore ways we can make more information from this system publicly available while ensuring we are protecting personal information.

As such, we will continue to make aggregated datasets freely available online. We are also consulting with other agencies focussed on open data for their advice on how we can make as much information openly available as possible while balancing our privacy obligations.

From your conversations with the Transport Agency on 2 February and 10 May 2016, as well as from our email correspondence, we understand that you are interested in accessing the most disaggregated data possible for your application. We will consider this alongside our other users' needs as we design our revised open access datasets.

## Requested Documents

Your request for the following documents is refused under section 18(e) of the Official Information Act, on the grounds that the documents alleged to contain the information requested do not exist, as follows.

- Any Privacy Impact Assessments (PIAs) – as explained above, there were no PIAs carried out that specifically relate to the decision to stop providing the .csv files on our website. However, we have decided to provide you with an excerpt from the broader PIA that confirmed our decision, as above.
- Advice taken from the Privacy Officer and/or the Chief Information Officer – No advice was provided by the Privacy Officer or the Chief Information Officer in relation to this decision.
- Advice from the Office of the Privacy Commissioner – No document exists that contains the information requested. We can advise that officials from the Transport Agency and the Office of the Privacy Commissioner met on 7 June 2016 to discuss the level of information contained in the .csv files. The Office's view was that it appeared that the Transport Agency is taking appropriate action by assessing the privacy risks in the data to ensure that we are minimising the risk of re-identifying people within the data set, while aiming to make as much data freely available as possible.
- Other internal reviews and reports related to the decision – as stated above, there are no written reports over the period January 2015 – May 2016 relating to the decision to remove the .csv files from our website.

Under section 28(3) of the Official Information Act 1982 you have the right to apply to an Ombudsman for an investigation and review of the decision to refuse parts of your request. More information can be found at [www.ombudsman.parliament.nz/make-a-complaint](http://www.ombudsman.parliament.nz/make-a-complaint) or you can contact the Office of the Ombudsman at the following address:

Office of the Ombudsman  
PO Box 10152  
Wellington

If you would like to discuss this reply with the NZ Transport Agency, please contact Carolyn Fyfe, Manager Statistical Design, by email to [carolyn.fyfe@nzta.govt.nz](mailto:carolyn.fyfe@nzta.govt.nz) or by phone on (04) 890 4742.

Yours sincerely



**Tracy Mellor**  
Manager Analysis and Insights  
For Chief Executive