



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

The Inspector General

Office of Inspector General
Washington, D.C. 20590

July 11, 2003

The Honorable Joseph Lieberman
Ranking Minority Member
Committee on Governmental Affairs
United States Senate
Washington, DC 20510

Dear Senator Lieberman:

This is in response to your letter of May 27, 2003, requesting an investigation into the reported involvement of the Federal Aviation Administration (FAA) in Federal and Texas State efforts to locate an airplane owned by Pete Laney, a member of the Texas House of Representatives. Specifically, you asked that we identify all requests to FAA concerning State Rep. Laney's airplane and FAA actions resultant of such requests, and that we determine whether FAA's actions were appropriate and, if not, what remedial measures are being taken.

We have completed our investigation, the results of which are summarized below, along with recommendations for Department of Transportation action stemming from our findings. On June 25, 2003, we briefed your staff on our investigative results.

Our investigation included interviews of over 30 individuals, examination of FAA transcripts and other FAA and DOT records, and review of an investigative report prepared by the Office of Inspector General for the Department of Homeland Security¹.

In addition to our summary of our investigative findings and recommendations, we are enclosing a document presenting our findings in greater detail, including a chronology of FAA's involvement; a memorandum from the Department's General Counsel addressing the Department's and FAA's remedial actions; and a transcript of

¹ By letter to the Department of Homeland Security OIG, dated May 22, 2003, you asked that office to investigate the Texas Department of Public Safety's (DPS) alleged destruction of documents, in addition to your prior request of the Secretary of Homeland Security for an investigation of that Department's involvement in the search for Texas State legislators. The Department of Homeland Security OIG issued its report on June 13, 2003.

telephone conversations between FAA's Washington Operations Center² and FAA employees on May 12, 2003.

Summary of Findings

1. On May 12, 2003, FAA received requests from three organizations for information about N711RD.

In brief, our investigation found that on Monday, May 12, FAA personnel in Oklahoma City, Washington, DC, and Fort Worth, TX, received separate requests for information as to the location and destinations of a general aviation airplane reportedly associated with the absent Texas legislators. This airplane, a twin-engine Piper Cherokee—tail number N711RD—is registered to State Representative Laney.

We found that at least 13 FAA personnel were involved in responding to the various requests for information about N711RD on May 12, beginning with an FAA office in Oklahoma City, which was contacted by the Texas Department of Public Safety (DPS) around 1:00 p.m. EDT. This FAA unit is responsible for law enforcement liaison agency-wide. According to the FAA employee who received the inquiry, the caller said that over 50 Texas legislators were in hiding and that the Governor of Texas had issued a warrant for their apprehension. DPS asked for FAA's assistance in locating a plane believed to be carrying some of the legislators. As this FAA office lacks the direct capability to locate aircraft, and DPS did not have the plane's registration/tail number or the pilot's name, it simply referred DPS to a Department of Homeland Security facility in California, without providing any information.

We were unable to ascertain whether, in fact, the Governor ever issued any warrant or summons. However, Texas DPS provided us with a copy of a letter from the Attorney General of Texas to the Director of DPS, dated May 12, 2003, upholding—as lawful—a letter to DPS, on that same date, from the Sergeant-at-Arms of the Texas House, requesting that DPS secure and return to the House, by any available means, absent House members. The Texas Attorney General's letter cites legal authority under the State's Constitution and House Rules “to arrest absentees wherever they may be found.”

The next inquiry was from a senior staffer for Representative Tom DeLay, who called David Balloff, FAA's Assistant Administrator for Government and

² The Washington Operations Center, located in FAA headquarters, serves as FAA's 24-hour/7 day-a-week communications and command/control hub, facilitating contact between FAA officials and interfacing with field Air Traffic Control and other internal and external organizations, on both routine and emergency matters.

Industry Affairs. Balloff checked with FAA's Washington Operations Center and advised the staffer that the plane would be landing shortly in Ardmore, OK. Per our review, the earliest media report that absent Texas legislators had been located in Ardmore occurred after Balloff's 4:20 p.m. EDT advisement to Rep. DeLay's staffer. A May 14 *Fort Worth Telegram* article states, "The location of Laney's plane proved to be a key piece of information because, [Texas House Speaker Tom] Craddick said, it's how he determined that the Democrats were in Ardmore." Early in the evening of May 12, Balloff advised Rep. DeLay's staffer of the plane's locations on May 11, which she had also requested.

Balloff told us that Rep. DeLay's staffer offered no explanation for her request and he did not ask her about it, though he stated to us, "Having worked at the [National Transportation Safety Board], the first thing that came to my mind was a safety issue." We interviewed Rep. DeLay's staffer, who corroborated Balloff's account of their conversations. We also identified and interviewed a GS-15 subordinate of Balloff's, David Kerr, who was present with him when Balloff called the Operations Center to ascertain the plane's location and in turn informed the staffer. Kerr confirmed that in calling the staffer back, Balloff did not query her about the reason for the request or whether there was a flight safety concern involved. According to Kerr, Balloff indicated no awareness of the purpose of the staffer's request.

The third request to FAA occurred later on the evening of May 12 and involved a series of five phone calls from representatives of the Department of Homeland Security and DPS to FAA's Air Route Traffic Control Center in Fort Worth. Air traffic controllers in the Fort Worth Center provided aircraft location/flight plan information to callers from both the Department of Homeland Security and DPS.

At least two controllers in Fort Worth were aware of the purpose of the inquiries at the time they were received and processed. A supervisory controller told us he first learned of the search for the absent Texas legislators from local news reports prior to reporting for work on May 12. He advised that later, in fielding the call from DPS, he stated to the DPS officer, "You must be looking for the missing Democrats," which the officer acknowledged. A second Fort Worth controller related that in contacting an Air Traffic Control facility in Lubbock, pursuant to a call he received from the Department of Homeland Security, the controller with whom he spoke said, "You know who that [plane] belongs to, don't you? It's the outgoing Speaker, Laney, Speaker of the House."

A Fort Worth controller told us that the DPS officer who called him said N711RD was overdue to its presumed destination of Mineral Wells³, and requested a search and rescue operation, which the controller determined was not warranted as there was no evidence the plane had experienced trouble in flight. The controller also advised that during the evening of May 12, the Fort Worth Center entered an “alert” for N711RD in the Air Traffic Control computer system. An alert would have triggered immediate notification to the Fort Worth Center had the plane contacted any air traffic control unit within the Fort Worth Center’s area of coverage. The alert was canceled that night after DPS located the plane on the ground in Graham, TX, which is in the vicinity of Mineral Wells.

2. FAA lacks clear internal guidance for the processing of requests for FAA aircraft/flight information received from law enforcement and other Government entities. A separate issue exists concerning public availability to aircraft location/flight data via commercial databases.

It is clear from our findings that FAA protocols for the processing of information requests from law enforcement or other government entities require considerable strengthening. We did not consider it our role, nor did we attempt, to define what does, and does not, constitute a legitimate request from law enforcement/government organizations. As indicated below, we have recommended that the Department and FAA address the issue of availability of flight data as part of their remedial action in response to this investigation.

FAA controllers we interviewed were not aware of any protocols to follow in responding to requests from law enforcement or other government officials for aircraft location/destination information. We found that controllers took no action to verify the identities of callers, inquire about the reason for the request (i.e., in order to identify flight safety issues), or log the contacts—to include annotating what information was provided. In fact, none of the involved Fort Worth controllers even recalled the name of the caller purporting to be a DPS officer. If the calls had concerned a safety of flight issue, for example, the controllers would not have known who specifically to call back to provide further assistance if necessary. Such a method of operation potentially limits FAA’s effectiveness in carrying out its safety mission. At the same time, such a lack of protocols creates additional vulnerabilities, namely the possibility of releasing data from its information systems to individuals who may falsely identify themselves as law enforcement or other government officials.

³ Earlier that evening, FAA’s Fort Worth Center had informed the Department of Homeland Security facility in California that N711RD had an active flight plan from Ardmore to Mineral Wells. The Department of Homeland Security in turn passed this information on to DPS.

Further, as reflected in the enclosed Washington Operations Center transcript, and in our interviews, there was some uncertainty and confusion on the part of FAA personnel as to whether aircraft/flight data was publicly releasable. This, too, supports the need for clear policy guidance.

As addressed below, we are recommending to the Secretary that clear policy and procedures in this area be implemented. We understand that the FAA Chief Counsel, recognizing this area of policy weakness, has initiated a review in furtherance of instituting new policy guidelines agency-wide.

As distinguished from the above issue of clear policy and procedures needed for requests for information from FAA databases, we also note the broader, and more complex, issue of public availability of aircraft location and flight data. While the information FAA personnel provided about N711RD was retrieved from FAA databases, we confirmed that comparable information—including near real-time aircraft locator data—is currently available to the general public through commercial databases accessible via the internet⁴.

We are aware that pursuant to a request from Representatives James Oberstar and Jim Turner, this issue is currently the subject of review by the Department's General Counsel and FAA's Chief Counsel. In their letter, Reps. Oberstar and Turner raised concern about "the homeland security implications of a policy that "routinely" makes information about the flight pattern of private aircraft available to the public." We are recommending to the Secretary that this issue continue to receive close examination and deliberations by senior levels of the Department and FAA, in consultation with other appropriate Government agencies.

3. The Administrator and the Secretary should have been informed sooner of FAA's involvement. Information that FAA provided flight data to the Department of Homeland Security, DPS, and Rep. DeLay's staff was not communicated to the Administrator and the Secretary until May 21.

We found that Administrator Marion Blakey first learned of FAA's involvement on May 16, when FAA's Chief of Staff, David Mandell, informed her that DPS had contacted FAA's Oklahoma City office, but that DPS was referred to the Department of Homeland Security facility in California, and no information was released.

⁴ Through a program known as the Aircraft Situation Display to Industry (ASDI), DOT's Volpe Center makes certain raw FAA Air Traffic Control data—both near real-time (5-10 minute lag) and historical—for general aviation and commercial aircraft, available to designated industry parties in accordance with user agreements. The industry parties, in turn, process the data and make it publicly available (some requiring subscription fees) via the internet.

On May 19 or 20, Mandell was briefed that DPS and the Department of Homeland Security had called FAA's Fort Worth Center, but he did not brief the Administrator pending receipt of further details. On May 20, Mandell was provided with a chronology prepared by FAA's regional office in Fort Worth, but he advised that he did not have an opportunity to read it until May 21. This chronology showed, in summary form, Department of Homeland Security and DPS contacts with Fort Worth controllers, but, more significantly, it also showed that on May 12, the Fort Worth Center had received a call from the Washington Operations Center requesting information on N711RD. This information caused Mandell to question how the Operations Center became involved. Mandell then contacted the Operations Center, ultimately learning that day, May 21, that Balloff had inquired of the Operations Center about N711RD on May 12. Mandell then spoke to Balloff and learned, for the first time, about the request from Rep. DeLay's staff.

Shortly thereafter, on May 21 (nine days after the fact), Mandell notified the Administrator and the Department's Chief of Staff, who, in turn, immediately informed the Deputy Secretary, General Counsel, and the Secretary. When the Administrator and the Secretary were finally informed of Balloff's contact with Rep. DeLay's staffer, they recognized its importance and, in our opinion, took timely and appropriate action to have the circumstances investigated.

Balloff told us he first learned of the absent Texas legislators in reading the *Washington Post* late on May 13. Balloff stated, in part, as follows:

“. . . I figured out why they were calling. . . I just felt like I had been used. . . I don't do anything for political purposes. . . and I just did not like. . . somebody calling me for political reasons. . . I would never use my office to help somebody out politically, for any political reasons, period.”

We did not find Balloff's actions in this matter to have violated any rules or regulations. However, while we do not have evidence that Balloff knew the purpose of the staffer's request when he responded to it, we do not understand why he did not ask the staffer about the purpose of her request—particularly since he told us he thought it might involve a safety issue.

Further, we concluded that Balloff should have promptly informed the Administrator when he realized on May 13, after reading the *Washington Post*, that the matter was one of national interest. Had he reported the contact at that point, the Administrator and the Secretary would have been informed more than a full week earlier, thus enabling FAA to be responsive to the House Homeland Security Appropriations Subcommittee, which had asked whether FAA had

received any inquiries about the plane.

In fact, Balloff had the opportunity to disclose the contact on May 15 when questioned by an FAA manager conducting fact-finding in relation to the Subcommittee's inquiry. In view of the statements of this manager and Balloff, we believe that the manager's inquiry of Balloff should reasonably have elicited his disclosure of the request from Rep. DeLay's staffer. When we asked Balloff why he had informed no one, in light of the matter becoming one of national attention, he advised that he did not know why, stating he "just didn't."

Recommendations

We have briefed senior levels of the FAA and the Office of the Secretary regarding our investigative results in this matter and have made the following recommendations for remedial action:

- As discussed above, we recommend that the Department, in consultation with the FAA, develop specific policy and procedures regarding the processing of requests for aircraft and flight data from FAA's information systems. In the interest of enhancing security and safety, we believe procedures should be instituted for FAA personnel—throughout the agency—to (a) positively identify requestors by name, organization, and point-of-contact; (b) inquire about the purpose of requests (i.e., in order to identify and address safety issues); and (c) formally log requests, with annotations as to what, if any, information was provided by FAA. Regarding (b) above, we recognize that there may be confidential reasons for law enforcement and other government agencies to request aircraft/flight information. Accordingly, procedures are needed for handling such confidential requests.
- Pursuant to the request from Representatives Oberstar and Turner, the issue of public availability (i.e., via the internet) of Air Traffic Control data, issue is currently the subject of review by the Department's General Counsel and FAA's Chief Counsel. We recommend that this issue continue to receive close examination and deliberations by senior levels of the Department and FAA. Also, we recommend that the Department's review include a determination of the extent to which DOT's Volpe Center and its contractors have coordinated their actions (vis-à-vis public availability of Air Traffic Control data) with FAA and the Department.

Remedial Actions by the Department and FAA

As reflected in the enclosed memorandum from the Department's General Counsel, the Office of the Secretary and the FAA have reviewed our report and the Secretary and the Administrator fully concur with our findings and recommendations. In response, the Department and FAA are taking the following remedial actions:

1. The FAA Administrator and Chief Counsel will speak with Assistant Administrator David Balloff today to counsel him concerning issues in regard to his judgment in this matter.
2. With respect to FAA's need for clear policy for the disclosure of aircraft and flight data from FAA information systems, the FAA Administrator and Chief Counsel have prepared a draft FAA Order addressing those matters for the Secretary's review. Upon approval by the Secretary, the FAA Order will be distributed agency-wide, and will be provided directly to FAA personnel having access to such information.
3. Regarding the issues associated with public availability (i.e., via the internet) of Air Traffic Control data, the Department and FAA are continuing to study the matter and will provide us with a copy of the written results upon completion. Following the terrorist attacks of September 11, the FAA had reviewed this subject, and recently conducted an informal review of these issues as a direct result of the issues we investigated in this matter. As part of the current review, the Department and FAA have already consulted with the Transportation Security Administration (TSA) and plan to obtain TSA's formal assessment of the potential threats to aviation security.

We anticipate no further investigative action in this matter. However, we will advise you of the implementation of the Department's remedial actions as soon as they are complete.

If I can answer any questions or be of further assistance in this or any other matter, please feel free to contact me at 202-366-1959, or my Deputy, Todd J. Zinser, at 202-366-6767.

Sincerely,



Kenneth M. Mead
Inspector General

Enclosures (3)

Detailed Investigative Findings & Chronology

- ***Three separate FAA offices received requests for assistance in locating N711RD.***

Our investigation determined that on Monday, May 12, 2003, FAA personnel in Oklahoma City, Washington, DC, and Fort Worth, TX, received separate requests for current and historical information identifying the location and destinations of a general aviation airplane reportedly associated with the absent Texas legislators. This airplane, a twin-engine Piper Cherokee—tail number N711RD—is registered to Texas State Representative Pete Laney.

The information requests to FAA were as follows, in the order in which they occurred on May 12: (a) Just before 1:00 p.m. EDT, a DPS officer in Austin called the FAA office responsible for law enforcement liaison, which is located in Oklahoma City; (b) around 4:00 p.m. EDT, a senior staffer from the Washington office of Representative Tom DeLay called David Balloff, FAA's Assistant Administrator for Government and Industry Affairs; and (c) around 8:40 p.m. EDT, Department of Homeland Security, followed by the Texas Department of Public Safety (DPS), called an FAA air traffic control facility in Fort Worth.

We found that at least 13 FAA personnel were involved in responding to the various requests for information about N711RD on May 12. Other than the Department of Homeland Security's inquiry to the FAA facility in Fort Worth and the staffer for Rep. DeLay contacting Balloff, we found no indication that any other element of the Administration or Congress had contacted FAA relative to locating the airplane.

- ***FAA provided information on the whereabouts of N711RD to the Department of Homeland Security, DPS, and Rep. DeLay's staff.***

We determined that, on May 12, 2003, (a) the FAA office in Oklahoma City referred Texas DPS—which said its purpose was to find Texas legislators “in hiding”¹—to a Department of Homeland Security facility in California, without providing DPS with any information; (b) Balloff, who said the staffer did not explain the reason for her

¹ According to the FAA employee who received the inquiry, the caller said that over 50 Texas legislators were in hiding and that the Governor of Texas had issued a warrant for their apprehension. We were unable to ascertain whether, in fact, the Governor ever issued any warrant or summons. However, Texas DPS provided us with a copy of a letter from the Attorney General of Texas to the Director of DPS, dated May 12, 2003, upholding—as lawful—a letter to DPS, on that same date, from the Sergeant-at-Arms of the Texas House, requesting that DPS secure and return to the House, by any available means, absent House members. The Texas Attorney General's letter cites Article III, Section 10 of the Texas Constitution, and Rule 5, Section 8 of the Texas House as providing authority for “the power to arrest absentees wherever they may be found.”

request and he did not ask, queried FAA's Washington Operations Center and advised the staffer that the airplane was seven minutes away from landing in Ardmore, OK, and later that evening, based on a follow-on request from the staffer and subsequent inquiry to the Operations Center, informed her of the plane's locations the previous day, May 11; and (c) air traffic controllers in FAA's Fort Worth Center provided Department of Homeland Security and DPS with current and historical flight data.

At least two controllers in FAA's Fort Worth Center were aware of the purpose of the inquiries at the time they were received and processed. A supervisory controller told us he first learned of the search for the absent Texas legislators from local news reports prior to reporting for work on May 12. He advised that later, in fielding the call from DPS, he stated to the DPS officer, "You must be looking for the missing Democrats," which the officer acknowledged. A second Fort Worth controller related that in contacting an Air Traffic Control facility in Lubbock, pursuant to a call he received from the Department of Homeland Security, the controller with whom he spoke said, "You know who that [plane] belongs to, don't you? It's the outgoing Speaker, Laney, Speaker of the House."

Regarding the Fort Worth Center's contacts with the Department of Homeland Security and DPS, a Fort Worth controller told us that the DPS officer who called him said the airplane was overdue to its presumed destination of Mineral Wells, TX², on the evening of May 12, and requested a search and rescue operation, which the controller said was not warranted as there was no evidence the plane had experienced trouble in flight. Later that evening, the Fort Worth Center entered an "alert" for N711RD in the air traffic control computer system, providing for immediate notification to the Fort Worth Center had the plane contacted any air traffic control unit within the Fort Worth Center's area of coverage. The alert was canceled that night when DPS located the plane on the ground in Graham, TX, which is in the vicinity of Mineral Wells.

- ***The Administrator and the Secretary should have been informed sooner of FAA's involvement. Information that FAA provided flight data to the Department of Homeland Security, DPS, and Rep. DeLay's staff was not communicated to the Administrator and the Secretary until May 21.***

Our investigation also determined the extent to which information about FAA's involvement in locating N711RD was communicated within the FAA and the Office of the Secretary. In brief, we found that Balloff, who reports directly to the Deputy

² Earlier that evening, FAA's Fort Worth Center had informed the Department of Homeland Security facility in California that N711RD had an active flight plan from Ardmore to Mineral Wells. The Department of Homeland Security in turn passed this information on to DPS.

Administrator and Administrator, did not report the request from Rep. DeLay's staffer until May 21, when he responded to questioning by FAA's Chief of Staff, David Mandell.

On May 15, in a separate request to FAA, a Minority staffer for the House Homeland Security Appropriations Subcommittee had asked whether FAA had received any information requests about the plane associated with the Texas legislators. In response, Mandell oversaw FAA's fact-finding.

On Friday May 16, Mandell, who at the time was unaware of the request from Rep. DeLay's staff, advised Administrator Marion Blakey of the Appropriations Subcommittee staffer's request. Mandell also provided the Administrator with a preliminary report that an FAA office in Oklahoma City had been contacted by DPS but provided no information to DPS, and instead referred DPS to the Department of Homeland Security facility in California.

On May 19 or 20, Mandell was briefed that DPS and the Department of Homeland Security had called FAA's Fort Worth Center, but he did not brief the Administrator pending receipt further details. On May 20, Mandell was provided with a chronology prepared by FAA's regional office in Fort Worth, but he advised that he did not have an opportunity to read it until May 21. This chronology showed, in summary form, Department of Homeland Security and DPS contacts with Fort Worth controllers, but, more significantly, it also showed that on May 12, the Fort Worth Center had received a call from the Washington Operations Center requesting information on N711RD. This information caused Mandell to question how the Operations Center became involved. Mandell then contacted the Operations Center, ultimately learning that day, May 21, that Balloff had inquired of the Operations Center about N711RD on May 12. Mandell then spoke to Balloff and learned, for the first time, about the request from Rep. DeLay's staff.

Shortly thereafter, on May 21 (nine days after the fact), Mandell notified the Administrator and the Department's Chief of Staff, John Flaherty. Flaherty immediately, on the night of May 21, conferred with the Department's General Counsel and the Deputy Secretary, and subsequently on that date briefed the Secretary, who concurred in their recommendation that the General Counsel investigate FAA's involvement. Addressed in greater detail below is the sequence of events regarding communication within FAA and the Office of the Secretary.

Balloff told us that Rep. DeLay's staffer offered no explanation for her May 12 request and he did not ask her about it, though he stated to us, "Having worked at the NTSB, the first thing that came to my mind was a safety issue." Balloff further advised that at FAA, he had not previously been contacted by any Congressional

office asking for the location of an airplane.

Balloff told us he first learned of the absent Texas legislators when he read an article in the *Washington Post* on May 13 while en route home; Balloff advised us it was then that he realized the staffer's request the previous day was connected to that matter. Balloff stated, in part, as follows:

“. . . I figured out why they were calling. . . I just felt like I had been used. . . I don't do anything for political purposes. . . and I just did not like. . . somebody calling me for political reasons. . . I would never use my office to help somebody out politically, for any political reasons, period.”

Balloff advised that, per the Command Center's advisement to him, the information he obtained and passed on to Rep. DeLay's staffer was public information. He further related that having learned the purpose of the request after-the-fact, he questions its appropriateness. Balloff also advised that, in hindsight, he would have handled the staffer's request differently, by coordinating with the FAA Chief Counsel's Office and senior agency officials, along with asking the requestor for background about the request.

Balloff maintained that after providing Rep. DeLay's staffer with the requested information on May 12, he told nobody about it until May 21, when FAA's Chief of Staff, David Mandell, questioned him. When we asked Balloff why he informed no one, in light of the matter becoming one of national attention, he advised that he did not know why, stating he “just didn't.”

JoAnn Horne, Deputy Director of FAA's Office of Budget, was tasked with conducting fact-finding necessary to respond to the Homeland Security Appropriations Subcommittee staff. Horne told us of an inquiry she made with Balloff on May 15. Horne stated as follows:

“So I walked over and I saw David Balloff in the open office bay area and I told him that we had gotten a call from our previous House Appropriations Subcommittee member--staffer, asking if anyone in the agency had been called to provide assistance in locating the aircraft carrying the legislators. . . . if the state police, or anybody had called, asking for help in tracking down an airplane. He [Balloff] said no. He suggested that I talk to his deputy, David Broome. . . . So I had a conversation with David Broome. . . He said no . . .”

Balloff had a different recollection of Horne's inquiry when we interviewed him about it. He recalled that Horne had asked him something to the effect of whether

anyone from the Department of Homeland Security had contacted his office about the Texas issue or airplane, and that he replied no because she was only asking about Department of Homeland Security contacts. When we questioned Balloff as to why he did not inform her of the request he received from Rep. DeLay's staff, Balloff stated, "I answered the question the way she asked me the question."

Balloff's response to Horne further delayed notification to the Administrator and the Secretary. On the afternoon of May 21, Mandell accompanied Administrator Blakey on a flight to Williamsburg, VA, briefing her for the first time that FAA had provided information to the Department of Homeland Security, DPS, and Rep. DeLay's office about N711RD. After arriving in Williamsburg, at about 8:30 p.m., Mandell telephonically briefed DOT Chief of Staff Flaherty.

On the night of May 21, following Mandell's advisement, Flaherty conducted a conference call with Deputy Secretary Michael Jackson and DOT General Counsel Kirk Van Tine, during which it was recommended that Van Tine would investigate the facts and circumstances of the contacts with FAA. Following their discussion, Flaherty called Secretary Mineta, apprising him of the matter. The Secretary concurred with the course of action proposed by Flaherty, Van Tine, and Deputy Secretary Jackson. Van Tine suspended his investigation when we initiated ours on May 29.

Flaherty told us that he considered the potential misuse of FAA resources to be a serious issue, and, consequently, he made a contemporaneous audiotaped dictation regarding this matter within a few hours of his late May 21 discussions with Mandell, Van Tine, the Deputy Secretary, and the Secretary. We transcribed the tape, which, consistent with our interview of Flaherty, expresses that both he and the Secretary were perplexed over the report they received that night that Rep. DeLay's staffer had not explained the purpose of her request, and that Balloff did not ask about it. The transcript also relates Flaherty's concern that the Office of the Secretary was not timely apprised of FAA's involvement in the Texas matter; in particular, Mandell learned on May 16 that DPS had contacted FAA seeking the location of the airplane, but he had not informed Flaherty. Additionally, the transcript reflects that Flaherty instructed Mandell that night to submit a memorandum to him relating the information of which Mandell advised him.

Consistent with the concern expressed by DOT Chief of Staff Flaherty, we, too, find it difficult to understand why Balloff did not ask Rep. DeLay's staffer about the purpose of her request, especially since, as a former employee of the National Transportation Safety Board, Balloff told us he had thought, at the time, that a safety issue might be involved.

Further, Balloff was unable to articulate why he did not report his contact with Rep. DeLay's staffer to anyone until questioned by Mandell on May 21, even though he knew from the *Washington Post* on May 13 that the matter had become one of national attention. Had he acted promptly to report the matter, the Administrator, along with the Secretary, would have been informed over a week earlier. Further, it is our assessment that Horne's inquiry of Balloff on May 15, even as he described it, should have triggered disclosure to her of his contact with Rep. DeLay's office, and thus would have enabled FAA to be responsive to the inquiry from the House Homeland Security Appropriations Subcommittee staff.

Balloff's response to our investigation also contributes to our difficulty in understanding why he did not inquire about the purpose of the request from Rep. DeLay's staffer. In particular, it was necessary for us to interview Balloff on four separate occasions because he had not advised us of at least three events of considerable relevance to the facts and circumstances we were investigating:

- We learned from our analysis of the Operations Center transcript for May 12 that another individual was present with Balloff when he called Rep. DeLay's staffer to inform her of the current location of N711RD. When we initially interviewed Balloff, he did not recall that another person was present with him, and then, upon reinterview after we identified the individual, he still did not recall this person's presence, even though this individual corroborated some of Balloff's statements.

We had determined that after receiving the call from Rep. DeLay's staffer, Balloff had asked a subordinate GS-15 level employee, David Kerr, to join him in his office in order to determine how N711RD could be quickly located. Kerr related that Balloff informed him of the staffer's request and together they pondered why the staffer might need the information, namely the possibility that the plane was missing due to an accident. Kerr was present with Balloff when he called the staffer back to inform her that the plane would be landing at Ardmore. Kerr confirmed that in calling her back, Balloff did not query her about the reason for the request or whether there was a flight safety concern involved. According to Kerr, Balloff indicated no awareness of the purpose of the staffer's request. Upon reinterview, Balloff advised that he had not recalled Kerr's involvement.

- Balloff did not disclose to us Horne's inquiry of him. When we learned of it and reinterviewed him, he told us that he had not recalled it during our initial interview.
- Rep. DeLay's staffer told us that on the morning of May 13, she sent Balloff an email that included a newspaper article about the matter in Texas. Rep. DeLay's office provided us with a copy of the email message, reflecting that the staffer

transmitted it to Balloff (using a valid email address) at 11:23 a.m. The message states, “I thought you would find this article of interest. . . . [nothing further]”, followed by text (not an attachment) of a May 12, 11:12 p.m. *Houston Chronicle* online article captioned, “Some rebel Texas lawmakers surface in Oklahoma town.” The article relates that a group of state Democratic legislators had been located in Ardmore, OK, the evening of May 12. As Balloff did not mention the staffer’s email when we interviewed him, and we were unaware of it, we reinterviewed him. Balloff told us he did not recall having seen it.

In addition, the Operations Center transcript for May 12 reflects that beginning at 8:45 p.m. EDT, Balloff placed four calls to the Operations Center asking to be connected to FAA’s Assistant Administrator for Aviation Policy, Planning, and the Environment. Neither Balloff nor the Assistant Administrator for Policy, who previously worked together on Capitol Hill and describe themselves as friends, recalled whether they spoke that night. They advised that if they spoke, it likely concerned policy-related issues associated with the FAA Reauthorization bill. They denied having discussed the request from Rep. DeLay’s staffer.

While Balloff did not make any statements during our four interviews with him to indicate he intentionally withheld disclosure to his superiors of the request from Rep. DeLay’s staffer, the circumstances outlined above, collectively, are of a nature to foster such an appearance.

- ***FAA lacks clear internal guidance for the processing of requests for FAA aircraft/flight information received from law enforcement and other Government entities. A separate issue exists concerning public availability to aircraft location/flight data via commercial databases.***

It is clear from our findings that FAA protocols for the processing of information requests from law enforcement or other government entities require considerable strengthening. We did not consider it our role, nor did we attempt, to define what does, and does not, constitute a legitimate request from law enforcement/government organizations.

FAA controllers we interviewed were not aware of any protocols to follow in responding to requests from law enforcement or other government officials for aircraft location/destination information. We found that controllers took no action to verify the identities of callers, inquire about the reason for the request (i.e., in order to identify flight safety issues), or log the contacts—to include annotating what information was provided. In fact, none of the involved Fort Worth controllers even recalled the name of the caller purporting to be a DPS officer. If the calls had concerned a safety of flight issue, for example, the controllers would not have known

who specifically to call back to provide further assistance if necessary. Such a method of operation potentially limits FAA's effectiveness in carrying out its safety mission. At the same time, such a lack of protocols creates additional vulnerabilities, namely the possibility of releasing data from its information systems to individuals who may falsely identify themselves as law enforcement or other government officials.

We were informed that FAA facilities do not presently maintain logs of information requests they receive from law enforcement and other government officials. Personnel at the Washington Operations Center, the Fort Worth Center, and the law enforcement liaison office in Oklahoma City related that they receive such requests on an occasional basis, though they were uncertain of the average number of requests they receive per week or month.

Further, as reflected in the enclosed Washington Operations Center transcript, and in our interviews, there was some uncertainty and confusion on the part of FAA personnel as to whether aircraft/flight data was publicly releasable. This, too, supports the need for clear policy guidance.

Beyond the lack of FAA internal policy, we note the broader, more complex, issue of public availability to current and historical aircraft and flight data. We found that while the information FAA personnel provided to the Department of Homeland Security, DPS, and Rep. DeLay's staff was retrieved from FAA databases, comparable information—including near real-time aircraft locator data—is currently available to the general public through a number of commercial databases accessible via the internet.

Through a program known as the Aircraft Situation Display to Industry (ASDI), DOT's Volpe Center makes certain raw FAA Air Traffic Control data—both near real-time (5-10 minute lag) and historical—for general aviation and commercial aircraft available to designated industry parties in accordance with user agreements. The industry parties, in turn, process the data and make it publicly available via the internet. Some internet information providers require subscription fees, though they are typically nominal. Our research shows that similar capabilities exist for general aviation and commercial aircraft operating in Canada, England, the Caribbean, and over the Atlantic and Pacific Oceans.

Using known internet search engines, we were able to quickly determine the current locations (near real-time, 5-10 minute lag) and destinations of airborne general aviation aircraft, as well as historical aircraft destination data³. In fact, on June 10,

³ In our internet searches, we used such search terms as, "Real time tracking of general aviation aircraft" and "How do I find the current location of a general aviation aircraft?"

we were able to determine the flight origination and destination points of N711RD on May 12.

Chronology of May 12 Contacts

The May 12 contacts are presented, chronologically, as follows, and we have also enclosed a detailed time-line of all associated events occurring between May 12 and May 21:

Oklahoma City – DPS request for help in locating Texas legislators “in hiding.”

Just before 1:00 p.m. EDT on May 12, an investigator in the FAA Civil Aviation Security (CAS) office responsible for law enforcement liaison⁴, which is located in Oklahoma City, received a call from an individual identifying himself as a representative of the Austin Division of the Texas DPS. According to the CAS investigator, the caller (who provided his name) spoke in generalities about a concern that over 50 Texas legislators were in hiding and that the Governor of Texas had issued a warrant for their apprehension. The caller requested FAA assistance in locating a plane believed to be carrying some of the legislators.

As the DPS official did not have an aircraft registration/tail number or the name of the pilot, and since the CAS office lacks direct aircraft tracking capabilities, the CAS investigator suggested that DPS call the Department of Homeland Security’s Air & Marine Interdiction Coordination Center (AMICC—located at March Air Reserve Base in Riverside, CA), which has tracking capabilities. The CAS investigator did not think she mentioned the DPS contact to anyone that day, May 12.

The CAS investigator advised that her office receives inquiries from DPS and other law enforcement agencies regarding aircraft and pilots. However, she was not aware of any official FAA policy regarding release of aircraft information to parties outside FAA.

Washington DC – Congressional Request to locate N711RD

We found that on the afternoon of Monday, May 12, 2003, a senior staffer for Rep. Tom DeLay in Washington placed a telephone call to David Balloff, FAA’s Assistant Administrator for Government and Industry Affairs, requesting the current location of N711RD, which she believed had departed from Austin, TX. Shortly thereafter, Balloff called FAA’s Washington Operations Center, advising the

⁴ This CAS office serves in a law enforcement liaison capacity under the Law Enforcement Assistance Program and Drug Interdiction Support Program.

specialist with whom he spoke that a Congressional office had asked him for the location of N711RD.

The Operations Center queried an FAA database identifying the plane's current location. At approximately 4:21 p.m. EDT, the Operations Center specialist informed Balloff that the plane was airborne and would be landing in about seven minutes at the Ardmore, OK, Downtown Executive Airport⁵.

Balloff immediately relayed this information to Rep. DeLay's staffer (at 4:21 p.m. EDT, per DOT telephone records), who then inquired about the location of the plane the previous day, May 11. At 4:26 p.m. EDT, Balloff again called the Washington Operations Center, this time speaking with a second specialist. In researching the question, the Operations Center contacted FAA facilities in San Angelo and Fort Worth, TX, and McAlester, OK. At some point after 5:10 p.m. EDT, Balloff visited the Operations Center⁶ and was informed that on May 11, N711RD made two round trips from Plainview, TX, to Ardmore⁷. Balloff advised Rep. DeLay's staffer of this information at 6:23 p.m. EDT, the time shown by DOT telephone records.

As Operations Center telephone calls are recorded, we have enclosed a copy of a transcript of the Center's conversations with Balloff and Texas FAA personnel⁸.

Texas – Department of Homeland Security and DPS contacts with FAA's Fort Worth Air Route Traffic Control Center

On May 12, at approximately 8:40 p.m. EDT, a Department of Homeland Security/AMICC specialist called FAA's Fort Worth Air Route Traffic Control Center for assistance in locating N711RD; the AMICC specialist had just received a call from a DPS officer asking for the whereabouts of the plane, which the DPS officer told AMICC had supposedly departed Ardmore for Georgetown, TX. The Fort Worth air traffic controller (a shift supervisor) who received the call advised the AMICC specialist that N711RD was shown as having an active flight plan from

⁵ The flight actually originated in Plainview, TX.

⁶ Balloff's office is in close proximity to the Operations Center.

⁷ We determined that the information provided to Balloff by the Operations Center concerning the plane's May 11 flight activity was erroneous. It had actually flown from Austin to Plainview on May 11.

⁸ In the transcript, an Operations Center supervisor states to an FAA employee in San Angelo, TX, "I've been asked by Mr. Balloff . . . they're doing a Congressional hearing concerning something that they didn't want to share with us." When we interviewed the supervisor about these statements, he advised that he misspoke, acknowledging, consistent with the transcript, that Balloff did not represent to the Operations Center that his request involved a Congressional hearing or that he had refused to share information.

Ardmore heading for Mineral Wells, TX, and provided him with a phone number for the Mineral Wells airport.

About 20 minutes later, the AMICC specialist again called FAA's Fort Worth Center, informing a different controller that N711RD was not at the Mineral Wells airport or in Plainview, TX (which, based on a proposed flight plan, AMICC thought may have been the plane's ultimate destination). AMICC asked the Fort Worth controller if he could check FAA facilities covering the route to Plainview. The controller, after checking with FAA's Lubbock Radar Approach Control facility⁹, called AMICC back, advising that FAA Lubbock had no record of contact with the plane. AMICC in turn informed the DPS officer, suggesting that he directly contact FAA's Fort Worth Center for further assistance; AMICC provided the DPS officer with a phone number for the Fort Worth Center.

The DPS officer subsequently called FAA's Fort Worth Center, speaking with a third controller. According to this controller, the DPS officer said he was looking for N711RD, which was overdue. The controller checked an FAA database, indicating that the plane had departed Ardmore that evening around 8:00 p.m. EDT and apparently proceeded to Mineral Wells. When the controller advised the DPS officer of this, the officer said he wanted to initiate a search and rescue operation. The controller related to us that he informed the DPS officer that a search and rescue mission was not warranted since there did not appear to be anything to indicate the plane had encountered trouble.

Later that evening, on May 12, the DPS officer again called the Fort Worth Center, speaking with the supervisory controller who was initially contacted by AMICC. According to the controller, the officer stated that Texas Rangers were at the Mineral Wells airport, but N711RD was not there. The controller replied stating, "You must be looking for the missing Democrats," which the officer acknowledged¹⁰. The controller told the officer that N711RD had descended below the Fort Worth Center's radar coverage (4,000 feet above ground level) in the vicinity of Bridgeport, TX.

According to the controller, the officer became concerned, asking whether criminal charges could be filed against the pilot for descending below radar detection. The controller told the DPS officer that to his knowledge, the pilot had not violated any FAA regulations or laws. The controller related that the DPS officer said DPS was

⁹ The Fort Worth controller told us that the Lubbock controller with whom he spoke stated, "You know who that [plane] belongs to, don't you? It's the outgoing Speaker, Laney, Speaker of the House."

¹⁰ The controller told us he first learned of the search for the missing Texas Democratic legislators from local news reports prior to reporting to work on May 12.

“between a rock and a hard place” and needed to find the airplane. The controller informed the DPS officer of four or five airports in the vicinity of the Mineral Wells airport where the plane could have landed. The controller advised that during the evening of May 12, the Fort Worth Center entered an “alert” for N711RD in the air traffic control computer system, providing for immediate notification to FAA had the plane contacted any air traffic control unit.

The alert was canceled that night after DPS located the plane on the ground in Graham, TX. During his interview with the Department of Homeland Security Office of Inspector General, the DPS officer related that he called the Fort Worth Center a third time on the night of May 12, advising that DPS had located N711RD at the Graham, TX, airport (one of the possible locations identified by the Fort Worth Center controller.)¹¹ As reflected above, we found that at least two controllers in Fort Worth were aware of the purpose of the inquiries at the time they were received and processed.

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¹¹ We identified and interviewed this DPS officer, who largely confirmed the sequence and account of his contact with the controllers at FAA’s Fort Worth Center on May 12.



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

GENERAL COUNSEL

400 Seventh St., S.W.
Washington, D.C. 20590

MEMORANDUM

To: Kenneth Mead
Inspector General

Date: July 11, 2003

From: Kirk K. Van Tine
General Counsel

Re: Remedial Actions To Be Taken In Response To Report To Senator Lieberman

The Office of the Secretary and the FAA have reviewed your report to Senator Lieberman regarding his request to investigate the FAA's involvement in efforts to locate an airplane owned by a Texas state legislator. The purpose of this Memorandum is to notify you that the Secretary and the FAA Administrator concur fully in the findings and recommendations of the report, and to inform you of the remedial actions that have been, and will be, taken in response.

First, although not the subject of a specific recommendation, we noted that your report raises certain issues regarding the judgment of Mr. David Balloff, a member of the FAA staff. We have discussed this matter with the FAA Administrator and Chief Counsel, who will meet with Mr. Balloff today to counsel him appropriately regarding those issues, and will provide him with clear guidance regarding the expectations of the Secretary and the Administrator in the future.

Second, in response to your recommendation that the Department and the FAA develop specific policy and procedures regarding the disclosure of aircraft and flight data from FAA information systems, the FAA Administrator and Chief Counsel have prepared a draft order addressing those matters for the Secretary's review. After approval by the Secretary, the order will be distributed throughout the FAA, and will be provided directly to FAA personnel who routinely have access to such information in the course of their duties. We expect that order to be finalized next week, and we will provide you with a copy.

Third, in response to your recommendation regarding the national security and safety implications of the public availability of Air Traffic Control data, we are continuing to study the matter, and will provide you with a copy of the written results of our study when it is completed. We expect that review to be completed within 30 days. As you note in your report, the study is being conducted jointly by the Department's General Counsel and the FAA's Chief Counsel. We will ensure that, in addition to addressing the issues raised in your report, our review covers all of the issues that have been raised in correspondence received by the Secretary from Representatives Oberstar and Turner. While our study is not yet complete, it is appropriate to note that the FAA reviewed this subject in December 2001, in the light of the terrorist attacks of

September 11, 2001, and more recently, conducted an informal review of these issues as a direct result of the incident investigated in your report. As a result of the earlier review, we did make changes to the previous system. As part of our current review, we have already consulted with the Transportation Security Administration and we plan to obtain TSA's formal assessment of the potential threats to aviation security.

We appreciate the thoroughness and timeliness of your review, and appreciate inclusion of the foregoing response as part of your report.

**Transcript of FAA Washington Operations Center Communications on
May 12, 2003, Regarding Civil Aircraft N711RD**

Prepared by the Office of the Chief Counsel, Federal Aviation Administration

5/12 1617E Washington Operations Center Telephone Position 1 (Conversation between Mike Gabrini, Washington Operations Center, and David Balloff, Assistant Administrator for Government and Industry Affairs)

16:17:22 *Gabrini*: Operations Center, Mike Gabrini. May I help you?

Balloff: Yeah, Mike, it's David Balloff. I wanna ask you a question. I've got a Congressional office on the other line and they want to know . . . they gave me the tail number of a plane, and can you tell by the tail number—it's a Piper Cherokee—if the plane ever took off or if it's in the air right now?

Gabrini: Possibly, what's the N number?

Balloff: It's 7-1-1 Ralph David.

Gabrini: And do you know where it was supposed to take off from?

Balloff: Let me ask, just a second.

Gabrini: Okay.

16:18:06 *Balloff*: Going from Austin.

Gabrini: Leaving from Austin?

Balloff: Yeah.

Gabrini: Okay, stand by.

16:18:25 (Conversation between David Balloff and an unidentified person while waiting for a response from Mike Gabrini)

Balloff: [unintelligible] . . . took off from but she didn't tell me where it was going.

Unidentified person: . . . Well, they probably . . . [unintelligible].

16:18:44 *Gabrini*: Sir, it may take us a couple of moments to check it. Is that okay?

Balloff: Yeah, that's fine.

Gabrini: Okay, sir, stand by.

Balloff: Alright.

5/12 1619E Washington Operations Center Telephone Position 1 (Continued conversation between Mike Gabrini, Washington Operations Center, and David Balloff, Assistant Administrator for Government and Industry Affairs)

16:19:05 Gabrini: He's airborne?

Unidentified person: [unintelligible] . . . like he's gonna be landing . . .
[unintelligible]

Gabrini: Sir? Mr. Balloff? Hello? Sir, he's airborne and he'll be landing in about 7 minutes. That's November 7-1-1 Romeo Delta.

Balloff: Yeah, seven minutes. Where is he landing?

Gabrini: Let me check. Stand by.

16:21:11 Gabrini: Sir, it's Ardmore, Oklahoma.

Balloff: Okay.

Gabrini: Ardmore Downtown Executive Airport.

Balloff: Alright. Okay. Thanks a whole lot.

Gabrini: Yes, sir. You're welcome.

5/12 1626E Washington Operations Center Telephone Position 2 (Conversation between Gene Marx, Washington Operations Center, and David Balloff, Assistant Administrator for Government and Industry Affairs)

16:26:43 Marx: Washington Operations Center, Gene.

Balloff: Hey, it's David Balloff again.

Marx: Hi, Dave.

Balloff: One other question. On a aircraft like you gave me perfect information that that plane is getting ready to land. We wouldn't know where that plane was yesterday would we? Or do we care, because we're only concerned about what's in the air right now, is that right?

Marx: Are you talking about the . . . ?

Balloff: The 7-1-1. Oh, I didn't talk to you.

Marx: No, no.

Balloff: You all gave me some flight information on a general aviation plane that was getting ready to land in Ardmore, Oklahoma, and all the information was like perfect. But then I got a . . . this was a Congressional inquiry and then somebody asked me can you find out where the plane was traveling yesterday. Well, we can't really do that, 'cause all we're really concerned about is what's in the air right now, right?

Marx: Well, basically. I mean, we could do some. If it's necessary, I mean, there's ways to track it down. But, no, we're pretty much

Balloff: How long does it take to track it down like that?

Marx: Is it . . . Is it a rental airplane? Is it . . .

Balloff: I don't . . . I have no idea.

Marx: Let's see. Just a second.

5/12 1628E Washington Operations Center Telephone Position 2 (Continued conversation between Gene Marx, Washington Operations Center, and David Balloff, Assistant Administrator for Government and Industry Affairs)

16:28:08 Marx: Yeah, I see that there are ways to do it. I mean, you'd have to probably access somebody's data, and that would be probably a couple of Flight Service Stations if he . . . I mean, it isn't impossible; it's a little involved.

Balloff: But it would take awhile to get it.

Marx: It would take an hour or more.

Balloff: Alright, let me call this Congressional office back and see if they want me to do that. I mean, do we have the authority to do that?

Marx: Well, sure. If the aircraft filed flight plans, that's public.

Balloff: Alright, well, can you go ahead and do that?

Marx: We can . . . Do you know where he's out of?

Balloff: He's out of Austin, Texas.

Marx: Okay, we can . . . let's see, I can run this. I mean, that's assuming that he departed from Austin. I can go ahead and ask the Flight Service if they have any information on the aircraft.

Balloff: Yeah, you could do that. Look, whatever you can find out's fine.

Marx: Sure, and you need to know what it was doing yesterday?

Balloff: Yeah, where they went yesterday.

Marx: Okay, we'll ask the air traffic rep.

Balloff: And don't make a big deal out of it. If you can find out fine. If not, don't worry about it.

Marx: We'll ask the AT rep. here what they can do.

Balloff: Okay.

Marx: And you gonna give us a call back or do you want us to call you?

Balloff: I've got a meeting at five. I'll probably call you back around six.

Marx: Alrighty.

Balloff: Okay, thanks.

Marx: Sure.

Balloff: Bye.

Marx: Thank you.

5/12 1637E Washington Operation Center Supervisor's Telephone (Conversation between San Angelo Automated Flight Service Station and Gene Marx, Washington Operations Center)

16:37:52 San Angelo AFSS: Good afternoon, San Angelo Automated Flight Service.

Marx: Hey, San Angelo, this is Gene Marx, the Sup. at the Washington Operations Center. I've been asked by one of our level one folks here, a Mr. Balloff, they're doing a Congressional hearing concerning something

that they didn't want to share with us. But they wanted to know if an aircraft flew yesterday, and the only thing I could think of was getting the aircraft call sign and where he normally operates out of.

San Angelo AFSS: What's his call sign?

Marx: November 7-1-1 Romeo Delta. I thought maybe you could P-D it and see if you got anything at all on him.

San Angelo AFSS: We didn't talk to him in the last 24 hours.

Marx: Okay, do you Okay, Hale Center, Texas, is where he's out of. Is that . . .

San Angelo AFSS: Where?

Marx: Hale Center, H-A-L-E Center, Texas, is where they show his Oh, that's his owner's address never mind. Hmm . . . Okay So you guys haven't talked to him in the last 24 hours, huh?

San Angelo AFSS: No.

Marx: Okay. Well, I'll see if Houston got a hit on him or anything. And I appreciate it.

San Angelo AFSS: Okay.

Marx: Bye.

5/12 1640E Washington Operations Center Supervisor's Telephone (Conversation between Ron Blair, Ft. Worth Center Operations Specialist, and Gene Marx, Washington Operations Center)

16:40:17 Blair: Ft. Worth COS, Blair.

Marx: Hi, this is Gene Marx in the Washington Operations Center.

Blair: Yeah.

Marx: I've got a request from a Mr. David Balloff, who's the AGC-1 here, that's looking to see about an aircraft possibly flying yesterday that is involved in some sort of an investigation. My only . . . You know, we don't normally get involved with this kind of thing . . . I told him there might be a way that you could check . . . I guess I don't know how far back you can get that kind of information, like a spurt or something on an

aircraft, that might possibly have flown in your airspace yesterday. I'll give you the call sign.

Blair: Well, it sounds to me like you need to be talking to our Quality Assurance Office. I can't get that information. Hang on. Well, let me try. Maybe 24 hours from now.

Marx: Yeah, that's basically all I could do for him, I told him that.

Blair: What's the call sign?

Marx: The call sign is November 7-1-1 Romeo Delta.

Blair: November 7-1-1 Romeo Delta.

Marx: Yeah.

Blair: Hang on a second. Have any idea what time yesterday?

Marx: No, I don't.

Blair: Okay, we'll go back to . . . well let's say 2100 yesterday.

Marx: Okay.

Blair: I think this'll work.

5/12 1640E Washington Operations Center Supervisor's Telephone (Continued conversation between Ron Blair, Ft. Worth Center Operations Specialist, and Gene Marx, Washington Operations Center)

16:42:33 Blair: Yeah, I've got a flight plan on him from this morning.

Marx: Right.

Blair: Early, about 8:00 in the morning.

Marx: That's it, huh? Out of what, Austin?

Blair: Plainview to one Foxtrot zero. Whoever that is.

Marx: Plainview, Texas, to one . . . okay.

Blair: One Foxtrot zero.

Marx: Okay.

Blair: And who is this again?

Marx: This is Gene Marx, of the Washington Operations Center.

Blair: Gene?

Marx: Marx. M-A-R-X.

Blair: M-A-R-X.

Marx: Right, I'm with the WOC.

Blair: Washington Ops. Center, yeah.

Marx: Yeah, he . . . Actually, they were asking us if there's any way of getting that kind of information and I said it would take more than a couple of phone calls. You're going to have to access some data banks to get this kind of stuff.

Blair: Well, not only that but you got a Freedom of Information Act [you?] could go through, but I don't know if it's necessary with him. I know if I wanted a tape on my own self from two days ago, I'd have to go that route.

Marx: Yeah.

Blair: But I don't know who this is, and I don't know what the reason would be, all of that may change the deal.

Marx: This is a Congressional inquiry is what it's . . . It's some sort of a Congressional inquiry going on with this 1-1 Romeo Delta being at least a player in this somehow. I don't know what it is. I thought I might be able to get some flight plan information for him to let him know that, yeah, the guy did fly yesterday, that's about all.

Blair: Yeah, let me . . . I tell you what. If you would call our Quality Assurance Office, they can go back 14 days and just about get anything you want.

Marx: Yeah, I told him that's basically what we could do for him, but he's gonna, I thought, make a couple phone calls.

Blair: See, I don't know. He could have been here. Let me tell you what. I'm gonna go back to . . . It located a string but I couldn't tell for sure if it was this morning. I went back to 2800 yesterday and I couldn't tell if that

was it, but when I went forward to get the first information I had it was 1354.

Marx: Uh-huh.

Blair: If he flew yesterday and it was before this time of day then of course I don't think I can get that with a spurt. 24 hours is all I can do.

Marx: I know, yeah.

Blair: But the QA Office could pull tapes.

Marx: And that's what I'll advise him. If he needs more information, then the QA folks are the ones to go through. Hey, I appreciate it.

Blair: Alright, Gene.

Marx: Bye.

Blair: Bye.

5/12 1654E Washington Operations Center Supervisor's Telephone (Conversation between McAlester Automated Flight Service Station and Gene Marx, Washington Operations Center)

16:54:49 McAlester AFSS: McAlester Automated Flight Service, Operations.

Marx: Yes, sir. This is Gene Marx, the Washington Operations Center Supervisor.

McAlester AFSS: Where?

Marx: The Washington Operations Center.

McAlester AFSS: Yes, sir.

Marx: I'm just calling on behalf of David Balloff, the Administrator for Government and Industries. For some reason, he was looking to see if we had any information on an aircraft, November 7-1-1 Romeo Delta. And I know that he flew into McAlester today. Did he do any flying yesterday?

McAlester AFSS: Well, I'll tell you what, let me look back for the first 24 hours, then I can get a hit on yesterday. Okay? Hold on.

Marx: Sure. 7-1-1 Romeo Delta.

McAlester AFSS: Right. Okay, I got quite a bit of history here. Let's see. He had a flight plan, was it a Cheyenne?

Marx: Right.

McAlester AFSS: Okay, left Ardmore Executive or was proposed off of Ardmore Executive, which is in South Central Oklahoma.

Marx: Right.

McAlester AFSS: At 1800Z. Destination was GTU. M. Thompson, was that the name of the pilot?

Marx: Thompson? You know, I don't even know. I just made the mistake of answering the phone here.

[laughter]

McAlester AFSS: Okay, Thompson, Plainview, PVW, is the . . .

Marx: Oh, yeah.

McAlester AFSS: 806-293-1307 telephone number. Just one on board at that time. Okay, went to

Marx: This was yesterday?

McAlester AFSS: No, this was today, 12 . . . 1800 . . . It'd be 1:00 this afternoon.

Marx: GTU is Plainview?

McAlester AFSS: No, home base.

Marx: Okay, I gotcha.

McAlester AFSS: Okay, let me . . . GTU is Georgetown, Texas. It's in the Dallas metro area.

Marx: Okay, I gotcha.

McAlester AFSS: Okay, and I'll see what else we have here. Hold on please. Okay, then there was a cancellation, let's see, GTU back to Ardmore Executive. Looks like the . . . 1930, yeah, he was supposed to return back to Ardmore Executive. Let's see, 1930, time enroute shouldn't be more than an hour and 20.

Marx: Right.

McAlester AFSS: So he should be back there within about a half hour or so.

Marx: Right, yeah, we knew that he flew today.

McAlester AFSS: Okay, well I only go back 24 hours.

Marx: Good.

McAlester AFSS: Was that enough or do you need hits for yesterday?

Marx: If you got any for yesterday that would be helpful.

McAlester AFSS: Well, it would take me . . . I'd have to call our FSDPS and ask them to check to see if they have any hits on this aircraft and get a time. I would not have much more information at that. All I would do is give that information.

Marx: That's all I need.

McAlester AFSS: Okay, can I put you on hold then?

Marx: You bet.

[pause]

McAlester AFSS: Okay, sir, you still on?

Marx: Yeah.

McAlester AFSS: Okay, just had our FSDPS check; they had nothing for yesterday.

Marx: Okay.

McAlester AFSS: And the 8th was the last time that they had something and it was filed with Ft. Worth.

Marx: Okay, hey, I appreciate it. And I tell you what I'm a Flight Service type myself before I came here, and I was with OASIS for so long that I forgot all about the FSDP people.

McAlester AFSS: Yeah, they won't give you a whole lot of information.

Marx: Yeah.

McAlester AFSS: But they can get an index of services on that number. And you can get them any time and the 8th was the last time they have anything and that was with Ft. Worth Flight Service. So if you need more information they've got it.

Marx: No, that's perfect and I appreciate your help.

McAlester AFSS: No, problem. And you have a good one.

Marx: You too, now.

McAlester AFSS: Bye.

Marx: Bye.

5/12 1708E Washington Operations Center Supervisor's Telephone (Conversation between Ron Blair, Ft. Worth Center Operations Specialist, and Jesse McKee and Gene Marx, Washington Operations Center)

17:08:47 McKee: FAA Operations, Jesse McKee speaking. May I help you?

Blair: Good afternoon. My name is Ron Blair, Ft. Worth Center. I'm trying to get ahold of a Gene Marx.

McKee: Oh, one moment there.

Marx: Hello. Hello?

Blair: Gene.

Marx: Yeah.

Blair: Ron Blair, Ft. Worth Center.

Marx: Yes, sir.

Blair: I'm calling you back reference November 7-1-1 Romeo Delta.

Marx: Oh, I appreciate it.

Blair: We called our QA and they just did a quick look. And the guy flew from Austin to Plainview yesterday.

Marx: Oh, great, Austin to Plainview. That helps a lot, because the only other information I could get was that he flew like on the 8th, and I got that off of some FSDP stuff that the Flight Service had. But he did fly to Plainview yesterday, huh?

Blair: Yeah.

Marx: Okay, hey, I appreciate it.

Blair: You bet, you're welcome.

Marx: Thanks for getting back to me.

Blair: You bet.

Marx: Bye.

[During the conversation that occurred beginning at 16:26:43, Mr. Balloff asked Mr. Marx if he could find out where N711RD was traveling on the day before, i.e., May 11. In the segment beginning at 16:28:08, Mr. Marx advised that it would take an hour or more to find out. Mr. Balloff stated that he had a meeting at 5:00 and probably would call back at around 6:00. The Washington Operations Center (WOC) has been unable to locate a recording of the later conversation. However, Mr. Balloff and Mr. Marx remember having a conversation on May 12 about the operation of N711RD on the previous day.

Mr. Balloff's recollection is that he was told that the aircraft had made two roundtrips to Ardmore from a small town in Texas—Plainview, he thinks. Mr. Marx recalls that he advised Mr. Balloff that the aircraft had flown from Plainview to Ardmore and returned or vice versa.

In an effort to locate a recording of the conversations between Messrs. Marx and Balloff, the WOC listened to recorded communications involving Mr. Balloff for the remainder of May 12. Beginning at 20:46:48, there were four brief segments between Mr. Balloff and the WOC in an unsuccessful attempt to contact Sharon Pinkerton.]