



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

SEP 3 0 2009

William E. Reukauf
Associate Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036

Re: OSC File No. DI-08-1801

Dear Mr. Reukauf:

Thank you for your correspondence of November 14, 2008, regarding whistleblower concerns raised by Michael Cole, an employee of the Department of Transportation (DOT), Federal Aviation Administration (FAA), Juneau Automated Flight Service Station (Juneau AFSS), Juneau, Alaska. Mr. Cole, an Air Traffic Control Specialist, reported safety concerns surrounding the transfer protocol used to pass responsibility to Juneau AFSS when the Juneau Air Traffic Control Tower (Juneau Tower) closed each night. He reported that the winter early closing of Juneau Tower, from October through March, had caused a series of safety events. Mr. Cole, among other things, also reported that controllers at Juneau Tower issued takeoff clearances for aircraft departing Juneau without reporting the clearances to controllers in the Anchorage Air Route Traffic Control Center (Anchorage Center), who were responsible for clearing flights departing and arriving at Juneau.

Former Secretary of the U. S. Department of Transportation, Mary Peters, delegated responsibility for investigating Mr. Cole's concerns to the FAA's Air Traffic Safety Oversight Service (AOV), which has concluded its investigation. The FAA Administrator has provided me the enclosed AOV report.

In sum, AOV's review substantiated one of Mr. Cole's allegations. It found that on July 22, 2008, Juneau Tower personnel failed to switch the weather broadcast to Automatic Weather Observing System when they closed the Tower for the evening. AOV determined that this error was an isolated, one-time event that, while violating Juneau Tower's Standard Operating Procedure, did not violate a law, FAA Order, or Federal Aviation Regulation. In addition, because other, more current, weather broadcasts would have been available to pilots in the vicinity of the Juneau Airport via the Juneau AFSS, AOV did not find that the error constituted a specific and substantial danger to the flying public.

Most of the situations identified by Mr. Cole either lacked specific examples or the examples cited could not be proven due to the unavailability of pertinent radar and voice

data. While AOV was able to locate some recorded data and Quality Assurance Reports pertaining to an incident that occurred on October 6, 2008, in which Mr. Cole claims an unreported operational error occurred, the evidence did not support Mr. Cole's description of the incident. Likewise, a new allegation raised by Mr. Cole during his interview, that aircraft were allowed to depart Juneau Airport after their clearance void time had expired, was also not supported by the evidence, which indicated that the pilot departed on or before the clearance void time. In addition, individuals AOV interviewed did not corroborate Mr. Cole's version of events, nor could Mr. Cole provide additional sources or other evidence to support his claims. Therefore, AOV did not substantiate the remainder of Mr. Cole's allegations.

I have been advised that Mr. Cole told AOV that he no longer had concerns regarding his allegations that Juneau Tower's hold for release instructions were not being given after a clearance was issued and that Juneau Tower failed to properly comply with the Letter of Agreement with Anchorage Center. While neither AOV nor Mr. Cole could identify any changes to Juneau Tower's management practices concerning these issues, Mr. Cole told AOV his concerns had been satisfactorily resolved.

To reduce potential miscommunication during opening and closing procedures associated with part-time facilities, AOV recommended that the Air Traffic Organization validate that air traffic facilities have appropriate checklists in place. The FAA Administrator concurred with the recommendation and forwarded the report to me for review. I have reviewed the report and believe that FAA's investigation and recommendation sufficiently address this matter.

Finally, I want to reiterate that safety is the U.S. Department of Transportation's highest priority. I look forward to working with interested stakeholders to continue to identify improvements to the system to achieve the highest possible level of aviation safety. I very much appreciate Mr. Cole's diligence in raising his concerns.

Sincerely yours,



Ray LaHood

Enclosures



U.S. Department
of Transportation

Federal Aviation
Administration

Office of the Administrator

800 Independence Ave., S.W.
Washington, D.C. 20591

SEP 29 2009

INFORMATION MEMORANDUM TO THE SECRETARY

From: J. Randolph Babbitt, Administrator
x 73111

Prepared by: Margaret Gilligan, Associate Administrator for Aviation Safety
x 73131

Subject: Internal Investigation Report: Whistleblower Disclosure – U.S. Office of Special
Counsel, File No. DI-08-1801, Juneau, Alaska

SUMMARY

Presented herein are the results of our review of specific whistleblower safety allegations disclosed by Michael Cole, an Air Traffic Control Specialist at the Juneau Automated Flight Service Station (AFSS) in Juneau, Alaska. These concerns were reported to the U.S. Office of Special Counsel (OSC) via a Whistleblower Disclosure, identified as File No: DI-08-1801. OSC, in turn referred the allegations to then Secretary Mary Peters on November 14, 2008. On January 2, 2009, investigation of the allegations was delegated to the Federal Aviation Administration's Air Traffic Safety Oversight Service.

BACKGROUND

Specifically, the complainant alleged to OSC that:

1. Juneau Air Traffic Control Tower (ATCT) issued Instrument Flight Rule (IFR) clearances to aircraft without a hold for release (HFR) instruction prior to the Tower terminating operations;
2. Juneau ATCT failed to switch the weather broadcast to the Automatic Weather Observing System (AWOS);
3. Juneau ATCT failed to remain open during a malfunction of the approach lighting control panel at the Juneau AFSS;
4. Pilots canceled their IFR clearances when inbound to Juneau airport and proceeded under Visual Flight Rules (VFR);

5. Juneau ATCT employed controllers whose experience was insufficient for conducting safe operations;
6. Multiple violations of Letters of Agreement occur between Juneau Airport, Juneau AFSS, and Anchorage Center; and
7. Early closing of the Juneau Tower during winter months creates additional safety concerns.

During our April 14, 2009, interview of Mr. Cole, he brought forth the following additional allegation:

8. Pilots departed after their clearance was void time that was covered up by Juneau AFSS management.

According to the OSC referral, such allegations, if determined to be true and accurate, suggested gross mismanagement, substantial or specific danger to public safety, and violation of FAA requirements by pilots and FAA employees at both the Juneau ATCT and Juneau AFSS.

In sum, our review was unable to substantiate all but one of Mr. Cole's allegations. Most of our reviews were conducted with the absence of data and based on theories provided by Mr. Cole with the exception of the October 6, 2008 and March 23, 2009 incidents both pertaining to aircraft departing after their clearance void time.¹ We did substantiate one of the allegations made by Mr. Cole. In particular, we found on July 22, 2008, Juneau Tower personnel failed to switch the weather broadcast to AWOS when they closed the Tower for the evening. We determined that this error was an isolated, one-time event that, while violating Juneau Tower's Standard Operating Procedure (SOP), did not violate a law, FAA Order, or Federal Aviation Regulation (FAR). In addition, because other, more current weather broadcasts would have been available to pilots in the vicinity of the Juneau Airport via the Juneau AFSS, we did not find that the error constituted a specific and substantial danger to the flying public.

We were able to locate some recorded data and Quality Assurance Reports pertaining to the March 23, 2009, and October 6, 2008, events disclosed by Mr. Cole; however, the evidence indicates that these events transpired in a manner other than what was described by Mr. Cole. In addition, individuals we interviewed did not uphold Mr. Cole's version of events, nor could Mr. Cole provide additional sources or other evidence to support his claims. Therefore, we did not substantiate the remainder of Mr. Cole's allegations.

Finally, Mr. Cole told us that he no longer had concerns regarding Juneau Tower's HFR instructions not being given after a clearance was issued (Allegation 1), as well as the Juneau Tower's failure to properly comply with the Letter of Agreement with Anchorage Center (Allegation 6). While neither we nor Mr. Cole could identify any changes to Juneau Tower's management practices concerning these issues, Mr. Cole told us his concerns had been satisfactorily resolved. Therefore, based on lack of evidence, and Mr. Cole's own statements, we recommend that this case be closed without further action.

¹ The October 6, 2008 incident may be referenced on page 6 and the March 23, 2009 incident may be referenced on page 11 of the Internal Investigation Report.

RECOMMENDATION

To reduce the potential for miscommunication during the opening and closing procedures associated with part-time facilities, we recommend that the Air Traffic Organization validate that air traffic facilities have appropriate checklists in place to ensure thorough transfer of control information is passed during the opening and closing process.

Attachment



AIR TRAFFIC SAFETY OVERSIGHT SERVICE
Operational Review & Investigations Unit

Internal Investigation Report

Whistleblower Disclosure

U.S. Office of Special Counsel, File NO. DI-08-1801

I. EXECUTIVE SUMMARY

Presented herein are the results of our review of specific whistleblower safety allegations disclosed by Michael Cole, an Air Traffic Control Specialist at the Juneau Automated Flight Service Station (AFSS) in Juneau, Alaska. These concerns were reported to the US Office of Special Counsel (OSC) via a Whistleblower Disclosure, identified as File No: DI-08-1801. OSC in turn, referred the allegations to, then-Transportation Secretary, Mary Peters on November 14, 2008. On January 2, 2009, investigation of the allegations was delegated to the Federal Aviation Administration's Air Traffic Safety Oversight Service.

Specifically, the complainant alleged to OSC that:

1. Juneau Air Traffic Control Tower (ATCT) issued Instrument Flight Rule (IFR) clearances to aircraft without a hold for release (HFR) instruction prior to the Tower terminating operations.
2. Juneau ATCT failed to switch the weather broadcast to the Automatic Weather Observing System (AWOS).
3. Juneau ATCT failed to remain open during a malfunction of the approach lighting control panel at the Juneau AFSS.
4. Pilots canceled their IFR clearances when inbound to Juneau Airport and proceeded under Visual Flight Rules (VFR).
5. Juneau ATCT employed controllers whose experience was insufficient for conducting safe operations.
6. Multiple violations of Letters of Agreement (LOA) occur between Juneau Airport, Juneau AFSS, and Anchorage Center.
7. Early closing of the Juneau Tower during winter months creates additional safety concerns.

During our April 14, 2009 interview of Mr. Cole he brought forth the following additional allegation:

8. Pilots departed after their clearance void time which was covered up by Juneau AFSS management.

According to the OSC referral, such allegations, if determined to be true and accurate, suggested gross mismanagement, substantial or specific danger to public safety, and violation of FAA requirements by pilots and FAA employees at both the Juneau ATCT and Juneau AFSS.

In sum, our review was unable to substantiate all but one of Mr. Cole's allegations. Most of our reviews were conducted with the absence of data and based on theories provided by Mr. Cole with the exception of the October 6, 2008 and March 23, 2009 incidents both pertaining to aircraft departing after their clearance void time.¹ We did substantiate one of the allegations made by Mr. Cole. In particular, we found on July 22, 2008, Juneau Tower personnel failed to switch the weather broadcast to AWOS when they closed the Tower for the evening. We determined that this error was an isolated, one-time event that, while violating Juneau Tower's Standard Operating Procedure (SOP), did not violate a law, FAA Order, or Federal Aviation Regulation (FAR). In addition, because other, more current weather broadcasts would have been available to pilots in the vicinity of the Juneau Airport via the Juneau AFSS, we did not find that the error constituted a specific and substantial danger to the flying public.

We were able to locate some recorded data and Quality Assurance Reports pertaining to the March 23, 2009, and October 6, 2008, events disclosed by Mr. Cole; however, the evidence indicates that these events transpired in a manner other than what was described by Mr. Cole. In addition, individuals we interviewed did not uphold Mr. Cole's version of events, nor could Mr. Cole provide additional sources or other evidence to support his claims. Therefore, we did not substantiate the remainder of Mr. Cole's allegations.

Finally, Mr. Cole told us that he no longer had concerns regarding Juneau Tower's HFR instructions not being given after a clearance was issued (Allegation 1), as well as the Juneau Tower's failure to properly comply with the LOA with Anchorage Center (Allegation 6). While neither we nor Mr. Cole could identify any changes to Juneau Tower's management practices concerning these issues, Mr. Cole told us his concerns had been satisfactorily resolved. Therefore, based on lack of evidence, and Mr. Cole's own statements, we recommend that this case be closed without further action.

II. INVESTIGATION

A. Methodology

AOV Investigator Nathan Enders and Air Safety Inspector Jim Ryan from Flight Standards Service traveled to Juneau, Alaska on April 14 2009, to conduct interviews and review documents. The investigators reviewed pertinent LOAs, FAA Orders, documents provided by interviewees, and all applicable Federal Aviation Regulations (FARs).

In addition, they conducted a comprehensive interview of the complainant, Michael Cole, and four other individuals: Steven J. Lyon, Manager of the Juneau AFSS; Susan Nelson, Juneau AFSS Quality Assurance Support Specialist; and Steven D. Turner, Air Traffic Manager at the Juneau Tower. In addition, we met with Michael D. Ownby, FAA's Principal Operating Inspector (POI) of Alaska Airlines.

We compared Mr. Cole's allegations for each event identified in the OSC referral with operations at similar facilities, and relative to FAA Orders and directives. The events identified

¹ The October 6, 2008 incident may be referenced on page 6 and the March 23, 2009 incident may be referenced on page 11.

were reviewed by the investigators in consideration of common practice, and with the assumption that Mr. Cole's statements were accurate. Most of the situations identified by Mr. Cole were either general in nature and lacked specific examples, or the examples cited could not be proven due to the unavailability of pertinent radar and voice data.

In addition to the allegations contained within the OSC referral, Mr. Cole provided information pertaining to additional concerns not previously raised through the whistleblower disclosure. Specifically, Mr. Cole alleged that pilots were violating their clearance void times. Given the safety nature of this allegation, we conducted additional investigative work. However, Mr. Cole also brought forth concerns pertaining to personnel issues. Such issues were outside the scope of this investigation, and are not addressed in this report.

Mr. Cole stated that subsequent to the November 14, 2008, OSC referral, Juneau management resolved his primary concerns. Specifically, he told us that his concern that hold-for-release² instructions were not given by the Tower when a clearance was issued, and that the Tower was not properly complying with the LOA with Anchorage Center, had been satisfactorily corrected, and were no longer a concern.

B. Details and Findings

Allegation 1: Takeoff clearances were issued while hold-for-release instructions were not issued prior to the Juneau Tower terminating operations, causing operational errors.

Mr. Cole described an unreported operational error³ (OE) that allegedly occurred on November 20, 2007. Mr. Cole stated that Alaska Airlines flight 66 (ASA66) was issued a clearance by the Juneau Tower, prior to their terminating operations, without being given a HFR instruction. Mr. Cole stated that he believed this clearance "... was based on the fact that the runway was clear of miscellaneous equipment, the runway lights were on and no inbound air traffic was anticipated." Mr. Cole was aware that ASA66 had been issued an IFR clearance because this information was passed from the Juneau Tower controller to the Juneau AFSS during the transfer of control briefing.⁴ Mr. Cole called the Anchorage Air Route Traffic Control Center (ARTCC) and inquired if they were aware that ASA66 was preparing to takeoff, and if they knew that a hold-for-release instruction had not been given.

Mr. Cole also described an unreported OE that allegedly occurred on May 20, 2008. He stated that Alaska Airlines flight 67 (ASA67) was issued an IFR clearance without an HFR instruction because the Juneau Tower anticipated the aircraft would be taking off shortly. ASA67 subsequently developed mechanical problems that delayed its departure. Mr. Cole alleged that the Juneau Tower attempted to contact ASA67, while preparing to terminate operations, in order to advise them to hold-for-release, but that they were unable to contact the aircraft.

² An instruction that an aircraft is not to be released for take off until further instruction is issued.

³ An operational error occurs when two aircraft get closer than FAA's minimum separation standards allow.

⁴ A briefing given to an air traffic controller when taking over a control position.

Findings:

We did not substantiate the allegation that the Juneau Tower did not issue a hold-for-release instruction to an aircraft when they had relayed an IFR clearance. Rather, we concluded that the Tower was in compliance with FAA regulations and that safety was not compromised.

Mr. Cole was unable to provide evidence (such as documents, audio recordings, radar data, or corroborating witness statements) to validate his claims that aircraft departed without first obtaining a clearance and release from the Anchorage Air Route Traffic Control Center (hereafter referred to as "Anchorage ARTCC").

The FARs governs IFR departure clearances at both towered and non-towered airports. During the hours when the Juneau Tower is open⁵, airspace surrounding the airport is designated as "Class D, controlled airspace"⁶. During these hours pilots are required to contact the Juneau Tower for an IFR departure clearance. They must also receive permission from the Tower to leave the gate, taxi to the runway, and takeoff. Juneau Airport is within the service area of the Anchorage ARTCC. The Anchorage ARTCC allows the Juneau Tower to issue IFR clearances when pilots request them, but requires controllers to request a release prior to allowing aircraft to depart on that clearance. An IFR departure clearance only specifies the route of flight that the pilot is expected to fly once airborne. In regard to the events covered by this investigation, the Juneau Tower called the Anchorage ARTCC and obtained a departure release when the aircraft were ready to depart with an IFR clearance. This release from the Anchorage ARTCC gave the controller at the Juneau Tower a window in which he must get the aircraft in the air. The aircraft was then issued a takeoff clearance by the controller.

When the Juneau Tower is closed, the airport becomes uncontrolled and the airspace surrounding it becomes Class E controlled airspace⁷. Pilots are required to obtain a clearance from the air traffic control (ATC) facility having jurisdiction over the airspace prior to entering that airspace.⁸ The facility having jurisdiction over Juneau is the Anchorage ARTCC. Pilots normally contact the Juneau AFSS who relay their requests to the Anchorage ARTCC. After the Tower has closed, pilots and other operators are responsible for their own separation while on the surface of Juneau Airport.⁹ However, pilots may not enter the airspace immediately above Juneau Airport, under IFR rules, without a clearance from the Anchorage ARTCC who may issue a clearance to the pilot through the Juneau AFSS that may or may not include a hold-for-release instruction.

⁵ Juneau Airport is a towered airport only during specific hours each day. These hours are noted in the Airport Facility Directory which each pilot is required to be familiar with prior to departure.

⁶ Controlled airspace surrounding smaller airports with control towers. Aircraft within Class D airspace must be in communication with the Tower when the Tower is in operation.

⁷ Controlled airspace that extends upward from either the surface or a designated altitude to the overlying or adjacent controlled airspace. Class E airspace ensures that IFR aircraft remain in controlled airspace when approaching aircraft out of Class D airspace.

⁸ CFR 14, Sec. 91.127 *Operating on or in the vicinity of an airport in Class E airspace*

⁹ Pilots may move their aircraft on the surface of an uncontrolled airport without permission from the Tower. They must, however, announce their intentions on a common traffic advisory frequency (CTAF) which all pilots and operators are required to monitor.

Mr. Cole could not cite any FAA regulation or rule that would help investigators understand what he called a “pre-clearance.” Mr. Cole explained to us that this “pre-clearance” issued by the Juneau Tower and cleared the aircraft to push back from the gate, taxi into position, and take-off.

After some discussion, we learned that what Mr. Cole was referring to was the IFR route clearance that the Tower had given the pilot. Mr. Cole alleged that this pre-clearance was based on the fact that “...at the time the pre-clearance was given the runway was clear of miscellaneous equipment, the runway lights were on, and no inbound air traffic was anticipated.”

November 20, 2007 Incident

IFR clearances issued by the Juneau Tower are not predicated on any of the items that Mr. Cole referenced. With no recorded data to review, we were only able to obtain information of the November 20, 2007, incident from Mr. Cole’s memory. Based on Mr. Cole’s own recollection of the incident, we concluded that there were no violations of laws or regulations. Mr. Cole stated that he “...called a controller in Anchorage Center to ask if the center controllers were aware that ASA66 was preparing to take off. The Anchorage Center controller responded that he had no knowledge of the clearance given to ASA66. Anchorage Center then asked Mr. Cole to radio the pilot of ASA66 and advise him to hold.”

If Mr. Cole’s recollection of the event is accurate, we can only conclude that he acted outside of the scope of his duties, and as a result interfered with normal air traffic procedures, created confusion, and compromised the safety of air traffic control operations at Juneau. The pilot of ASA66 was permitted to conduct any ground operation, including taxiing out to the runway and prepare for takeoff without clearance from any ATC facility. The pilot was then required to call the Juneau AFSS prior to departure in order to obtain an IFR clearance and release from the Anchorage ARTCC through relay from the Juneau AFSS. Mr. Cole stated that he had called the Anchorage ARTCC and told them ASA66 was “taking off.” Although a clearance had not been issued to ASA66, the Anchorage ARTCC controller was led to believe that a clearance had been issued to ASA66 permitting him to depart. ASA66 may have been preparing to takeoff, but according to Mr. Cole’s recollection, the pilot did not enter the runway prior to contacting Mr. Cole and receiving an IFR clearance and release from the Anchorage ARTCC. It was only when ASA66 contacted the Juneau AFSS to obtain this clearance that Mr. Cole was able to communicate the hold-for-release instruction that he alleged prevented an OE.

Given Mr. Cole’s version of events and our analysis of FAA Orders, we concluded that Mr. Cole did not follow proper procedure, and that he acted outside of FAA’s national directives and orders.

May 20, 2008 Incident

As discussed above, Mr. Cole alleged that another unreported OE occurred on May 20, 2008, when Alaska Airlines flight 67 (ASA67) was issued an IFR clearance without an HFR instruction because Juneau Tower anticipated the aircraft would be taking off shortly. ASA67 subsequently developed mechanical problems which delayed its departure.

Mr. Cole alleged that the Juneau Tower attempted to contact ASA67, while preparing to terminate operations, in order to advise them to hold-for-release, but that they were unable to contact the aircraft.

We determined that the Juneau Tower advised the Juneau AFSS of the situation and asked them to pass the hold-for-release instructions to ASA67. The Daily Record of Facility Operation showed that Mr. Cole called the Anchorage ARTCC six minutes after the Juneau Tower closed and inquired if the Tower had advised the ARTCC that ASA67 had a clearance without a hold-for-release instruction. The Anchorage ARTCC asked Mr. Cole to relay the hold-for-release instructions to ASA67. ASA67 called the Juneau AFSS prior to departure, after which Mr. Cole relayed the hold-for-release instruction.

We were unable to locate recorded data to fully detail how the events transpired. However, if the events occurred as Mr. Cole claimed, we must conclude that there was no violation of a law, rule or regulation. The pilot did not depart without contacting the Juneau AFSS to obtain a clearance from the Anchorage ARTCC prior to departure.

October 6, 2008 Incident

Mr. Cole also described an example of an unreported OE that allegedly took place on October 6, 2008. In this event, Mr. Cole stated that Alaska Airlines flight 67 (ASA67) was issued a clearance void time from the Juneau Tower in conjunction with their IFR clearance. This void time was issued in order to allow ASA67 to depart after the Tower had closed, but not after 8:05p.m (as indicated in the void time instruction) as there was an inbound Federal Express aircraft due to land at 8:18 p.m. Mr. Cole stated that he “instructed the pilot of ASA67 several times that Anchorage Center did not want ASA67 off the ground after 8:05 p.m.” Despite this instruction, the pilot of ASA67 announced his intention to depart after the void time.

We reviewed the audio tapes of the radio and telephone transmissions between Mr. Cole, the Anchorage ARTCC, and ASA67. These tapes contradicted the allegation that ASA67 intended to take off after the assigned void time.

Mr. Cole alleged that the Juneau Tower had issued an IFR clearance along with a void time of 8:05pm for ASA67 that Juneau Tower received from the Anchorage ARTCC and relayed to the pilot of ASA67. At that point, no additional instruction from the Juneau AFSS was necessary. Based upon our review of the data and tapes, it appears that Mr. Cole acted outside the scope of his duties as a Juneau AFSS controller by asking ASA67 to repeat what he thought the Anchorage ARTCC’s instructions were to the Juneau Tower and what was relayed from Juneau Tower to ASA67.

In fact, Mr. Cole’s actions could have created a potential safety hazard. First, his request created confusion for the pilot of the taxiing aircraft, as there was no requirement or need for Mr. Cole to instruct the pilot of ASA67 to relate instructions received from the Juneau Tower to Juneau AFSS. Second, Mr. Cole spoke for an inordinately long period of time, using non-standard phraseology. Mr. Cole’s ambiguous instructions and requests caused the pilot to make several additional radio calls to clarify his clearance, creating confusion for the pilot as he taxied to the runway. Third, he unnecessarily occupied the radio frequency which

precluded other pilots from being able to radio in if needed. Finally, Mr. Cole's unauthorized conversation with the ASA67 pilot resulted in ASA67's being unable to depart prior to 8:05pm. ASA67 did not depart until after the Federal Express aircraft landed at 8:18pm.

Moreover, we found no evidence to suggest that the inbound Federal Express aircraft elected to go-around because ASA67 was occupying the runway as stated by Mr. Cole in the OSC referral. Our review of the Juneau AFSS Quality Assurance Review (QAR), filed contemporaneously to Mr. Cole bringing forth his allegation, did not annotate that a go-around occurred. We reviewed the data as well, and found no evidence that a go-around occurred. In addition, interviews with AFSS management who investigated the event disclosed that the Federal Express aircraft did not execute a go-around. Finally, we reviewed the radar data available, and we too did not find that the Federal Express aircraft had to go-around. Despite his inability to provide evidence to support his claim, Mr. Cole remained confident in his belief that the Federal Express aircraft had a go-around due to ASA67 being on the runway.

As a result of this incident, Mr. Cole received an Employee Technical Proficiency Issue Memorandum the day after the event, which cited Mr. Cole's numerous deviations from the procedures required in FAA Order 7110.10. Such performance deficiencies included the following: *"control instructions, from ZAN, (Anchorage ARTCC) for ASA67's release and void time, were not relayed verbatim;"* and *"use of extra verbiage and non-standard phraseology."*

Allegation 2: Failure of the Juneau Tower to switch the weather broadcast to the Automatic Weather Observing System (AWOS).

Mr. Cole alleged on July 22, 2008, the Juneau Tower failed to set the Automated Terminal Information System (ATIS) frequency on which weather data would be transmitted from the AWOS. The result was that weather data from the ATIS broadcast, which was recorded by the Juneau Tower at 10:00pm local time, continued to be broadcast throughout the night as if it was current, without broadcasting the AWOS observations.

Finding:

During the time that the Juneau Tower is open and conducting operations, a controller prepares recordings for broadcast to pilots through the ATIS. This broadcast contains information including current weather and airport conditions. The airport's AWOS broadcasts current observed weather conditions during the hours that Juneau is closed and no controllers are present to prepare an ATIS recording. Controllers at the Juneau Tower must set the broadcast radio to stop broadcasting the latest recording made by controllers in the Tower and begin broadcasting the AWOS observations.

On July 22, 2008, Mr. Cole alleged that the Juneau Tower forgot to change the broadcast from the ATIS to the AWOS. This claim was substantiated by a QAR¹⁰ conducted at the

¹⁰ A Quality Assurance Review (QAR) is a review, required by FAA Order 7210.56 for any air traffic incident other than an operational error. The order states, "conduct the QAR in sufficient detail so as to assess the system performance with reasonable accuracy. The detail of a QAR may range from simply discussing the incident with

Juneau AFSS. This failure to change broadcasts was a breach of standard operating procedures at the Juneau Tower. As a result of this oversight, when aircraft tuned to the ATIS frequency they received a recording made at 2200 local time stating the weather and airport conditions, instead of receiving AWOS observations, which would have been more current.

It was noted on the AFSS QAR that several employees stated that they witnessed Mr. Cole tune into the ATIS frequency when the Juneau Tower was closing. The QAR indicates that Mr. Cole initiated it three minutes after the Juneau Tower was scheduled to close. On it he noted that the Tower had failed to change the broadcast to the AWOS. Based on our review of the QAR, it appeared that Mr. Cole documented the error without making any attempt to contact the Tower personnel, who were still present at the time he initiated the QAR, to inform them of their error.

We do not believe this incident to be a significant safety issue. First, the ATIS broadcast begins with the time that the information was recorded; therefore, any pilot who tuned into the ATIS broadcast was aware of the time the recording was made, and would therefore be aware that the weather information was not current. Second, there is a highly automated AFSS facility at the Juneau Airport. The main function of the AFSS is to provide weather information to pilots, and this current weather information would be readily available to any pilot arriving or departing Juneau.

Given that inbound and outbound pilots had alternate, sources of information for updated weather information, and the fact that this was a singular incident rather than a systemic practice, we did not find the event to constitute a danger to public safety. This event violated Juneau Tower's SOP, but did not violate an FAA Order or the FAR.

Allegations 3: Failure of the Juneau AFSS lighting control panel.

Mr. Cole alleged on May 3, 2008, the approach light control panel failed at the Juneau AFSS. He stated that as a result of this failure, he requested Juneau Tower to stay open in order to resolve the problem. The Juneau Tower controller declined his request, and terminated operations as scheduled. Mr. Cole told us due to the failure in the approach light control panel, the approach lighting system remained off for the remainder of the evening, although the runway and taxiway lights remained illuminated. Mr. Cole noted that the weather status was reported as Visual Meteorological Conditions (VMC), thus aircraft would have flown under VFR rules. He told us that the only reason there were no flight delays that evening was the fact that the aircraft were operating under VFR conditions. However, if the weather turned bad, and planes had to operate IFR, the planes would not have been able to land.

Finding:

When the Juneau Tower terminates operations for the evening, the control for the approach lighting system is transferred to the Juneau AFSS. Thus, when the Juneau Tower closed, the control for the approach lighting system should have transferred to Mr. Cole at the Juneau

involved employees, to a full investigation that may include reviewing radar data and voice communications from the incident."

AFSS. However, according to Mr. Cole, the control transfer failed. We reviewed a QAR regarding this incident. The QAR indicates that on May 3, 2008, while Mr. Cole was working at the Juneau AFSS, he lost control of the runway light panel at the time that the Juneau Tower ceased operations. Thus, when Mr. Cole was unable to operate the approach lighting system, he requested that Tower personnel remain at the facility (which would entail working overtime) to control the approach lighting system until the AFSS control of the approach lighting system was operational.

Mr. Cole alleged that despite his request, the Tower closed as scheduled and that the approach lights were left off (not illuminated), and remained off throughout the evening. He admitted however, that weather conditions allowed operation of aircraft via VFR for the entire evening. We found no evidence to support Mr. Cole's allegation that safety was compromised by the lighting control panel failure at Juneau AFSS. First, there was no record that aircraft were diverted or delayed as a result of this control failure. Second, Mr. Cole was unable to identify specific instances or aircraft affected by the lack of lighting. Finally, our review of FAA Orders, regulations, and approach procedures determined that approach lights were not required for aircraft landing at the Juneau Airport during VFR operations. Therefore, we were unable to substantiate Mr. Cole's allegation.

Allegation 4: Aircraft canceling IFR clearances inbound to Juneau.

Mr. Cole alleged that Alaska Airlines pilots inbound to Juneau Airport routinely cancel their IFR flight plans while still in flight on approach to Juneau Airport. He said this included instances in which pilots of Alaska Airlines flights cancel their IFR flight plans on arrival, after having the airport in sight during nighttime operations, in order to allow another Alaska Airlines flight to begin their approach to Juneau. He believed this to be a violation of 14 CFR, Part 121 regulations which relate to air carrier operations.

Finding:

We did not substantiate this allegation. Alaska Airlines Operation Specification C077 *Terminal Visual Flight Rules, Limitations and Provisions*, which is approved by FAA Flight Standards personnel, allows their pilots to cancel their IFR flight plans when VFR flight is allowed, and at locations where it is permitted. The incidents Mr. Cole described occurred under conditions during which the cancellation of an IFR flight plan was allowed. Additionally, Alaska Airlines Operational Specifications permit the pilots to conduct VFR operations both during daylight and nighttime hours, and the airline provides additional training to their pilots who often fly under VFR rules. Thus we found that Alaska Airlines' cancellation of IFR flight plans while on approach at Juneau did not violate a law, rule or regulation nor did it constitute a danger to public safety.

Allegation 5: Tower controller experience is insufficient for conducting safe operations.

Mr. Cole alleged that because of its location, the Juneau Tower is typically manned with new and inexperienced controllers who routinely rotate out after they gain seniority. He alleged that this contributes to controller mistakes and, as a result, compromises safety.

Finding:

Our investigation revealed that each controller working at the Juneau Tower had been properly trained, credentialed, and certified to work as a certified professional controller as well as to perform the duties of a controller-in-charge. The air traffic manager informed us that he instructed his assistant to stagger their duty hours to ensure that an experienced manager is on duty at all times. Thus we did not substantiate Mr. Cole's assertion that Juneau Tower is manned solely with new and inexperienced controllers and therefore did not find the Tower staffing to be suggestive of a danger to public safety.

Allegation 6: Multiple violations of LOAs occur between Juneau Airport, Juneau AFSS, and Anchorage Center.

In addition to the specific events identified by Mr. Cole, he asserted that there are violations of LOAs between Juneau Tower and Anchorage Center, and between Juneau Tower and Juneau AFSS, when Juneau Tower controllers do not convey adequate information to Juneau AFSS or Anchorage Center. When interviewed, Mr. Cole provided a copy of a QAR where he had called Anchorage ARTCC (ZAN) and asked them if Juneau Tower had informed them that there were personnel working on the airport surface area and they informed him they had not been told of this information.

Findings:

Recorded audio data from the QAR Mr. Cole identified was not available for the team to review. The Juneau ATCT LOA was reviewed and stated that Juneau Tower shall pass "all pertinent information to ZAN prior to closing." The investigation team did not find evidence that personnel working on the airport surface area was "pertinent" and thus required to be passed to ZAN. Juneau Airport operates with a CTAF (Common Traffic Advisory Frequency). Juneau ATCT passed information on arrival aircraft to the personnel on the runway, and additionally advised the Juneau AFSS so they could inform arrival aircraft inbound to Juneau Airport.

Allegation 7: Early closing of the Juneau Tower during winter months creates additional safety concerns and could lead to a catastrophic accident

Mr. Cole alleged that the practice of closing the Tower early in the winter created a safety hazard that may result in a catastrophic accident. Mr. Cole identified an incident that allegedly occurred more than a decade ago, where an aircraft was inbound to Juneau Airport and had a possible loss of separation with a snow plow operating on the Juneau Airport surface.

Findings:

The team was provided an internet printout of a newspaper article describing the event. No FAA evidence was provided to the team referencing this event. Mr. Cole explained that this event showed why the Juneau Tower should remain open until 11pm year round. Mr. Cole advised that there were five airline or cargo flights per day that operated into Juneau Airport between 8pm and 11pm during the winter months. He believed that the practice of closing the Tower early during the winter months was a compromise to public safety and the Tower should remain open until 11pm year round. The team found no evidence on non-compliance on the FAA's part during these operations and could not substantiate whether the airport was

in a “safer” state when the Tower was open or closed during 8pm-11pm in the winter months.

Allegation 8: Aircraft departing after clearance void time.¹¹

When interviewed, in addition to the events described above, Mr. Cole reported a new allegation, not previously reported to OSC. Specifically, Mr. Cole stated that aircraft were allowed to depart Juneau Airport after their clearance void time had expired. He related numerous instances of pilots being issued clearances ending with the phrase “... *clearance void if not off by [xx:xx]*,” wherein aircraft departed after their stated clearance void time without waiting for further clearance. For example, Mr. Cole cited a specific incident that allegedly occurred on March 23, 2009. An aircraft with the call sign Lifeguard 359EF was issued a clearance with a void time of 0523z.¹² Mr. Cole believed that Lifeguard 359EF had departed after the void time. Mr. Cole told us that this type of incident normally involves only flights operated by Alaska Airlines, and that management typically ignores or covers up these occurrences.

Findings:

We found no evidence to support the allegation that aircraft were departing after their clearance void times or that management ignores such occurrences. Were this allegation substantiated, it would have constituted a violation of FARs and each occurrence would have been classified as a pilot deviation.

March 23, 2009 Incident

Mr. Cole related that on March 23, 2009, an aircraft with the call sign Lifeguard 359EF was issued a clearance with a void time of 0523z.¹³ Mr. Cole believed that Lifeguard 359EF had departed after the void time. Given the recentness of the event, we were able to review the data recorded and retained by the Juneau AFSS facility. The recordings indicated that the pilot departed on or before the clearance void time. In this particular event, the tape revealed that Lifeguard 359EF had reported departing the airport at 0523z, a time at or before the clearance void time. Therefore, we did not substantiate this allegation.

III. RECOMMENDATIONS

To reduce the potential for miscommunication during the opening and closing procedures associated with part-time facilities, we recommend that the Air Traffic Organization validate that air traffic facilities have appropriate checklists in place to ensure thorough transfer of control information during the opening and closing process.

¹¹ The time at which a takeoff clearance becomes invalid after which a new clearance must be issued.

¹² The letter “z” refers to Zulu time, or the time at the prime meridian in Greenwich, England.

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