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SUBJECT: Whistleblower's response to DOT/OIG investigation of DI-07-2471

Mr. Reukauf:

This letter will serve as my response to the DOT/OIG investigation of Safety Disclosures that I submitted to the OSC and the DOT/OIG between July 2007 - December 2009. During this period, I disclosed specific information relating to unsafe practices and procedures at the Memphis International Airport (MEM). I believed that Memphis FAA Management had violated laws, rules and regulations, and engaged in conduct which constituted gross mismanagement and posed a substantial and specific danger to public safety.

The DOT/OIG report provides partial validation on several matters, however the report is *deficient* in several areas: 1) the report failed to expose the systemic cover-up of Operational Errors, 2) the report failed to address the misapplication of Converging Runway Display Aid (CRDA) procedures, 3) the report failed to address the conflict that exists between a RWY 27 go-around and aircraft on approach to RWY 18L and 18C, 4) the dangerous effects of Wake Turbulence on a RWY 27 go-around were minimized, and 5) the responsibility of tailwind operations was placed completely upon the pilot.

My disclosures contained date, time, aircraft callsign and type, altitude, location of data and document sources, the names of individuals involved, the names of witnesses, and the names of Memphis FAA Managers who were in-charge when specific incidents occurred. Many of these Safety Disclosures are not even mentioned in the DOT/OIG report, and these safety lapses were apparently ignored.

I reject the November 23, 2009 DOT/OIG investigative report of my Safety Disclosures, as it is incomplete; protective of the FAA; and serves as yet another example of the *cozy relationship* between the FAA and the airline industry -- specifically Federal Express (FDX). I believe that the flying public is still at risk, as several significant safety issues remain unresolved.

MISSING DATA IN SUPPORT OF MY ALLEGATIONS

According to the OSC, Memphis FAA Management was ordered to retain specific data related to my Safety Disclosures. "Data" implied voice recordings of Air Traffic Control (ATC) communications; RADAR data stored in digital format; and various documents and materials. This order would have been effective in Late 2007 or early 2008.

The FAA issued an Order, Notice, or Memorandum mandating that specific ATC radar and voice data be retained for an indefinite period of time. This document mentioned several ATC facilities where Safety Disclosures had been submitted to the OSC. I saw this document in early-mid 2008, and by my recollection, Memphis Tower/TRACON was specifically mentioned.

I was interviewed by Erika Vincent on our about November 18, 20089. Ms. Vincent was the DOT/OIG Special Agent assigned to investigate my allegations. During this interview, Ms. Vincent informed me that Memphis FAA Management had been ordered to retain radar and voice data relevant to my Safety Disclosures. Ms. Vincent informed me at the end of the day that certain data was *"not available"* or was *"missing"*, and she was unable to review specific incidents that I had disclosed to the OSC and the DOT/ OIG. Ms. Vincent appeared to be very disturbed with this development, and I contacted OSC attorney Tracy Biggs by telephone to informed her of this development.

On page 6 of the DOT/OIG report, DOT Inspector General Calvin L. Scovell III wrote that I *"presented information on another 232 air traffic events occurring between October 1 and December 16, 2008, as possible losses of separation or other incidents of safety significance"* Mr. Scovell added that radar and voice data *"tapes for only 75 of the events were available for our review."*

How is it possible that radar and voice data from an investigation such as this can simply vanish, go missing, or become unavailable for inspection by the DOT/OIG? I would like to know why this data was *destroyed* or *withheld* from investigators assigned to my case, and if anyone will be held accountable for this missing data that would have supported my allegations of unsafe practices and procedures.

I informed the OSC and the DOT/OIG that I maintained a timeline of events that occurred while I worked as an Air Traffic Controller at Memphis Tower/TRACON. This timeline contains *hundreds* (possibly thousands) of examples where Memphis FAA Management allowed the flying public to be placed at risk. If the investigators handling my case had asked for *more* data -- I could have provided them with additional incidents which would have supported my allegations of illegal and unsafe practices by Memphis FAA Management.

SPECIAL AGENT ERIKA VINCENT REMOVED FROM MY CASE.

Based on my conversations with Ms. Vincent and other FAA whistleblowers, it was my impression that Ms. Vincent was experienced with investigations involving the FAA and

the systemic cover-up of Operational Errors. Several FAA whistleblowers informed me that Ms. Vincent had investigated their cases, and that Ms. Vincent was very thorough and meticulous. I spoke candidly with Ms. Vincent about my concerns, and she exhibited a keen understanding and awareness of the many nuances surrounding my job as an Air Traffic Controller.

On July 22, 2009 I was informed that Ms. Vincent had been removed from my case, and that Jim Crumpacker and Barbara L. Barnet would be taking over the investigation of my Safety Disclosures. This was very disturbing, as Ms. Vincent had previous experience with the FAA and Air Traffic Control issues. Mr. Crumpacker and Ms. Barnet were unknown entities, and they were assuming responsibility for my case in the middle of the investigation. Ms. Vincent assured me that my case would receive the attention that it deserved, and that Mr. Crumpacker and/or Ms. Barnet would contact me in the near future.

My case was closed without Mr. Crumpacker or Ms. Barnet *ever* speaking to me. They *never* asked for additional information; *never* asked any clarifying questions; and they *never* interviewed me about *any* of the Safety Disclosures or allegations that I submitted.

I am outraged with the manner in which my case was handled to the DOT/OIG, and I believe that Mr. Crumpacker and Ms. Barnet were negligent in carrying out their duties as Special Agents of the DOT/OIG. If Mr. Crumpacker and Ms. Barnet had contacted me prior to finalizing their report, I could have provided detailed information to help them understand how the flying public had been placed at risk by Memphis FAA Management.

It is my belief that the November 23, 2009 DOT/OIG report of my Safety Disclosures would have been substantially different if Special Agent Erika Vincent had been allowed to conclude her investigation of my Safety Disclosures. Transferring my case to another set of investigators was a mistake. I do not believe that my allegations were properly investigated, and the safety of the flying public is still at risk.

RETALIATION

As the FAA Whistleblower who disclosed numerous unsafe practices and procedures at Memphis Tower/TRACON, I was subjected to an extreme level of scrutiny by Memphis FAA Management. I was harassed and intimidated by Memphis Front Line Manager (FLM) Tom Roche; decertified in the Tower and TRACON for "poor performance"; denied Sick Leave; falsely accused of animal cruelty by Memphis Training Manager Bobby Parker; accused of making false statements by Memphis Operations Manager William "Bill" Brinkley; and accused of abusing Sick Leave by Tom Roche.

The current system of making Safety Disclosures through the OSC and the DOT/OIG is broke, as no protection is afforded to the whistleblower while the complaint is being processed. Radar and voice data that would substantiate the allegations is often

destroyed or "not available", and it does not appear that the OSC or the DOT/OIG share any concerns about this "missing" data.

What FAA employee in his/her right mind would dare go down this road -- a road that leads to being harassed and intimidated by the FAA while substantiating data is destroyed? I would never recommend that any FAA employee make a Safety Disclosure to the OSC, the DOT/OIG -- or to the FAA. The personal, professional, and financial risks are just too great -- and it leaves me with the impression that all of this is intentional by design.

The FAA attempted to silence *this* messenger, but I refused to be silenced. The FAA attempted to end the investigation of my Safety Disclosures with their December 3, 2007 report to the OSC, but the Special Counsel refused to accept their findings. The FAA destroyed or withheld critical data from the DOT/OIG -- data that would have substantiated my allegations and systemic problems at Memphis Tower/TRACON. However, some of my allegations were fully or partially substantiated.

My Prohibited Personnel Practice (PPP) case against the FAA was settled in December 2008, and all harassment and retaliation ceased once I was allowed to transfer to another ATC facility. Another FAA Whistleblower (Geoff Weiss) is still trying to repair the damage to his career after blowing the whistle on Herb Brown Jr. and his policy of just *"Let 'em land"*. Mr. Weiss was decertified after he disclosed illegal and unsafe practices at Memphis Tower/TRACON. He was eventually demoted due to "performance issues" and reassigned to another ATC facility -- with a significant reduction in pay and benefits that will never be recovered.

Our FAA leaders in Washington should have stepped-in to assist the two FAA Whistleblowers in Memphis -- but they didn't. Our FAA leaders in Washington should have ensured the safety of the flying public at Memphis -- but they didn't. Mr. Weiss and I sought to expose the unsafe practices and procedures in use at Memphis Tower/ TRACON, but Memphis FAA Managers attempted to silence and discredit us.

The message was clear: *Be a team player and keep your mouth shut.*

THE ALLEGATIONS AND WHISTLEBLOWER RESPONSE

ALLEGATION 1: (Partially Substantiated) *"When Runway 27 is used for arrivals, an aircraft executing a go-around or missed approach maneuver could come into conflict with traffic landing on Runway 18R. Given the frequency of go-arounds at Memphis, the use of Runway 27 for arrivals presents a significant threat to public safety"*

> **WHISTLEBLOWER RESPONSE:** The DOT/OIG report missed the significance of this allegation and failed to consider RWY 18L and 18C in their investigation. The report states that *"go-arounds arising out of Runway 27 and 18R arrival operations have not occurred with significant frequency"*. However, I disclosed specific examples where a close-in go-around from RWY 27 would conflict with

traffic on approach to land on RWY 18L, 18C, and 18R. Due to their close proximity to RWY 27, all three parallel runways (RWY 18L, 18C, 18R) should have been considered as potential conflicts in the event of a RWY 27 go-around.

The DOT/OIG report states that the *"FAA's Performance Data Analysis and Reporting System (PDARS)... showed 44,081 arrivals at Memphis from October 2008 through December 2008. These arrivals produced 118 go-arounds, 46 of which involved Runways 18R and 27."*

WHISTLEBLOWER RESPONSE: I started tracking go-around incidents on February 18, 2007 when I observed a SF34 execute a close-in go-around after crossing the RWY 27 threshold. The Local Controller (Mike Swift) instructed the Mesaba SF34 to *"Stay low! Stay low! Stay low!"* so as to pass *beneath* an arriving Northwest DC9 on approach to land on RWY 18L. I observed numerous close-in go-around incidents from RWY 27 -- several were similar to the the February 18, 2007 incident that I disclosed to the National Transportation Safety Board (NTSB). I documented and disclosed these incidents to NASA via the Aviation Safety Reporting System, the OSC, and the DOT/OIG.

The DOT/OIG report does not reflect the number of RWY 27 go-around incidents that conflicted with traffic on approach to land on RWY 18L and 18C, as the PDARS data mentioned in the report only contained go-around information for RWY 27 traffic that involved RWY 18R.

How many RWY 27 go-around aircraft conflicted with RWY 18L and/or RWY 18C? Why were these incidents not investigated as part of my allegations?

Did the investigators responsible for investigating my Safety Disclosures contact any of the pilots aboard the 46 aircraft that executed a RWY 27 go-around from October 2008 through December 2008? I feel certain that these pilots would have provided valuable insight as to what they witnessed and experienced when these go--around incidents occurred. Would the pilots aboard these 46 aircraft provide testimony that this was a safe operation?

The DOT/OIG report states that *"Memphis has 'best practices' in its Standard Operating Procedures for this operation and new employee and refresher training to instruct a controller on options to avoid such a conflict."*

WHISTLEBLOWER RESPONSE: The 'best practices' idea was a joke at best. The perception amongst my peers at the time, was that this was merely another tool for Memphis FAA Management to protect themselves from outside scrutiny by placing the responsibility and 'best practice' upon the shoulders of Memphis Air Traffic Controllers, as these practices did nothing to *ensure* separation.

Refresher training often consisted of several sheets of paper stuffed into a binder at the sign-in desk. Controllers were instructed to read the information and then

sign their initials as an indication of understanding and acceptance of responsibility for the contents. There was rarely any formal "training" regarding changes to the Standard Operating Procedures, and changes were sometimes briefed as "Stand-up Briefings" just moments prior to taking responsibility for the sector.

The DOT/OIG report states that *"Memphis management was ordered by AOV in April 2007 to cease operating simultaneous independent arrivals involving Runways 27 and 18L and 18C, due to non-compliance with FAA Order 7110.65, until they received a waiver allowing simultaneous arrivals on intersecting flight paths."*

WHISTLEBLOWER RESPONSE: The DOT/OIG report completely ignores the fact that Memphis FAA Management lied to Memphis Air Traffic Controllers, FAA Investigators, and the flying public about the existence of a waiver for the RWY 27 operation.

The FAA occasionally levies fines against Air Carriers for illegal and unsafe practices, but where is the accountability *within* the FAA? How many aircraft, millions *of* pounds of cargo, and members of the flying public were placed at risk while this illegal and unsafe procedure was in use? Was any FAA Manager ever punished or held accountable for this unsafe practice?

The DOT/OIG reports states that in *"April and May of 2007, the safety study was conducted at Memphis. The panel found that, because the center line of Runway 18R does not intersect Runway 27 but passes approximately 700 feet to the left of its far end, and the distance from Runway 27's threshold to the Runway 18R center line is about 9,600 feet or 1.82 miles, an air traffic controller has sufficient time to direct a pilot away from an aircraft approaching Runway 18R."*

WHISTLEBLOWER RESPONSE: This 'safety study" failed to consider the following NASA ASRS report that was submitted in April 2002:

"UPON LNDG ON RWY 27 AT MEMPHIS, TN, EXECUTED A REJECTED LNDG (DUE TO A LONG LNDG AND EXITING TFC) ON CLBOUT, (A BEAM RWY 17) RECEIVED AN URGENT CALL FROM TWR TO LEVEL OFF. ***CAPT TOOK CTL OF ACFT AND DSNDED SLIGHTLY TO AVOID A MIDAIR COLLISION WITH ANOTHER ACFT ON FINAL TO RWY 17,*** *ESTIMATE 300 FT. AFTER THE AVOIDANCE MANEUVER, EXECUTED A NORMAL GAR AND FO LANDED ON RWY 27 UNEVENTFUL. SIMULTANEOUS APCHES TO PERPENDICULAR RWYS WAS TAKING PLACE. SUPPLEMENTAL INFO FROM ACN 544971:* ***CAPT TOOK CTL OF ACFT AND DSNDED SLIGHTLY UPON SIGHTING CONFLICTING ACFT TO AVOID AN IMPENDING COLLISION WITH AN ACR LNDG ON RWY 17 (ESTIMATED ALTITUDE 300). I RECOMMEND THAT VISUAL APCHES NOT BE CONDUCTED WHEN USING PERPENDICULAR RWYS FOR LNDG. CONSIDERATION (MORE SEPARATION) NEEDS***

TO BE GIVEN IN THE EVENT OF A MISSED APCH. *PLT FLYING, (FO), DISTRACTED BY LATE CLRING ACFT IN FRONT GOT HIGH IN CLOSE TO RWY AND WE TOUCHED DOWN JUST OUTSIDE LANDING ZONE.* ***HAD TWR NOT CALLED US, OR IF WE HAD EXECUTED OUR GAR A FEW SECONDS EARLIER, WE MOST LIKELY WOULD HAVE BEEN INVOLVED IN A MID-AIR COLLISION. THIS IS A CASE WHERE EVERYONE ACTED PROPERLY AND WE STILL HAD A POTENTIALLY CATASTROPHIC RESULT.*** *CALLBACK CONVERSATION WITH RPTR REVEALED THE FOLLOWING INFO: RPTR ADVISED THAT THE LCL CTLR ALERTED THEM TO THE CONFLICT AS THEY WERE CLBING THROUGH APPROX 240 FT. THE CAPTS ACTIONS DSNDED THEM BACK DOWN TO APPROX 200 FT AS THE DC9 CROSSED APPROX 100 FT OVERHEAD. THERE WAS NO INDICATION THAT THE DC9 SAW THEIR ACFT ON THE GAR. THE CAPT AND A COMPANY OFFICIAL DISCUSSED THE EVENT WITH A MEM TWR SUPVR. THE RPTR STATES THAT THE DC9 WAS ON THE OTHER LCL CTL FREQ. THE REASON A GAR WAS INITIATED WAS DUE TO PREVIOUS LNDG TFC SLOWLY EXITING RWY 27."*

The DOT/OIG report states that Memphis Air Traffic Controllers have *"sufficient time to direct a pilot away from an aircraft approaching Runway 18R."*

WHISTLEBLOWER RESPONSE: The DOT/OIG report failed to address the *short* response time that an Air Traffic Controller has when a RWY 27 go-around conflicts with an aircraft on approach to land on RWY 18L or 18C; a last-minute RWY 27 go-around due to traffic on or crossing RWY 27; a last-minute go-around due to a mechanical malfunction aboard the aircraft; or a pilot initiated go-around due to the RWY 27 arrival being too-high or too-fast -- all of which contribute to *reduce* the response time that an Air Traffic Controller has to resolve these types of go-around conflicts.

All aircraft have unique operating characteristics, and each aircraft will climb, turn, and accelerate at a different rate. Add to this the weight of the aircraft, weather, crew response time, the actions of the *other* aircraft involved -- and the Air Traffic Controller only has *seconds* to prevent a collision.

"Sufficient time", as it is used in the DOT/OIG report, is inaccurate, misleading, and not representative of what transpires when a RWY 27 go-around occurs. The RWY 27 go-around incident was a major litmus test when I was in training, but the test was not to *ensure separation* -- it was to prevent a collision, as separation could *never* be ensured in these instances.

The DOT/OIG report states that the FAA would comply with the requirements for intersecting runways and flight paths by *"implementing simultaneous dependent arrivals using Converging Runway Display Aid (CRDA) technology."*

WHISTLEBLOWER RESPONSE: FDX was quoted in the Memphis Commercial Appeal as being very unhappy with the loss of RWY 27, and indicated that their cargo operation at Memphis was impacted with this loss. The Memphis Shelby County Airport Authority (MSCAA) was concerned about *airport capacity*, and cited the airport as a huge economic engine for the surrounding community.

Memphis Air Traffic Controllers were trained in the use CRDA software and procedures by employees of the Washington Consulting Group (WCG). These contractors possessed a wealth of ATC experience, but none of the local contractors had ever worked with CRDA software or procedures. Memphis Air Traffic Controllers received some classroom instruction; three simulated exercises; and were then sent back to the TRACON as being knowledgeable, trained, and proficient in the use of CRDA.

I documented and disclosed numerous safety concerns associated with the use and implementation of CRDA at Memphis. These Safety Disclosures were made to FAA Oversight, FAA Safety, the OSC, and the DOT/OIG. These disclosures included misapplication of CRDA procedures; CRDA used with an excessive tailwind; aircraft not issued go-around instructions when required; losses of separation while using CRDA; and many other safety-related concerns associated with the implementation and use of CRDA.

CRDA was implemented in an effort to appease FDX and maintain an increased arrival rate for the airport. CRDA does nothing to enhance safety -- only capacity. The use of CRDA essentially places profit over safety, and the misapplication of CRDA procedures places the flying public at risk.

ALLEGATION 2: (Partially Substantiated) *"In violation of the 'separation minima' set forth in FAA Order 7110.65, aircraft executing a go-around or missed approach maneuver from Runway 27 are subjected to significant wake turbulence generated by numerous heavy jet aircraft that land on parallel Runway 18R. Also, controllers improperly provide visual separation for aircraft that will encounter wake turbulence from a heavy jet."*

WHISTLEBLOWER RESPONSE: The DOT/OIG did not understand this allegation, as *any* aircraft executing a close-in go-around from RWY 27 *will* be subjected to the effects of Wake Turbulence if there is (or was) a Heavy Jet on approach to RWY 18L, 18C, or 18R. If the Memphis Air Traffic Controller must instruct the RWY 27 go-around aircraft to *"stay low"* in order to avoid a collision, that aircraft *will* fly *beneath* the flight path of *any* aircraft that has recently completed an approach to land on RWY 18L, 18C, or 18R -- and the go-around aircraft *will* fly through any Wake Turbulence created by these arrivals.
The "stay low" control instruction is essentially an altitude assignment below the Minimum Vectoring Altitude (MVA), and that is in violation of FAA Order 7110.65. This type of control instruction is given not to *ensure* separation, but to prevent a *collision.*

Memphis Air Traffic Controllers were *ordered* by Memphis FAA Management to sequence all FDX Heavy Jets to RWY 18L, 18C, and 18R; and *certain* other Category Large and Small aircraft to RWY 27. Due to the number of FDX Heavy Jets assigned RWY 18L, 18C, and 18R -- any aircraft executing a close-in go-around from RWY 27 during a FDX arrival push *would* be subjected to the effects of Wake Turbulence due to the constant flow of arriving FDX Heavy Jets to the parallel runways.

On or about August 13, 2007, Memphis FAA Management changed internal procedures to allow *all* Category Large aircraft such as the MD80, B737, and A320 to be sequenced to RWY 27 during CRDA operations. This change increased airport capacity *without* enhancing safety, and ultimately placed these passenger aircraft at risk of encountering Wake Turbulence in the event of a RWY 27 go-around.

Prior to the cancellation of Simultaneous Independent Approaches to RWY 18L, 18C, and 18R with RWY 27, there was only a small and select group of Category Large aircraft that were allowed to utilize RWY 27. The change that allowed *all* Category Large aircraft to utilize RWY 27 under CRDA operations was done to further increase airport capacity -- not to enhance safety.

The DOT/OIG report states that I alleged Memphis Air Traffic Controllers improperly provided Visual Separation between RWY 27 go-around aircraft and other arriving Heavy Jets. Using and applying Visual Separation between a RWY 27 go-around and an arriving Heavy Jet was a last-ditch effort by an Air Traffic Controller to prevent a collision. Utilizing Visual Separation was not something that Air Traffic Controllers did out of negligence or malicious intent -- it was the *only* way to prevent a collision, as there were no defined procedures in place to prevent a collision between a RWY 27 go-around aircraft and any other Heavy Jet on approach to land on RWY 18L, 18C, or 18R. The *technique* was taught as part of the On-the-Job Training (OJT) process; encouraged by Memphis FAA Management; and according to FAA Order 7110.65 -- was not allowed when a Heavy Jet was involved.

ALLEGATION 3: (Substantiated) *"On at least two occasions, a supervisor stopped an air traffic controller from preventing a loss of separation between aircraft on approach. As a result, operation errors went unreported."*

WHISTLEBLOWER RESPONSE: The DOT/OIG report only mentions Memphis FLM Herb Brown and that Mr. Brown was retired when the report was finalized. Mr. Brown had a pattern and practice of increasing airport capacity by allowing separation to diminish to less than applicable standards. For example, on October 16, 2006 Mr. Brown was responsible for the two loss of separation between two pairs of aircraft when he told one Controller to *"Let it ride"* when separation was about to be lost, and then told another Controller that he had

"both" aircraft in sight -- implying that *he* was providing Visual Separation. I reported these incidents to my Supervisor (Phil Santos), but these errors were never reported or investigated. Mr. Santos was eventually promoted to Operations Manager, and Mr. Brown was allowed to quietly retire.

There is no mention of other Memphis Front Line Managers or Operations Managers being held accountable for unreported Operational Errors. I disclosed specific incidents where Operational Errors occurred, but these errors were never investigated by Memphis FAA Management. The cover-up of these errors could be verified by checking the Daily Record of Facility Operation (DRFO). In some instances a "Q" entry was noted in DRFO, indicating that a Quality Assurance Review (QAR) was required. As was often the case at Memphis Tower/ TRACON, the QAR was closed-out by a FLM or OM, and the loss of separation was never investigated by Memphis FAA Management.

The DOT/OIG report states that I *"presented information on another 232 air traffic events occurring between October 1 and December 16, 2008, as possible losses of separation or other incidents of safety significance. Digital audio tapes and RAPTOR (Radar Audio Playback Terminal Operations Recordings) tapes for only 75 of the events were available for our review. From these, we determined that 35 events occurring on December 2, 3, 9, 10, 15, and 16 2008, were most likely to present an operational error.*

Data relating to 157 incidents was missing, destroyed, or not available for the investigators to review. A staggering 67% of the digital radar and/or voice data associated with my Safety Disclosures was simply *"not available"?* Where was this data? Why was it not available? Where is the data now? Has anyone in the the DOT/OIG or the OSC asked *why* this data was not available?

I was able to document 232 *"air traffic incidents"* at Memphis Tower/TRACON over the course of six weeks. How many additional *unreported incidents* occurred on other shifts during that same timeframe? How many additional *unreported incidents* could have been verified between July 2007 - December 2008 had the OSC and/or the DOT/OIG taken stronger steps to ensure the preservation of digital radar and voice data?

Of the 75 events that were available for review, the DOT/OIG determined that 35 events (46%) *"were most likely to present an operational error"*. Even with the data that was *"not available"* for review by investigators, these numbers could be extrapolated to suggest that *over 300 unreported Operational Errors occur each year at MEM* -- suggesting that there is a *systemic* problem of covering-up Operational Errors at Memphis Tower/TRACON.

The DOT/OIG report also found that a Quality Assurance Review (QAR) of an event occurring on December 10, 2008 *"failed to identify the Operational Error"*. I provided the OSC and the DOT/OIG with specific information relating to air traffic

incidents that were entered into the DRFO as "Q" entries. A comparison of my Safety Disclosures with the DRFO, QAR reports, and Operational Error/Deviation packages would have revealed that errors were not reported or investigated by the Memphis Quality Assurance Office -- further proof of that there is a *systemic* problem with Memphis FAA Management covering-up Operational Errors.

Who was in charge of Memphis Quality Assurance office when these Operational Errors were being overlooked? Why were these QAR entries not investigated? Will anyone ever be held accountable?

ALLEGATION 4: (Not Substantiated) *"During the midnight shift, 'close calls' have resulted when aircraft from parallel Runways 18L/C/R or 36L/C/R cross Runway 27 during the FedEx arrival and departure 'pushes.'"*

WHISTLEBLOWER RESPONSE: The DOT/OIG report stated that they *"could not locate any records that would verify the number of aircraft crossing Runway 27 during the FedEx 'pushes' or whether any were involved in 'close calls'."* I could have easily provided the investigators with this information if they had asked: *Flight Progress Strips (FPS).*

Flight Progress Strips contain aircraft callsign, type aircraft, route of flight, and other pertinent information used by Air Traffic Controllers. Each FDX aircraft departing MEM has an associated Flight Progress Strip.

When an aircraft contacts Ground Control for a taxi clearance, the pilot provides the Ground Controller with a "Spot Number" corresponding to a location on the FDX ramp. Based on the route of flight, type aircraft, workload, and spot number -- the Ground Controller assigns the pilot a departure runway, and this runway is hand-written on the Flight Progress Strip.

These strips are "bundled" together at the end of each shift and stored downstairs for a period of time. It would be easy to 1) count the total number of FDX aircraft that taxied for departure, 2) count the total number of FDX aircraft that departed RWY 27, and 3) deduce the number of aircraft that crossed RWY 27 to depart from one of the three parallel runways.

Additionally, FDX knows *exactly* how many aircraft depart RWY 27 during each midnight departure push, as specific flights are "programmed" to depart from RWY 27 during each midnight departure push. Memphis Air Traffic Controllers are expected to assign RWY 27 to these FDX aircraft, as this practice saves FDX thousands of dollars each night.

While I do not know the name of the software applications, nor did I have access to the information at the time -- there are various applications in use by the FAA, FDX, and the MSCAA which document arrivals and/or departures to specific

runways. This information would have been stored in a "traffic count" or "runway usage" database.

The DOT/OIG report stated that investigators *"did not find any evidence that an operational error occurred during Runway 27 crossings during the FedEx 'pushes' in the 10 years prior to the March 2009 closure of that runway."* There is a reason why this evidence was not discovered during the course of the investigation: *the errors were not reported.*

A Front Line Manager (FLM) is present in the Memphis Tower Cab during each midnight FDX arrival and departure push. This FLM often monitors the frequency of one or more positions in the Tower Cab; serves as an extra set of eyes; and is there to offer any assistance when necessary. Runway Incursions happened on a fairly regular basis, and the FLM was always there to witness the event. Examples include: 1) aircraft instructed to hold-short of the runway, but unable to stop in time, 2) hear-back errors by Pilots and/or Controllers, 3) miscommunication in the Tower Cab 4) vehicles crossing the runway without permission, and 5) pilots taxiing into position and holding -- instead of holding short of the runway.

If a Runway Incursion happened during the middle of an arrival or departure push, the Air Traffic Controller would resolve the situation; notify the FLM; and keep working. The Air Traffic Controller's responsibility ended after the FLM was notified. There was a general *"no harm, no foul"* type of attitude. So, even though an FAA Order or Standard Operating Procedure had been violated, as long as the operation was not impacted -- nothing further was said.

ALLEGATION 5: (Partially Substantiated) *"Airport Movement Area Safety System (AMASS) is not certified for use on Runway 27; thus, air traffic controllers are unable to use this radar-based safety tool when, for example, aircraft cross the runway."*

WHISTLEBLOWER RESPONSE: I provided the OSC and the DOT/OIG with specific examples of AMASS *and* ASDE safety concerns for *all runways* at MEM. This information included: 1) false AMASS alerts, 2) ignored AMASS alerts, 3) AMASS failures, 4) misapplication of TIPH procedures when AMASS or ASDE was out of service, 5) false targets generated by AMASS, and 6) AMASS and ASDE are often unusable when it rains.

The DOT/OIG narrowed the investigative scope of my AMASS and ASDE allegations, and the vast majority of these Safety Disclosures were not addressed in the final report. The report confirms that AMASS is not certified for use on RWY 27, however the report does not address the fact that AMASS Alerts are received for RWY 27, or that Controllers utilize ASDE as a tool to confirm that RWY 27 is clear of traffic. If the AMASS and ASDE equipment is not certified for use on RWY 27, then why is RWY 27 depicted on the video map? And why do Controllers use the equipment to verify that the RWY 27 is clear?

A false sense of security exists due to the limited coverage of the ASDE/AMASS system at Memphis Tower, and due to the fact that the system is often inoperative. The Memphis AMASS/ASDE equipment provides Controllers false alarms; presents false targets; and is unusable when it rains.

The following FAA Memorandum was placed in *Read & Initial Binder* on or about December 15, 2008:

> *"An audit was recently conducted to determine if Memphis ATCT is compliant with Federal Aviation Administration (FAA) order 7210.3 Facility Operation and Administration, paragraph 11-9-3 (b), which requires all safety logic system alerts generated to be documented on FAA Form 7230-4, Daily Record of Facility Operation.* ***The results showed poor performance in this area****. Attached is Federal Aviation Administration (FAA) order 7210.3 Facility Operation and Administration, paragraph 11-9-3.* ***Please be sure to log all alerts****."*

This memo was prepared by Anthony Amodeo, and signed Bobby Parker (Memphis Tower/TRACON Training Manager). This is another example of Memphis FAA Management not documenting possible Errors when AMASS Alerts were received -- and yet another example of the systemic cover-up of potential Operational Errors or Deviations by pilots and/or Controllers.

ALLEGATION 6: (Partially Substantiated) *"Memphis air traffic controllers regularly allow aircraft, especially those in the FedEx fleet, to exceed the maximum tail wind speed for arrivals and departures established by Memphis management."*

WHISTLEBLOWER RESPONSE: The DOT/OIG investigators failed to understand the seriousness of this allegation. In addition to the tailwind component for FDX arrivals and departures to/from the parallel runways, I provided the OSC and the DOT/OIG with numerous examples of RWY 27 tailwind components affecting the speed and spacing of aircraft sequenced to RWY 27 while utilizing CRDA procedures. Strong tailwind components contributed to *hundreds* of go-around incidents at MEM when CRDA was utilized.

According to MITRE Corporation, the developer of CRDA:

> *"Converging Runway Display Tool (CRDA), is* ***an automation aid for air traffic controllers that allows users to precisely establish and maintain a stagger distance between two aircraft approaching on different runways****. The basic function of CRDA is to project position information of an aircraft approaching one runway onto the final approach course of the other runway of the pair (known as "ghost" targets). The capability of CRDA to enable the controller to make better judgments about spatial relationships between aircraft that are approaching*

converging or intersecting runways has been adequately proved in operational use."

When the wind is out of the southeast -- a *tailwind* component exists for RWY 27 arrivals -- and a *headwind* exists for RWY 18L, 18C, and 18R arrivals. This results in aircraft on approach to RWY 27 having a *faster* groundspeed -- and the aircraft on approach to RWY 18L, 18C, and 18R having a *slower* groundspeed. This speed differential makes it difficult for the RWY 27 Final Controller to "hit the gap" and maintain the required spacing *behind* the "ghost target" associated with the RWY 18L or 18C arrival.

A "tie" situation exists when the RWY 27 arrival crosses the threshold *before* the RWY 18L/18C arrival crosses the RWY 27 centerline -- and the Controller is *required* to issue go-around instructions to the RWY 18L/18C arrival. Memphis FAA Management accused several Air Traffic Controllers of "malicious compliance" when go-around instructions were issued to aircraft involved in CRDA tie situations. Fearing discipline, many Air Traffic Controllers started issuing s-turns and/or speed reductions to RWY 27 arrivals within 5-miles of the airport. This was done so that the CRDA sequence could be salvaged in close proximity to the airport.

When s-turns or speed reductions were not enough to salvage the CRDA sequence, some Memphis FAA Managers ordered Air Traffic Controllers to allow the RWY 27 arrival to land, and to instruct the RWY 27 arrival to *land and hold short* of Taxiway Yankee or Sierra after landing. This type of operation was specifically prohibited by the April 2, 2007 Memorandum from Anthony Ferrante, Director of FAA Air Traffic Services (AOV-1), as it was a *Simultaneous Independent Operation;* allowed RWY 18L/18C arrival traffic to *overfly* traffic landing or rolling-out on RWY 27; and was the equivalent of utilizing Land and Hold Short Operations (LAHSO), which was not authorized.

Memphis FAA Management allowed all of the above to occur when a RWY 27 tailwind component existed. CRDA forced aircraft to land on RWY 27 with a tailwind component, and was done in an effort to appease FDX by increasing airport capacity -- and did *nothing* to enhance safety.

I was present in the Control Tower on more than one occasion when the FDX Global Operations Command Center (GOCC) called and spoke with the Memphis Tower Front Line Manager (FLM) about the runway selection for the FDX arrival/departure push. After these telephone conversations occurred, the FLM would often tell the Controllers that *"FDX assumes all responsibility for the tailwind -- we're gonna depart south (or land north)."*

FDX coerced Memphis FAA Management into selecting a runway configuration that would financially benefit their operation with reduced taxi times to/from the FDX Ramp which is located on the north side of RWY 27. These runway

configurations were not always aligned with the wind, and this pressured pilots to land or depart with a tailwind component. Although it is the responsibility of the pilot to refuse a runway with a tailwind component that is out-of-limits, all pilots knew that a delay would be incurred if a different runway was requested.

Tailwind components have contributed to countless General Aviation accidents, and have been mentioned in NTSB accident and incident reports for Air Carriers at Denver (DEN), Newark (EWR), Little Rock (LIT), Midway (MDW), and Providence (PVD) to name a few.

Memphis FAA Management is responsible for the runway selection. Air Traffic Controllers inform the FLM's of the wind direction and velocity, but the ultimate responsibility rests with Memphis FAA Management. Air Traffic Controllers at Memphis do not have the authority to change the landing/departing runway unless they are assigned *Controller In Charge (CIC)* in the Tower, and then the CIC must to obtain approval for the configuration change with a TRACON FLM.

The FAA is supposed protect the flying public. A tailwind component is a *known* danger that pilots and Controllers have been trained to avoid, yet Memphis FAA Management allowed FDX to influence the runway selection process -- even when the runways were wet.

The decision by FDX and Memphis FAA Management to utilize a runway configuration with a tailwind component was a financial decision that increased Airport Capacity and benefited FDX. The decision had nothing to do with safety, and it placed the flying public at risk.

ALLEGATION 7: (Not Substantiated) *"Safety is compromised by glare on the Standard Terminal Automation Replacement System (STARS) radar displays caused by overhead lights and from light from computer monitor displays in the TRACON."*

WHISTLEBLOWER RESPONSE: The DOT/OIG report stated that *"no evidence was found that the current lighting level in the TRACON is a safety concern."* But then stated, *"We found two FAA reports from 2007 in which the claim was made that the lighting in the TRACON interfered with the viewing of the STARS display. In the first report, AOV and ATO-Safety concluded that the TRACON lights were set at an acceptable level. In the second report, Memphis quality assurance personnel rejected a claim that glare was a contributing factor in a controller's loss of separation during a training certification skill check."*

As one of the Air Traffic Controllers (and Whistleblower) making this allegation, I can tell you that the DOT/OIG investigators never sat with me at any of the STARS displays in the Memphis TRACON, nor did either of the investigators ever ask me to elaborate on how the lights, glare, or computer monitors in the TRACON impacted my vision while working in the TRACON.

AOV, ATO-S, and Quality Assurance personnel do not provide Air Traffic Control services at Memphis TRACON while utilizing STARS displays, therefor they have no idea what it's like to sit at a STARS display for 2+ hours -- Air Traffic Controllers do. We are the employees who use this equipment to separate and sequence aircraft, and several of us have documented our concerns regarding this issue.

The lighting in the TRACON was acceptable until Memphis FAA Management took the sudden and unusual stance of increasing the lighting intensity in the TRACON so that *they* conduct administrative business in the TRACON -- instead of in their office down the hall. Memphis FAA Management completely disregarded the working conditions and desires of the Air Traffic Controllers who were responsible for the safety of the flying public.

ALLEGATION 8: (Substantiated) *"In violation of FAA Order 7110.65, Memphis air traffic controllers have failed to notify aircraft of their departure from the Class B airspace."*

WHISTLEBLOWER RESPONSE: The DOT/OIG report neglected to reveal *why* Memphis Air Traffic Controllers failed to notify aircraft that they had departed the Class B airspace. Controllers do not always make this notification because of the following: 1) Memphis TRACON Airspace design, 2) Memphis Class B Airspace design, 3) volume of aircraft during arrival pushes, 4) Controller workload during arrival pushes, 5) Traffic Management Initiatives during arrival pushes, and 6) other duties of greater importance or priority.

Memphis Air Traffic Controllers did not comply with the Class B notification *because* of the above mentioned items -- not out of negligence.

Memphis FAA Management and Memphis Air Route Traffic Control Center (ZME ARTCC) Traffic Management Unit (TMU) coordinate the Airport Acceptance Rate (AAR) prior to each arrival push. This "flow rate" allows for an inordinate number of aircraft to enter the airspace at the beginning of the arrival push, and this is referred to as "front loading" the sectors.

Memphis FAA Management's goal is to load as many aircraft into the TRACON airspace as possible at the beginning of the arrival push, and then keep the Final Approach Courses as full as possible. The number of aircraft in the TRACON airspace often forces Air Traffic Controllers to run *double* or *triple* downwind sequences in a daisy chain manner, and this forces aircraft outside the Class B Airspace.

When I worked in the Memphis TRACON, Air Traffic Controllers assigned to work the Coordinator (CIA) position had to ask permission from a FLM to issue speed or spacing restrictions at the arrival "corner posts". Air Traffic Controllers assigned to work the Radar East (RE) or Radar West (RW) Feeder positions were not allowed to issue speed restrictions, nor were they allowed to refuse a

radar hand-off if they were overloaded. Arrival aircraft were routinely assigned *"maximum forward speed"* by ZME. Any attempt to slow down the arrivals was met with swift and stiff resistance by Memphis FAA Management.

Anytime that weather, aircraft emergency, TRACON equipment failure, break-out, or a go-around occurred -- the complexity in the TRACON increased -- and aircraft were *forced* outside the lateral or vertical limits of the Class B Airspace.

Aircraft on the Final Approach Course for the parallel runways were routinely *outside* the lateral limits of the airspace delegated to the Final Controllers, and this was due to the volume of traffic that was allowed into the TRACON airspace during the arrival push. A "Point-Out" was required for each of these aircraft that exited the Final Airspace, and each aircraft had to be notified when it departed and reentered the Class B Airspace -- further increasing Controller workload.

The pilot is required to comply with certain speed restrictions when notified that he/she has departed the the Class B airspace. These speed restrictions have an adverse impact on the in-trail spacing from one sector to another, and these speed restrictions create "overtake" situations when aircraft suddenly reduce their speed.

FAA Order 711.65, paragraph 2-1-2 (a) states: *"Give first priority to separating aircraft and issuing safety alerts as required in this order. Good judgment shall be used in prioritizing all other provisions of this order based on the requirements of the situation at hand."*

Memphis Air Traffic Controllers were focused on sequencing and spacing aircraft on the Final Approach Course. There simply was not enough time to inform each aircraft that it had departed or reentered the Class B Airspace. This extraneous verbiage would cause Memphis Final Controllers to miss arrival gaps and further exacerbate an already difficult situation.

My allegation was intended to show that Memphis FAA Management created this situation by allowing too many aircraft into the TRACON airspace during the arrival pushes; overloading the Arrival and Final sectors with too much traffic; and creating a situation whereby Memphis Air Traffic Controllers were *unable* to comply with the Class B notification requirement -- *separating aircraft and issuing safety alerts* was more important.

Management's response was to 1) counsel Air Traffic Controllers, 2) provide Skill Enhancement Training to Air Traffic Controllers, 3) blame the Air Traffic Controllers for not complying with the Class B provisions of FAA Order 7110.65, and to 4) continue *front loading* the airspace with traffic.

ALLEGATION 9: (Partially Substantiated) *"Taxi-into-Position-and-Hold (TIPH) rules contribute to dangerous go-arounds on Runway 27; without ASDE-3/AMASS for that*

runway, TIPH rules do not permit aircraft to receive clearance to land if there is an aircraft holding on that runway."

WHISTLEBLOWER RESPONSE: The DOT/OIG report stated *"ATO-Safety monitors, tracks, and classifies daily, all TIPH incidents nationwide for trends associated with safety risks. ATO-Safety did not identify any adverse trends associated with Memphis RWY 27 operations."* As stated elsewhere in this response, and in my Safety Disclosures -- Memphis FAA Management has a pattern and practice of *not* documenting specific incidents. If an incident is logged in the DRFO, a proper investigation is rarely conducted by the QA staff, and Runway Incursions and/or Operational Errors/Deviations are thus covered-up. Adverse trends can not be identified if the data is not accurately collected, documented, and retained for an indefinite period of time.

The RWY 27 TIPH issue was primarily an issue during the midnight FDX outbound push when Memphis was operating in a "South Configuration". In this configuration, RWY 27 was utilized as an arrival and departure runway; Runways 18L, 18C, 18R were used as departure runways; and Runway 18C was used as an arrival runway for aircraft that had an operational necessity.

During the midnight FDX outbound push, Memphis Tower was generally staffed with 1) a Front Line Manager (FLM), 2) a Cab Coordinator (CC), 3) two Ground Controllers (GC), 4) three Local Controllers, and 5) one Clearance Delivery.

The Cab Coordinator would instruct the Ground Controllers to cross RWY 27 at specific points with a specific number of aircraft. The Cab Coordinator would instruct the RWY 27 Controller to "slot one" aircraft on RWY 27. The Ground Controllers would begin crossing their aircraft, and due to the dynamic changes involved -- the number, types of aircraft, and crossing points routinely changed.

After each Ground Controller had successfully crossed all of his/her respective aircraft, the Ground Controllers would notify the Cab Coordinator that *"Ground One/Two is all clear"*, and the RWY 27 Local Controller would be given permission to *"Roll one off of RWY 27"*, and the RWY 27 Local Controller would then issue a takeoff clearance.

On nearly every midnight shift that I worked as an Air Traffic Controller at Memphis Tower -- *something happened* with regards to RWY 27. Some examples include: 1) a Ground Controller forgot about an aircraft that was cleared to cross RWY 27, 2) a pilot mistakenly crosses the RWY 27 Hold-Short line, 3) confusion existed as to whether an aircraft was clear of the runway, or 4) disagreement existed as to how many aircraft were cleared to cross RWY 27.

All of this took place while an aircraft was holding in position on RWY 27, and another aircraft on final to RWY 27 without a landing clearance. The safety of the RWY 27 operation with regards to this particular operation will be greatly

enhanced when (and if) the FAA installs ASDE-X with the completion of the new Control Tower.

DELEGATION LETTERS: DOT Secretary Mary E. Peters stated that the *"FAA completed its investigation and sent its report to OSC on December 3, 2007, and supplemental report on December 21, 2007. The investigation did not substantiate the allegations that runway operations at Memphis Airport created a substantial or specific danger to public safety."*

WHISTLEBLOWER RESPONSE: Jim Fossey, Alice L. Hardison, Joe Mantello, Brenda Stallard, and Ric Wunn were assigned to the FAA team delegated to investigate my a Safety Disclosures.

At the end of my first and only interview with the FAA team that was sent to investigate my allegations, Mr. Fossey told me that I was "wasting" my time. He said that Bill Wertz would never be removed from his position as the Memphis Tower/TRACON Air Traffic Manager (ATM); that Bill Wertz would never be removed from the FAA as a result of anything discovered as a result of my allegations; and that it would be business as usual at MEM as soon as this investigation was over.

Apparently Mr. Fossey formulated his own conclusion after a brief interview with me, as he left Memphis after that first interview and I never spoke to him again.

Mr. Fossey attended the Communicating for Safety (CFS) conference in 2008, and he spoke with other FAA Managers and NATCA members about my Safety Disclosure case. According to one individual in attendance, Fossey was openly "trashing" my Safety Disclosures in front of other CFS participants -- hardly professional conduct for an FAA Manager responsible for investigating the veracity of my allegations.

It is my understanding that only one member from this team observed the FDX midnight operation, and that was Mr. Mantello. According to Memphis Air Traffic Controllers assigned to the midnight shift during the week that this FAA team was in Memphis -- Mr. Mantello visited the Tower once, and only for a short period of time.

I sent approximately 20 emails to Mr. Mantello and members of the FAA team assigned to investigate my OSC Safety Disclosures. These emails provided background information on the facility and specific examples of safety related concerns. I informed the team that I had additional documentation, but no one from the team ever asked for this information.

This team of FAA employees was sent to "investigate" my allegations, however the real goal was to further cover-up my safety concerns and protect the FAA from any outside exposure or embarrassment. The final report was signed by

FAA Acting Administrator Robert "Bobby" A. Sturgell, and I provided the OSC with a written response rejecting the findings of the report.

METHODOLOGY: The DOT/OIG report lists the positions and titles of individuals assigned to investigate my Safety Disclosures, as well as the names and positions of individuals who were interviewed *about* my Safety Disclosures. The investigators failed to interview many key individuals having specific knowledge of the incidents that I disclosed. **The following FAA employees *should* have been interviewed:**

- **Anthony Amodeo, Memphis Tower/TRACON Air Traffic Controller** -- Mr. Amodeo was one of the Controllers interviewed by Mr. Guetzko when the February 18, 2007 go-around incident occurred -- even though Mr. Amodeo was not in the Control Tower at the time of the incident. Mr. Amodeo was eventually *promoted* to a Staff Specialist position, and would have some insight into the QAR process.
- **William "Bill" Brinkley, Memphis Tower/TRACON Operations Manager** -- As one of two Operations Managers at Memphis, Mr. Brinkley witnessed thousands of "incidents" involving Errors, Deviations, misapplication of CRDA procedures, and inappropriate use of runways based on the facility tailwind component chart. Mr. Brinkley was very focused on *my* performance, but he selectively ignored important errors that should have been reported and investigated.
- **Herb Brown Jr., Memphis Tower/TRACON Front Line Manager** -- Mr. Brown was known throughout the facility as a Front Line Manager who would allow aircraft to land without required separation. Mr. Brown would often report that he had *"aircraft in sight"*, when in fact, Controllers could see nothing from the window of the Tower Cab -- and he would instruct Controllers to *"Let 'em land."*
- **Buford Crawley, Memphis Tower/TRACON Front Line Manager** -- Mr. Crawley retired from the FAA in 2008. Having nothing to lose or gain, plus the fact that he was a minister in a local church, Mr. Crawley would have provided investigators with a unique perspective on the operation at Memphis Tower/TRACON.
- **Jim Fossey, FAA Director of Special Projects** -- Mr. Fossey was the FAA Team Lead during the FAA investigated my Safety Disclosures on or about October 23, 2007. Mr. Fossey was instrumental in helping to implement the Air Traffic Safety Action Program (ATSAP), a program that allows Air Traffic Controllers to voluntarily identify and report safety and operational concerns to the FAA. Concerns reported to the FAA via ASTAP are never disclosed to the public, and are not obtainable through the Freedom of Information Act (FOIA).
- **Timothy Goddard, Memphis Tower/TRACON Air Traffic Controller** -- Mr. Goddard lost his FAA medical certificate and was at risk of losing his ATC position with the FAA. He was temporarily assigned to the Quality Assurance (QA) office while attempting to resolve his medical issues and/or locate another position in the FAA. Mr. Goddard would could have provided insight into the QAR process. He eventually transferred to to FAA Southern Region Office in Atlanta, GA.
- **Scott Guetzko, FAA Air Traffic Safety Investigator** -- I made Safety Disclosures to Mr. Guetzko between March and October 2007. These disclosures related to the RWY 27 operation, CRDA, and the May 22, 2007 incident where Memphis FAA Management utilized simultaneous independent approaches in violation of the

April 2, 2007 order from FAA Oversight. Mr. Guetzko appeared to be very concerned about various aspects of the operation at Memphis Tower/TRACON.

- **Alice Hardison, FAA Air Traffic Safety Investigator** -- Ms. Hardison was a member of the FAA team that investigated my Safety Disclosures on or about October 23, 2007. Ms. Hardison was assigned to work with DOT/OIG Special Agent Erika Vincent. I objected to Ms. Hardison having anything to do with my DOT/OIG investigation, and she was eventually removed from my case.
- **Joe Mantello, Air Traffic Controller** -- Mr. Mantello formerly worked for one of the FAA Safety offices. He served as a member on the FAA team that investigated my Safety Disclosures on or about October 23, 2007. Mr. Mantello and I spoke on several instances, and I helped to facilitate a private meeting between him and several other Memphis Air Traffic Controllers.
- **Robert C. Parker, former Memphis Tower/TRACON Front Line Manager** -- Mr. Parker (not to be confused with Bobby Parker) is a former Memphis Tower/ TRACON Controller and FLM. Mr. Parker is an officer in the National Guard, and holds several pilot certificates. Mr. Parker was *promoted* to an AOV Safety position at the Southern Region Office in Atlanta, GA. His knowledge and experience would have been very useful to investigators.
- **Thomas P. Roche, Memphis Tower/TRACON Front Line Manager** -- Former Memphis Tower/TRACON Controller and FLM. I disclosed situations and incidents involving Mr. Roche, yet he was not interviewed. Mr. Roche was directly responsible for many acts of harassment and retaliation that I disclosed in a separate *Whistleblower Retaliation Complaint* to the OSC. Mr. Roche was *promoted* to a higher paying FLM position at SoCal TRACON.
- **Phil Santos, Memphis Tower/TRACON Operations Manager** -- As one of two Operations Managers at Memphis, Mr. Santos witnessed thousands of "incidents" involving Errors, Deviations, misapplication of CRDA procedures, and inappropriate use of runways based on the facility tailwind component chart. Mr. Santos was my Supervisor when I informed him that Herb Brown said *"I have them both in sight"* and *"let it ride"*. Separation was lost with these incidents -- but they were never investigated. Mr. Santos was *promoted* to Operations Manager.
- **Brenda Stallard, FAA Safety Investigations** -- Ms. Stallard was a member of the FAA team that investigated my Safety Disclosures on or about October 23, 2007. She performed interviews and reviewed data relevant to my Safety Disclosures.
- **Mike Swift, former Memphis Tower/TRACON Air Traffic Controller** -- Mr. Swift was the Air Traffic Controller who prevented an accident on February 18, 2007 when he instructed a SF34 to *"Stay low! Stay low! Stay low!"* This was the incident that I observed while working Ground Control, and was the incident that I disclosed to the NTSB and via the NASA Aviation Safety Reporting System (ASRS). Mr. Swift was *promoted* to a FLM position in Florida.
- **William "Bill" K. Wertz, Memphis Tower/TRACON Air Traffic Manager** -- Mr. Wertz demanded certain things of his FLM's, and he would have known about anything unusual that was taking place in *his* facility. Mr. Wertz, when questioned about the safety of the RWY 27 operation at a weekly Team Briefing, insisted that the operation was safe; the users liked it; and that we would continue to use it. Mr. Wertz was allowed to quietly *retire*, and he was never held accountable for the

deceit surrounding the RWY 27 waiver, nor for any of the unreported Operational Errors that occurred while he was the Memphis Tower Air Traffic Manager.

- **Ric Wunn, FAA Air Traffic Manager** -- Mr. Wunn served on the FAA team that investigated my Safety Disclosures on or about October 23, 2007. He was present at several interviews, and his stated purpose was to "capture and record" responses from individuals who were to be interviewed.

The FAA contracted with the DOT Volpe Center to conduct a Safety Risk Analysis of the RWY 27 operation. I attempted to obtain a copy of the report through the Freedom of Information Act, but my request was denied. This report (and all associated safety reports associated with the RWY 27 operation at Memphis) should be made available to the flying public. I was interviewed by the members of the Volpe team, and I provided the team with statements from Memphis Air Traffic Controllers regarding the RWY 27 operation. **The following members of the SRM team sent to Memphis on or about April 24, 2007 *should* have been interviewed:**

- Zale Anis, DOT Volpe Center
- LaGretta Bowser, Director, FAA Operational Services (AJS-5)
- Paul Cassel, FedEx Corp., Director of Flight Operations
- Bill McNease, former Memphis FAA FSDO employee
- Elaine Morin, FAA ATC SME Support
- Kristi Ritson, FAA Air Traffic Safety Inspector
- Cliff Stowe, FAA Operations Support Specialist
- Joseph Varrati, FAA National Traffic Management Officer

CONCLUSIONS

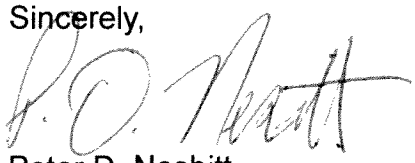
1. **There were many safety issues at Memphis Tower/TRACON**. Memphis FAA Management made it perfectly clear that Controller comment or disclosure of these safety issues was not desired, and there would be a price to pay for anyone who spoke-out against the operation.
2. **The DOT/OIG failed to investigate the RWY 27 go-around conflict with aircraft on approach to land on RWY 18L and 18C**. Because these two runways are closer to the approach end of RWY 27, any aircraft executing a close-in go-around from RWY 27 is in immediate conflict with any other aircraft on short-final to RWY 18L and/or 18C.
3. **The DOT/OIG failed to consider the impact of Wake Turbulence upon a RWY 27 go-around that flies beneath the flight path of an arriving Heavy Jet to RWY 18L and/or 18C.** The report only considered RWY 18R, and the other two parallel runways should have been considered and investigated.
4. **Profit over safety was witnessed on a routine basis**. This was evidenced by runway configurations benefiting FDX, and the constant pressure to increase airport capacity through the use of CRDA software and procedures. The misapplication of CRDA procedures was especially disturbing and placed the flying public at risk.
5. **An arrival or departure with a tailwind should be the exception -- not the rule.** The FAA is responsible for the safe operation of the airport -- not FDX. No airline

should possess such power and influence as to force other aircraft to land or depart with an excessive tailwind. Safety must always come first.

6. **There was a systemic cover-up of Operational Errors/Deviations at Memphis Tower/TRACON**. Looking the other way is an *intentional* act. I was able to identify 35 unreported errors over the course of six weeks -- and this was after radar and voice data was destroyed. The majority of these errors were due to Memphis FAA Management placing Airport Capacity over safety -- and this forced Controllers to operate on the edge of safety.
7. **Memphis FAA Management placed the flying public at risk by using Simultaneous Independent Approaches to RWY 18L, 18C, and RWY 27**. They told Controllers and the flying public that a "waiver" existed for this procedure. An internal FAA investigation found that a waiver never existed; that the operation was illegal per FAA Order 7110.65; and the operation was halted.
8. **The absence of a catastrophe is not proof of a sound procedure** -- but the number of go-around incidents involving RWY 27 CRDA software/procedures should be an indicator that *something* is wrong with the manner in which CRDA is being used at Memphis.
9. **A more thorough investigation by the DOT/OIG would have revealed FAA subterfuge in many areas.** The DOT/OIG report *"substantiated the conclusions in the December 2007 FAA investigative report submitted to the OSC."* The FAA's investigative report was filled with inaccuracies, and it served only to protect and defend the FAA.
10. **The current system of data retention and destruction benefits the FAA**. By the time the OSC and/or the DOT/OIG contact the FAA to review evidence in support of an FAA Whistleblower -- the FAA has already rotated those data storage devices, and the data is destroyed.

This has been a very difficult experience, but I will sleep well knowing that I attempted to disclose and correct the deficiencies that I observed while working as an Air Traffic Controller at Memphis Tower/TRACON.

Sincerely,



Peter D. Nesbitt

ATTACHMENTS:

1. OSC Consent to Public Release of Written Comments on Agency Report
2. October 16, 2006, NASA ASRS ref. Separation Error
3. October 16, 2006, NASA ASRS ref. Loss of Separation
4. February 18, 2007, NASA ASRS ref. RWY 27 go-around conflict with RWY 18L
5. February 21, 2007, Email to the NTSB ref. the RWY 27 Operation at Memphis
6. March 17, 2007, Email to Scott Guetzko ref. Simultaneous 18/36 and 27 operations at Memphis
7. April 2, 2007, FAA Memorandum from Anthony S. Ferrante ref. Warning Notice, Noncompliance with FAA Order 7110.65
8. May 7, 2007, Email to DOT Volpe Team ref. SRM Team Info Request from Memphis Air Traffic Controllers
9. May 22, 2007, Email to Scott Guetzko ref. MEM running Simultaneous Independent Approaches to RWY 18L and 27
10. October 3, 2007, Email to Anthony Ferrante ref. CRDA Operations at MEM
11. December 3, 2007, Correspondence from Robert A. Sturgell to Scott Bloch ref. the FAA's investigation of Whistleblower allegations
12. January 30, 2008, Email to Robert A. Sturgell ref. Whistleblower request for administrative time to draft a response for the OSC
13. February 2, 2008, Correspondence to Scott Bloch in response to the FAA's investigation of Whistleblower allegations
14. June 11, 2008, NASA ASRS ref. RWY 27 go-around conflict with RWY 18R arrival.
15. July 15, 2008, FOIA request for possible Vehicle Runway Incursion at Memphis
16. July 21, 2008, FOIA request for possible Aircraft Runway Incursion at Memphis
17. July 27, 2008, FOIA request for possible Operational Errors at Memphis
18. September 19, 2008, Correspondence from Scott Bloch to Mary E. Peters ref. OSC File No. DI-07-2471 (Nesbitt)
19. September 19, 2008, Correspondence from Scott Bloch to Mary E. Peters. ref. OSC File No. DI-08-1015 (Weiss)
20. September 19, 2008, Correspondence from Scott Bloch to Mary E. Peters ref. OSC File No. DI-08-2225 (Adams)
21. October 17, 2008, Email to Anthony Ferrante ref. Simultaneous Independent Operations at Memphis
22. November 18, 2008, Email to Erika Vincent ref. Misapplication of CRDA procedures resulting in the non-report of a Procedural Error
23. December 2, 2008, Email to Erika Vincent ref. Memphis CRDA events
24. December 3, 2008, Email to Erika Vincent ref. Memphis CRDA events
25. December 8, 2008, Email to Erika Vincent ref. Memphis CRDA events
26. December 16, 2008, Email to Erika Vincent ref. Simultaneous and Staggered Approaches

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DO NOT REPORT AIRCRAFT ACCIDENTS AND CRIMINAL ACTIVITIES ON THIS FORM.
ACCIDENTS AND CRIMINAL ACTIVITIES ARE NOT INCLUDED IN THE ASRS PROGRAM AND SHOULD NOT BE SUBMITTED TO NASA.
ALL IDENTITIES CONTAINED IN THIS REPORT WILL BE REMOVED TO ASSURE COMPLETE REPORTER ANONYMITY.

(SPACE BELOW RESERVED FOR ASRS DATE/TIME STAMP)

IDENTIFICATION STRIP: *Please fill in all blanks to ensure return of strip.*
NO RECORD WILL BE KEPT OF YOUR IDENTITY. This section will be returned to you.

TELEPHONE NUMBERS where we may reach you for further details of this occurrence:

HOME Area 512 No. 791-7089 Hours 24
WORK Area 0 No. 000-0000 Hours 00

NAME Peter D. Nesbitt
ADDRESS/PO BOX 56 N. McLean Blvd., #3
CITY Memphis **STATE** TN **ZIP** 38104

TYPE OF EVENT/SITUATION
Separation Error

DATE OF OCCURRENCE (MM/DD/YYYY) 10/16/2006
LOCAL TIME (24 hr. clock) (HH:MM) 16:15

PLEASE FILL IN APPROPRIATE SPACES AND CHECK ALL ITEMS WHICH APPLY TO THIS EVENT OR SITUATION.

REPORTER

In what type of facility do you work? ☒ Tower ☒ Approach ☐ Center ☐ FSS Facility ID MEM

Describe your ATC qualifications. ☒ FPL ☐ Developmental Time certified on position/sector: 1.00 yrs/mos

What is your ATC experience in years? radar 18.00 limited radar ____ non-radar ____ military 4.00 supervisor ____

What was your control position or activity during the occurrence? (Check all that apply for combined position)
☐ radar ☐ local ☐ arrival ☐ clrnc delivery ☐ pre-flight ☐ supervisor
☐ hand-off ☒ ground ☐ departure ☐ coordinator ☐ in-flight ☐ monitor
☐ radar assoc ☐ assistant ☐ data ☐ manual ☐ flight watch other ____

Was instruction a factor? ☐ I was instructing ☐ I was receiving training ○ yes ○ no **Reset**

Do you have pilot experience? ⊙ no ○ yes, ____ hours **Reset** ☐ instrument rated

AIRSPACE

☐ Class A (PCA)
☐ Class B (TCA)
☐ Class C (ARSA)
☐ Class D (Control Zone/ATA)
☐ Class E (General Controlled)
☐ Class G (Uncontrolled)
☐ Special Use Airspace
☐ airway/route ____
☒ unknown/other
None

WEATHER

☐ VMC ☐ ice
☒ IMC ☐ snow
☐ mixed ☐ turbulence
☐ marginal ☐ thunderstorm
☒ rain ☐ windshear
☒ fog ☐ ____

LIGHT/VISIBILITY

☒ daylight ☐ night
☐ dawn ☐ dusk
ceiling 700 feet
visibility 0.50 miles
RVR ____ feet

	AIRCRAFT 1	AIRCRAFT 2
Type of Aircraft	(Make/Model) PA32	(Make/Model) MD80
Operator	☐ air carrier ☐ military ☐ corporate ☐ commuter ☒ private ☐ other ____	☒ air carrier ☐ military ☐ corporate ☐ commuter ☐ private ☐ other ____
Mission	☐ passenger ☐ training ☐ business ☐ cargo ☐ pleasure ☒ unk/other____	☒ passenger ☐ training ☐ business ☐ cargo ☐ pleasure ☐ unk/other____
Flight plan	☐ VFR ☐ SVFR ☐ none ☒ IFR ☐ DVFR ☐ unknown	☐ VFR ☐ SVFR ☐ none ☒ IFR ☐ DVFR ☐ unknown
Flight phases at time of occurrence	☐ taxi ☐ cruise ☐ landing ☐ takeoff ☐ descent ☐ missed apch/GAR ☐ climb ☒ approach ☐ other ____	☐ taxi ☐ cruise ☐ landing ☐ takeoff ☐ descent ☐ missed apch/GAR ☐ climb ☒ approach ☐ other ____
Control status	☐ visual apch ☐ on vector ☐ on SID/STAR ☒ controlled ☐ none ☐ unknown ☐ no radio ☐ radar advisories	☐ visual apch ☐ on vector ☐ on SID/STAR ☒ controlled ☐ none ☐ unknown ☐ no radio ☐ radar advisories

If more than two aircraft were involved, please describe the additional aircraft in the "Describe Event/Situation" section.

LOCATION

Altitude 1,000 ☒ MSL ☐ AGL
Distance and radial from airport, NAVAID, or other fix
2 NM South of MEM VOR
Nearest City/State Memphis, TN

CONFLICTS

Estimated miss distance in feet: horiz 1 vert 0
Was evasive action taken? ○ Yes ⊙ No
Was TCAS a factor? ○ Yes ⊙ No
Did Conflict Alert Activate? ○ Yes ⊙ No

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

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AVIATION SAFETY REPORTING SYSTEM

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Thank you for your contribution to aviation safety.

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POST OFFICE BOX 189
MOFFETT FIELD, CALIFORNIA 94035-0189

If you wish to submit online, click the **Submit** button at the bottom of page 2 or 3 when complete.

DESCRIBE EVENT/SITUATION

Keeping in mind the topics shown below, discuss those which you feel are relevant and anything else you think is important. Include what you believe really caused the problem, and what can be done to prevent a recurrence, or correct the situation. (USE ADDITIONAL PAPER IF NEEDED)

While working Ground Control 2 (GC2) during the beginning of an arrival push at MEM, I observed a loss of separation that went unreported when brought to the attention of the Tower Supervisor. Approach was running "Staggered Approaches" to RWY 36L and 36R. Final West (ARF) and Final East (ARM) were both open. N884CC, a PA32 was on the ILS RWY 36R. AAL282, an MD80 was on approach to RWY 36L. The MD80 was gaining on the PA32, and the required 2 mile stagger spacing was going to be lost. The Local Control 2 (LC2) Controller told the Supervisor that he was going to break-out the PA32, but the Supervisor directed the LC2 Controller to "let it ride". Separation was lost, and no one did anything about it. Our facility is involved in a "competition" with several other facilities that have had an "excessive" number of operational errors. It is my impression that MEM Management does not want to report any errors so that we may win the award and allow the Facility Manager to look good for his superiors. Several other Controllers have reported Operational Errors, but after investigation, it was found that no error occurred.

Thank You!

Your report has been securely submitted to the NASA Aviation Safety Reporting System (ASRS). No identifying information will be kept in our system after our review. Your ID Strip (top of page 1) will be printed, date stamped, and mailed back to you at the address you have provided. When this ID strip is removed, your name has been removed from our system and your report is being processed.

Your verification code is F9EF0F0CBE7EF05D0389DEB6C352089019D4F08D.

This is simply a number that indicates that we have received your report electronically. This number is not linked to your report.

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ASRS Reporting Forms

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ALL IDENTITIES CONTAINED IN THIS REPORT WILL BE REMOVED TO ASSURE COMPLETE REPORTER ANONYMITY.

(SPACE BELOW RESERVED FOR ASRS DATE/TIME STAMP)

IDENTIFICATION STRIP: *Please fill in all blanks to ensure return of strip.*
NO RECORD WILL BE KEPT OF YOUR IDENTITY. This section will be returned to you.

TELEPHONE NUMBERS where we may reach you for further details of this occurrence:

HOME Area 512 No. 791-7089 Hours 24
WORK Area 0 No. 000-0000 Hours 00

NAME Peter D. Nesbitt
ADDRESS/PO BOX 56 N. McLean Blvd., #3
CITY Memphis **STATE** TN **ZIP** 38104

TYPE OF EVENT/SITUATION
Loss of Separation

DATE OF OCCURRENCE (MM/DD/YYYY) 10/16/2006
LOCAL TIME (24 hr. clock) (HH:MM) 17:00

PLEASE FILL IN APPROPRIATE SPACES AND CHECK ALL ITEMS WHICH APPLY TO THIS EVENT OR SITUATION.

REPORTER

In what type of facility do you work? ■ Tower ■ Approach ☐ Center ☐ FSS Facility ID MEM

Describe your ATC qualifications. ■ FPL ☐ Developmental Time certified on position/sector: 1.00 yrs/mos

What is your ATC experience in years? radar 18.00 limited radar ____ non-radar ____ military 4.00 supervisor ____

What was your control position or activity during the occurrence? (Check all that apply for combined position)
☐ radar ☐ local ☐ arrival ☐ clrnc delivery ☐ pre-flight ☐ supervisor
☐ hand-off ■ ground ☐ departure ☐ coordinator ☐ in-flight ☐ monitor
☐ radar assoc ☐ assistant ☐ data ☐ manual ☐ flight watch other ____

Was instruction a factor? ☐ I was instructing ☐ I was receiving training ○ yes ⊙ no **Reset**

Do you have pilot experience? ⊙ no ○ yes, ____ hours **Reset** ☐ instrument rated

AIRSPACE

☐ Class A (PCA)
☐ Class B (TCA)
☐ Class C (ARSA)
☐ Class D (Control Zone/ATA)
☐ Class E (General Controlled)
☐ Class G (Uncontrolled)

☐ Special Use Airspace
☐ airway/route ____
■ unknown/other
None

WEATHER

☐ VMC ☐ ice
■ IMC ☐ snow
☐ mixed ☐ turbulence
☐ marginal ☐ thunderstorm
■ rain ☐ windshear
■ fog ☐ ____

LIGHT/VISIBILITY

■ daylight ☐ night
☐ dawn ☐ dusk
ceiling 700 feet
visibility 1.00 miles
RVR ____ feet

	AIRCRAFT 1	AIRCRAFT 2
Type of Aircraft	(Make/Model) Twin Engine Turboprop (BE20?)	(Make/Model) Turbojet (MD80?)
Operator	☐ air carrier ☐ military ☐ corporate ☐ commuter ■ private ☐ other ____	■ air carrier ☐ military ☐ corporate ☐ commuter ☐ private ☐ other ____
Mission	☐ passenger ☐ training ☐ business ☐ cargo ☐ pleasure ■ unk/other ____	■ passenger ☐ training ☐ business ☐ cargo ☐ pleasure ☐ unk/other ____
Flight plan	☐ VFR ☐ SVFR ☐ none ■ IFR ☐ DVFR ☐ unknown	☐ VFR ☐ SVFR ☐ none ■ IFR ☐ DVFR ☐ unknown
Flight phases at time of occurrence	☐ taxi ☐ cruise ☐ landing ☐ takeoff ☐ descent ☐ missed apch/GAR ☐ climb ■ approach ☐ other ____	☐ taxi ☐ cruise ☐ landing ☐ takeoff ☐ descent ☐ missed apch/GAR ☐ climb ■ approach ☐ other ____
Control status	☐ visual apch ☐ on vector ☐ on SID/STAR ■ controlled ☐ none ☐ unknown ☐ no radio ☐ radar advisories	☐ visual apch ☐ on vector ☐ on SID/STAR ■ controlled ☐ none ☐ unknown ☐ no radio ☐ radar advisories

If more than two aircraft were involved, please describe the additional aircraft in the "Describe Event/Situation" section.

LOCATION

Altitude 1,500 ■ MSL ☐ AGL
Distance and radial from airport, NAVAID, or other fix
2.0 NM North of MEM Airport
Nearest City/State Memphis, TN

CONFLICTS

Estimated miss distance in feet: horiz 1 vert 0
Was evasive action taken? ○ Yes ⊙ No
Was TCAS a factor? ○ Yes ⊙ No
Did Conflict Alert Activate? ○ Yes ⊙ No

ATC

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

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Thank you for your contribution to aviation safety.

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MOFFETT FIELD, CALIFORNIA 94035-0189

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DESCRIBE EVENT/SITUATION

Keeping in mind the topics shown below, discuss those which you feel are relevant and anything else you think is important. Include what you believe really caused the problem, and what can be done to prevent a recurrence, or correct the situation. (USE ADDITIONAL PAPER IF NEEDED)

While working Ground Control 1 (GC1) today I observed a loss of separation on Final that went unreported. This loss of separation was caused by the Supervisor allowing a situation to develop, and essentially saying that the Tower was providing visual separation, when the weather conditions prevented either aircraft from being in sight.

A twin-engine aircraft was on final for RWY 18R with a Turbojet staggered behind the twin for RWY 18L. Based on the runway distance criteria, we the Final Controller must maintain a 2.0 NM stagger all the way down the final approach until 1 mile from the runway, or until the Local Controller can provide Visual Separation. The turbojet was gaining on the twin when the Local Control 1 (LC1) Controller indicated that someone needed to break-out one of the two aircraft where separation was being lost. Neither aircraft was talking to the Tower at the time this remark was made. The two aircraft check in with LC1 and LC2, and the 2.0 NM stagger was subsequently lost. The LC2 Controller indicated that he was going to break the turbojet out and send that aircraft around, but the Supervisor said "I've got the twin in sight." Someone in the Tower told the Supervisor that he had to have both aircraft in sight in order to provide visual separation. The Supervisor then stated, "I have them both in sight."

No one in the Tower Cab could see either aircraft until each was on short final for their respective runways. Management insists that we run a "safe" operation, adhering to the rules and regulations at all times. They will violate us in heartbeat for any minor indiscretion when it suits their agenda, but we have situations like this were management will allow a loss of separation to take place at their whim and discretion.

Thank You!

Your report has been securely submitted to the NASA Aviation Safety Reporting System (ASRS). No identifying information will be kept in our system after our review. Your ID Strip (top of page 1) will be printed, date stamped, and mailed back to you at the address you have provided. When this ID strip is removed, your name has been removed from our system and your report is being processed.

Your verification code is F01EC6A43A8712ED49EB0221577D17B512C94622.

This is simply a number that indicates that we have received your report electronically. This number is not linked to your report.

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ASRS Reporting Forms

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IDENTIFICATION STRIP: Please fill in all blanks to ensure return of strip.
NO RECORD WILL BE KEPT OF YOUR IDENTITY. This section will be returned to you.

TELEPHONE NUMBERS where we may reach you for further details of this occurrence:

HOME Area 512 No. 791-7089 Hours 24

WORK Area 0 No. 000-0000 Hours 00

NAME Peter D. Nesbitt

ADDRESS/PO BOX 56 N. McLean Blvd., #3

CITY Memphis STATE TN ZIP 38104

TYPE OF EVENT/SITUATION: Go around on RWY 27 causes another acft to go around on RWY 18L

DATE OF OCCURRENCE (MM/DD/YYYY) 02/18/2007

LOCAL TIME (24 hr. clock) 18:13

PLEASE FILL IN APPROPRIATE SPACES AND CHECK ALL ITEMS WHICH APPLY TO THIS EVENT OR SITUATION.

REPORTER

In what type of facility do you work? [x] Tower [x] Approach [ ] Center [ ] FSS Facility ID MEM

Describe your ATC qualifications: [x] FPL [ ] Developmental Time certified on position/sector 1.00 yrs

What is your ATC experience in years? radar 20.00 limited radar ___ non-radar ___ military 4.00 supervisor ___

What was your control position or activity during the occurrence? (Check All that apply for combined position): [ ] radar [ ] local [ ] arrival [ ] clearance delivery [ ] oceanic [ ] supervisor [ ] handoff [x] ground [ ] departure [ ] procedural [ ] in-flight [ ] monitor [ ] radar assist [ ] assistant [ ] data [ ] manual [ ] flight watch other ___

Was instruction a factor? [ ] I was instructing [ ] I was receiving training ( ) yes (•) no

Do you have pilot experience? (•) no ( ) yes

AIRSPACE

[ ] Class A (PCA)
[ ] Class B (TCA)
[ ] Class C (ARSA)
[ ] Class D (Control Zone/ATA)
[ ] Class E (General Controlled)
[ ] Class G (Uncontrolled)
[ ] Special Use Airspace
[ ] airway/route
[x] unknown/other None

WEATHER

[x] VMC [ ] IMC [ ] turbulence [ ] marginal [ ] rain [ ] fog [ ] ice [ ] snow [ ] thunderstorm [ ] windshear [ ]

LIGHT/VISIBILITY

[ ] daylight [x] night [ ] dawn [ ] dusk
ceiling ___ feet
visibility 10.00 miles
RVR ___ feet

AIRCRAFT 1 / AIRCRAFT 2

	Aircraft 1	Aircraft 2
Type of Aircraft (Make/Model)	SF34	DC93
Operator	[x] commuter	[x] air carrier
Mission	[x] passenger	[x] passenger
Flight plan	[x] IFR	[x] IFR
Flight phase at time of occurrence	[x] landing	[x] landing
Control status	[x] visual approach	[x] visual approach

If more than two aircraft were involved, please describe the additional aircraft in the "Describe Event/Situation" section.

LOCATION

Altitude 100 [ ] MSL [x] AGL

Distance and radial from airport, NAVAID, or other fix: Over the numbers of RWY 27 at MEM

Nearest City/State Memphis, TN

CONFLICTS

Estimated miss distance in feet: horiz 500 vert 0

Was evasive action taken? (•) yes ( ) no

Was TCAS a factor? ( ) yes (•) no

Did Conflict Alert activate? ( ) yes (•) no

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION — AVIATION SAFETY REPORTING SYSTEM

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I was working Ground Control Two (GC2) at the end of the NWA evening arrival push. Memphis was in a South Configuration, landing RWY 18L, 18R and RWY 27. MES3057 was next to land on RWY 27, and NWA 1593 was next to land on RWY 18L. Both aircraft would contact me after landing, so their parking locations and call signs were notated on a paper pad at my position.

As MES3057 crossed the numbers to land on RWY 27, the pilot informed Local Control Two (LC2) that he had an "unsafe gear indication", and that he was "going around". NWA1593 was approximately 1/2 mile final descending to land on RWY 18L. The LC2 Controller instructed MES3057 to "... stay low, stay low!", and then immediately went to NWA1593 and issued go around instructions to prevent these two aircraft from colliding. MES3057 flew down the length of RWY 27 at approximately 10 feet AGL, and flew directly underneath NWA1593.

Only some luck and the quick action by the LC2 Controller prevented a midair collision from taking place. If the frequency had been in use by another aircraft calling for landing or departure clearance; or if the LC2 Controller had been distracted with landline communications; or if the Tower radios had failed as they have done recently at MEM Tower and TRACON, the results might have been different.

Many Controllers at MEM have experienced RWY 27 "go around" situations at MEM, and all have recounted horror stories of these aircraft flying through the flight paths of aircraft landing RWY 18L, 18C and 18R. This is a landing configuration that MUST STOP. We have "Operational Error Reduction Plans"; new procedures; new airspace; and Computer Based instruction provided, all in an effort to keep the system safe. Yet, we continue to place aircraft, passengers and cargo in the dangerous situation of "going around" on RWY 27 and flying through the flight path of other landing traffic.

Our Air Traffic Manager (William K. "Bill" Wertz) informed us just last week in a Team Briefing, that MEM would continue to use RWY 27 in this configuration "because it helps the users make money". We are placing profit

CHAIN OF EVENTS — HUMAN PERFORMANCE CONSIDERATIONS

NASA ARC 277A (January 1994)

Click here to securely submit to NASA

over safety against the objections of many Controllers who are forced to deal with this unsafe situation on a daily basis.

I would like to see the FAA, NASA and the NTSB get involved BEFORE we have a midair collision involving a go around on RWY 27 with an aircraft landing on RWY 18L, 18C or 18R.

Thank You!

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Your verification code is
73F80847737BA33CABF0CB7109A3E3AC03A1E8AC.

This is simply a number that indicates that we have received your report electronically. This number is not linked to your report.

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ASRS Reporting Forms

From: Peter Nesbitt <sailing_blues@yahoo.com>
Subject: **Runway Safety Forum**
Date: February 21, 2007 5:41:49 PM CST
To: daniel.bartlett@ntsb.gov, hollowk@ntsb.gov, peduzzi@ntsb.gov
Bcc: Shaw Dan

Dear Members of the NTSB,

I am employee with the Federal Aviation Administration (FAA) as an Air Traffic Controller. My 20 years of experience has provided me with the opportunity to work at five different Air Traffic Control facilities. During this time I have worked under a number of unique FAA Managers and Supervisors, and I have witnessed the development and implementation of numerous airspace and procedure changes. I would often say that I've "seen it all", but that all changed when I transfered to the Memphis Tower/TRACON two years ago.

We have an operation that allows aircraft to land on Runways 18L, 18C and 18R, while at the same time allowing aircraft to land and depart on Runway 27. This crossing runway does not intersect the parallel runways, but it does exist north of these runways. We supposedly have an "FAA Waiver" to conduct this operation, but I have never seen such a document. FAA Evaluators have witnessed this operation and have generally been appalled at what they saw. From what I've been told, our MEM Management informed the evaluators that MEM has a waiver to conduct these simultaneous operations.

Just last week while working Ground Control in the Tower, I observed a Mesaba SF34 execute a go-around on Runway 27 due to an "unsafe gear indication light" in the cockpit. This announcement was made to the Local Controller as the aircraft crossed the landing threshold of the runway. At the very instant that this was taking place, a Northwest DC9 was on short final for Runway 18L. The alert Local Controller directed the SF34 to "Stay low, stay low!", and then immediately issued go-around instructions to the DC9. The SF34 hugged the deck at less than 10 feet AGL, while the DC9 climbed out directly over the SF34. I estimate the vertical separation to have been 500 feet or less.

There are numerous instances of aircraft at MEM executing a go-around on Runway 27 and conflicting with other traffic that is landing on Runways 18L, 18C or 18R. The most famous of these go around incidents involves an AirTrans B712 flying "low" down the length of Runway 27 directly underneath a FDX Heavy jet was was simultaneously issued go-around instructions for Runway 18R. Witnesses in the Tower Cab say that it

is the closest that they have ever seen two aircraft get in the air. Other go-around stories witnessed by my peers involve the go-around aircraft flying underneath a 18L arrival and climbing out over a 18R arrival.

Another dangerous aspect of Runway 27 involves the FDX midnight operation. MEM will land on Runways 36L, 36C and 36R, while at the same time land and depart on Runway 27. Each aircraft that lands on one of the parallel runways must cross the active Runway 27 between numerous arriving and departing aircraft. Just imagine 100+ aircraft hitting the gap between arrivals on Runway 27 at six different taxiway intersections.

During the FDX midnight outbound, Memphis will generally depart Runways 18L, 18C and 18R, while at the same time departing selected aircraft off of Runway 27. The vast majority of the FDX fleet will cross the active Runway 27 in between arriving and departing aircraft. Three weeks ago I witnessed an instance where an aircraft was about to be cleared for takeoff from Runway 27, but an alert Ground Controller yelled out that there was still one other aircraft that had a clearance to cross Runway 27. Several months ago I witnessed a trainee issue a clearance to a FDX Heavy jet to cross Runway 27 with another aircraft on short final to Runway 27.

Fortunately, no error resulted in the above examples, but it was only quick reaction by the Air Traffic Controllers that prevented a disaster. Examples like this are abundant at Memphis, and everyone can recount an instance where a pilot or Controller has made an error involving an arriving or departing aircraft on Runway 27 with an aircraft crossing Runway 27 during the outbound.

In years past there existed a dedicated group of individuals who worked the midnight shift every night. These Air Traffic Controllers volunteered for the midnight shift. Over time they became the most knowledgeable and experienced Controllers with regards to the FDX midnight operation involving Runway 27. All of this changed when our Air Traffic Manager changed our work schedule in 2007. The midnight crew was dismantled, and nearly all Memphis Air Traffic Controllers now rotate through the midnight shift once a week. Some of these Controllers had not worked the FDX midnight operation in over 10 years. I was certified as a Cab Coordinator without having ever worked the Cab Coordinator position during the midnight operation.

Please take a moment to compare the idea of these two groups of individuals: Group one worked the FDX midnight operation each night for years on end -- they were very familiar and experienced with the operation. Group two now rotates unfamiliar Controllers through this operation once each week, never truly gaining the level of competence and experience that existed with the permanent midnight crew.

Recently several Controllers have spoken about the Runway 27 safety concerns with our Supervisors and Air Traffic Managers. These discussions have taken place in the formal setting of weekly "Team Briefings". We have voiced concerns with the new rotating schedule that forces us to work two "quick turn" shift each week, one of which involves a midnight shift; we have voice concerns with the many aircraft that cross Runway 27 between the many arrivals and departures; we have voice concerns with the level of alertness in which all of this takes place at 3:00 a.m. after having worked two quick turns in the previous 36 hours. Our Air Traffic Manager, Operations Managers and Training Manager have all indicated that we will continue to use Runway 27 in this configuration because it "helps FDX make money".

Money over safety. Is that our goal? Our job? Our commitment to the National Airspace System?

I respectfully ask the NTSB to consider the Runway 27 operation at Memphis. Someone needs to look at this operation and put an end to it, because there will be an accident here someday. There have simply been too many close calls here where only luck or some quick reaction by a human has averted disaster.

I do have some reservations about my name being attached to this concern/complaint, as I fear retaliation from the FAA and my Air Traffic Manager (Bill Wertz) for speaking out about this issue. Local FAA Management at Memphis simply refuse to discuss the concerns of the Air Traffic Controllers regarding Runway 27, but something needs to be done.

Sincerely,

Peter D. Nesbitt (NT)
Memphis Tower / TRACON
sailing_blues@yahoo.com
512-791-7089

From: Peter Nesbitt <sailing_blues@yahoo.com>
Subject: **Simultaneous RWY 18/36 and 27 operations at Memphis**
Date: March 17, 2007 8:52:45 PM CDT
To: scott.guetzko@faa.gov

Mr. Guetzko,

It was brought to my attention that you (or someone from your office) recently visited Memphis Tower/TRACON to interview Air Traffic Controllers regarding our operation. I regret that I was not scheduled to work on the day that you visited the facility, as I would like to have shared my thoughts and observations on the RWY 27 operation -- especially since I recently observed a SF34 go around due to an unsafe gear indication. This aircraft flew directly underneath the flight path of a DC9 that was attempting to land on RWY 18L.

I do not know how familiar you are with our operation, nor do I know how much information you were able to gather on your recent visit. I will approach this email as if you know nothing about our operation. Please accept my apologies in advance if any of this is repetitive or too detailed.

MEMPHIS CONFIGURATIONS -- MEM has two primary Configurations: *North Configuration* and *South Configuration*. This means that we land and depart to the south or land and depart to the north. Depending on whether we are expecting a NWA or FDX inbound/outbound push, we might be directed to use these parallel runways differently. For example, during the FDX inbound operation, we will generally use the *outboard runways* (18L/36R and 18R/36L) for arrivals, and the *inner runway* (18C/36C) for departures. During the NWA outbound operation, we will generally use 18C/36C and 18R/36L for departures.

With regards to runway selection, our local procedures state the following:

1-22. RUNWAY USE

a. *An effective runway use program is the most viable method available for the aviation industry to assist the local community in mitigating aircraft noise without compromising safety or unduly limiting airport capacity.*

b. *When selecting active runway(s), operational personnel shall utilize center field wind measuring equipment. Supplemental runway wind sensors are available and are another means by which to determine runway configuration. It is the OS/CIC's responsibility to make the best decision based on all available information. To the extent practical, in accordance with the tables of maximum tail wind values in appendix 1 adhere to the following guidelines:*

(1) *From 0600 to 0200 local time, a north operation.*

(2) *From 0200 to 0600 local time, a south operation.*

c. *The requirements of paragraph 1-22b do not apply if any of the following conditions exist:*

(1) *Thunderstorms on the initial departure path or final approach path within 5 NM of the selected runway(s).*

(2) *Wind shear reported by PIREP or detected by Terminal Doppler Weather Radar.*

(3) *Snow, ice, slush, or standing water observed on the runway(s) by tower personnel, MSCAA, or PIREP. Isolated patches of precipitation are permitted provided braking action effectiveness is not diminished.*

(4) *Braking action reports less than good or a report of hydroplaning.*

(5) *Reported visibility less than 1 mile or RVR of 5000 or less.*

d. *In the event of a landing gear emergency, the pilot shall make the choice of landing runway.*

One unique aspect of the MEM operation is the use of RWY 27 while also landing and/or departing from the parallel runways. Depending on our staffing, current or forcasted weather conditions, and NAVAID equipment outages -- MEM will use RWY 27 as an arrival/departure runway while also utilizing the parallel runways for arriving and departing traffic. I have even seen MEM use *Simultaneous Parallel ILS Approaches* to RWY 36L/36R or RWY 18L/18R while using RWY 27 as an arrival and/or departure runway.

With regards to the use of the Parallel Runways and Runway 27, our local procedures state the following:

1-23. SIMULTANEOUS OPERATION ON RUNWAYS 18C/36C OR 18L/36R WITH RUNWAY 27

You may authorize an aircraft which has landed on Runway 27 to cross under the flight path of an arrival to Runway 18L/18C or a departure from Runway 36R/36C provided:

a. *The aircraft landing on Runway 27 is classified in the FAAO 7110.65 as weight classification small, small +, or large manufactured by Aerospatiale/Aeritalia (AT43, AT44, AT45, AT72), Canadair Bombadier LTD. CL600 series, Dehavilland (DH7, DH8 series, Embraer E135, E145, Fairchild Industries F27, Saab & Fairchild Industries SF34, and British Aerospace RJ85 and;*

b. *The aircraft landing on Runway 27 has landed and is on landing roll or in taxi mode, and;*

c. *Traffic information is exchanged between the involved aircraft in sufficient time for either aircraft to request an alternative clearance or course of action.*

LANDING SOUTH AND RWY 27 - When I first arrived at MEM, one of my first questions was: *"How can we run simultaneous approaches to the parallel runways and land on runway 27 at the same time?"* The answer to this question has varied over time, but I've heard several reasons that

supposedly justify the operation: 1) we have a "*waiver*", 2) it's a "*legal operation that just looks bad*" and 3) "FAA Evaluations has seen and approved the operation" with the specific requirements that are mentioned above.

Local Control 3 is generally responsible for RWY 27 and all taxiing aircraft north of RWY 27. Local Control 2 is generally responsible for RWY 18C/36C and 18L/36R. Local Control 2 and 3 are often combined due to staffing constraints or traffic conditions.

While training on Local Control 2 and 3, I was constantly reminded to be on the lookout for RWY 27 go-around traffic. My trainers recounted stories where they had seen RWY 27 go-around traffic fly under, over, or around other traffic arriving landing RWY 18L/C/R. I was provided with various techniques to establish or regain separation in the event of a RWY 27 go-around. One technique is to keep the RWY 27 go-around traffic "low" all the way down the length of RWY 27 to the departure end; issue traffic information to any aircraft landing RWY 18L/C/R and/or issue go around instructions to these same aircraft; and finally issue climb-out instructions to the RWY 27 go-around aircraft. Another technique is to issue the RWY 27 go-around aircraft "an immediate left turn to a heading of 230" or *"a turn toward the Control Tower"*, issue traffic on any arriving aircraft to RWY 18L/C/R and establish Visual Separation as the go-around aircraft begins to climb and turn.

I was informed that this had to be a "split-second decision", and that I had to make the right decision in order to prevent aircraft from colliding. My trainers and Supervisor wanted me to experience a go-around situation prior to Certification on Local Control 2 and 3 so as to ascertain how I would handle the stress of such an event. Fortunately, I passed this "test" when an aircraft crossed RWY 27 at Taxiway November without my permission and I was forced to send a RWY 27 arriving business jet around. The techniques that I was taught served me well in this instance, but it was a harrowing experience. Perhaps most disturbing is the fact RWY 27 go-arounds are common enough that most trainees have the opportunity to demonstrate their ability to handle the stress of this situation.

I have never quite understood what rules are being applied or broken when a RWY 27 aircraft goes around and is then forced to fly through the flight path and *Wake Turbulence* of an arriving Heavy Jet to RWY 18L/C/R. How may I l*egally* apply Visual Separation in this instance? Am I not required to have some form of legal separation *before and after* the application of Visual Separation? Is the go-around aircraft provided any other form of separation other than Visual Separation by the Local Controller?

During this Configuration under a FDX inbound push, 100+ FDX aircraft landing on RWY 18L/C/R must taxi across RWY 27 in order to get to the FDX ramp. Sometimes Local Control 3 is open to provide approval for crossing RWY 27; sometimes the Cab Coordinator position is open to provide approval for crossing RWY 27; and sometimes a Supervisor or Controller in Charge is available to provide approval for crossing RWY 27. Throw in Ground Control 1 and 2 who are responsible for ensuring that the FDX aircraft get to the FDX ramp safely, and you have two (2) Ground Controllers requesting permission to cross RWY 27 at seven (7) different Taxiways, and possibly four (4) other Controllers who are authorized approve a RWY 27 crossing operation (Supervisor or Controller in Charge, Cab Coordinator, Local Control 1 and Local Control 2). Needless to say, it gets a little confusing at times.

DEPARTING SOUTH AND RWY 27 - This is the Configuration that FDX prefers to use during the midnight outbound operation. FDX has specific aircraft that are "programmed" to depart RWY 27, while the rest of the fleet will depart RWY 18L/C/R. The Cab Coordinator position is always staffed during this operation, and this Controller is responsible for coordinating all RWY 27 crossings. During this operation, Local Control 3 will not clear any aircraft for takeoff from RWY 27 without the express approval of the Cab Coordinator. On occasion a departing aircraft must abort its takeoff due to FDX aircraft crossing RWY 27 without permission, or because the Ground Controllers and/or Cab Coordinator forgot about an aircraft that had received prior permission to cross RWY 27.

There has been much debate among the Controllers at MEM with regards to this operation. Controllers have mentioned the sleep/rest issues associated with the fact that this takes place around 3:00 a.m, and many Controllers believe that this is an accident waiting to happen. Our local Management have all insisted that *"the operation is safe"*, *"the users like it"* and *"it saves the users money"*.

LANDING NORTH AND RWY 27 - This is the Configuration that FDX prefers to use during the midnight inbound operation. MEM Management has informed us that FDX *"saves thousands of dollars in fuel"* when FDX aircraft are able to land to north and taxi straight into the FDX ramp. I've seen this Configuration used with a 30+ knot tailwind at 2,000 feet on the final, and a 30+ knot direct crosswind all the way down the final until 800 feet where the wind slacked off to approximately 8 knots.

While landing on RWY 36L/C/R during the FDX inbound, RWY 27 is being used extensively as an arrival runway, and there is no restriction on the type of aircraft that may land on RWY 27 while other aircraft are landing on RWY 36L/C/R. However, each FDX aircraft that lands on RWY 36L/C/R must cross RWY 27 at one of seven (7) Taxiways, and these runway crossings take place *between* continuously arriving aircraft to RWY 27. The entire midnight FDX inbound operation is controlled by one (1) Ground Controller, as opposed to two (2) Ground Controllers during any other inbound/outbound operation during the day/evening shifts. It is *very* busy for the lone Ground Controller, and is the litmus test by which all Controllers are judged at MEM.

Go-around traffic from any runway under this Configuration is not as critical, unless the go-around happens to involve RWY 27 at the same time that an aircraft is departing RWY 36L/C/R. The flight paths cross in this instance, and the RWY 27 go-around aircraft is often told to "stay low" in order to remain beneath the traffic that is departing RWY 36L/C/R.

DEPARTING NORTH AND RWY 27 - Generally speaking, MEM will not utilize RWY 36 and 27 for departures at the same same. This does not preclude "stopping 36 departures" for a few minutes to accommodate an aircraft that requires RWY 27 for some particular reason.

Aircraft are allowed to land on RWY 27 while departing RWY 36L/C/R with the procedural restrictions that are listed above. Once again, *any* RWY 27 go-around aircraft will conflict with *any* aircraft departing RWY 36L/C/R.

During a North Configuration FDX outbound, RWY 27 will generally be "released to Ground Control" for taxi purposes, and RWY 27 will not be used for any arriving or departing aircraft.

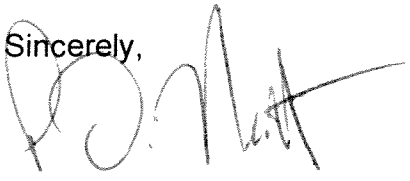
CONCLUSION - As you can see, there are a number of Runway Configurations in use at MEM. I've only described the most common Configurations that are used on a daily basis. This email does not even begin to describe the minor nuances associated with transitioning to these different runways; adapting to closed runways; working around closed taxiways; overlapping NWA and FDX arrival/departure pushes; the use of RWY 09 with some of the above configurations, and the training associated with using these different runway configurations.

MEM is my my 5th FAA Air Traffic Control Facility: I've worked at Standiford Tower/TRACON (SDF), Bay TRACON (O90), DFW TRACON (D10), Austin Tower/TRACON (AUS) and now Memphis Tower/TRACON (MEM). I also served in the USAF at Travis AFB Tower/RAPCON (SUU) prior to being hired by the FAA. My experience does not grant me "expert" status by any means, but it has allowed me to see many different runway and airspace operations during my career. The RWY 27 operation at MEM is the most hair-raising example of the bunch.

I would like to add that there have been several emails about RWY 27 sent with my name attached. These letters were sent with the approval of, and under the banner of NATCA. I wrote these letters as a representative of NATCA. Mr. Wertz recently shook his finger at me in a Team Briefing, expressing his displeasure with my comments over various safety issues that NATCA has taken issue with. Mr. Wertz has taken time out of this busy day to come and stand behind me while I was working the Final East Sector during a busy NWA inbound push. During this push, Mr. Wertz directed a Supervisor to correct "deficiencies" that he noted with my performance. After discussing these "deficiencies" with my Supervisor, it was determined that Mr. Wertz was *incorrect* in his understanding of the application of speed control. During the last two weeks I have received an unusual amount of scrutiny from the Supervisors at work, and I can only wonder if this direction is coming from Mr. Wertz. Just last week Mr. Wertz informed my NATCA FacRep that I was *"in trouble"*, and that I'd find out soon enough what the trouble was all about. ***Based on these events, it is my belief that Mr. Wertz is likely to retaliate against me for raising these issues.***

In closing, it is my belief that Mr. Wertz does not want this information to be disseminated to the aviation community. He believes that the RWY 27 operation is safe. I beg to differ, and I will continue to reach out to concerned individuals within the FAA and the aviation community in an effort to address this issue.

Sincerely,



Peter D. Nesbitt (NT)
Memphis Tower / TRACON
512-791-7089

Federal Aviation Administration

Memorandum

Date: APR 2 2007

To: Bruce Johnson, Vice President, ATO Terminal Services, AJT-0

From: Anthony S. Ferrante, Director, Air Traffic Safety Oversight Services, AOV-1

Prepared by: Jennifer Post, Acting Manager, Air Traffic Operations Oversight Division, AOV-100

Subject: Warning Notice, Noncompliance with FAA Order 7110.65

An Air Traffic Safety Oversight Service (AOV) investigation has determined that the Air Traffic Organization (ATO) is not in compliance with FAA Order 7110.65, Paragraph 3-10-4, at Memphis Air Traffic Control Tower (MEM). MEM was also unable to provide required documentation to demonstrate that the current practice of conducting simultaneous independent approaches to runways 18L, 18C, and 27 was properly authorized.

FAA Order 7110.65, Paragraph 3-10-4, contains no provisions for over flight of aircraft in "taxi mode" as referenced by the ATO Terminal Services Unit (ATO-T). The provisions of FAA Order 7110.65, Paragraph 7-4-4, referenced by the ATO-T are not applicable as this paragraph clearly states that "Although simultaneous approaches may be conducted to intersecting runways, staggered approaches may be necessary to meet the airport separation requirements specified in paragraph 3-10-4, Intersecting Runway Separation".

An internal investigation conducted by the ATO's Safety Services (ATO-S) clearly indicates that there are no provisions that permit the use of visual separation procedures to allow arrival traffic to over fly other landing aircraft, traffic completing landing rollout, or taxiing aircraft on an active runway at any time. Additionally, ATO-S has advised the ATO-T that the current operation at MEM is inconsistent with the safety standards in FAA Order 7110.65. ATO-S has also counseled that complying with current safety standards by conducting a dependent operation can provide identical efficiency with significant less risk.

Absent an authorized waiver approved by the Air Traffic Safety Oversight Service, MEM may not continue to conduct simultaneous independent operations to runways 18L, 18C, and 27. This ongoing lack of compliance with FAA regulations, despite the advice from ATO's Safety Services, is unacceptable and requires your immediate attention to ensure compliance with the safety standards in FAA Order 7110.65.

Unless the Air Traffic Organization takes immediate steps to correct this non-compliance, a Safety Directive will be issued mandating that MEM comply with the requirements of FAA Order 7110.65, Paragraph 3-10-4, and institute a procedure to conduct dependent operations when conducting simultaneous operation on runways 18L, 18C, and 27.

This notice requires that ATO provide a written response within ten (10) working days of receipt of the notice with the steps ATO plans to take to correct the noncompliance described, or provide AOV with any information you would like us to consider in determining whether a Safety Directive should be issued.

cc: Robert Sturgell, Acting Chief Operations Officer
Tony Mello, Acting Vice President, Air Traffic Safety Services

8

From: Peter Nesbitt <Blues_Healer@mac.com>
Subject: **SRM Team Info Request from Memphis Air Traffic Controllers**
Date: May 7, 2007 2:14:10 PM CDT
To: Zale Anis <anis@volpe.dot.gov>, LaGretta Bowser <lagretta.bowser@faa.gov>, Stephen Creaghan <creaghan@volpe.dog.gov>, Bill McNease <william.l.mcnease@faa.gov>, Kristi Ritson <kristi.ritson@faa.gov>, Cliff Stowe <cliff.stowe@faa.gov>, Joseph Varrati <josephy.varrati@faa.gov>

Dear SRM Team Members,

The attached email was hand-delivered to Memphis FAA Management at 14:10 this afternoon. William "Bill" K. Wertz signed for, and acknowledge receipt of this document.

The information contained within this email has been submitted by Memphis Air Traffic Controllers. These letters were provided to NATCA after we received a request from Memphis Assistant Air Traffic Manager Mike Baker for additional information relating to the RWY 18L, 18C and RWY 27 operation at Memphis. Mr. Baker's request was made via an FAA Memorandum, dated April 27, 2007.

This advance copy is being provided to you as a courtesy in an effort to help resolve some of the complex issues associated with this situation. If I can be of further assistance, please feel free to contact me at any time.

Sincerely,

Peter D. Nesbitt
Air Traffic Controller
Memphis Tower/TRACON
901-672-7531 home
512-791-7089 cell

[begin forwarded message]

Peter D. Nesbitt
NATCA Secretary/Treasurer
Memphis NATCA Local

2515 Winchester Blvd.
Memphis, TN 38116

May 7, 2007

Michael W. Baker,
Assistant Air Traffic Manager
Memphis Tower
2515 Winchester Blvd.
Memphis, TN 38116

SUBJECT: NATCA response to the SRM Team request for information.

Mr. Baker,

Please accept the following Exhibits numbered 1-8. These responses reflect the written input that has been received from our membership on the above mentioned subject. Several individuals have requested anonymity for their participation in this information exchange. Their anonymity has been granted through your letter dated April 27, 2007, and by Memphis NATCA agreeing to participate in this process.

My signature below will confirm the delivery of the attached eight (8) Exhibits, and your signature will acknowledge the receipt of the same eight (8) Exhibits.

Please forward this complete package to the Safety Risk Mitigation Team that recently visited Memphis Tower.

Thank you,

[signed]
Peter D. Nesbitt Michael W. Baker

EXHIBIT (1)

Dear Sirs,

On March 30, 2007, at approximately 08:30 local time, I was working the LC1 position with several aircraft inbound for RWY 18R and a couple of departures holding for take-off. I taxied a NWA DC-9 into position on RWY 18R with a FDX MD-10 (?) on final. At this time I heard the LC3 position announce that he had sent a FLG CRJ, inbound for RWY 27, around. I immediately advised the FDX aircraft on final for RWY 18R of the position of the CRJ and asked if the FDX aircraft would like

to continue inbound or go around. The FDX aircraft advised the CRJ in sight and continued for landing. I cleared the NWA aircraft for take-off and told the LC3 controller about the intent of both the aircraft I was working. The LC3 controller had initially issued a 220 heading to the CRJ to avoid the FDX aircraft landing RWY 18R. The LC3 controller issued another turn of 160 to the CRJ to avoid the departing NWA aircraft. I issued another turn to a 200 heading for the NWA departure to ensure separation. All actions took place without incident, except that several controllers' (all three LC positions and the cab coordinator) attention was diverted from the general operation to this specific incident. A NASA ASRS form was filed for this incident.

This March 30, 2007 incident was a controller-initiated go-around. If it had been a pilot-initiated go-around with action taken on short final, I do not believe any of the controllers involved could have guaranteed a smooth and safe outcome.

I would like to add that I have witnessed aircraft landing RWY 18L/C fly directly over aircraft on landing roll out on RWY 27 on numerous occasions. I have witnessed the collision alert warning alarm for aircraft landing on RWY 18L/C and RWY 27 simultaneously on numerous occasions. I have witnessed aircraft rolling out on RWY 27 adjust their ground speed for aircraft landing RWY 18L/C on numerous occasions. I have had aircraft landing either RWY 18L/C or RWY 27 ask me if the other aircraft was intending on landing the other runway, even after I had issued traffic to both aircraft in accordance with FAA and MEMT orders.

Finally, I would like to mention an incident that took place in June of 2005. I was not on duty at the time, but I was made aware of the incident through my representational duties as Vice President, and President-elect, of NATCA MEM Local. Near the end of the late afternoon arrival push, a MES SF-34 was inbound for RWY 27. A controller was working all three local control positions from the LC2 position. The SF-34 was unable to check on frequency and gain a landing clearance due to frequency congestion. The SF-34 announced a go-around on short final. A BTA E145 on final for RWY 18L announced a go-around on short final in response to the SF-34's actions. The proximity of the two aircraft was close enough for the pilot of one of the aircraft to call the facility. A facility investigation was commenced, and the facility management team's initial response was to charge the local controller with an Operational Error. The management team dropped this avenue prior to completion of the investigation. The controller involved now works at Denver TRACON.

My concerns about the RWY 18L/C and RWY 27 simultaneous arrival operation are twofold. My first and foremost concern is the safety of the passengers and pilots that fly into and out of Memphis International Airport. Although there has never been a collision of two aircraft due to this operation, there have been several instances of aircraft getting into close proximity with another. My belief is that one midair collision caused by this operation would be one too many. My second concern is the legality of the operation. I have worked at another airport with a similar runway configuration as Memphis, and at that other airport, I was not allowed to run this operation because it was not considered to be in accordance with the FAA ORDER 7110.65.

Until the announcement of this safety review, MEM ATCT management had denied all formal and informal requests for documentation and/or a "waiver" that allowed this operation. My fear, due to the lack of documentation available on this operation, was that the controllers that I represent would be held as scapegoats in the event that something went wrong.

Peter W. Sufka
NATCA MEM Local
President

EXHIBIT (2)

To Whom It May Concern:

My thoughts and descriptions concerning the simultaneous use of Runway 18L, 18C and 27 at Memphis International will be anonymous in nature. I have witnessed the management team (William Wertz, Michael Baker, William Brinkley and Robert Parker) at Memphis Tower, be vindictive and retaliatory on several instances. When an employee speaks out against Memphis FAA Management, or when an employee files paper work that Memphis FAA Management doesn't like -- *there is a price to be paid,* and I am not willing to pay that price at this time.

Each and every Air Traffic Controller at Memphis Tower has observed unsafe operations when we land South and use runway 27. My questions are very simple: (1) Is the operation *safe*? (2) Is the operation *legal* in accordance with FAA ORDER 7110.65? (3) Will the FAA take *responsibility* when two aircraft actually collide while we are using this procedure?

There have been no collisions in the past, but only due to the great efforts of the professional pilots and Air Traffic Controllers who have been forced to deal with this procedure. The three occurrences that I describe are lacking dates and times because they were just considered the *"way of doing business"* since I've been at Memphis. I've been an Air Traffic Controller at Memphis for many years. The three instances described below are *not* the only ones that I've witnessed -- however, they are the three that I specifically remember *because they were so close*.

RWY 18/27 operation, visual approaches in use: A military C130 on a Visual Approach to Runway 27 experienced a gear problem and executed a go-around while on short final. The C130 was turned hard to the southeast so as to avoid a DC9 on short final to Runway 18R. If this had occurred on the parallel Finals, it would have been considered an A or B severity Operational Error. The two aircraft missed by one mile and 100'.

RWY 18/27 operation, visual approaches in use: A BE20 was following a PA32 on a Visual Approach to Runway 27. The Local Controller was planning on using Reduced Runway Separation of 4500', and allow the BE20 to land on the runway behind the PA32. The BE20 pilot was not comfortable with landing on Runway 27 while the PA32 still exiting the runway, and the BE20 pilot executed a go-around. The BE20 then flew directly *beneath* an A320 on short final for Runway 18L, and then flew in *front* of a DC9 on final for Runway 18R.

RWY 18R/27 FedEx Mid operation: A FedEx H/DC10 on approach to Runway 27 experienced the need to execute a go-around. By the time the pilot advised the Tower Controller of the need to go-around, it was to late to do anything except to instruct the H/DC10 to "*Stay low!*" in order to avoid a Boeing aircraft on short final to Runway 18R.

Runway 18R/27 was the "Standard" way of doing business during the FedEx Midnight Operation until occurrence #3 happened. Is it going to take two aircraft colliding over runway 27 to stop *this* operation?

(Anonymity Requested)
Air Traffic Controller
Memphis Tower

EXHIBIT (3)

Dear SRM Team Members,

I have been fortunate enough to have never witnessed a bad situation with regards to the Runway 18/27 operation, but I have been opposed to the operation during the entire time that I have been at Memphis Tower. Please consider the following questions while conducting your review of this operation:

Is it appropriate to deny a pilot the opportunity for a safe go-around?
If an aircraft past the approach end of runway 27 executes a go-around and there is traffic about to cross over this aircraft, what *valid* control instruction would ensure separation?
If an Air Traffic Controller instructs the Runway 27 go-around aircraft to "stay low" and the Runway 18L/18C aircraft to climb immediately -- who will bear the responsibility if these two aircraft somehow collide?
If the Runway 27 go-around aircraft must pass beneath a Heavy Jet that is landing on Runway 18L/18C, who is responsible for ensuring wake turbulence separation?

I wish to remain anonymous for the purpose of this investigation, but my NATCA Facility Representative (Pete Sufka) will be able to contact me if you have additional questions relating to my submission.

Thank you,

(Anonymity Requested)
Air Traffic Controller
Memphis Tower

EXHIBIT (4)

To Whom It May Concern,

Sometime during 2002, I cannot remember the exact date or month, I was working the Arrival West radar at Memphis. We were in a 17/27 runway setup. We would normally have been using 18R/27 but 18R was under construction and a temporary runway, 17, was established on taxiway Mike.

I happened to observe a go-around on runway 27 and on 17 simultaneously. I can only imagine how bad it looked out the window because it did not look pretty on radar. The local controllers later told me that the FDX MD11 had actually flown under the TRS B717. It was shortly after this incident that facility management ceased the 17/27 operation on the mid and had us run to the parallel runways with the jets, citing safety as the reason for the change.

I have also observed on numerous occasions while working in the Tower during the 18L/27 runway configuration many a runway 27 arrival roll down the runway at high rates of speed, and definitely not at taxi speed, so that they may exit at Taxiway November and proceed straight to their gate on the West side of the terminal. Sometimes these aircraft roll just in front of or just behind the 18L arrival. I do not have any exact dates for said occurrences, just my memories of these instances. Each time I think what would happen if the runway 27 arrival would go around.

I have questioned the validity of this operation only to be told it was legal in accordance with our local procedures and associated waiver, as long as the runway 27 arrival was at taxi speed as it passed the 18L final approach course. Of course, what defines taxi speed?

John Wallin
Air Traffic Controller
Memphis Tower

EXHIBIT (5)

May 5, 2007

To Whom It May Concern:

I have been an air traffic controller at Memphis Tower for over 12 years. Like most controllers arriving at Memphis Tower, I questioned the Runway 18L, 18C and Runway 27 operation. I was told that there was a waiver for this operation.

I have seen many aircraft go around while attempting to land on Runway 27. Most of the time the aircraft are far enough from the airport to begin a climb and a turn away from Runway 18L and 18C traffic, but sometimes they are not.

Several years ago I was working the Local Control 2 position in charge of Runway 18L and Runway 18C. Bruce Gustafson was working the Local Control 3 position in charge of Runway 27. It was during a Northwest Airlines inbound push. A SF-34 had passed the landing threshold and was about to land on Runway 27. The SF34 was approximately 1,000 feet past the landing threshold when he advised Mr. Gustafson that he was going around due to a ground proximity alert. I had a Northwest Airlines B-757 on final to Runway 18L. When Mr. Gustafson advised me that he had a go around I saw the SF-34 climbing through the flight path of the B-757. I didn't have time to give a traffic call or give a control instruction to the B-757. The SF-34 passed approximately 1/8 to ¼ mile in *front* of the B-757. If the SF-34 had gone around 5 seconds earlier there very well could have been a *disaster*. The SF-34 didn't gain enough speed or altitude to begin a turn until after he had crossed the Runway 18R final approach course as well. Luckily, there was no traffic on short final to Runway 18R.

I also witnessed the February 18, 2007 incident with the SF-34 and the DC-9. In this case one controller was working both aircraft and took immediate action to maintain separation. He is a very experienced controller who has worked at many towers and has been a controller at Memphis Tower for several years. I believe that some less experienced controllers might not have been able to make such split-second decisions.

Like all the other Air Traffic Controllers at Memphis Tower, I want to provide the best possible service to the flying public. I believe the Runway 18L/18C and Runway 27 operation *sacrifices safety for capacity*.

Sincerely,

Daniel L. Shaw
Air Traffic Controller
Memphis Tower

EXHIBIT (6)

To Whom It May Concern,

One afternoon while working in the Tower at Memphis, I observed a trainee issue runway 27 crossing instructions to a FedEx aircraft at taxiway Y or B with another aircraft within 2 - 3 miles of the airport and cleared to land. Somehow or another, we all missed this error until another

Controller questioned the situation. The Runway 27 aircraft was sent around in order to avoid the traffic that crossing Runway 27. The go-around aircraft did not conflict with Runways 18L or 18C due to the fact that there was no landing traffic at this time. Depending on different traffic situations, and when errors are noticed and corrected, the outcomes and resolutions are often very different.

I do not know if this situation was reported to management, so I have asked NATCA to keep my name anonymous.

Thank you,

(Anonymity Requested)
Air Traffic Controller
Memphis Tower

EXHIBIT (7)

Dear SRM Team Members

While I was being trained the on the Local Control 2 Position, I issued "go-around" instructions to an aircraft that was on approach to RWY 27. The aircraft on approach to RWY 27 was a business jet (possibly a Learjet, Falcon Jet or a Sabreliner).

As was common practice at the time, Local Control 2 and Local Control 3 were combined together. A Position Relief Briefing was being conducted at the Ground Control 1 Position. Traffic and workload were complex and busy with numerous aircraft on approach to RWY 18L, 18R and 27, and other aircraft departing as well. The business jet was on 1/4 to 1/2 mile final when I heard Ground Control 1 instruct a FDX Heavy jet to "... cross runway 27 at Taxiway November." I immediately looked up and saw that the aircraft would never be able to cross RWY 27 before the business jet crossed the landing threshold of RWY 27. I instructed the business jet to "go-around"; turned the business jet towards the Control Tower; and started issuing traffic on the other aircraft that were landing on RWY 18L and 18R. Everyone in the Control Tower yelled "Go-around, runway 27!".

If the go-around aircraft had been instructed to *"... fly runway heading, climb and maintain 2,000"*, the aircraft might have conflicted with the other arriving aircraft to RWY 18L and/or 18R. If the go-around aircraft had been instructed to *"... fly runway heading, stay low, stay low, stay low..."*, the aircraft might have conflicted with other aircraft on approach to RWY 18R. If the business jet had been turned southeast, it would not have been able to turn inside of the arriving aircraft to RWY 18L. If the business jet had been turned northeast, it would have turned towards other arriving aircraft to RWY 18L, as well as towards a higher Minimum Vectoring Altitude (MVA).

I apparently made the right choice in this instance, as the go-around aircraft was able to turn in front of the aircraft on approach to RWY 18L, and this same aircraft was able to climb above and in front of the aircraft on approach to RWY 18R. The Tower Cab Supervisor, my trainer and everyone in the tower -- all said that I made the right decision.

There may have been other traffic departing from RWY 18C or 18R at the time of this incident, but I am unable to positively recall this aspect of the situation.

This statement is true and accurate to the best of my knowledge. I reserve the right to revise, edit, alter, amend or correct this statement if additional information should become available to me.

Thank you for soliciting our input,

Peter D. Nesbitt
Air Traffic Controller
Memphis Tower/TRACON

EXHIBIT (8)

Dear SRM Team Members,

I was working Ground Control 2 at the end of a NWA arrival push on the evening of February 18, 2007. Memphis was landing to the South, using RWY 18L, 18R and 27. I observed a pilot-initiated go-around due to an unsafe gear indication in the cockpit. This go-around conflicted with another aircraft that had been cleared for a Visual Approach to RWY 18L, and subsequently cleared to land on RWY 18L.

MES3057, a SF34, was on approach to RWY 27, and NWA1593, a DC9, was on approach to RWY 18L. As the SF34 crossed over the numbers of RWY 27, the pilot informed the Air Traffic Controller (Mike Swift) working Local Control 2 and Local Control 3, that he was going-around due to an unsafe gear indication. Mr. Swift immediately instructed the SF34 to *"... stay low, stay low, stay low!"*, and then he immediately instructed the DC9 to *"go-around"*.

I was standing next to Mr. Swift when this incident took place. It was dark outside; the sky was free of any type of haze or obstruction to vision; and all airfield lighting was operational. I had a clear and unobstructed view of this incident. I was able to view the entire length of RWY 27, and I was able to clearly see both aircraft when this incident took place.

From my vantage point in the Tower Cab, it appeared that the DC9 flew directly over the SF34. I

estimate the vertical separation between these two aircraft to be approximately 800 feet or less. I also estimate that the SF34 flew at approximately 10 feet AGL (Above Ground Level) down the entire length of RWY 27. These estimates have been disputed by members of FAA Management at Memphis Tower, but I maintain that this is what I actually observed as I watched this incident take place.

After the incident was over, I congratulated Mr. Swift on the manner in which he handled the situation, and I informed the Tower Cab Supervisor (Tom Roche) that Mr. Swift should be submitted for some type of an award for keeping these aircraft separated. Mr. Swift indicated that his heart was still racing due to the adrenaline surge, and Mr. Roche indicated that Mr. Swift would probably receive some type of an award for his actions. I do not know if Mr. Roche ever submitted the paperwork to properly reward or commend Mr. Swift for his effort at preventing a Near Mid-Air Collision (NMAC).

In closing, I would like to offer the following comments and observations relating to the operation at Memphis:

I observed a FDX H/DC10, H/MD10 or H/MD11 execute an unexpected *touch and go* within the last year. This aircraft had been cleared to land on RWY 27. An FAA Flight Check aircraft had just landed and was in the process of taxiing to a local FBO as the FDX aircraft was touching down on RWY 27. Suddenly the FDX aircraft went airborne again. The FDX Captain said that he had encountered *"wind shear"* at touchdown, and the Flight Check aircraft indicated that the right main landing gear of the FDX aircraft were actually *outside* the confines of the white runway lines for Runway 27.

I understand that your SRM analysis is currently focused on RWY 18L, 18C and RWY 27, but you should also consider the fact that Memphis routinely *departs* from RWY 36L, 36C or 36R while *any type of aircraft* is on approach to RWY 27. A missed approach or go-around from RWY 27 while other aircraft are departing RWY 36L, 36C or 36R can be just as dangerous as our South Configuration while using RWY 27.

During the FDX midnight operation, Memphis will routinely depart FDX aircraft from RWY 27 in order to help FDX *"save money"*. Other FDX aircraft using RWYs 18L, 18C or 18R for departure, will cross RWY 27 at one of seven different taxiways before or after traffic departs from RWY 27. This operation has been completely overlooked, and this is another area which *must* be evaluated. There have been numerous instances where pilots and Air Traffic Controllers have made runway crossing errors at 03:30 a.m. during this operation.

In January of this year, Memphis FAA Management dismantled the permanent midnight crew. This all-volunteer crew of men and women had worked the FDX midnight operation together for many years. They knew the operation inside and out, and their bodies had adapted to working one (1) day shift followed by four (4) midnight shifts. Nearly *every* Air Traffic Controller at Memphis *now* works a schedule that involves two (2) quick-turns and one (1) midnight shift *each* week. Exhausted and fatigued Air Traffic Controllers are making split-second *go-around* decisions.

Prior to the call by FAA Safety for simultaneous independent approaches to RWY 18L, 18C and RWY 27 to be halted, Memphis Air Traffic Controllers *"eyeballed"* each and every arrival to Runway 27 in order to ensure the aircraft had *"landed"* and was at *"taxi speed"*. I have *never* seen an aircraft

on approach to RWY 18L or 18C receive go-around instructions due to the fact an aircraft on approach to RWY 27 had not landed, or was not at taxi speed. NEVER.

Morale is at an all time low at Memphis Tower. I have worked at five (5) separate FAA Air Traffic Control facilities in my career (seven if you count my military service), and I have never seen Controllers treated with the level of disrespect as they are here at Memphis. Controllers who bring safety related issues or concerns to Memphis FAA Management are met with contempt and disdain. New procedures are shoved down our throats without any consideration for the Air Traffic Controllers who must actually work with the procedures.

This statement is true and accurate to the best of my knowledge. I reserve the right to revise, edit, alter, amend or correct this statement if additional information should become available to me.

Thank you for soliciting my input,

Peter D. Nesbitt
Air Traffic Controller
Memphis Tower/TRACON

[end of forwarded message]

9

From: Peter Nesbitt <Blues_Healer@mac.com>
Subject: **MEM was running approaches to 18L and 27 this morning**
Date: May 22, 2007 8:44:10 AM CDT
To: Scott Guetzko <scott.guetzko@faa.gov>

Scott,

I went to the Tower this morning to provide the Local Control Two (LC2) Controllers a break. Kent Pafford was providing training to Geoff Weiss at the time. During the position relief briefing I was informed that RWY 18L, 18C, 18R *** AND *** 27 were all in use. RWY 27 was listed in the STARS systems area. Traffic included FLX305 (Flight Express) tagged for RWY 27, and FLX718 tagged for RWY 18L. These aircraft were either a Baron or a Twin-Cessna of some type. I asked Mr. Weiss why we were using this operation, and indicated that I thought we were not supposed to be running simultaneous operations to RWY 18L and RWY 27. He said that I would have to ask the Supervisor. I accepted the position and turned to the Supervisor, who then informed me that we were running "staggered approaches". I looked out the window and was unable to see either aircraft due to the morning haze and reflection of the rising sun. I looked through the binoculars and was unable to see FLX718 on 4-mile final to RWY 18L, but was just barely able to see FLX305 on 3-mile final to RWY 27. The Supervisor ordered me to tell FLX305 to *"plan a left turn at taxiway yankee"* and to exchange traffic on both aircraft. There was immediately much discussion regarding the legality of this operation; the fact that Oversight and Safety had both terminated this operation; and everyone in the Tower was wondering what was going on. FLX305 touched down first, and the Supervisor ordered me to instruct this aircraft to *"turn left at taxiway yankee"*. As the aircraft made the left turn onto taxiway yankee, FLX718 crossed over RWY 27 on approach to RWY 18L.

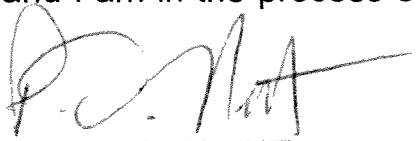
Visual approaches were in use. FLX718 did NOT overfly FLX305 due to the "expect" instruction, and the fact that the aircraft was in fact able to comply with the request... and eventually the ATC instruction to make the left hand turn. If FLX305 had executed a go-around for any reason -- a conflict would have resulted. If FLX305 had not been able to make the left turn at taxiway yankee -- a conflict would have resulted. (As an aside, one aircraft later went around due to an unsafe gear indication while on approach to RWY 18L, and another aircraft observed that the gear was not down for an aircraft on approach to RWY 18R.)

I told the Supervisor that I really didn't like this operation, and that I didn't feel comfortable with what we were doing. The Supervisor called downstairs to the TRACON and asked if there were going to be any more RWY 27 arrivals. He hung-up

the phone and "released RWY 27 to Ground Control", indicating that there would be no more RWY 27 arrivals. I feel that we would have continued with this operation had I not said something to the Supervisor.

Is this considered "simultaneous" for your purposes? Or does the mere fact that the Supervisor stating that we are using "staggered approaches" make this legal?

As usual, please do not use my name. Management retaliated against me yesterday, and I am in the process of documenting this fact for wide dissemination.



Peter D. Nesbitt (NT)
Memphis Tower/TRACON
901-672-7531 home
512-791-7089 cell

10

From: Peter Nesbitt <blues_healer@mac.com>
Subject: **CRDA Operations at MEM**
Date: October 3, 2007 2:54:02 PM CDT
To: Tony Ferrante <anthony.ferrante@faa.gov>, Scott Guetzko <scott.guetzko@faa.gov>
Cc: PETER NESBITT <blues_healer@mac.com>

Dear Sirs,

Memphis has been using CRDA for a while, and I thought that it was time to provide FAA Safety and FAA Oversight with some comments from the field regarding this new software and procedure.

1. There seems to be some confusion as to which Controller is responsible for ensuring the stagger spacing between RWY 18L/18C and RWY 27. For example, the RWY 18L Final Controller has established the speed and spacing interval for his runway, and the RWY 27 Final Controller is supposed to "fill the gap" that has been provided. There is often much discussion, debate, and excessive coordination over where the RWY 27 Final Controller will place his aircraft. Sometimes the 18L Controller is asked to "make a hole" for the 27 traffic, while at other times the gap is lost because the RWY 27 Controller is trying to space off of the wrong aircraft. I personally believe that the CRDA operation has *increased* the workload for the RWY 18L and RWY 27 Controllers during certain periods.

2. When Memphis is operating in VFR conditions, the RWY 18R Controller is able to run minimum separation to RWY 18R. The 18L Controller must maintain at least 5 mile spacing and 170 knots to ensure that a gap is available for RWY 27 CRDA operations. Many times the 18L gaps go unfilled because no traffic has been sequenced to RWY 27. The lack of traffic for RWY 27 is not being conveyed to the 18L Controller, and thus traffic landing on RWY 18L is essentially delayed.

3. There is disagreement in the Tower Cab as to which Local Controller should adjust his traffic in order to "make CRDA work". Recently I was working LC2 for the parallel RWYs 18L and 18C. CRDA was in use, and the LC3 Controller *told* me to slow *my* 18L traffic so that my traffic would land *behind* his RWY 27 traffic. When I baulked at this, the Cab Coordinator was in agreement with LC3. I slowed my traffic, and resulting tie forced me to issue go-around instructions to a RWY 18L arrival. An informal survey of my peers and Supervisors this morning indicated disagreement over *which* Local Controller should issue speed reductions or S-turns in order to *make CRDA work.*

4. I have had instances in the last six weeks where aircraft were instructed to either reduce speed or make s-turns in order to make the sequence work. There were several times when the pilot informed me that he was at final approach speed, and/or that he was at final approach speed *and* unable to make s-turns due to the fact that the aircraft was operating at such a slow speed. There are no other options at this point, except to issue go-around instructions. How are we providing a service to the aviation community when we are asking each RWY 27 arrival to make s-turns in order to *make CRDA work?*

5. Several weeks ago I saw several aircraft go-around from RWY 18L due to a pending loss of separation with aircraft landing RWY 27 during CRDA operations. Memphis was conducting this operation with the wind out of the southeast at 5 - 7 knots. The RWY 27 Controller was doing his best to fill the gaps provided by CRDA, but the resultant headwind for the RWY 18L traffic produced a significant reduction in ground speed. The tailwind for the RWY 27 traffic produced an *increase* in ground speed. Memphis FAA Management performed a Quality Assurance Review (QAR), and these reports *blamed the pilot* for not slowing down in time. Memphis continues to operate a number of configurations with a tailwind component that benefits FDX. Now we are operating with a tailwind component that benefits *CRDA,* and is detrimental to the flying community.

6. When everything is working *just right* with CRDA, the stagger spacing tool is pretty nice to work with. However, as you know, a go-around from RWY 27 will still fly through the flight path and wake vortices that are produced by any aircraft on approach to RWY 18L, 18C, and 18R. Any aircraft that executes a go-around procedure from RWY 27 could fly through the Wake Turbulence of an aircraft on approach to RWY 18L, 18C or 18R. This critical safety issue *still* exists.

7. The number of go-around aircraft at Memphis has increased in my opinion. Prior to the implementation of CRDA, go-around traffic was generally a result of aircraft not clearing the runway in time, weather phenomena, or pilot/aircraft issues. I have personally seen *at least* one go-around *each time that CRDA has been used.* The reason(s) for the go-around? RWY 27 tailwind, missing the gap, aircraft compatibility issues between the RWY 18L and 27 aircraft, and coordination or confusion on the RWY 18L spacing to accommodate the RWY 27 aircraft.

8. When a situation arises where *"it's gonna be a close one..."*, it has been suggested that the RWY 27 Local Controller *instruct* or *advise* the RWY 27 traffic to *"... plan to exit runway 27 at Taxiway BRAVO or YANKEE"* or *"Hold short of the RWY 18C centerline."* This type of suggestion or advice is comparable to *LAHSO* at other major airports with intersecting runways and LAHSO procedures -- which Memphis does not. I have had

pilots on approach to RWY 18L inform me that they *"... have the RWY 27 traffic in sight"*, implying that ATC or the pilot could provide some form of Visual Separation or allow the situation to continue and avoid the go-around.

9. Recently I witnessed a FDX C208 on approach to RWY 27, with a FDX MD10 on approach to RWY 18L. The CRDA sequence was applied incorrectly, and the C208 arrived at the RWY 27 threshold first. The C208 then floated down the runway, past taxiways YANKEE and BRAVO, finally touching down near Taxiway SIERRA -- just as the MD10 passed *behind* the C208 while landing on RWY 18L. This is hardly Air Traffic *Control.* In fact, I'd call this *Air Traffic Gambling.*

10. On Monday, the Memphis ASR-9 was out of service for maintenance. We were using the Memphis ARTCC (ZME) Long Range Radar site located in Byhalia, MS. We were conducting CRDA operations during the noon inbound. The ASR-9 provides a radar update approximately every 4 seconds, and the Byhalia Long Range Radar provides an update approximately every 10 seconds. Is this legal? I observed multiple aircraft on approach to RWY 18L with no Primary Target beginning at a point 3.0 nm from the airport. Many of these same aircraft lost their Secondary Beacon Code Slash at a point 1.0 nm from the airport. Aircraft inbound to RWY 27 often lost their Primary Target at approximately 2.0 nm from the airport, and then lost the Secondary Beacon Code Slash at approximately 1.0 nm from the airport. Can we run CRDA operations with the ARTCC Long Range Radar when this radar does not provide adequate Primary and Secondary radar coverage to the ground? According to Memphis FAA Management, the answer is a resounding YES -- they have absolutely no concerns whatsoever.

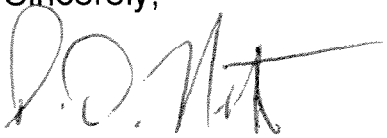
11. Some Memphis Air Traffic Controllers have been accuse of *malicious compliance* when aircraft on approach to RWY 18L were issued go-around instructions. How is it that *separating aircraft* suddenly became a malicious act, as opposed to providing a *safety* related job function? It has even been suggested that some of us are *not doing our job* because we have not instructed aircraft to make s-turns or speed adjustments in order to *make the CRDA operation work.* Why is the *Controller* required to *make* the operation work? Isn't CRDA supposed to *enhance* the operation; *increase* capacity; and *ensure* safety? Apparently CRDA does not ensure any of this, as it is only the actions of Memphis Controllers who actually provide for the safety of the system.

12. Finally, it is my belief that aircraft are actually being *delayed* due to the use of CRDA at Memphis. I have observed the RWY 18R final approach course full of aircraft with minimum spacing, while the RWY 18L final approach course has very loose spacing to accommodate CRDA traffic for RWY 27. When you compare the gaps that have been created for RWY 18L with the every-other-gap that is hit with RWY 27

traffic, we are truly wasting time, airspace, and staffing -- all in an effort to justify the use and existence of CRDA operations at Memphis. I believe that the operation would be more effectively enhanced if we ran *Monitored Simultaneous ILS Approaches* to RWY 18L and 18R -- it would certainly be safer.

In conclusion, the safety issues at Memphis International Airport have *not* been resolved with the implementation of CRDA. This piece of software and the related procedures have 1) increased Controller workload, 2) have not resolved the go-around issue associated with RWY 18R and RWY 27 traffic, 3) have not resolved the wake turbulence issues associated with a RWY 27 go-around aircraft and other aircraft landing on RWY 18L, 18C and 18R, 4) total go-around numbers have increased from my observation, 5) RWY 18L is being underutilized, and 6) Memphis FAA Management is suggesting that Controllers are engaging in *malicious compliance* by providing separation services to the customers that *we* serve.

Sincerely,



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U.S. Department
of Transportation

**Federal Aviation
Administration**

Office of the Administrator

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

DEC 3 2007

The Honorable Scott J. Bloch
The Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW.
Washington, DC 20036

Ref: OSC File No. DI-07-2471

Dear Mr. Bloch,

Secretary Peters asked me to respond on her behalf to your October 3 letter referring to a whistleblower disclosure alleging Memphis Federal Aviation Administration officials may have violated laws, rules, and regulations that would constitute a danger to public safety. As a result, she asked us to conduct an investigation into the alleged violations at Memphis International (MEM) Airport Traffic Control Tower (ATCT) and Terminal Approach Control (TRACON). We have concluded our investigation and the results are described below, in accordance with 5 U.S.C § 1213(d).

SUMMARY

The FAA Air Traffic Safety Oversight Service (AOV) and the Air Traffic Organization, Office of Safety Services (ATO-S) conducted an investigation at MEM from October 22 to November 16. The investigation addressed allegations concerning: safe and proper use of arrival procedures to runways (RWY) two-seven and one-eight left/center/right (RWY27, RWY18L/C/R); management's failure to disclose safety violations; simultaneous departures from RWY27 and RWY18L/C/R during the midnight shift; recent workforce schedule changes; MEM tower regularly exceeding limitations on tailwinds; improper lighting in the MEM TRACON; and improper adherence to classification bravo (Class B) airspace procedures.

Investigators interviewed management personnel, the National Air Traffic Controllers Association (NATCA) facility representative, the whistleblower, approximately 12 Certified Professional Controllers, 2 Operations Managers, 9 Front Line Managers (FLM), 2 Support Managers, the Air Traffic Manager (ATM), and the Assistant Air Traffic Manager. Investigators collected and analyzed facility orders, training materials, records, radar data, and voice

re-recordings. The investigative team also observed both tower and TRACON operations at various times including the midnight shift. We were unable to substantiate the whistleblower's allegations with the exception of the failure of a single individual to report three incidents (operational errors) during a single work shift and the Class B airspace procedures. No other violations of law, rule, or regulation and no substantial or specific danger to public safety by management personnel or air traffic control specialists at MEM ATCT or TRACON were found. A specific review and analysis of each allegation and the air traffic rules, regulations, and procedures applicable to MEM are detailed in the following paragraphs.

INVESTIGATION RESULTS

The first issue identified by the whistleblower was the possible conflict with one aircraft executing a go-around while attempting to land on RWY27 and another aircraft attempting to land on RWY18R because the Converging Runway Decision Aid (CRDA) only provides separation from aircraft arriving to RWY18L and RWY18C. RWY27 and RWY18R do not intersect, nor do their final approach courses. Simultaneous arrivals to these runways are only authorized when weather conditions provide controllers the ability to visually observe and when authorized to provide visual separation. The procedures for simultaneous arrivals on RWY27 and RWY18R meet all requirements in FAA Order 7110.65, Air Traffic Control, concerning intersecting runways and flight paths (Chapter 3, paragraph 3-9-8). MEM managers have also routinely met with airport users to determine the safest types of aircraft to land on RWY27 and have cooperatively decided to prohibit heavy aircraft (typically wide body jets exceeding 255,000 lbs.) from landing on RWY27 due to a lack of maneuverability. An increased margin of safety is provided by allowing only smaller airplanes to use RWY27 in the event an aircraft is not able to successfully complete a safe landing.

The whistleblower also stated that an aircraft executing a go-around from RWY27 would be at risk of a wake turbulence encounter from the flight path of a heavy jet arrival to either RWY18L/C/R. FAA Order 7110.65, Air Traffic Control, Paragraph 7-2-1a.2, prohibits a tower controller from providing visual separation when additional wake turbulence spacing (such as for a heavy jet) is required. Investigators identified procedures in MEM notices and training methods that instruct controllers to separate a RWY27 go-around aircraft from traffic utilizing RWY18L/C/R, by turning the aircraft south, paralleling the RWY18 traffic and passing above and behind the landing airplane or turning the go-around to the northwest. (This is a safe method that meets all FAA requirements contained in FAA Order 7110.65.) We also found, in some cases, the traffic landing on RWY18L/C/R may also be given alternate instructions to provide additional spacing or separation. The approach end of RWY27 is approximately one mile from the nearest runway, RWY18L, and over two miles from RWY18R. We found that this distance, combined with the weather requirements for this airport configuration, provide an appropriate level of safety, and meets all FAA requirements regarding wake turbulence separation for intersecting runways and flight paths contained in FAA Order 7110.65, Air Traffic Control, Paragraph 3-9-8b.3.

The whistleblower stated a FLM allowed operational errors to occur and failed to report these incidents. Investigators learned from the ATM, Mr. William K. Wertz, that the situation had indeed occurred and that he too found the actions of the FLM unacceptable when made aware of the incident. We learned that MEM management became aware of the incident nearly eight hours after it had occurred, when an Air Traffic Control Specialist reported to a supervisor that an error might have occurred the previous day. During the review of the shift in question, quality assurance personnel identified three operational errors and processed those incidents in accordance with quality assurance program requirements.

Investigators reviewed operational error packages MEM-T-07-E002, E003, and E004 associated with those incidents, as well as the corrective actions taken by the ATM. The review indicated that FLM, Mr. Herbert Brown, did not accurately recognize what had occurred and then failed to investigate and report those incidents as required by FAA Order 7210.56, Quality Assurance. The ATM found FLM Brown responsible for two of the errors and at fault for failing to properly address all three occurrences. As a result, FLM Brown was suspended for one day and assigned remedial instruction consisting of approximately eight hours of classroom refresher training, ten hours of on-the-job training in the control tower, and a follow-up performance evaluation. The MEM ATM also determined that FLM Brown "exercised very poor judgment [and failed] to properly evaluate and address these issues in a timely manner, [causing a negative impact to] the safety and efficiency of the service that this facility provides to the users." In addition to remedial *technical* training, FLM Brown was assigned forty-one hours of academic training, (to specifically address team building, communications, and leadership) recertification on all operational positions, and daily, direct supervision from an Operations Manager for one additional month. Investigators found that FLM Brown successfully completed all necessary requirements prior to resuming his duties as a FLM and that these incidents were handled appropriately by the MEM ATM.

During midnight shifts, MEM ATCT commonly uses a configuration in which aircraft depart and land on RWY27 and depart from RWY18L/C/R. This operation, used from 3:30 a.m. until 4:45 a.m., consists of approximately 160 Federal Express (FedEx) departures, and 5 arrivals. Some 25-30 airplanes typically depart from RWY27, while the remaining airplanes use RWY18L/C/R. Because of the MEM airport layout, RWY18 traffic must cross RWY27. The whistleblower alleged this number of runway crossings is unsafe. We found, however, that MEM ATCT developed specific operating practices over ten years ago to mitigate the increased risk of a runway incursion during this specific operation. We determined that these procedures are compliant with all FAA requirements. In addition, a review of runway incursion databases showed lower than average numbers indicating that these additional safeguards have proven effective.

The complaint also states that Airport Movement Area Safety System (AMASS) is not certified for use on RWY27. While there are no rules or regulations that require an airport to have surface movement radar, it is a safety enhancement available for surface movements. AMASS is only available for those portions of the airport that are within view of the Airport Surface Detection Equipment (ASDE), a ground-based radar system. During installation of the ASDE at MEM, it was not physically possible to locate the antenna on the control tower due to weight limitations. As a result, the antenna was placed on a separate structure providing the maximum coverage of

the airport. RWY27 could not be covered by this antenna due to terrain and building locations. Current plans have already been approved for more advanced surface movement radar; ASDE-X is schedule to be installed at MEM in late 2009. This improved system is able to use multiple radar sensors and is not limited by elevation or obstructions. Once this system is operational, RWY27 will be provided with the same radar coverage as all other runways at MEM.

The whistleblower stated that recent schedule changes have resulted in controllers with less experience working the midnight shift. Investigators learned through interviews with facility managers that previous schedule imbalances had resulted in some controllers working midnight shifts almost exclusively while others rarely worked the shift. This resulted in complaints by controllers of unfamiliarity with the different traffic situations and presented a potential safety problem. MEM quality assurance personnel also reported that this unfamiliarity with the demands of the midnight shift may have contributed to other safety incidents. To address these potential safety problems, MEM implemented a new schedule that more evenly distributed midnight shifts among all air traffic control specialists, reduced the total number of quick-turns throughout the schedule, and ensured all controllers are exposed to the various types of operations associated with each shift.

The whistleblower asserted that MEM ATCT and TRACON personnel regularly violate FAA and facility guidance for runway tailwind limitations. All personnel interviewed stated that FedEx provides input regarding operational requirements via telephone conferences with the Memphis Air Route Traffic Control Center (ZME) Traffic Management Unit (TMU). Collaborative decision making is a standard FAA practice nationwide to determine effective traffic management controls; this system has proven effective in providing safe air traffic volume controls for airports, approach control airspace, and en route flows. Supervisors reported to investigators that they are responsible for determining runway configurations due to wind and numerous other factors. Those determinations are then communicated to ZME TMU so that traffic flows can be changed to comply with the decisions made by MEM. FAA Orders 7110.65, Air Traffic Control, Paragraph 3-5-1 and 7210.3 Facility Operation and Administration, Paragraph 10-1-7, provide the requirements for runway selection; however, MEM ATCT has a more comprehensive runway wind usage chart due to the large number of heavy aircraft operating at the airport. Individual pilots also have the responsibility to only operate on runways according to strict aircraft operating parameters. Investigators found no evidence of increased go-arounds, unusual runway requests, or other safety incidents to support the allegation of inappropriate runway configurations at MEM.

The whistleblower indicated that glare on the Standard Terminal Automation Replacement System (STARS) displays compromised safety. Investigators learned that STARS is designed to safely operate in better lighting conditions than other systems previously used in radar facilities. After the initial STARS installation at MEM, FAA-approved upgrades were made to improve the lighting in the TRACON. Managers at MEM reported that increased light levels provided a safer working environment while remaining compliant with STARS operating specifications. During interviews, air traffic controllers and supervisors said that in the past there were reflections on displays from ambient light sources, but the effect was never unsafe. Thus we found that lighting conditions in the control room did not compromise safety, as alleged by the complainant.

Regarding the improper adherence to classification bravo (Class B) airspace procedures, controlled airspace regulations indicate the following: FAA Order 7110.65, Air Traffic Control, Paragraph 7-9-3a, specifies "*to the extent practical*" larger aircraft *should* remain within Class B airspace but also acknowledges that it may be necessary to extend an aircraft flight path outside Class B for spacing so long as it is infrequent and pilots are informed when it is done. 14 CFR Section 91.131 provides for the same exception and further clarifies that "such authorization *should be the exception* rather than the rule." Ongoing evaluations conducted by AOV and ATO-S that precede this complaint, indicate that aircraft exiting and re-entering Class B airspace are not always provided the appropriate advisories as required by FAA Order 7110.65, Paragraph 7-9-3. Facility management indicated that this requirement has been an area of emphasis by FLMs during performance evaluations, and that facility management will continue to monitor performance in this area and ensure compliance with referenced requirements. At MEM specifically, the Class B airspace was realigned in October of 2002 to coincide with the relocation of a navigational aide; managers and controllers who have worked at MEM since before the change reported that vectors outside the protected airspace are much less common now.

CONCLUSIONS

We were unable to substantiate the whistleblower's allegations with the exception of the failure of a single individual to report three incidents (operational errors) during a single work shift and the Class B airspace procedures. Specific to the reporting of incidents, we found that although FLM Brown did not recognize that the incident occurred, another air traffic controller reported an incident and MEM management appropriately reviewed the event, determined and reported that three operational errors had occurred and that MEM management took appropriate actions to remediate FLM Brown. No other violations of law, rule, or regulation or substantial and specific danger to public safety by employees of MEM ATCT were found. The new CRDA procedures implemented for simultaneously landing on RWY 27 and 18L/C are safe and compliant with FAA orders. MEM conducts frequent and thorough quality assurance and performance reviews, and no evidence was found of MEM personnel failing to report safety violations. The procedures supporting simultaneous use of RWY 27 and RWY18L/C/R during the midnight shift have been in use for over ten years at MEM and are more restrictive than FAA requirements while providing an appropriate level of safety.

While schedule negotiations between facility management and NATCA were not completed, the work schedule is compliant with all FAA orders and the Collective Bargaining Agreement, dated June 5, 2006. MEM appropriately plans and reviews operational configurations with airport users and traffic management personnel at ZME several times each day, and no evidence was found of non-compliance with the wind and runway guidance. Lighting levels in the MEM TRACON were found to be appropriate and ambient lighting was not found to produce unsafe glare on the radar displays. Ongoing evaluations conducted by AOV and ATO-S that precede this complaint, indicate that aircraft exiting and re-entering Class B airspace are not always provided the appropriate advisories as required by FAA Order 7110.65, Paragraph 7-9-3. Facility managers are aware of this noncompliance and continue to monitor performance in this area to ensure compliance with existing requirements.

FOLLOW-UP ACTIONS

Because of the recent implementation of CRDA procedures, we will conduct a safety audit of those procedures within six months to evaluate the simultaneous use of RWY 27 and RWY18L/C. AOV and the ATO-S will continue to monitor compliance with the requirements of Class B airspace.

Sincerely,

Robert A. Sturgell
Acting Administrator

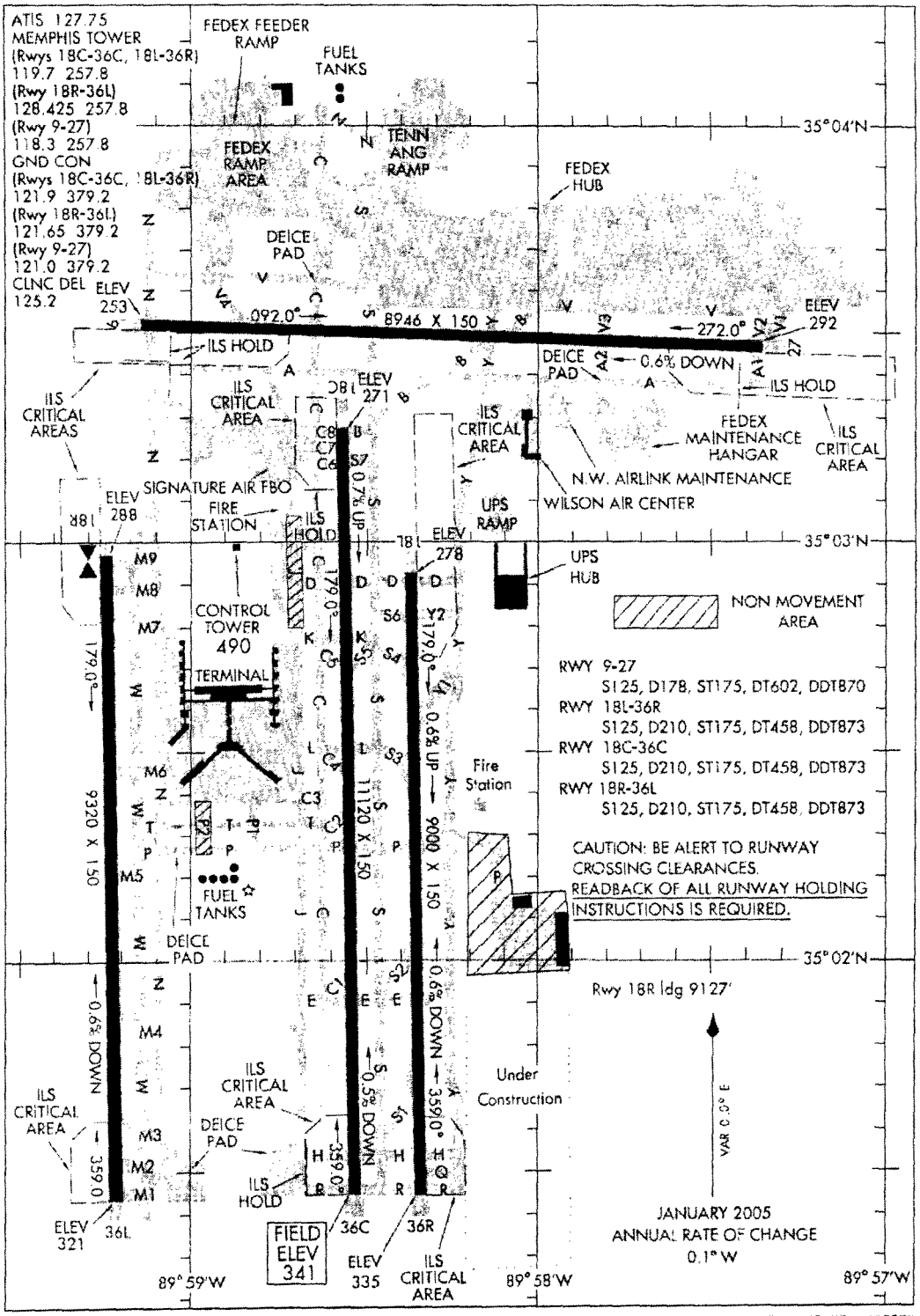
Enclosure

07186

AIRPORT DIAGRAM

AL-253 (FAA)

MEMPHIS INTL (MEM)
MEMPHIS, TENNESSEE



AIRPORT DIAGRAM

07186

MEMPHIS, TENNESSEE
MEMPHIS INTL (MEM)

12

From: Peter Nesbitt <Blues_Healer@mac.com>
Subject: **Administrative Time to draft a response for the Office of Special Counsel**
Date: January 30, 2008 11:21:25 AM CST
To: Bobby Sturgell <Bobby.Sturgell@faa.gov>
Cc: Tracy Biggs <tbiggs@osc.gov>
Bcc: PETER NESBITT <Blues_Healer@mac.com>

Mr. Sturgell,

I submitted a disclosure complaint to the Office of Special Counsel (OSC) on July 16, 2007. This complaint focused on safety related concerns that I believed to exist at the Memphis Tower. The FAA was directed to investigate my allegations, and you subsequently provided the OSC with the findings of this investigation.

The OSC asked me to respond to the findings of your investigation, and I requested eight (8) hours of Administrative Duty Time to formulate a response. While serving as the Acting Air Traffic Manager, Mike Baker (Memphis Tower Assistant Air Traffic Manager) refused to provide me with Administrative Duty Time to respond to the FAA's findings. Mr. Baker indicated that the FAA was under no obligation to provide me with Administrative Duty Time for this purpose.

In the absence of a law, rule, regulation, order or notice that *prohibits* the FAA from providing me with Administrative Duty Time, a reasonable person might think that the FAA would actually *encourage* and *allow* an employee to participate in this *investigative process*.

The actions taken by the FAA in this instance are yet another example the FAA *actively discouraging* an employee from participating in an investigation which might reflect *poorly* upon the FAA. I wonder if this would be considered *tampering* with an investigation, as the FAA obviously wants to make it difficult for me to provide the OSC, Congress, and the President of the United States with a response to your investigative report.

Earlier this year I had to involve Congressman Stephen Cohen in order to address the SRM Team that was sent to Memphis Tower to investigate safety related issues that had recently been disclosed involving RWY 27. During that investigation, I was forced to address this investigative body on my own time, even though the information that I provided was of importance to the safety of the flying public.

Please be advised that I will spend my days off from work, on my own time, responding

to the investigative report that you signed and delivered to the OSC. I will continue to expose the illegal and unsafe practices that exist at this facility.

Peter D. Nesbitt
Air Traffic Controller
Memphis Tower/TRACON
901-634-3957 cell
901-672-7531 home

Peter D. Nesbitt
Air Traffic Controller
15 S. Auburndale St.
Memphis, TN 38104

February 2, 2008

The Honorable Scott J. Bloch
The Special Counsel
U.S. Office of Special Counsel
1730 M Street, N.W.
Washington, DC 20036

Ref: OSC File No. DI-07-2471

Dear Mr. Bloch:

The purpose of this letter is to respond to the FAA's letter to you dated December 3, 2007, in which the FAA responded to my allegations that Memphis FAA Management violated laws, rules and regulations; that said violations posed a significant danger to public safety; and that Memphis FAA Management had engaged in gross mismanagement at the Memphis Tower/TRACON (MEM).

In their response, the FAA completely failed to address numerous issues associated with my disclosure complaint to the OSC, and the FAA failed to address additional issues that were disclosed during their investigative process. The FAA's response with regard to nearly every other issue raised via my OSC complaint was grossly incomplete and serves only to provide political cover and protection to the FAA.

BACKGROUND

By way of background, my initial Disclosure Complaint with the OSC alleged retaliation against me by MEM FAA Management at Memphis Tower/TRACON because I had previously disclosed numerous safety related issues existing at MEM.

After an initial discussion with an OSC Attorney, I was asked to consider splitting my OSC Complaint into two parts: 1) Reprisal for making whistleblower disclosures, and 2) to disclose safety related issues which posed a significant danger and threat to public safety. Thereafter, I agreed to submit and disclose additional information to the OSC relating to the safety related that I believed to exist at MEM.

Since my initial disclosure complaint to the OSC, I have provided additional information via fax, email and telephone to the OSC attorney who handled my Disclosure complaint. During this process, I made every effort to provide the OSC with truthful, detailed and accurate information relating to my allegations and concerns. I was not afforded the opportunity to examine the actual OSC complaint that was submitted to

DOT Secretary Peters; however, it is my understanding that the vast majority of my concerns were conveyed to the Secretary. With this caveat in mind, set forth below are my initial disclosures to the OSC, the FAA's position, and the reasons why the FAA's position is inaccurate, inadequate, and/or incomplete.

I. **DISCLOSURE** - MEM FAA Management created procedures whereby MEM Air Traffic Controllers were directed to conduct an illegal and unsafe operation that placed the flying public at risk. This procedure allowed for simultaneous independent operations to RWY 18L, 18C and RWY 27. This clearly violated FAA Order 7110.65. Thus, MEM FAA Management routinely informed MEM Air Traffic Controllers that a "waiver" existed for this procedure. I made an initial disclosure to the NTSB, and then another disclosure to FAA Safety which prompted the April 2, 2007 memo referenced below.

   A. **FAA POSITION** - The FAA does not address its failure to produce a "waiver", allowing this procedure to exist, nor do they address the safety risks that existed while this procedure was in use. They provide no explanation for the previous use and existence of this illegal and unsafe procedure, and no explanation for how such an illegal and unsafe operation could have existed for so long.

   B. **RESPONSE** - According to an April 2, 2007 FAA Memorandum, the

      1. FAA Air Traffic Organization (ATO) was *"not in compliance with FAA Order 7110.65, Paragraph 3-10-4, at Memphis Air Traffic Control Tower (MEM). MEM was also unable to provide required documentation to demonstrate that the current practice of conducting simultaneous independent approaches to runways 18L, 18C and 27 was properly authorized".*

      2. The above mentioned FAA Memorandum was signed by Anthony Ferrante, Director FAA Air Traffic Safety Oversight Services (AOV-1) and delivered to Bruce Johnson, Vice President, ATO Terminal Services; Robert Sturgell, Acting Chief Operations Officer, and Tony Mello, Acting Vice President, Air Traffic Services.

      3. According to this memorandum, an *"investigation conducted by the ATO's Safety Services (ATO-S) clearly indicates that there are no provisions that permit the use of visual separation procedures to allow arrival traffic to over fly other landing aircraft, traffic completing landing rollout, or taxiing aircraft on an active runway at any time."*

      4. This FAA Memorandum directed MEM to immediately cease this operation: *"Absent an authorized waiver approved by the Air Traffic Safety Oversight Service, MEM may not continue to conduct simultaneous independent operations to runways 18L, 18C, and 27. This ongoing lack of compliance with FAA regulations, despite the advice from the ATO's Safety Services, is unacceptable and requires your immediate attention to ensure compliance with the safety standards in FAA Order 7110.65."*

      5. For years, and despite the absence of authority by FAA Order 7110.65 or an FAA waiver -- MEM FAA Management directed MEM Air Traffic Controllers to

use an illegal and unsafe procedure that endangered thousands of aircraft, passengers, and cargo.

6. MEM FAA Management continued to utilize this illegal and unsafe procedure for nearly two weeks after receipt of the April 2 directive before finally terminating the procedure.

C. **CONCLUSION - MEM FAA MANAGEMENT AUTHORIZED AN ILLEGAL AND UNSAFE PROCEDURE THAT PLACED THE FLYING PUBLIC AT RISK. WHEN ASKED ABOUT THE LEGALITY OF THIS PROCEDURE, MEM FAA MANAGEMENT STATED THAT A WAIVER ALLOWED THIS PROCEDURE TO CONTINUE. BECAUSE OF THIS MISREPRESENTATION, THOUSANDS OF ERRORS RESULTED, YET THE FAA REFUSED TO EVEN MENTION THIS FACT IN THEIR INVESTIGATION, MUCH LESS PROVIDE THE OSC WITH AN EXPLANATION.**

II. **DISCLOSURE** - Aircraft executing a go-around or missed approach maneuver from RWY 27 at MEM could, and have in the past, conflicted with aircraft on approach to RWY 18R.

A. **FAA POSITION** - The FAA wrote that *"the procedures for simultaneous arrivals on RWY 27 and RWY 18R meet all requirements in FAA Order 7110.65, Air Traffic Control, concerning intersecting runways and flight paths (Chapter 3, paragraph 3-9-8). MEM managers have also routinely met with airport users to determine the safest types of aircraft to land on RWY 27 and have cooperatively decided to prohibit heavy aircraft (typically wide body jets exceeding 255,000 lbs.) from landing on RWY 27 due to a lack of maneuverability. An increased margin of safety is provided by allowing only smaller airplanes to use RWY 27 in the event an aircraft is not able to successfully complete a safe landing."*

B. **RESPONSE** - Prior to April 16, 2007, MEM Controllers were trained not to *ever* sequence Large or Heavy aircraft to RWY 27 while *any* other aircraft of *any* type was on approach to RWY 18R. According to MEM FAA Management statements to MEM Air Traffic Controllers, FDX had concerns about RWY 27 go-around aircraft conflicting with RWY 18R arrival aircraft. These concerns originated from a near mid-air collision between a FDX MD11 and a TRS B717. Apparently the FDX MD11 executed a go-around from RWY 27 and flew *underneath* a TRS B717 on approach to RWY 18R.

1. CRDA procedures do not provide or ensure separation between aircraft on approach RWY 27 and RWY 18R. The use of CRDA *only* ensures *stagger* separation between RWY 27 and RWY 18L/18C aircraft, not RWY 18R.

2. On July 17, 2007, William "Bill" K. Wertz, MEM FAA Air Traffic Manager, issued FAA Notice 7110.139. This Notice went into effect on August 13, 2007. This Notice changed MEM procedures to allow all Small, Small +, and *Large* aircraft to use RWY 27 while CRDA procedures were in use. This change significantly increased the number and type of aircraft allowed to land on RWY 27.

3. Depending on where a RWY 27 aircraft initiates the go-around maneuver, this aircraft could fly directly through the flight path of an aircraft on approach to RWY 18R. If the RWY 27 aircraft lacks the performance capability to climb and avoid the aircraft on approach to RWY 18R, the RWY 27 go-around aircraft will fly through the flight path of an aircraft on approach to RWY 18R.
4. Separation between the RWY 27 go-around aircraft and the aircraft on approach to RWY 18R can not be ensured. FAA Order 7110.65 allows Air Traffic Controllers to apply *Visual Separation* during go-around situations. This requires precise and immediate compliance by Air Traffic Controllers and flight crews, however Air Traffic Controllers are not allowed to provide Visual Separation if either aircraft is a Heavy Jet.
5. A Safety Risk Management (SRM) Team visited MEM on or about April 24, 2007 to investigate the use of RWY 27 with RWY 18L and 18C. All efforts to obtain a copy of the final results of SRM study have been unsuccessful. Recent Freedom of Information Act requests for these results have also been denied by the FAA.

C. **CONCLUSION - MEM FAA MANAGEMENT HAD AN UNWRITTEN UNDERSTANDING THAT MEM AIR TRAFFIC CONTROLLERS WOULD ONLY SEQUENCE SPECIFIC AIRCRAFT TO RWY 27 WHEN RWY 18R WAS IN USE. THIS RESTRICTION EXISTED DUE TO FDX CONCERNS THAT WERE PREVIOUSLY EXPRESSED WITH RWY 27 GO-AROUND TRAFFIC. THIS RESTRICTION WAS CHANGED ON AUGUST 13, 2007 WHEN THE FAA SACRIFICED SAFETY FOR THE BENEFIT OF AIRPORT EFFICIENCY AND CAPACITY BY ALLOWING *ALL* LARGE AIRCRAFT TO LAND ON RWY 27 WHILE RWY 18R WAS IN USE.**

III. **DISCLOSURE** - Aircraft executing a go-around or missed approach maneuver from RWY 27 at MEM are subjected to significant wake turbulence risks resulting from the numerous Heavy Jet aircraft that land on RWY 18L, 18C and 18R.

A. **FAA POSITION**

1. *"FAA Order 7110.65, Air Traffic Control, Paragraph 7-2-1a.2, prohibits a tower controller from providing visual separation when additional wake turbulence spacing (such as for a heavy jet) is required."*
2. *"Investigators identified procedures in MEM notices and training methods that instruct controllers to separate a RWY 27 go-around aircraft from traffic utilizing RWY 18L/C/R, by turning the aircraft south, paralleling the RWY 18 traffic and passing above and behind the landing airplane or turning the go-around to the northwest. (This is a safe method that meets all FAA requirements contained in FAA Order 7110.65.)"*
3. According to the FAA *"...traffic landing on RWY 18L/C/R may also be given alternate instructions to provide additional spacing or separation."*
4. The distance between the approach end of RWY 27 and the nearest runway (RWY 18L), *"...combined with the weather requirements for this airport*

configuration, provide an adequate level of safety, and meets all FAA requirements regarding wake turbulence separation for intersecting runways and flight paths contained in FAA Order 7110.65, Air Traffic Control, Paragraph 3-9-8B.3."

B. **RESPONSE**

1. On occasion, aircraft have executed unplanned go-around maneuvers *after* landing on RWY 27. These aircraft elected to initiate a go-around maneuver due to wake turbulence, wind shear, or because the aircraft was too fast to safely stop prior to reaching the end of RWY 27.
   a) In these instances, the unplanned go-around maneuver from RWY 27 was executed between the RWY 18C centerline and the intersection of Taxiway BRAVO.
   b) A go-around from this position on RWY 27 places the go-around aircraft *directly* in the flight path of any aircraft that has just approached and landed on RWY 18L, 18C, or 18R. If any of these arrivals were Heavy Jet aircraft, it would be *impossible* for an Air Traffic Controller to issue instructions to the go-around aircraft that would avoid the associated wake turbulence.
   c) There are documented examples where aircraft have been instructed (or elected) to go-around due to a runway incursion by a vehicle or an aircraft. This often happens when the arriving aircraft is on short-final or in the flare for landing. MEM Air Traffic Controllers need the capability to ensure separation between these go-around aircraft and any other aircraft on approach to any other runway.
2. In response to III-A-1 above, the procedures at MEM do not allow Air Traffic Controllers to *ensure* separation from Heavy Jet aircraft in the event of a RWY 27 go-around. As the FAA stated, Tower Controllers are prohibited from providing Visual Separation when additional Wake Turbulence separation is required, yet Visual Separation is often the only means available to keep aircraft from colliding in the event of a go-around.
3. In response to III-A-2 above, the procedures and training methods referenced do not exist. There are no procedures contained within MEM notices that will ensure separation between RWY 27 go around traffic and other traffic on approach to land on RWY 18L, 18C, and 18R. There are no official training methods that instruct MEM Air Traffic Controllers to *"separate a RWY 27 go-around aircraft from traffic utilizing RWY 18L/C/R, by turning the aircraft south, paralleling the RWY 18 traffic and passing above and behind the landing airplane"*. Turning a RWY 27 go-around aircraft south would create additional conflicts with aircraft departing RWY 18L, 18C, and 18R.
4. In further response to III-A-2 above, there are no procedures, notices or official training methods that would *ever* suggest that a MEM Air Traffic Controller turn RWY 27 go-around aircraft to the northwest. Turning a RWY

27 go-around aircraft northwest would place the aircraft nose-to-nose with aircraft on on approach to land on RWY 18L, 18C and 18R.

5. In response to III-A-3 above, the only other *"alternate instructions"* are: s-turns, speed reductions, issue go-around instructions, or instruct the RWY 18R aircraft to maintain Visual Separation from the RWY 27 go-around aircraft. Pilots often refuse to execute s-turns when they are within 5 miles of the airport; speed reductions are often not possible or practical because the arriving aircraft is already at Final Approach Speed in a landing configuration; and instructing RWY 18R aircraft to go-around creates additional conflicts with aircraft departing RWY 18R and 18C.
6. Because of the close proximity of RWY 27 go-around aircraft with other aircraft arriving and departing from RWY 18L, 18C, and 18R, Air Traffic Controllers often make split-second decisions to prevent these aircraft from colliding. These decisions involve headings, altitudes, issuance of traffic information, and often applying Visual Separation -- which is not authorized if either aircraft is a Heavy Jet. Oftentimes, the only option for the RWY 27 go-around aircraft, is to continue on runway heading, directly behind, beneath, or above the aircraft on approach to RWY 18R. If the RWY 18R arrival aircraft happens to be a Heavy Jet, the RWY 27 go-around aircraft may fly through the associated *Wake Turbulence*.
7. In sum, the procedures cited by the FAA in its response do not exist; the options available to Air Traffic Controllers in the RWY 27 go-around situation are limited and fraught with risk; and finally, those options are further reduced when the RWY18R aircraft is a Heavy Jet.
8. There is a reason why FDX demanded, and the FAA agreed, not to conduct simultaneous approaches to RWY 27 and RWY 18R. Those reasons still exist. The decision by MEM FAA Management (FAA Notice 7110.39, August 13, 2007, discussed supra, II.B.2) to expand the simultaneous use of RWY 27 and RWY 18R is unsafe.

C. **CONCLUSION - THE FAA HAS PLACED THE FLYING PUBLIC AT RISK BY NOT PROVIDING A SAFE AND CLEAR RWY 27 GO-AROUND PROCEDURE THAT IS FREE FROM WAKE TURBULENCE CREATED BY HEAVY JET AIRCRAFT LANDING ON RWY 18L, 18C, AND 18R. GO-AROUND CONFLICTS HAVE EXISTED IN THE PAST, AND THEY WILL CONTINUE TO EXIST UNDER THE CURRENT SITUATION.**

IV. **DISCLOSURE** - MEM FAA Managers enforce rules, regulations, and procedures inconsistently. At times, these rules, regulations and procedures are strictly enforced, while at other times these same Managers disregard those same rules, regulations and procedures that have been created to maintain the safety of the National Airspace System (NAS). These Managers also have a pattern and practice of allowing aircraft separation standards to diminish to less than what is required by FAA Order 7110.65, and they then fail to report these Operational Errors. Additionally, the MEM FAA Training Manager engaged in a cover-up of an Operational Error while working a radar position in the TRACON.

A. **FAA POSITION**

1. With the exception of the February 13 or 14, 2007 disclosure that a MEM Front Line Manager allowed aircraft to land without prescribed radar separation as required by FAA Order 7110.65, the FAA did not respond to the disclosure that MEM FAA Managers inconsistently enforced rules, regulations, and procedures, or that said managers disregard separation standards and rules on occasion.
2. The FAA did not respond to the January 18, 2006 cover-up of an Operational Error by the MEM FAA Training Manager.
3. The FAA did not respond to the October 16, 2006 disclosure that a MEM FAA Front Line Manager allowed multiple aircraft to land without prescribed radar separation as required by FAA Order 7110.65.
4. The FAA did not respond to the May 22, 2007 disclosure that a MEM FAA Front Line Manager utilized an illegal and unsafe procedure by allowing Simultaneous Independent Approaches to RWY 18L, 18C, and RWY 27 to continue after FAA Air Traffic Safety Oversight Services determined that this procedure was illegal and unsafe.

B. **RESPONSE**

1. On January 18, 2006, Bobby Parker, MEM FAA Training Manager, lost radar separation between BTA2606 and NWA818. When Memphis Supervisor Kenny Harris (now retired) asked Mr. Parker about this situation, Mr. Parker informed Mr. Harris that he had applied Visual Separation. A MEM Air Traffic Controller made an anonymous report to the FAA Administrator's Hotline regarding this incident. It was discovered that Mr. Parker had not applied Visual Separation, and that this error had been covered-up by Mr. Parker.
2. On October 16, 2006, Herb Brown, Memphis Front Line Manager, allowed separation to be lost between a PA32 (N884CC) and an MD80 while MEM was conducting Staggered ILS Approaches to RWY 36L and 36R. When it was pointed-out to Mr. Brown that separation was being lost, and that the Local Controller was going to break-out N884CC -- Mr. Brown said *"Let it ride."*
3. On October 16, 2006, Mr. Brown again allowed separation to be lost between two aircraft while MEM was conducting Staggered ILS Approaches

to RWY 18L and RWY 18R. An Air Traffic Controller in the Tower Cab said that one of the aircraft needed to be broken-out of the sequence, but Mr. Brown stated that he had both aircraft in sight, implying that *he* was providing Visual Separation. Neither aircraft could be seen from the Tower Cab due to reduced visibility, and Visual Separation could not have been applied in this situation.

4. On or about November 8, 2006, a Developmental Air Traffic Controller authorized FDX830 to cross RWY 27 without permission. The OJTI missed this error, and a CRJ on approach to RWY 27 was issued go-around instructions in order to avoid the FDX aircraft crossing RWY 27. The Developmental was subsequently removed from the FAA; however, the runway crossing error was never reported or investigated.
5. On or about February 13, 2007, Mr. Brown again allowed separation to be lost between multiple aircraft. These Operational Errors occurred when Mr. Brown informed a MEM Air Traffic Controller (Geoff Weiss) that he could allow these aircraft to land, when in fact separation was about to be lost.
6. April 2, 2007, N176CL, an F900, landed on RWY 27 while AAL1816, an MD80, was on approach to land on RWY 18L. At the time this incident occurred, F900's were not on the approved list of aircraft authorized to use RWY 27 while other aircraft were landing on RWY 18L and 18C.
7. May 22, 2007, Tom Roche, Memphis Front Line Manager, authorized the use of Simultaneous Independent ILS Approaches to RWY 18L, 18C, and RWY 27. The use of this procedure had been banned by FAA Air Traffic Oversight Services on April 16, 2007. Mr. Roche said that *"Staggered Approaches"* were in use, but at that time there were no MEM procedures for staggering RWY 27 aircraft with RWY 18L aircraft. FAA Safety reiterated that this was an illegal procedure that was not to be used.
8. May 30, 2007, I missed a readback error while working Local Control One (LC1), resulting in N912FE crossing the RWY 18R hold-short line. As a result of this mistake, it was necessary for me to issue go-around instructions to DAL983 in order to avoid a conflict. While my alleged "performance deficiencies" were addressed through *Skill Enhancement Training*, MEM FAA Management did not report the Runway Incursion to the Memphis Flight Standards District Office (FSDO), nor did they pursue or file a Pilot Deviation report.

C. **CONCLUSION - THE FAA HAS ALLOWED MEM FAA MANAGERS TO WILLFULLY AND INTENTIONALLY VIOLATE FAA RULES, REGULATIONS, AND PROCEDURES, AND THEY HAVE FAILED TO REPORT SAID VIOLATIONS. THIS MALFEASANCE HAS PLACED THE FLYING PUBLIC IN DANGER, YET THESE INDIVIDUALS CONTINUE TO REPRESENT THE FAA AS MANAGERS AND LEADERS IN THE WORKPLACE.**

V. **DISCLOSURE** - The FDX midnight operation at MEM is dangerous. The South and North Configurations that utilize RWY 27 as a departure and arrival runway are disasters waiting to happen. There is an arrival push (23:00 - 01:00) and a departure push (03:00 - 05:00). During both pushes, RWY 27 is utilized for either departing and/or arriving aircraft. During both pushes, *all* FDX aircraft that land RWY 18R, 18C, and 18L must taxi across RWY 27 enroute to the FDX Ramp. MEM has approximately 250 operations during each of these nightly pushes. This operation benefits FDX, yet this same operation places FDX flight crews at risk due to the multitude of FDX aircraft that must cross an active runway during a time when most Air Traffic Controllers have had little sleep over the previous 24 hours.

A. **FAA POSITION** - The FAA contends that there are "specific operating procedures" in place for over 10 years that "mitigate the increased risk of runway incursion during this specific operation."

B. **RESPONSE**

1. Very few of the "specific operating procedures" referenced in the FAA's response are written. Further, there is no way that the FAA investigators could have accomplished any substantive evaluation of these "specific operating procedures" when only one member of the FAA investigation team, observed one MEM Air Traffic Control team during the FDX midnight operation for one night.
2. When this disclosure was made, MEM Air Traffic Controllers were working a *rapidly rotating schedule*. MEM FAA Management was assigning MEM Air Traffic Controllers two *"quick-turns"* each week, with a midnight shift as the last shift. This type of schedule involved two back-to-back shifts where 8.75 hours or less was available between shifts, resulting in tired and fatigued Air Traffic Controllers working a busy and complex midnight operation.
3. Prior to 2007, MEM had an *all-volunteer permanent midnight crew*. This crew worked the midnight shift four nights each week, with day-shift quick-turn at the beginning of their work week. These Air Traffic Controllers were intimately familiar with the operation, and their bodies had adjusted and acclimated to this type of schedule. These same Air Traffic Controllers knew the FDX operation inside and out, thus allowing them to provide FDX with excellent service.
4. This level of service disappeared during the first few weeks of 2007 when MEM FAA Management instituted a new work schedule that forced nearly *all* MEM Air Traffic Controllers to work a rapidly rotating schedule, with at least one midnight shift per week.
5. Instead of having a regular crew of Air Traffic Controllers who were familiar with the FDX midnight operation -- MEM had a different crew each night. Instead of having MEM Air Traffic Controllers who were rested and acclimated to working four midnight shifts each week -- MEM had a tired and fatigued crew each night.

6. Prior to the implementation of the new work schedule that eliminated the permanent midnight crew, several Memphis Air Traffic Controllers suggested that MEM FAA management reduce the midnight procedures to writing so that the operation could maintain its historical consistency. MEM FAA Management never reduced the midnight operation to writing, and the knowledge base and consistency of the midnight crew was dismantled in early 2007.
7. During a midnight South Configuration, FDX outbound operation, FDX aircraft are instructed to cross RWY 27 via one of eight different Taxiways. During this operation, RWY 27 is used for predetermined departing FDX aircraft. RWY 27 is also used for arriving aircraft during this timeframe. Two Ground Controllers are required to request permission for each RWY 27 crossing for any aircraft destined to depart RWY 18L, 18C, or 18R. The Cab Coordinator (CC) is primarily responsible for approving all RWY 27 crossings, but it is not uncommon to have Local Control Three (LC3) and/or the Tower Cab Supervisor (SC) approving RWY 27 crossings. Often the volume in the Tower Cab is loud and distracting; expectations vary from Controller to Controller; and it is not uncommon to have to seek repeated verification regarding the number of aircraft that have been approved to cross RWY 27 at specific intersections.
8. During a midnight South or North Configuration, FDX inbound operation, FDX aircraft are instructed to cross RWY 27 via one of eight different Taxiways. Only one Ground Controller is utilized during the FDX midnight inbound, and this single Controller is responsible for coordinating with LC3 or the SC for each aircraft to cross RWY 27. The operation is significantly safer when RWY 27 is not an active runway and has been "released to ground control" for all runway crossings.
9. During the midnight FDX inbound operation, RWY 27 is utilized constantly for arriving and departing aircraft. An excessive amount of coordination is required to cross RWY 27 with each FDX aircraft, and these crossings take place between successive RWY 27 arriving and departing aircraft. Experienced Controllers from busier facilities have made suggestions on how to enhance the safety and expedience of the midnight operation, but MEM FAA Management has generally refused to consider, much less adopt these suggestions.

C. **CONCLUSION - MEM FAA MANAGEMENT PLACE FDX FLIGHT CREWS IN DANGER DURING THE MIDNIGHT OPERATION AT MEM. MEM FAA MANAGEMENT ALLOW FATIGUED CONTROLLERS TO MANAGE MULTIPLE RUNWAY CROSSINGS DURING A TIME WHEN THE BODY IS SHUTTING DOWN, AND AFTER THESE SAME CONTROLLERS HAVE WORKED TWO SHIFTS IN A SINGLE 24-HOUR PERIOD. MEM FAA MANAGEMENT SACRIFICES SAFETY FOR CORPORATE PROFIT BY BOWING TO PRESSURE FROM FDX TO USE RWY 27. A STRAIGHT NORTH OR SOUTH CONFIGURATION, WITHOUT RWY 27, WOULD ENHANCE SAFETY.**

VI. **DISCLOSURE** - The Memphis Airport Movement Area Safety System (AMASS) is unreliable and unsafe. The AMASS is not certified for use on RWY 27, yet it provides false alerts on RWY 27 when there is no traffic. The AMASS is often completely inoperative when precipitation is present.

A. **FAA POSITION** - The FAA wrote that *"there are no rules or regulations that require an airport to have surface movement radar"*; that *"RWY 27 could not be covered by this antenna due to terrain and building locations"*; and that *"ASDE-X is scheduled to be installed at MEM in late 2009"*.

B. **RESPONSE**

1. The AMASS at MEM is not certified for use on RWY 27, thus it provides no level of safety for any aircraft landing or departing RWY 27, and provides no level of safety for any FDX aircraft crossing RWY 27 to/from the FDX Ramp.
2. The AMASS at MEM is not certified for use on RWY 27, but is still used to visually inform MEM Air Traffic Controllers of the open/closed status of RWY 27.
3. Due to the fact that the AMASS is not certified for use on RWY 27, Taxi Into Position and Hold (TIPH) procedures may not be used while another aircraft has been cleared to land on RWY 27, thus *decreasing* airport capacity.
4. The AMASS at MEM is not certified for use on RWY 27, yet RWY 27 is the most critical runway crossed during day or night FDX operations to/from the FDX Ramp.
5. The AMASS at MEM routinely displays false targets. These false targets are often indiscernible and unverifiable during reduced visibility operations or during the hours of darkness. Aircraft will taxi through or land while these false targets are displayed on the AMASS display, and the validity of these targets is rarely questioned.
6. Recently an aircraft departed Taxiway MIKE northbound, and this was not observed on the AMASS by any MEM Air Traffic Controllers in the Tower Cab.
7. The AMASS at MEM routinely drops data-tags after aircraft have landed and taxied for a short period of time. Aircraft that land on the east side of the airport and taxi to the west side, rarely have data-tags displayed when they check-in with the next Ground Controller.

C. **CONCLUSION - THE FAA FAILED TO ACKNOWLEDGE THE SAFETY ISSUES ASSOCIATED WITH THE MEM AMASS. THE FAA FAILED TO INSTALL THE NECESSARY EQUIPMENT NEEDED TO ENSURE THE SAFETY OF MEM AS THE TRAFFIC AND CARGO OPERATIONS INCREASED AT THE AIRPORT. CURRENT REPORTS FROM THE FIELD INDICATE NUMEROUS PROBLEMS ASSOCIATED WITH THE INSTALLATION OF ASDE-X AT OTHER LOCATIONS. WAITING UNTIL 2009 FOR THE INSTALLATION OF ANOTHER PIECE OF FLAWED TECHNOLOGY IS UNACCEPTABLE.**

VII. **DISCLOSURE** - MEM FAA Management routinely configure MEM to benefit FDX, and these configurations are not in compliance with FAA Order 8400.9, *"National Safety and Operational Criteria for Runway Use Programs"*. FDX pressures MEM FAA Management to depart in a South Configuration and to land in a North Configuration. These configurations benefit FDX, result in lower fuel loads and shorter taxi times, and ultimately greater corporate profits. However, these configurations are often utilized despite a tailwind/crosswind component that is outside of FAA designed parameters.

A. **FAA POSITION** - The FAA wrote that MEM FAA Management ensures *"collaborative decisions"* are made after conversations with FDX and Memphis Air Route Traffic Control Center (ZME) Traffic Management Unit (TMU). These decisions are based on *"numerous"* factors. MEM utilizes a *"more comprehensive runway wind usage chart"*, and that *"investigators found no evidence of increased go-arounds, unusual runway requests, or other safety incidents to support the allegation of inappropriate runway configurations at MEM"*.

B. **RESPONSE**

1. FDX contacts MEM several times daily to negotiate the Configuration that will be utilized at MEM for their departure or arrival pushes. These negotiations often result in a Configuration that requires *all users* to land or depart with a tailwind component. No other airline regularly contacts MEM in an effort to influence the landing or departure configuration.
2. MEM maintains a maximum tailwind/crosswind component chart, and this chart appears to approximate *FAA Order 8400.9, National Safety and Operational Criteria for Runway Use Programs, Appendix 3. Table of Maximum Wind Values*, (DRY RUNWAY).
3. MEM does not utilize any of the *Tables* from FAA Order 8400.9 which outline the maximum tailwind/crosswind component for runways that are *"Not Clear or Not Dry."* However, MEM runways are *"not dry"* a significant number of days each year.
4. MEM has never been granted a *waiver* to *"accommodate unique site-specific situations"*. There exist no FAA Notices, Orders, or Regulations that would allow or authorize MEM to configure the airport for the *financial benefit* of FDX or any other airline, while sacrificing the safety of *all* users who would be forced to land and depart with a tailwind/crosswind component.
5. RWY 27 CRDA Procedures are also routinely used with a tailwind/crosswind component that exceed the values published in FAA Order 8400.9. This tailwind makes it difficult to maintain the stagger spacing required to ensure separation with traffic on approach to RWY 18L. Aircraft on approach to RWY 18L are often issued go-around instructions if the CRDA procedure fails due to the tailwind component. Some examples of this include, but are not limited to the following:

a) December 11, 2006 (18:00) - NASA ASRS Report by a MEM Air Traffic Controller, documenting aircraft that were sequenced to RWY 27 with a tailwind component.

b) June 30, 2007 (15:46) - MEM was in a North Configuration with the wind 150/11. MEM FAA Management was notified that the wind was out of tolerance based on the MEM tailwind component chart. NWA57 refused to land with the advertised tailwind.

c) September 24, 2007 (13:00) - Team Briefing discussion regarding FDX request for specific Runway Configurations, tailwind components, aircraft fuel Loads.

d) October 13, 2007 (17:00) - Memphis was in a North Configuration, landing RWY 36L, 36R, and 27. Several aircraft sequenced to RWY 27 with a tailwind component.

e) October 21, 2007 - NASA ASRS Report by a MEM Air Traffic Controller, describing CRDA procedures with a tailwind component, and detailing how aircraft were unable to slow or make s-turns, resulting in go-around situations.

f) October 30, 2007 (22:40) - MEM was in a North Configuration with a tailwind. EGF955, an E145, reported the wind to be 206/16 at 3,000 feet. At 23:46 FDX1366, executed a go-around due to possible tailwind and/or wind shear.

g) November 24, 2007 (03:30) - NASA ASRS Report by a MEM Air Traffic Controller, describing the departure of Large and Heavy Jets during the FDX outbound push with an 8 - 10 knot tailwind.

h) November 25, 2007 (16:50) - MEM was in a North Configuration, with the wind exceeding the tailwind component chart.

i) January 21, 2008 (12:31) - MEM was in a South Configuration, RWY 18R, 18C, and RWY 27 were in use. CRDA procedures were in effect. Wind was 130/13, which exceeded the tailwind component chart for RWY 27.

C. **CONCLUSION - THE FAA FAILED TO ADEQUATELY INVESTIGATE THIS ISSUE. MEM FAA MANAGEMENT UTILIZES THE "DRY" COMPONENT CHART UNDER ALL RUNWAY CONDITIONS. MEM FAA MANAGEMENT RECEIVES PRESSURE FROM FDX TO USE SPECIFIC RUNWAY CONFIGURATIONS THAT BENEFIT FDX FINANCIALLY, AND THESE CONFIGURATIONS MAY AT TIMES PLACE ALL USERS AT RISK. THIS INFORMATION CAN BE VERIFIED THROUGH MEM QAR REPORTS, DAILY RECORD OF FACILITY OPERATION, HISTORICAL WEATHER INFORMATION, NASA ASRS REPORTS, PILOT INTERVIEWS, AND CONTROLLER INTERVIEWS.**

VIII. **DISCLOSURE** - In January of 2007 MEM FAA Management set the TRACON lights to higher intensity setting, then glued "stop bars" in place to prevent further adjustment. MEM Air Traffic Controllers indicated that the bright lights caused glare and reflections on the STARS (Standard Terminal Automation Replacement System) radar display. The glare and reflections interfere with the Air Traffic Controller's ability to read displayed data, and this poses a significant risk to safety.

A. **FAA POSITION** - The FAA wrote that STARS was *"designed to safely operate in better lighting conditions than other systems previously used in radar facilities"*. MEM FAA Managers *"reported that increased light levels provided a safer working environment while remaining compliant with STARS operating specifications"*, and that *"air traffic controllers and supervisors said that in the past there were reflections on displays from ambient light sources, but the effect was never unsafe."*

B. **RESPONSE**

1. On January 4, 2007 a MEM Air Traffic Controller was involved in an Operational Error while training a Developmental Air Traffic Controller. The Controller's statement regarding this error indicated that *"glare from equipment across the room and smudge marks on the scope"* contributed to the error.
2. On February 5, 2007 I raised concerns during a Team Briefing regarding the lights, computer monitors, and the glare that was being reflected on the STARS Workstations in the MEM TRACON. MEM FAA Management refused to address my concerns.
3. On October 17, 2007 two MEM Air Traffic Controllers complained to the Front Line Manager and Operations Manager about glare from the overhead lights while they were working at the Final West and Final East sectors, but MEM FAA Management refused to lower the light intensity.
4. The FAA claims that increased light levels provide for a *"safer working environment"*, yet there are no known or documented injuries in the TRACON resulting from the TRACON lights being set at a lower level.
5. The FAA claims that the STARS equipment was *"designed to safely operate in better lighting conditions than other systems previously used in radar facilities"*. The FAA fails to mention the *type* of lights required in the STARS environment, nor do they mention specific *lighting intensity* under which STARS was certified.
6. Discussions with a former MEM Air Traffic Controller who participated in the setup and design of the STARS Workstations at MEM, indicate that lighting "zones" were created which were to be adjustable to each Air Traffic Controller's preference. According to this former MEM Air Traffic Controller, the center room ceiling lights were only for janitorial cleaning, however these are the exact lights that MEM FAA Management has increased to a higher intensity.

7. MEM FAA Managers have a pattern and practice of standing directly behind MEM Air Traffic Controller at the STARS Workstation. The ceiling lights shine directly onto the clothing of these Managers, and their image is then projected onto the STARS radar display.
8. Overhead lights in the MEM TRACON project light into the immediate area of the STARS Workstations where Air Traffic Controllers provide radar separation services. These lights and associated glare are a distraction which compromise safety by interfering with what an Air Traffic Controller is able to clearly see while working at a STARS Workstation.
9. Computer monitors located in the MEM TRACON create a reflection on the STARS Workstations that is distracting and interferes with displayed data that is used to provide radar separation services. These computer monitors are located to the right of what is commonly referred to as the "CIA" position, and/or to the left of the Supervisor's Desk.
10. The lights surrounding the Supervisor's Desk are used to benefit MEM FAA Managers who are performing administrative duties not pertinent to separation aircraft. These bright lights provide additional glare and reflection at the ARW and ARF STARS Workstations, and this is a distraction and hazard to safety.

C. **CONCLUSION - THE FAA FAILED TO ADEQUATELY INVESTIGATE THIS DISCLOSURE. THE FAA REFUSED TO ADDRESS THE FACTS SURROUNDING THE 2007 DECISION BY MEM FAA MANAGEMENT TO INCREASE THE LIGHTING INTENSITY IN THE TRACON AT THE OBJECTION OF THE VAST MAJORITY OF THE WORKFORCE. THE FAA FAILED TO REVIEW STARS LIGHTING SPECIFICATIONS, AND THEY DID NOT INTERVIEW INDIVIDUALS RESPONSIBLE FOR COORDINATING WITH THE FAA ON LIGHTING NEEDS AND DESIRES FOR AIR TRAFFIC CONTROLLERS. THE FAA ALSO NEGLECTED TO ADDRESS MEM FAA MANAGEMENT'S DECISION TO PREVENT CONTROLLERS FROM ADJUSTING THE TRACON LIGHTS WITH THE INSTALLATION OF A "STOP BAR".**

IX. **DISCLOSURE** - MEM Class B airspace requirements are not complied with on a daily basis. This is due to to the design of the MEM Class B; local procedures that require Arrival Controllers "feed" the Final Controllers at specific altitudes; local procedures that require Final Controllers to "turn-on" to the Final Approach Course at specific altitudes; and the lack of internal Flow Control and external Traffic Management restrictions.

A. **FAA POSITION** - The FAA acknowledged that *"ongoing evaluations conducted by AOV and ATO-S... indicated that aircraft exiting and re-entering the Class B airspace are not always provided the appropriate advisories as required by FAA Order 7110.65, Paragraph 7-9-3."*; Front Line Managers emphasized the importance of Class B procedures through Performance Evaluations; and that a

2002 redesign of the Class B airspace had reduced the instances where vectors outside the Class B airspace were less common now.

B. **RESPONSE**

1. Pete Sufka discussed the MEM Class B issue with Bill Wertz and Bobby Parker on several instances in the past. Mr. Sufka informed Mr. Wertz and Mr. Parker that MEM operating procedures were not in compliance with FAA directives and guidance with regards to MEM Class B airspace.
2. On March 24, 2006 at the weekly Team Briefing, Bobby Parker said that MEM should not use a local procedure for aircraft arriving from over the GQE VOR to RWY 09 due to the fact that this procedure forces aircraft to be vectored below the floor of the MEM Class B airspace.
3. On March 29, 2006 Pete Sufka wrote Bill Wertz to express concerns with the fact that local procedures forced MEM Air Traffic Controllers to vector aircraft below the floor of the MEM Class B airspace.
4. On April 2, 2007 at the weekly Team Briefing, Phil Santos (MEM Operations Manager) said that a meeting had been held between the FAA and *"local users"*, and that one topic of concern was the MEM Class B airspace. Mr. Santos did not elaborate on the details of this meeting.
5. During the morning arrival push on September 18, 2007, a significant number of MEM arrivals were vectored outside of the Final Controller's airspace, and these same aircraft were forced to exit the MEM Class B airspace due to traffic volume, airspace design, and congestion.
6. During the noon arrival push on October 9, 2007, a significant number of MEM arrivals were vectored outside of the Final Controller's airspace, and these same aircraft were forced to exit the MEM Class B airspace due to traffic volume, airspace design, and congestion.
7. During the afternoon arrival push on November 25, 2007, a significant number of MEM arrivals were vectored outside of the Final Controller's airspace, and these same aircraft were forced to exit the MEM Class B airspace due to traffic volume, airspace design, and congestion.
8. On December 5, 2007 Phil Santos asked Pete Sufka for NATCA input after Class B audits revealed the need for improvement with regards to MEM Class B compliance. Mr. Sufka suggested that a local committee be formed to address these concerns, but this request was denied.
9. Current MEM procedures require the West Final Controller (ARF) to turn onto the Final Approach Course at 2,000 or 4,000, and the East Final Controller (ARM) to turn onto the Final Approach Course at 3,000 feet. Current MEM procedures require the West Arrival Controller (ARW) to descend to 7,000 feet on the downwind, and the base leg at 6,000 feet. The East Arrival Controller (ARE) is required to descend to 6,000 feet on the downwind, and the base leg at 5,000 feet. These procedures, combined with the threat of discipline by MEM FAA Management for not turning on at the required

altitude, force MEM Air Traffic Controllers to frequently vector aircraft outside of the MEM Class B airspace.

10. Several MEM Managers have expressed frustration with Memphis ARTCC (ZME) Traffic Management Unit (TMU) and the amount of pressure that is exerted upon MEM TRACON to accept a high flow rate from ZME during arrival pushes. Aircraft arriving from ZME are routinely high and not in compliance with current Letters of Agreement. Aircraft arriving from ZME are routinely issued *"best forward speed"*, when MEM Managers have previously coordinated *"250 knots"* at the boundary with ZME TMU. MEM Air Traffic Controllers have been forced to turn aircraft onto the Final Approach Course at inappropriate altitudes due to traffic volume and congestion within the airspace. MEM Final Controllers have been forced to extend their traffic outside of the Class B airspace and their respective Final airspace due to the volume of traffic within the MEM TRACON airspace.

C. **CONCLUSION - THE FAA FAILED TO ADEQUATELY INVESTIGATE OR ADDRESS THIS DISCLOSURE IN A COMPLETE MANNER. LOCAL PROCEDURES, CLASS B AIRSPACE DESIGN, INTERNAL AIRSPACE DESIGN, INADEQUATE TRAFFIC MANAGEMENT INITIATIVES, AND SHEAR VOLUME OF TRAFFIC -- ALL FORCE AIR TRAFFIC CONTROLLERS TO VECTOR AIRCRAFT OUTSIDE OF AND/OR BELOW THE FLOOR OF THE MEM CLASS B AIRSPACE. MEM FAA MANAGEMENT RECENTLY RESPONDED BY COUNSELING MEM AIR TRAFFIC CONTROLLERS FOR NOT INFORMING FLIGHT CREWS WHEN THEY LEAVE THE MEM CLASS B AIRSPACE, HOWEVER MEM FAA MANAGEMENT HAS YET TO ADDRESS ANY OF THE FACTORS THAT SERVE TO CREATE THIS SITUATION.**

X. FINAL COMMENTS

A. The FAA did not conduct a proper and complete investigation. The FAA has responded to this complaint in a manner which serves only to protect and insulate the FAA from any accountability. The investigation was cursory in nature, and was designed to close the matter and avoid the truth. The FAA's response either does not exist or is inadequate on the following issues:

1. During conversations with FAA investigators who were sent to MEM to investigate my OSC complaint, I (and others) voiced concerns over the use and implementation of the CRDA and associated procedures. These concerns further disclosed to the FAA that the CRDA was being utilized improperly, and that tailwind/crosswind components often affected the sequence and spacing required by the RWY 27 Final Controller (ARN) to adequately "hit the gap" with RWY 18L arrival traffic.

2. Examples were provided where back-to-back go-around or break-out instructions were issued after the CRDA sequence did not work. Air Traffic Controllers participating in this investigation informed the FAA that the associated RWY 27 tailwind/crosswind components were often outside of the tailwind component chart in use at MEM, and that the resulting tailwind/

crosswind component resulted in an incompatible speed with the traffic on approach to RWY 18L

3. During this investigation, I disclosed to the FAA that MEM Air Traffic Controllers had been accused of *"malicious compliance"* when go-around or break-out instructions were issued to aircraft when CRDA procedures were in effect. These instructions and the resultant accusations by MEM FAA Management came about after multiple CRDA sequences did not work due to the tailwind/crosswind component.
4. I further disclosed to the FAA that an examination of Quality Assurance Reports (QAR) and and Daily Record of Facility Operation Logs would verify some, but not all instances of go-around and break-out traffic. A closer examination of these documents, combined with MEM Air Traffic Controller interviews, would reveal that MEM FAA Management often places the go-around blame during CRDA operations on the pilot. This blame often indicates that the pilot did not slow in an appropriate manner, when in fact the tailwind/crosswind component adversely affected CRDA operations.
5. On October 23, 2007 I provided the FAA with a copy of an email that was originally delivered to Anthony Ferrnate and Scott Guetzko. This email identified numerous issues of concern associated with the implementation and use of CRDA at MEM. None of the following issues were addressed in the FAA's response to my OSC Whistleblower Disclosure Complaint:
   a) RWY 27 arrival aircraft being instructed to land and hold-short of a particular taxiway or runway centerline, implying some form of Land and Hold Short Operation (LASHO) when no such procedures exist at MEM.
   b) RWY 27 arrival aircraft being asked to make s-turns or speed reductions inside of the Final Approach Fix and/or close-in to the airport when the aircraft is already at approach speed and/or configured for landing.
   c) RWY 27 arrival aircraft "landing long" with RWY 18L passing *behind* the RWY 27 traffic, which is in contrary to current CRDA procedures at MEM.
   d) I questioned the use of the Byhalia Long Range Radar for CRDA operations when the MEM ASR-9 radar was out of service, and expressed concern over the 10-second update time associated with this ZME radar site.
   e) I raised the issue of *increased* numbers of go-around aircraft at MEM, and the *decreased* level of safety associated with the implementation and use of CRDA.
6. On October 23, 2007 I provided the FAA with a copy of an email that I sent to Zale Anis, LaGretta Bowser, Stephen Creaghan, Bill McNease, Kristi Ritson, Cliff Stowe, and Joseph Varrati. These individuals were members of the SRM Team that was sent from by the DOT Volpe Center to conduct a Safety Risk Analysis at MEM. This email provided examples from MEM Air Traffic Controllers relating to many unsafe situations involving RWY 27 (see examples below), however most of these concerns were not addressed in

the FAA's final investigative report. The FAA wrote that simultaneous approaches to RWY 27 and 18R were safe and legal, whereas the following examples clearly show that dangerous conflicts occur and will continue to occur:

a) Prior to April 16, 2007, numerous aircraft on approach to RWY 18L and 18C were observed to fly directly over other aircraft landing on RWY 27.

b) A military C130 executed go-around from RWY 27 while on short-final. Even though the C130 was turned to avoid a DC9 on final to RWY 18R, these two aircraft passed within 1 mile and 100 feet of each other.

c) A BE20 elected to go-around from RWY 27 due to traffic on the runway. The BE20 flew underneath an A320 on short-final to RWY 18L, and then flew in front of a DC9 on final to RWY 18R.

d) A FDX H/DC10 executed a go-around while on approach to RWY 27. When the H/DC10 announced his intentions, the Local Controller was only able to instruct the pilot to *"Stay low!"* so as to avoid a TRS B717 on short final to RWY 18R.

e) A SF34 on approach to RWY 27 executed a go-around due to receiving a ground proximity warning alert. The SF34 flew directly in front of a B757 on approach to RWY 18L, missing by approximately 1/4 of a mile. The SF34 did not gain enough altitude or speed to turn until it had flown past the RWY 18R Final Approach Course.

B. During the course of this investigation I provided the FAA with copies of email which would document and substantiate my allegations and concern. I informed the FAA that I had numerous documents and email in my possession, and that I was willing to share these documents during the course of the investigation. The FAA never asked me for any of these additional documents.

C. MEM FAA Management intentionally and deliberately acted to prevent MEM Air Traffic Controllers from participating in investigations relating to alleged safety concerns at MEM.

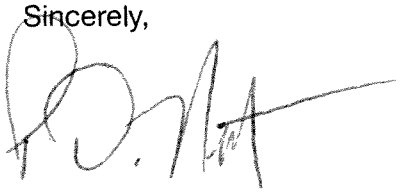
1. On or about April 24, 2007 I requested permission to meet with a team of investigators from the DOT Volpe Center to discuss safety related concerns associated with the the simultaneous use of RWY 18L, 18C and RWY 27. I was denied an opportunity to meet with members of this team during my assigned shift, even after submitting verbal and written requests to MEM FAA Management. It was only after I contacted my Congressman Stephen Cohen that Mike Baker informed me that I could meet with this team after my midnight shift, and that this meeting could only take place during my off-duty hours.

2. Several MEM Air Traffic Controllers informed me that they had requested permission to meet the team of investigators from the DOT Volpe Center, but they too were denied the opportunity to meet with the investigative body during the assigned shift.

3. When the FAA arrived at MEM to investigate my OSC Disclosure Complaint, several MEM Air Traffic Controllers requested to meet with the investigators. MEM FAA Management made it very difficult for these Controllers to meet with investigators during the normal course of business, and several Controllers were forced to utilize their time off from work in order to share safety related concerns.
4. I have spent many hours drafting this response to you, and last week I requested Administrative Time from MEM FAA Management to complete this response. My request was denied by Mike Baker, stating that *"... the statute does not provide for a requirement to provide you with official time."*

XI. In closing, the safety issues discussed herein still exist and have not been resolved. The FAA's response is an attempt to gloss over the issues and avoid having to tackle the difficult task of resolving the conflict between public safety and the unholy pursuit of the dollar through increased airport capacity. The OSC should reject the FAA's subterfuge and insist that these serious safety issues get resolved at Memphis before a preventable tragedy occurs.

Sincerely,



Peter D. Nesbitt

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DO NOT REPORT AIRCRAFT ACCIDENTS AND CRIMINAL ACTIVITIES ON THIS FORM.
ACCIDENTS AND CRIMINAL ACTIVITIES ARE NOT INCLUDED IN THE ASRS PROGRAM AND SHOULD NOT BE SUBMITTED TO NASA.
ALL IDENTITIES CONTAINED IN THIS REPORT WILL BE REMOVED TO ASSURE COMPLETE REPORTER ANONYMITY.

(SPACE BELOW RESERVED FOR ASRS DATE/TIME STAMP)

IDENTIFICATION STRIP: *Please fill in all blanks to ensure return of strip.*
NO RECORD WILL BE KEPT OF YOUR IDENTITY. This section will be returned to you.

TELEPHONE NUMBERS where we may reach you for further details of this occurrence:

HOME Area 901 No. 634-3957 Hours 24

WORK Area _____ No. _____ Hours _____

NAME Peter D. Nesbitt

ADDRESS/PO BOX 15 S. Auburndale St.

CITY Memphis **STATE** TN **ZIP** 38104

TYPE OF EVENT/SITUATION
RWY 27 go-around conflict with RWY 18R arrivals

DATE OF OCCURRENCE (MM/DD/YYYY) 06/11/2008

LOCAL TIME (24 hr. clock) (HH:MM) 12:29

PLEASE FILL IN APPROPRIATE SPACES AND CHECK ALL ITEMS WHICH APPLY TO THIS EVENT OR SITUATION.

REPORTER

In what type of facility do you work? ■ Tower ☐ Approach ☐ Center ☐ FSS Facility ID KMEM

Describe your ATC qualifications. ■ FPL ☐ Developmental Time certified on position/sector: _____ yrs/mos

What is your ATC experience in years? radar 20.00 limited radar _____ non-radar _____ military 4.00 supervisor _____

What was your control position or activity during the occurrence? (Check all that apply for combined position)
☐ radar ☐ local ☐ arrival ■ clrnc delivery ☐ pre-flight ☐ supervisor
☐ hand-off ☐ ground ☐ departure ☐ coordinator ☐ in-flight ☐ monitor
☐ radar assoc ☐ assistant ☐ data ☐ manual ☐ flight watch other _____

Was instruction a factor? ☐ I was instructing ☐ I was receiving training ⊙ yes ○ no

Do you have pilot experience? ○ no ⊙ yes, 80.00 hours ☐ instrument rated

AIRSPACE

☐ Class A (PCA)
■ Class B (TCA)
☐ Class C (ARSA)
☐ Class D (Control Zone/ATA)
☐ Class E (General Controlled)
☐ Class G (Uncontrolled)
☐ Special Use Airspace
☐ airway/route _____
☐ unknown/other _____

WEATHER

■ VMC ☐ ice
☐ IMC ☐ snow
☐ mixed ☐ turbulence
☐ marginal ☐ thunderstorm
☐ rain ☐ windshear
☐ fog ☐ _____

LIGHT/VISIBILITY

■ daylight ☐ night
☐ dawn ☐ dusk
ceiling _____ feet
visibility _____ miles
RVR _____ feet

	AIRCRAFT 1	AIRCRAFT 2
Type of Aircraft	(Make/Model) CRJ2	(Make/Model) E145
Operator	☐ air carrier ☐ military ☐ corporate ■ commuter ☐ private ☐ other _____	☐ air carrier ☐ military ☐ corporate ■ commuter ☐ private ☐ other _____
Mission	■ passenger ☐ training ☐ business ☐ cargo ☐ pleasure ☐ unk/other _____	■ passenger ☐ training ☐ business ☐ cargo ☐ pleasure ☐ unk/other _____
Flight plan	☐ VFR ☐ SVFR ☐ none ■ IFR ☐ DVFR ☐ unknown	☐ VFR ☐ SVFR ☐ none ■ IFR ☐ DVFR ☐ unknown
Flight phases at time of occurrence	☐ taxi ☐ cruise ■ landing ☐ takeoff ☐ descent ■ missed apch/GAR ☐ climb ☐ approach ☐ other _____	☐ taxi ☐ cruise ■ landing ☐ takeoff ☐ descent ☐ missed apch/GAR ☐ climb ■ approach ☐ other _____
Control status	■ visual apch ☐ on vector ☐ on SID/STAR ☐ controlled ☐ none ☐ unknown ☐ no radio ☐ radar advisories	■ visual apch ☐ on vector ☐ on SID/STAR ☐ controlled ☐ none ☐ unknown ☐ no radio ☐ radar advisories

If more than two aircraft were involved, please describe the additional aircraft in the "Describe Event/Situation" section.

LOCATION

Altitude Unknown ☐ MSL ☐ AGL
Distance and radial from airport, NAVAID, or other fix
Happened on the airport at KMEM
Nearest City/State Memphis, TN

CONFLICTS

Estimated miss distance in feet: horiz _____ vert _____
Was evasive action taken? ⊙ Yes ○ No
Was TCAS a factor? ○ Yes ⊙ No
Did Conflict Alert Activate? ○ Yes ⊙ No

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA has established an Aviation Safety Reporting System (ASRS) to identify issues in the aviation system which need to be addressed. The program of which this system is a part is described in detail in FAA Advisory Circular 00-46D and FAA Handbook 7210.3. Your assistance in informing us about such issues is essential to the success of the program. Please fill out this form as completely as possible, enclose in an sealed envelope, affix proper postage, and and send it directly to us.

The information you provide on the identity strip will be used only if NASA determines that it is necessary to contact you for further information. THIS IDENTITY STRIP WILL BE RETURNED DIRECTLY TO YOU. The return of the identity strip assures your anonymity.

AVIATION SAFETY REPORTING SYSTEM

Section 91.25 of the Federal Aviation Regulations (14 CFR 91.25) prohibits reports filed with NASA from being used for FAA enforcement purposes. This report will not be made available to the FAA for civil penalty or certificate actions for violations of the Federal Air Regulations. Your identity strip, stamped by NASA, is proof that you have submitted a report to the Aviation Safety Reporting System. We can only return the strip to you, however, if you have provided a mailing address. Equally important, we can often obtain additional useful information if our safety analysts can talk with you directly by telephone. For this reason, we have requested telephone numbers where we may reach you.

Thank you for your contribution to aviation safety.

NOTE: AIRCRAFT ACCIDENTS SHOULD NOT BE REPORTED ON THIS FORM. SUCH EVENTS SHOULD BE FILED WITH THE NATIONAL TRANSPORTATION SAFETY BOARD AS REQUIRED BY NTSB Regulation 830.5 (49CFR830.5).

If you want to mail this form, please fold both pages (and additional pages if required), enclose in a sealed, stamped envelope, and mail to:

NASA AVIATION SAFETY REPORTING SYSTEM
POST OFFICE BOX 189
MOFFETT FIELD, CALIFORNIA 94035-0189

If you wish to submit online, click the **Submit** button at the bottom of page 2 or 3 when complete.

DESCRIBE EVENT/SITUATION

Keeping in mind the topics shown below, discuss those which you feel are relevant and anything else you think is important. Include what you believe really caused the problem, and what can be done to prevent a recurrence, or correct the situation. (USE ADDITIONAL PAPER IF NEEDED)

At approximately 12:29 CST on Wednesday June 11, 2008 I observed a go-around incident at the Memphis International Airport. This incident is just one of many unsafe practices that I have previously disclosed to NASA, the NTSB, FAA Safety, FAA Oversight, the Department of Transportation Office of the Inspector General (DOT/OIG), and the United States Office of Special Counsel.

This incident is similar to a go-around incident that I reported to NASA in early 2007. An investigation of that incident resulted in Simultaneous Independent Approaches to RWY 18L, 18C, and RWY 27 to be halted. The operation was deemed to be illegal and unsafe by FAA Oversight.

It was the noon inbound, consisting mostly of aircraft flown by Northwest and Mesaba Airlines, with a few Continental Jet-Link and Delta Connection aircraft. Memphis was in a "South Configuration", landing on RWY 18L, 18R and RWY 27. Converging Runway Display Aid (CRDA) procedures were in use. The wind was out of the southeast, 160 at 7, a quartering tailwind.

Matt Horner (just certified on LC1, LC2, and LC3 yesterday) was working the LC3 position, and he was responsible for all aircraft landing on RWY 27. Mark Gries was working the LC2 position, responsible for all aircraft landing and departing RWY 18L and 18C. Mike Walker was working the LC1 position, responsible for all aircraft landing and departing RWY 18R.

MES2726, a SF34, checked-in on approach to RWY 27. Mesaba aircraft generally want to "roll to the end" of RWY 27 because it is convenient for them to taxi to the Alpha Gates. While I'm not completely certain, I believe that I heard Horner approve a long landing with a roll to the end.

There was another aircraft on approach to RWY 18L, but I do not recall the type or callsign. This aircraft was number one in the CRDA sequence, with the next RWY 27 arrival to cross the RWY 27 threshold after this aircraft flew over the RWY 27 centerline while on approach to land on RWY 18L.

Click here to securely submit to NASA

DESCRIBE EVENT/SITUATION, continued...

FLG5962, a CRJ was following MES2726 to RWY 27. I looked out the window and saw MES2726 roll past Taxiway CHARLIE. FLG5962 was on short final to RWY 27. I yelled out "He's not gonna make it!", meaning that MES2726 would never clear the end of RWY 27 at Taxiway NOVEMBER.

Jay Short was the Supervisor-in-Charge of the Tower, and he told Horner to send FLG5962 around. Horner issued go-around instructions, but I did not hear exactly what he said. The FLG5962 was over or past the numbers of RWY 27, and MES2726 was still on RWY 27 when these instructions were issued.

FLG5962 stayed very low, I estimate 10-20 feet off of RWY 27, and flew down the entire length of the runway at this low altitude. I heard someone tell Horner about traffic on approach to RWY 18R, and I believe that Horner then issued this traffic to FLG5962.

Mike Walker then issued go-around instructions to BTA2249, an Embrair Jet on approach to RWY 18R, and this aircraft started an immediate climb-out after abandoning the approach.

It appeared that the FLG5962 flew through the RWY 18R centerline just prior to BTA2249 overflying the departure centerline of RWY 29.

The FAA says that CRDA is a safe procedure and operation for use at MEM, but I disagree. When you combine a quartering tailwind such as we had today... mixed aircraft types with different approach speeds... multiple runways... multiple flight paths... different go-around and climb-out performance characteristics... training on nearly every position in the Tower and TRACON... and inexperienced Controllers working complex sectors and operations -- AN ACCIDENT IS GOING TO HAPPEN!

Thank You!

Your report has been securely submitted to the NASA Aviation Safety Reporting System (ASRS). No identifying information will be kept in our system after our review. Your ID Strip (top of page 1) will be printed, date stamped, and mailed back to you at the address you have provided. When this ID strip is removed, your name has been removed from our system and your report is being processed.

Your verification code is F9740F07DC17A77EBA9F3E9F30233E42830E0872.

This is simply a number that indicates that we have received your report electronically. This number is not linked to your report.

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ASRS Reporting Forms

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Freedom of Information Act (FOIA)
FOIA Request Form

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Please review and submit the information you entered. You will have an opportunity to print your request after you submit your FOIA.

15 S. Auburndale St.
Memphis, TN 38104

July 15, 2008

Dear FOIA Coordinator:

This is a request under the Freedom of Information Act.

I request that a copy of the following documents (or documents containing the following information) be provided to me:

During the month of June or July 2008, a runway incursion occurred at the Memphis International Airport. This incursion occurred when an airport vehicle operator crossed RWY 36C and RWY 36R without proper and complete coordination as prescribed by current FAA Orders and Procedures. It is my understanding that the airport vehicle operator requested to go from point A to point B on the Memphis International Airport, and that the Air Traffic Controller said (paraphrased) "... proceed as requested, give-way to all aircraft". It is also my understanding that the Ground Controller never requested permission to cross either runway, and that the Local Controller never granted permission to cross either runway. The airport vehicle operator is reported to have waited for one aircraft to land before crossing one runway, and then waiting for another aircraft to depart before crossing the second runway. I am requesting the following documents/information under the United States Freedom of Information Act: - Copies of all Controller statements associated with this incident. - Copies of all investigative reports, documents, and notes associated with this incident. - Copies of any and all Operational Error or Operational Deviation reports associated with this incident. - Copies of any and all Runway Incursion reports associated with this incident. - Copies of any and all Surface Deviation reports associated with this incident. - Copies of any and all documents directly relating to this incident that are not specifically mentioned in this request. - Copies of any and all remedial action, remedial training, skill enhancement training, Opportunity to Demonstrate Acceptable Proficiency (ODAP) Plan, or any other training or corrective action given by the FAA to the individual(s) involved in this incident. - Copies of any and all FAA correspondence to/from the airport vehicle operator's employer associated with this incident.

In order to determine my status to assess fees, you should know that my fee category is: an individual seeking records for personal use and not for profit.

The maximum dollar amount I am willing to pay for this request is $100.00. Please notify me if the fees will exceed $25.00 or the maximum dollar amount I entered.

Thank you for your consideration of this request.

Sincerely,

Mr. Peter Nesbitt

Phone: 901-634-3957
Fax: 901-634-3957
Email: consumer_junk@mac.com

Updated: 10:57 am ET June 11, 2008

U.S. Department of Transportation
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591
1-866-TELL-FAA (1-866-835-5322)

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Federal Aviation Administration

Freedom of Information Act (FOIA)
FOIA Request Form

Thank you, Peter D. Nesbitt.

Your Freedom of Information Act Request has been sent.

Below is the FOIA Request you just submitted

15 S. Auburndale St.
Memphis, TN 38104

July 21, 2008

Dear FOIA Coordinator:

This is a request under the Freedom of Information Act.

I request that a copy of the following documents (or documents containing the following information) be provided to me:

On July 6, 2008 at approximately 16:44 CST, N331CC, a MO20, deviated from Taxiway SIERRA and crossed the RWY 36C hold-short line as a FDX Heavy Jet was entering RWY 36 in preparation for departure. This was possibly a pilot deviation by N331CC, runway incursion, or Controller error. I am requesting the following documents and information under the United States Freedom of Information Act: - Copies of all Controller statements associated with this incident. - Copies of all investigative reports, documents, email, and notes associated with this incident. - Copies of any and all Operational Error or Operational Deviation reports associated with this incident -- Preliminary and Final Reports. - Copies of any and all Runway Incursion reports associated with this incident -- Preliminary and Final Reports. - Copies of any and all Surface Deviation reports associated with this incident -- Preliminary and Final Reports. - Copies of any and all documents directly relating to this incident that are not specifically mentioned in this request. - Copies of any and all remedial action, remedial training, skill enhancement training, Opportunity to Demonstrate Acceptable Proficiency (ODAP) Plan, or any other training or corrective action given by the FAA to the individual(s) involved in this incident. - Copies of any and all FAA correspondence to/from the pilot and/or aircraft owner/operator associated with this incident. I am an individual seeking records for personal use and

not for profit. Please notify me if my request will exceed $100.00. Thank You, Peter D. Nesbitt consumer_junk@mac.com 15 S. Auburndale St. Memphis, TN 38104 901-634-3957

In order to determine my status to assess fees, you should know that my fee category is: an individual seeking records for personal use and not for profit.

The maximum dollar amount I am willing to pay for this request is $100.00. Please notify me if the fees will exceed $25.00 or the maximum dollar amount I entered.

Thank you for your consideration of this request.

Sincerely,

Peter D. Nesbitt

Phone: 901-634-3957
Email: consumer_junk@mac.com

Updated: 10:57 am ET June 11, 2008

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Freedom of Information Act (FOIA)
FOIA Request Form

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Please review and submit the information you entered. You will have an opportunity to print your request after you submit your FOIA.

15 S. Auburndale St.
Memphis, TN 38104

July 27, 2008

Federal Aviation Administration
Southern Region FOIA Coordinator, ASO-31
P.O. Box 20636
Atlanta, GA 30320

Dear FOIA Coordinator:

This is a request under the Freedom of Information Act.

I request that a copy of the following documents (or documents containing the following information) be provided to me:

On March 19, 2008, numerous aircraft were issued "break-out" instructions while on approach to the Memphis International Airport. These break-out's were allegedly due to "compression", the use of the QYB radar, other traffic, or other factors. I would like to know if there was a loss of separation involving any of the following aircraft: 08:25Z FDX1250 RWY 36L 08:29Z FDX1271 RWY 36L 08:44Z FDX1305 RWY 36R 08:50Z FDX90 RWY 36L 13:29Z FLG5955 RWY 36L 13:34Z FLG5717 RWY 36R 14:24Z NWA864 RWY 36L 14:38Z FDX808 RWY 36L 16:40Z NWA1743 and FLG5968 I am requesting the following documents and information under the United States Freedom of Information Act (FOIA): - An official signed copy of the Memphis Daily Record of Facility Operation (DRFO) for March 19, 2008. - Copies of all Memphis Quality Assurance Reports (QAR) relating to the Q-entries for the aircraft listed above. - Copies of any Controller statements associated with these incidents. - Copies of any investigative reports, documents, and notes associated with this incident. - Copies of any Operational Error or Operational Deviation reports associated with these incidents -- Preliminary and Final Reports. - Copies of any remedial action, remedial training, skill enhancement training, Opportunity to Demonstrate Acceptable Proficiency (ODAP) Plan, or any other training or corrective action given by the FAA to the individual(s) involved in this incident.

In order to determine my status to assess fees, you should know that my fee category is: an individual seeking records for personal use and not for profit.

The maximum dollar amount I am willing to pay for this request is $100.00. Please notify me if the fees will exceed $25.00 or the maximum dollar amount I entered.

Thank you for your consideration of this request.

Sincerely,

Peter Nesbitt

Phone: 901-634-3957
Email: mem_atc@mac.com

Updated: 10:57 am ET June 11, 2008

21

From: Peter Nesbitt <blues_healer@me.com>
Subject: **Simultaneous Independent Operations at Memphis**
Date: October 17, 2008 8:10:54 AM CDT
To: Tony Ferrante <anthony.ferrante@faa.gov>
Bcc: PETER NESBITT <blues_healer@me.com>

Mr. Ferrante,

This email will serve to further document and prove that the FAA is endangering the flying public with Simultaneous Independent Approaches to RWY 18L and 27 at MEM, and that MEM FAA Management is allowing Heavy Jets to be sequenced to RWY 27 with other traffic on approach to RWY 18L.

On or about April 2, 2007, you signed an FAA Memorandum ordering MEM Tower to immediately cease Simultaneous Independent Approaches to RWY 18L, 18C, and RWY 27 at the Memphis International Airport.

On or about May 23, 2007, Memphis Air Traffic Manager Bill Wertz signed FAA Notice 7110.133 which defined CRDA procedures to be used at MEM. This FAA Notice has since been incorporated into the Local MEM Tower 7110.65.

On or about July 17, 2007, Mr. Wertz signed FAA Notice 7110.139 defining which aircraft are allowed to operate on RWY 27 during CRDA operations. This FAA Notice does not a allow or grant approval for Heavy Jet operations to RWY 27 under CRDA procedures.

These FAA Directives, Notices, and Procedures are not being followed or enforced by MEM FAA Management, and I felt that you should know that a problem still exists here.

On the morning of October 15, 2008 I observed FDX233, a H/DC10 on approach to RWY 27. FDX819, a B727, was on approach to RWY 18L at the same moment. All of the Controllers in the Tower questioned this sequence, and there was much discussion in the Tower. Someone had taken "CRDA" out of the STARS System Information Area -- indicating that CRDA was not in use. CRDA had been turned off in the Tower Cab -- so ghost targets were not available for use by the Local Controller. CRDA was still being advertised on the ATIS, so any pilot flying into Memphis would expect CRDA procedures to be in use.

FAA Safety and FAA Oversight have previously banned the use of Simultaneous Independent Approaches to RWY 18L, 18C and 27. Current procedures and practices

at Memphis do not allow for Heavy Jets to be sequenced to RWY 27 when other traffic is on approach to RWY 18L or 18C. Regardless of the recent history surrounding RWY 18L, 18C, and 27 -- Memphis FAA has NEVER condoned or allowed Heavy Jets on RWY 27 with other traffic on approach to RWY 18L or 18C. The only time that a Heavy Jet may be sequenced to RWY 27 in a South Configuration, is when there are no potential traffic conflicts with other traffic on approach to RWY 18L or 18C.

FDX233 arrived at the airport first, and just as this aircraft rolled past Taxiway CHARLIE -- FDX819 overflew RWY 27 on approach to land on RWY 18L. If FDX233 had executed a go-around or missed approach from RWY 27, a serious conflict would have immediately resulted. FDX233 would have been instructed to "stay low" in order to avoid FDX819, and FDX819 would have been issued immediate go-around instructions. If FDX233 somehow managed to climb above FDX819 -- the B727 would have been subjected to the dangerous effects of wake turbulence.

This is not the first time that this has happened. On the morning of July 2, 2008 MEM FAA Management allowed FDX645, a H/DC10, to be sequenced to RWY 27 while FDX423, a H/A310, was on approach to RWY 18L.

I hope that you will look into this matter as soon as possible.

Sincerely,

Peter D. Nesbitt
Air Traffic Controller
Memphis Tower/TRACON
15 S. Auburndale St.
Memphis, TN 38104
901-634-3957 cell
901-672-7531 home

From: Peter Nesbitt <blues_healer@me.com>
Subject: **Memphis: Misapplication of CRDA procedures result in the non-report of a Procedural Error**
Date: November 18, 2008 5:42:25 PM CST
To: Erika Vincent <erika.vincent@oig.dot.gov>
Bcc: PETER NESBITT <blues_healer@me.com>

Begin forwarded message:

From: Peter Nesbitt <blues_healer@mac.com>
Date: July 8, 2008 10:51:09 AM CDT
To: Tracy Biggs <tbiggs@osc.gov>
Cc: Karen Gorman <kgorman@osc.gov>, Christopher Tall <ctall@osc.gov>, Wells Werden <wwerden@osc.gov>, Patricia Crotwell <pcrotwell@braun-crotwell.com>
Subject: Nesbitt: Misapplication of CRDA procedures result in the non-report of a Procedural Error

Tracy,

This email will serve to further document the continued misapplication of CRDA procedures at the Memphis Tower/TRACON. This email will inform the OSC of a Procedural Error that was allowed to occur -- and not reported. And finally, this email will show that Memphis FAA Management continues to be inconsistent with the application and enforcement of rules and procedures amongst the Controller workforce.

At approximately 07:50 on the morning of July 8, 2008, I observed NWA954, an A320, on approach to RWY 27. FDX426, a H/A310 was on approach to RWY 18L, sequenced fast and close behind a CRJ. Visual Approaches and CRDA procedures were in use at the time. The weather was VFR.

The spacing with FDX426 and the preceding CRJ on approach to RWY 18L was considered to be "tight", and the LC2 Controller was discussing this spacing issue with her trainee. Everyone in the Tower Cab was watching as this situation developed, and it was apparent when both aircraft were 5+ miles from the airport that the CRDA sequence was going to be very tight.

The spacing between FDX426 and the preceding CRJ decreased to less than 4 miles, which is in violation of Memphis procedures relating to CRDA, but not a loss of standard IFR separation. The RWY 27 traffic was fast, and was observed over or

inside of the ghost target.

The RWY 27 traffic (NWA954) beat the RWY 18L traffic (FDX426) to the airport and landed first. At this point, FDX426 should have been issued go-around instructions due to the traffic landing and rolling-out on RWY 27. The LC2 Controller and her trainee turned to the Tower Cab Supervisor and said, *"Al... it's your call"*, indicating that they were deferring to the Supervisor regarding the issuance go-around instructions.

I did not hear what the Supervisor said, but FDX426 was allowed to land on RWY 18L while NWA954 was rolling-out on RWY 27 -- in direct violation of FAA Order 7110.65 regarding intersecting runway operations, and in violation of Memphis CRDA procedures.

Once the situation was over, everyone joked that about it: *"That's about as close as you want to get... FDX didn't overfly NWA... NWA was past the intersection..."*, and other related comments which would lead one to believe that this was a legal operation -- it was NOT.

CONCERNS:

1) CRDA procedures at Memphis continue to be used incorrectly.
2) NWA954 beat FDX426 to the airport. A go-around by NWA954 would have directly conflicted with FDX426.
3) New and impressionable Controllers are witnessing the flagrant disregard of rules and procedures, laying the groundwork for them to do the same once certified.

I have been decertified for not ensuring separation while working the Final Monitor position. I have been counseled and accused of insubordination for running aircraft too tight while working the Final West position. I have been decertified for rescinding a previously issued runway crossing approval when the crossing clearance was never issued.

Please consider this email as part of my continued disclosures to the OSC regarding safety and whistleblower retaliation at the Memphis Tower/TRACON.

Peter D. Nesbitt

23

From: Peter Nesbitt <blues_healer@me.com>
Subject: **Memphis: CRDA events for 12/02/08**
Date: December 2, 2008 12:54:11 PM CST
To: Erika Vincent <erika.vincent@oig.dot.gov>
Bcc: PETER NESBITT <blues_healer@me.com>

Erika,

While working Clearance Delivery in the Tower this morning, I observed the following CRDA "events" which are representative of the manner in which CRDA software and procedures are utilized at Memphis Tower/TRACON:

EVENT #1 (RWY 18L go-around due misapplication of CRDA procedures)
TIME: 07:34 local time
AIRCRAFT: FLG2629 (Flagship) and NWA1563 (Northwest)
SITUATION: FLG2629, a CRJ2, was on a Visual Approach to RWY 27. NWA1563, a DC9, was on a Visual Approach to RWY 18L. When FLG2629 checked-in on the Local Control 3 (LC3) frequency, the aircraft was over or slightly in front of the ghost target corresponding to NWA1563. The LC3 Controller relayed his speed and spacing concerns to the Local Control 2 (LC2) Controller, and he then asked FLG2629 if the aircraft was at it's *final approach speed*. When the pilot confirmed this fact, the LC3 Controller then instructed FLG2629 to make "s-turns" in order to make the CRDA sequence work. Both aircraft were within 5 flying miles from the airport when this sequence of events started, and when it became apparent that a tie would result -- NWA1563 was issued go-around instructions.
COMMENTS: This is an example where the speed and spacing of the RWY 27 traffic in relation to the ghost target were not adequate for the situation. Whether it was Controller technique, pilot abilities, or winds aloft -- the RWY 27 aircraft was not able to remain *behind* the ghost target. The RWY 27 aircraft was told to make *s-turns* within 5 flying miles of the airport, and most pilots are unwilling or unable to due this due to company policy or due to the aircraft flying at a very *slow* speed -- which affect maneuverability as the aircraft descends for landing. Finally, most company policies mandate that the crew and aircraft be on a *stabilized* approach at a point that is generally five flying miles from the airport. This means flaps set... gear set... speed set... landing checklist complete -- and *not making s-turns.*

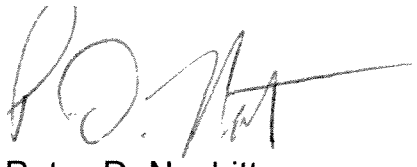
EVENT #2 (CRDA sequence continued under a tie situation)
TIME: 08:29 local time
AIRCRAFT: BKA303 (BankAir) and RPA3135 (Brickyard)
SITUATION: BKA303, an MU2, was on a Visual Approach to RWY 27. This is an an

aircraft that flies into Memphis every day. Controllers recognize the pilot's voice, and the pilot is very familiar with the local operation. Controllers have grown accustomed to this particular aircraft's operating characteristics, but it is really the pilot exhibiting tremendous skill and finesse while flying this aircraft. RPA3135, an E170, was on a Visual Approach to RWY 18L. The sequence was such that BKA303 arrived at the airport *first*, when CRDA procedures are created so that the RWY 18L traffic overflies RWY 27 -- then the RWY 27 traffic crosses the RWY 27 threshold to land. When it became apparent that a tie would result, the LC2 Controller asked the Supervisor if he should issue go-around instructions to RPA3135, and the Supervisor said no.
COMMENTS: If BKA303 had executed a go-around for any reason, a conflict would have resulted, and RPA3135 would have received mandatory go-around instructions to avoid BKA303. This is a class example of the RWY 27 traffic arriving at the airport *first*, and then Controllers and Supervisors offer *justifications* for not issuing go-around instructions to the RWY 18L traffic. Some of these justifications include: 1) the RWY 27 traffic was told to *stop* on the runway, 2) the RWY 27 traffic was told on final approach to turn left at taxiway Yankee, or 3) the Controllers involved simply don't believe that the traffic is a *factor*. All of these justifications are illegal according to current FAA Orders and Procedures relating to CRDA at Memphis. After this incident occurred today, there was much discussion regarding what was *legal* and *not-legal*. Nearly every Controller in the Tower Cab had a differing opinion regarding their responsibilities in this situation.

These are what I call *Classic CRDA Situations*, and examples of the above situations are scattered throughout many of the documents that I sent to you via email -- and I have other examples contained within my timeline.

When it *suddenly* becomes obvious that the CRDA sequence is not going to work, Controllers and Supervisors will go through a number of steps or rationalizations in an effort to avoid a go-around: 1) tell the RWY 18L traffic to go *fast* while it is inside of five miles and on approach to land, 2) tell the RWY 27 traffic to *reduce* it's speed further, 3) tell the RWY 27 traffic to make s-turns inside of five miles, 4) tell the RWY 27 traffic to *plan to hold short of taxiway yankee*, 5) tell the RWY 27 traffic to *plan to exit at taxiway yankee*, 6) tell the RWY 27 traffic to *expedite past taxiway charlie*, or 7) simply let the aircraft land and say that the traffic was *never a factor*.

Thank you,



Peter D. Nesbitt

From: Peter Nesbitt <blues_healer@me.com>
Subject: **Memphis: CRDA events for 12/03/08**
Date: December 3, 2008 3:12:04 PM CST
To: Erika Vincent <erika.vincent@oig.dot.gov>
Bcc: PETER NESBITT <blues_healer@me.com>

Erika,

While working Clearance Delivery in the Tower Cab today, I observed the following events which will serve as further examples of how CRDA procedures are inappropriately used at Memphis Tower/TRACON:

EVENT: Inadequate spacing on RWY 18L while using CRDA procedures.
TIME: 08:05 Central Time
AIRCRAFT: FLG2294 (Flagship), FDX407 (Fedex), and FLG2839.
SITUATION: FLG2294, a CRJ2, was sequenced #1 on approach to RWY 18L. FDX407, a H/A310, was sequenced #2 behind FLG2294 on approach to RWY 18L. FLG2839, a CRJ2, was sequenced to RWY 27 under CRDA procedures, and should have been over or within 1 mile of the ghost target associated with FLG2294 when the ghost target was within two miles of the airport. Local procedures outline speed and spacing requirements for the Final Controllers, but due to the strong headwind today -- this spacing decreased to 3.3 miles as FLG2294 and FDX407 neared the airport. This decreased spacing forced the LC2 and LC3 Controllers to focus almost entirely on these three aircraft, hoping that FLG2839 would not force a go-around. The wind was 170/12.
COMMENTS: When the spacing on RWY 18L arrivals decreases to less than four miles, it makes the job of the RWY 27 Final Controller very difficult. The RWY 27 Controller is responsible for matching the associated ground speed of the ghost target, and is also responsible for keeping the RWY 27 traffic over or within one mile of the ghost target. I was working the RWY 18L Final one day earlier this year, when a Supervisor named Herb Brown ordered me to *"tighten up the final"*. I was running a loose final to compensate for the headwind component, and to help the RWY 27 Final Controller. When I started running my aircraft 4 miles apart, the Tower started issuing go-around instructions due to the fact that the RWY 27 Controller was unable to maintain the required spacing with his aircraft. Some Controllers will instruct RWY 18L aircraft to "follow" each other. This does nothing to ensure that the spacing will remain constant on the RWY 18L Final Approach Course, and often results in a go-around.

EVENT: Inadequate spacing on RWY 18L while using CRDA procedures.
TIME: 08:20 Central Time

AIRCRAFT: FLG5840, CPZ1981 (Compass), and BKA303 (BankAir)
SITUATION: FLG5840, a CRJ2, was sequenced #1 for RWY 18L. CPZ1981, a CRJ, was sequenced behind FLG5840, and was #2 for RWY 18L. BKA303, an MU2, was sequenced and spaced to RWY 27, and should have been over or behind the ghost target associated with FLG5840. BKA303 appeared to be fast, and the LC3 Controller instructed this aircraft to slow. This speed reduction caused BKA303 to arrive at the airport *in the back of the gap*, and this aircraft was rolling-out as CPZ1981 flew over RWY 27 while on approach to land on RWY 18L. Had BKA303 executed a missed approach or go-around for any reason, a conflict would have immediately resulted between BKA303 and CPZ1981.
COMMENTS: The stated purpose of CRDA is to protect aircraft in the event of a go-around. This means that *any* aircraft executing a go-around or missed approach from RWY 27 *will not* conflict with a RWY 18L or 18C arrival. The *stagger spacing* between these aircraft means that the RWY 27 go-around aircraft will *pass behind* any aircraft on approach to RWY 18L or 18C. When the RWY 27 aircraft is vectored so that it is in the middle or *back of the gap* -- a problem immediately exists. If the aircraft in the middle or *back of the gap* executes a missed approach or go-around, that aircraft is then *in front* the next arrival for RWY 18L or 18C. This situation has grown to such an extent, that Controllers and Supervisors now fail to understand the intent of CRDA -- *to provide a clear missed-approach path in the event of a RWY 27 go-around.*

EVENT: Commuter aircraft forced to make *s-turns* in close proximity to the airport.
TIME: 12:55
AIRCRAFT: MES2752 (Mesaba) and FLG2277
SITUATION: FLG2277, a CRJ2, was sequenced #1 for RWY 18L. MES2752, a SF34, was sequenced and spaced to RWY 27, and should have been over or behind the ghost target associated with FLG2277. MES2752 did not check-in on the LC3 frequency until the aircraft was well within Tower's airspace. I believe the LC3 Controller inquired with the pilot about his/her airspeed, and then immediately instructed the MES2752 to make an *"s-turn"*. The LC3 Controller then told the LC2 Controller what her aircraft was doing, and that LC2 needed to be prepared to send his aircraft around. I looked out the window and observed MES2752 making s-turns on final... close to the airport... all in an effort to save the CRDA sequence. In the end, a tie resulted, and FLG2277 was issued go-around instructions.
COMMENTS: This happens often. The RWY 27 traffic is over or just behind the ghost target, but there is a significant speed difference between the RWY 27 traffic and RWY 18L traffic. This speed difference is often due to headwind on RWY 18L; tailwind on RWY 27; aircraft types; or pilot technique. The LC3 Controller is then stuck with *fixing* this problem, and the *techniques* used by Memphis Controllers are to 1) ask the RWY 27 traffic to make s-turns when the aircraft is descending to land, 2) ask the RWY 27 traffic to reduce to it's minimum airspeed, or 3) obtain some type of acknowledgement

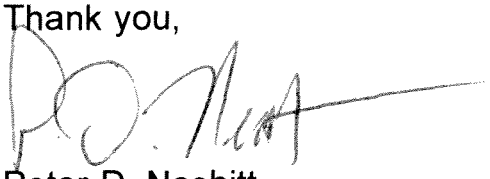
from the RWY 27 traffic that it will land and hold short of a particular taxiway, or 4) simply tell the airborne aircraft to turn left at a taxiway prior to the aircraft landing.

EVENT: RWY 18L go-around due to CRDA sequence.
TIME: 13:02 Central Time
AIRCRAFT: FLG2204 and FLG2254
SITUATION: FLG2254 was sequenced #1 to RWY 18L. FLG2204 was sequenced to RWY 27, and was supposed to be over or behind the ghost target associated with FLG2254. I believe that the LC3 Controller issued additional speed reductions to FLG2204, but the position of this aircraft appeared to place it in front of the ghost target. In the event of a tie between RWY 18L and RWY 27 traffic under CRDA procedures -- the RWY 18L traffic is supposed to be issued go-around instructions -- and FLG2254 was instructed by LC2 to go-around due to FLG2204 crossing the RWY 27 threshold prior to FLG2254 overflying RWY 27 while on approach to land on RWY 18L.
COMMENTS: This type of situation places Controllers in the position of watching a specific situation for an extended period of time. There are often multiple aircraft on the frequency, in the air, and on the ground -- all flying or taxiing in different directions. When a CRDA "situation" is developing, you will see Controllers sit and stare at their STARS radar displays trying determine if the situation is going to work or not. In the meantime, these same Controllers are not able to pay close attention to the other aircraft that require instructions or guidance.

EVENT: Cargo aircraft issued speed reduction inside of 5 miles.
TIME: 13:07
AIRCRAFT: FDX3605 and FLG2617
SITUATION: FLG2617, a CRJ2, was #1 for RWY 18L. FDX3605, a B727, had been sequenced to RWY 27, and was being spaced on the ghost target associated with FLG2617. As with the previous situations today, the ground speeds associated with these aircraft did not match. The B727 generally has a faster approach speed than a CRJ. The CRJ had a strong headwind, and this only added to the problem. The LC3 Controller was required to issued a speed reduction to FDX3605 in order to make CRDA work -- and the sequence just barely worked.
COMMENTS: The FAA has failed to take into account the normal and customary *final approach speeds* for various aircraft. These same aircraft are often able to fly a specific speed until the point where they join the *glideslope* and begin to descend, but at that time an additional speed adjustment is often made. Controllers who issue RWY 27 aircraft speed adjustments or s-turns are actually interfering with the flight crew during a critical phase of flight, and several pilots have been either *unable* or *unwilling* to make s-turns or additional speed adjustments.

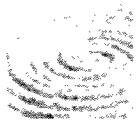
Please consider the above examples as additional proof that there are problems associated with CRDA software and procedures at Memphis Tower/TRACON. There are wide interpretations as to what is legal and what is not; Controllers are allowed (and encouraged) to issue speed reductions and s-turns to aircraft that are descending to land on RWY 27; Controllers are allowed to issue taxiway turn-off instructions to airborne aircraft, and this is almost the equivalent of *Land and Hold Short Operations (LAHSO)* -- which is not authorized at Memphis International Airport; aircraft are sequenced to RWY 27 with regard to aircraft type or approach speed; and the multiple go-around instances are certainly costing the airlines money during a financial crisis.

Thank you,



Peter D. Nesbitt
Air Traffic Controller
Memphis Tower/TRACON

From: Peter Nesbitt <blues_healer@me.com>
Subject: **Memphis: CRDA example for December 8, 2008**
Date: December 8, 2008 10:04:29 PM CST
To: Erika Vincent <erika.vincent@oig.dot.gov>
Bcc: PETER NESBITT <blues_healer@me.com>



Erika,

This morning while working Clearance Delivery (CD), I observed the following situations. These examples are not uncommon, and I see these happen on a regular basis. Here's what happened:

Morning inbound, VFR, South Configuration, landing on RWY 18L, 18R, and RWY 27, CRDA procedures in use.

I'm not certain if there were not enough people -- or if the Supervisor just made the decision -- but the Local Control 3 (LC3) position was not open. This was somewhat unusual, as LC3 is generally open whenever we run CRDA operations to RWY 27.

Training was in progress at the LC2 position, which also had LC3 combined to it.

The time was about 07:28 Central Time.

NWA289, an A320, was sequenced #1 for RWY 18L, and NWA957 was #2 for RWY 18L. FLG2294 was sequenced #1 for RWY 27, and was being spaced off of the ghost target that was generated by NWA289.

The wind was out of the SSE, and the wind indicators reported the wind as 170/08. The LC2 Controller was telling the trainee about the wind conditions... telling him to look at the different ground speeds on NWA289 -vs- FLG2294... and he explained how the headwind for RWY 18L caused the groundspeed to be slower, and the slight crosswind for RWY 27 had minimal impact on groundspeed. Early in this discussion, the LC2 Controller told the Supervisor and the trainee that this was a bad sequence, and that it probably would not work -- the RWY 27 traffic was indicating a higher groundspeed than the RWY 18L traffic.

As the two aircraft converged on their respective runways, it was obvious that a tie was going to result -- which would have required that NWA289 be issued go-around instructions. The LC2 Controller then instructed (or told the trainee to instruct) the pilot of FLG2294 to make s-turns for spacing. FLG2294 was approximately three miles from

the airport when this instruction was given, and the aircraft made at least two s-turns before rolling-out on final close-in to the airport with the required stagger spacing.

I have several concerns with this type of scenario:

1. The LC3 position was not open as it normally is when CRDA operations are in effect. I do not know if the Supervisor made this decision, or if there were not enough people to open the position -- but there should have been another Controller in the Tower to work the LC3 position. This operation is too busy and complex at times for one controller to work the many aircraft associated with RWY 18L, 18C, and RWY 27.

2. If one Controller is working LC2 and LC3 combined with a bad sequence that results in a tie... and the RWY 27 traffic executes a go-around for any reason -- the LC2 Controller would be responsible for issuing go-around instructions to the RWY 18L and RWY 27 traffic at the same time. Time is of the essence during these situations, and the LC3 Controller would add an extra margin of safety -- and an extra set of eyes. We need multiple Controllers to handle the go-around instructions for aircraft under CRDA procedures.

3. I have seen many aircraft issued speed reductions and/or s-turns in close proximity to the airport. Many times the pilot refuses; saying that he/she is unable to reduce speed further; or says that he/she is unable to make s-turns at that time. Pilots are often issued minimum speeds to maintain while on approach to RWY 27. Throw in the tailwind, and this makes it very difficult for the pilot to reduce his/her speed any further. S-turns present a more complex situation, as the pilot encounters a headwind -- then a tailwind, as he/she makes these s-turns and descends towards the airport. Many company policies prohibit such maneuvers, and the Daily Record of Facility Operation is filled with reports of aircraft executing go-around maneuvers due to an "unstable approach". S-turns on final to RWY 27 just to make a CRDA sequence "work" might be considered "unstable" by many pilots and/or company policies.

LC3 was then opened by another Controller at 07:40.

At 07:42 FLG2610, a CRJ2, was sequenced #1 for RWY 18L. N202EX, an F2TH, was sequenced #1 for RWY 27, and was spaced on the ghost target generated by FLG2610. I do not recall the call-sign of the aircraft that was #2 for RWY 18L, but the gap was fairly tight. N202EX was close to being in the middle of the gap, and was approximately 1.92 miles behind the ghost target when it dropped off of the STARS radar display.

Local procedures state that the RWY 27 traffic "should" be over or within one mile of

the ghost target when the ghost target is within two miles of the runway. Many times I see complete disregard for this *recommendation*, and the fact that this procedure reads as "should" -- only means that there is no standard for what is *required* -- and the separation is once again left up to the Controller to just "eyeball" and see if it will work or not.

If a Controller is "eyeballing" a sequence and not using strict CRDA procedures as they were originally designed, then the Controller (and the FAA Managers who are supposed to be Supervising the workforce) is running *Simultaneous Independent Approaches* to RWY 18L, 18C and 27 -- which Anthony Ferrante deemed to be unsafe and not in compliance with FAA Order 7110.65.

If an aircraft inbound to RWY 27 ends up in the *back of the gap* -- then a RWY 27 go-around would be in direct conflict with the next RWY 18L arrival.

At 07:48 FLG2621, a CRJ2, was sequenced to RWY 18L. MES2730, an SF34, was sequenced to RWY 27, and was spaced off of the ghost target generated by FLG2621. This was a good sequence, and there were no problems.

LC3 was then closed, and there were no more aircraft sequenced to RWY 27 during the morning inbound.

Thank you for reviewing this information.

Peter D. Nesbitt

From: Peter Nesbitt <blues_healer@me.com>
Subject: **Memphis: Simultaneous and Staggered Approaches on the morning of December 16, 2008**
Date: December 16, 2008 12:23:01 PM CST
To: Erika Vincent <erika.vincent@oig.dot.gov>
Bcc: "PETER D. NESBITT" <blues_healer@me.com>

Erika,

It was an interesting morning today during the NWA and FDX inbound due to traffic, weather, and numerous break-out aircraft. A "break-out" is when an aircraft is pulled off of the approach due to traffic, spacing, wake turbulence, or any other aspect which might affect the required spacing and/or safety of the aircraft. These are different from a "go-around", which normally occurs just prior to landing.

You might have AOV take a look at the *entire* morning inbound push from 07:00 until 10:00 -- it was a mess. The Tower FLM (Al Dunning) provided the TRACON FLM (Herb Brown) with suggestions for how the operation should be organized for the inbound, but his suggestions were not headed. Brown attempted to run approaches to RWY 36L, 36R, and RWY 09 with low a ceiling and reduced visibility. Dunning finally informed Brown that the Tower could not see both arrivals, therefor Visual Separation could not be provided between RWY 09 and any RWY 36L or 36R arrivals -- and more importantly in the event of a RWY 36L or 36R go-around.

The inbound push started in a North Configuration, utilizing RWY 36L, 36R Staggered Approaches, and RWY 09. At 07:20 FLG2623 was broke-out of the RWY 36L sequence due to a pending loss of stagger spacing with NWA1563 on approach to RWY 36R.

At 07:20 an unknown aircraft reported a 20 knot tailwind on final. The official weather was reporting reduced visibility, low ceilings, and freezing drizzle.

At 07:23, Dunning notified Brown that the Tower would no longer accept arrivals to RWY 09 due to the reduced visibility. While I could not hear the other end of the conversation, it appeared that Brown was giving Dunning a hard time. The lack of RWY 09 would cause the Flow Rate to be reduced, ultimately impacting airport capacity. Dunning hung-up the phone and told the Tower Cab personnel that he tried to explain all of this to Brown prior to the start of the inbound push, but Brown had ignored his advice.

All of today's communication between the TRACON FLM and the Tower FLM was conducted on an unrecorded line. There are times when this communication takes place on a recorded landline. It is my impression that the communication between the Tower and the TRACON is intentionally conducted on a non-recorded line so that no one will ever be privy to the daily decisions which affects Air Traffic Control in and around the Memphis International Airport.

At 07:26 stagger separation was lost between FLG2238 on approach to RWY 36L and FLG2276 on approach to RWY 36R. Due to the reduced visibility, neither aircraft could be seen from the Tower Cab, and Visual Separation could not be provided. These aircraft were allowed to continue on approach, and eventually landed on RWY 36L and 36R.

At 07:28 "Override Checks" were complete, and Simultaneous ILS Approaches to RWY 36L and 36R were initiated. These means that there were two Final Monitors in the TRACON who were "monitoring" the approaches, and these Controllers have "override" capability on the Local Control frequencies to issue corrections and/or break-out instructions if necessary.

Throughout the entire push, numerous aircraft were vectored to join the Localizer at the "step-down" fix. FAA Order 7110.65 requires one mile of level flight prior to joining the glideslope, and many aircraft were not placed in a position where this could happen. Several aircraft from the east overshot the RWY 36R localizer, and the Final Monitor was required to provide corrective vectors to avoid a conflict with traffic on approach to RWY 36L.

At 08:46 N324BG, an HS25 on approach to RWY 36R was issued break-out instructions due to compression. At the same time, NWA448N was issued break-out instructions due to compression.

At 09:00 N375BZ was issued break-out instructions due to compression.

At 09:38 FDX474 was issued break-out instructions due to a pending loss of stagger separation. The LC2 Controller issued break-out instructions at 2.03 miles -- mere seconds before separation would have been lost. Brown called the Tower Cab to complain to Dunning, and told Dunning that we could use 1.75 miles for stagger spacing. FAA Order 7110.65 clearly states that the required stagger spacing between RWY 36L and 36R is 2.0 miles. I overheard Dunning tell Brown that he would not wait until the very last moment to break-out an aircraft, and that he would not wait until it was too late. It was my impression that Brown was trying to coerce Dunning into allowing some of the "close calls" to simply land.

I was previously accused by Memphis FAA Management of being "reckless" when I ran a Final Approach sequence such as this, but other Controllers are considered to be "excellent" Controllers when they run a tight final. My "reckless" incident was used against me to create and document "performance issues" which were subsequently used to decertify me in the Tower and the TRACON -- acts which I have alleged to be retaliation by the FAA against me for making safety disclosures.

It is important to note that Herb Brown is a Memphis FLM who has been named in my OSC complaint (and Geoff Weiss's OSC complaint) as an individual who is notorious for saying *"Let 'em land"* or *"I have them in sight"*. Mr. Brown has a reputation for allowing separation to decrease to less than the required minimum, and this is an example of Brown encouraging Dunning to do the same.

At 09:40 FDX869 was issued break-out instructions while on approach to RWY 36L.

At 09:45 FDX850 was issued break-out instructions while on approach to RWY 36L

At 09:51 EJM71 reported a tailwind of 213/29 at 3,000 while on approach. These types of tailwind pilot reports (PIREPS) were received throughout the morning, and everyone was aware of the tailwind issue which affected spacing. Dunning informed the TRACON of the tailwind.

I took two breaks during the inbound push this morning, so there may have been other break-out examples that are not documented in this email. All of these break-out aircraft should be listed on the Daily Record of Facility Operation, and each incident should be noted with a "Q" -- Quality Assurance Review. A complete review of the STARS replay would provide further proof and/or examples.

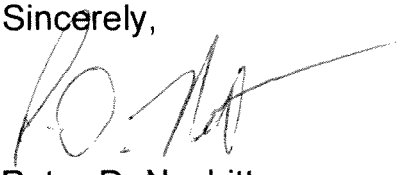
As of 11:00 this morning, NONE of the break-out incidents had been entered into the Daily Record of Facility Operation (DRFO). As of noon today, there were only two entries. The DRFO indicates the following: *"Q 15:46 BREAK OUT. RWY 36L. FDX869. DC10"*, and *"Q 17:45 BREAK OUT RWY 36L. FLG2623. CRJ2."* These entries were made by Memphis Front Line Manager Herb Brown. The time entries associated with these entries are in "Zulu Time", however I always convert the times to "Local Time" for all correspondence to you. The actual go around time for FLG2623 was 07:15 or 13:15Z, and the DRFO does not reflect an accurate go-around time for this incident.

As I previously stated to you via email, I am reluctant to bring any of these incidents to the attention of Memphis FAA Management due to their previous acts of retaliation

against me. It is my impression that Memphis FAA Management is aware of many -- if not all of the above examples -- but they chose to selectively ignore and/or enforce the rules and regulations which keep the National Airspace System safe. No errors will be filed. No QAR's will be adequately investigated. And no one will be counseled for performance issues -- especially Memphis FAA Managers who supposedly "manage" the operation here.

Thanks for taking the time to look into these issues.

Sincerely,



Peter D. Nesbitt
Air Traffic Controller
Memphis Tower/TRACON