U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

www.osc.gov

The Special Counsel

October 17, 2003

The President
The White House
Washington, D.C. 20500

Re: OSC File Nos. DI-01-1688 and DI-01-1689

Dear Mr. President:

In accordance with 5 U.S.C. § 1213(e)(3), I am transmitting a report from the Honorable Kenneth M. Mead, Inspector General, U.S. Department of Transportation, sent to me pursuant to 5 U.S.C. § 1213(c) and (d). The report sets forth the findings and conclusions of the Inspector General's review of disclosures of information allegedly evidencing violations of law, rule or regulation, and a substantial and specific danger to public health and safety at the Department of Transportation (DOT), Federal Aviation Administration (FAA), Willow Run Airport, Belleville, Michigan.

The whistleblowers, James D. Langteau and Michael A. Grathen, Air Traffic Controllers (ATCs) at the Willow Run Air Traffic Control Tower (Willow Run), consented to the release of their names. Their allegations were referred for investigation to Secretary Norman Y. Mineta on March 12, 2002. The Secretary referred the matter to the Inspector General for investigation. On November 29, 2002, OSC received the Inspector General's report pursuant to 5 U.S.C. § 1213(c) and (d). The whistleblowers provided comments on the agency's report which are also included.

We have carefully examined the original disclosures and reviewed the agency's response. Pursuant to 5 U.S.C. § 1213(e)(2), I have determined that the findings in the agency's report include all of the information required by statute and appear reasonable.

The Whistleblowers' Disclosures

Mr. Langteau and Mr. Grathen alleged that ATCs at Willow Run Airport routinely failed to arrive on time for their assigned shifts and left work early failing to complete their scheduled tours of duty. This practice is known by FAA employees in different areas of the country as

"shoves, pushes or early-outs." Under this practice, ATCs who arrive late or leave early do not inform FAA managers they will be late or will leave early. As a result, Mr. Langteau and Mr. Grathen alleged that the Air Traffic Control Tower at Willow Run Airport is often dangerously understaffed or unattended. In addition, they alleged the ATCs received compensation for hours they did not work.

According to Mr. Langteau and Mr. Grathen, ATCs usually work in teams of at least two people. A new shift of ATCs reports to work every 6 hours and relieves the previous shift in flight operations. The ATCs who have been relieved are expected to remain in the air traffic control tower until the end of their 8-hour shift. This ensures that extra ATCs are present in the event of increased air traffic or emergencies.

Mr. Langteau and Mr. Grathen alleged that ATCs leave the air traffic control tower as soon as they are relieved from flight operations, i.e., 1-2 hours before the end of their eight-hour shift. Other improper practices they described include "splitting" a shift so that each one works four hours but gets paid for eight hours, and "swapping" shifts so that one ATC works one night alone, and the other ATC works the next night alone. When swapping shifts, both ATCs claim to have worked each night they were scheduled and, thus, get paid for shifts they have not worked.

According to Mr. Langteau and Mr. Grathen, when taking a "shove," ATCs sign each other in and out on the sign-in/out logs to make it appear that each ATC has worked a full eight-hour shift. At times, an ATC leaves work early and annotates the sign-in/out log to show that he left at the assigned time for the end of his shift. After this ATC leaves the air traffic control tower, he must trust his coworkers to cover for him. If a supervisor arrives at the air traffic control tower before the end of the "shoving" ATCs shift, the ATCs on duty are expected to "line-out" for the "shoving" ATC; that is, they cross out the original entry of the "shoving" ATC, write in a time earlier than the arrival of the supervisor and show that the "shoving" ATC took leave for the time he or she left early. The whistleblowers contend that this allows FAA managers to avoid being confronted with evidence of "shoving," a practice of which they are aware.

The FAA Civil Aviation Security investigated allegations of "shoving" at Willow Run on several occasions. The DOT OIG also investigated these allegations. In April 2001, the DOT OIG substantiated the allegations and concluded that at least four ATCs[1] were engaging in the "shoves" practice. However, no action had been taken to stop the practice when Mr. Langteau and Mr. Grathen filed their disclosure with OSC in August 2001. They alleged that the "shoves" practice continued unabated.

---

[1] The four ATCs identified by the OIG were Michael A. Grathen, James D. Langteau, Roxann L. Johnston, and Barbara A. Alonzo. Mr. Langteau and Mr. Grathen claim that, although only four individuals were identified, all the ATCs at Willow Run took "shoves."

In addition, according to Mr. Langteau and Mr. Grathen, FAA supervisors at Willow Run changed the tours of duty for ATCs in December 2001. As a result, Mr. Langteau and Mr. Grathen work their tours of duty alone. Because they work their tours of duty alone, only one or two ATCs staff the air traffic control tower at Willow Run during this shift. Staffing levels at Willow Run are established through local Standard Operating Procedures (SOP). The Willow Run SOP states that at least two ATCs must be on duty during the midnight tour of duty and more than two must be on duty during the remaining tours of duty. Mr. Langteau and Mr. Grathen contended that staffing the tower in this manner was a danger to public safety.

The Report of the Department of Transportation

DOT's report states that there was no evidence found to support the allegations that ATCs are swapping shifts or departing the facility prior to the end of their assigned tour of duty. Thus, the agency did not substantiate the allegation that "shoving" has continued since being brought to the attention of the FAA Office of Civil Aviation and the DOT OIG in 2000, or that any danger to public safety resulted from the scheduling of air traffic controllers at Willow Run. However, the report identified some management issues and proposed actions to address them. The agency's report is summarized below.

As background, the report notes that the allegations stem from events that began in September 1999 when Paul Lore, then-Manager of Willow Run, issued written reprimands to Mr. Langteau and Mr. Grathen because they had been taking "shoves." The report states that Mr. Lore and the Timothy Boggle, Willow Run's ATCT supervisor at the time the shoving occurred, have since been removed from their supervisory positions.

Allegations of shoving were also brought to the OIG's attention by FAA's Office of Civil Aviation Security in 2000. Subsequently, the report notes that Mr. Langteau and Mr. Grathen alleged that the practice of shoves was continuing at Willow Run, and that Willow Run management had altered the tours of duty in December 2001. The change in duty scheduled resulted in Mr. Langteau and Mr. Grathen working alone.

As part of the investigation, Mr. Langteau and Mr. Grathen were interviewed extensively regarding their knowledge of Willow Run FAA employees abusing time and attendance since the OIG's investigation of 2001. According to the report, Mr. Langteau and Mr. Grathen stated that they did not have any information regarding time and attendance abuses by Willow Run employees since the 2001 OIG investigation.

The investigation revealed that the staffing at Willow Run caused a conflict between management and the ATCs. For instance, the report states that James Schneider, Air Traffic Manager at Willow Run, explained that FAA guidelines allow air traffic managers to make temporary staffing adjustments and determine operations commitments. In the case of Willow

Run, he explained that, on occasion, staff changes had been made to prevent a hostile working environment. Mr. Schneider also stated that the facility staffing guidelines are not "hard" staffing numbers which, if changed, would result in a danger to the public or mission of the agency. Rather, the staffing guideline numbers are a starting point to balance leave requested against facility operations.

The investigation focused, in particular, on the staffing levels on March 16, 2002. A review of the Willow Run records for that day shows that Mr. Langteau and Mr. Grathen were scheduled to work from 6:00 a.m. to 2:00 p.m. Mr. Lewandowski was scheduled to work from 9:00 a.m. to 5:00 p.m., and Barbara Alonzo was scheduled from 1:00 p.m. to 9:00 p.m. Mr. Langteau and Mr. Grathen stated that Mr. Lewandowski was given administrative duties for that shift and was not available in the tower thereby causing an unsafe condition and a danger to public safety. They also stated that traffic was heavy during the shift and the D-Bright Radar display malfunctioned creating a stressful situation that could not be managed by one controller.

According to the report, Mr. Schneider confirmed that he scheduled Mr. Lewandowski to work on the 16th knowing that he would not work with Mr. Langteau. Mr. Schneider also confirmed that he allowed Mr. Lewandowski to perform administrative duties to prevent a hostile working environment. However, he maintained this decision did not result in a danger to public safety. Mr. Lewandowski and Ms. Alonzo, who periodically relieved Mr. Langteau and Mr. Grathen during the shift, agreed with Mr. Schneider's assertions that public safety was not compromised. The report details Ms. Alonzo and Mr. Lewandowski's assessment of the workload on the 16th. They stated that it was no more difficult than any other Saturday, except for the problems with the D-Bright Radar. The weather was good and they were able to control the airspace and perform their duties while the problem with the radar was being corrected. Even though the Willow Run records showed that there was a problem with the D-Bright Radar on the 16th, the report notes that Mr. Lewandowski, Ms. Alonzo, and George Petrovich, Regional National Air Traffic Controllers Association union representative informed the OIG investigators that the D-Bright Radar was an aid for controllers, not a necessity for safe management of the airspace.

Mr. Schneider noted that a number of factors are considered in evaluating allegations of compromised safety including controller training, controller ability, positive control of the aircraft, and customer dialog comments and complaints. Mr. Langteau and Mr. Grathen, are trained, experienced ATCs each with 10 years of experience. Given their experience, the weather conditions on that particular day, and the volume of air traffic, Mr. Schneider concluded that no danger to the public safety was created by Mr. Lewandowski performing administrative duties.

The OIG also requested that Tony Ferrante, Manager, Investigations Division, Air Traffic Service (ATS), FAA, review the events of March 16, 2002. ATS is responsible for investigating air traffic control operations and incidents. Based on the information gathered in

the investigation, Mr. Ferrante concluded that there was no danger to the public safety. Specifically, he noted that the volume of air traffic was average, and visibility was clear. In addition, there were no delays, no reduction in service and no evidence that a hazardous situation had been created. Finally, the report notes that Mr. Ferrante informed OIG investigators that it is normal practice for one controller to combine all traffic control positions during an average day at Willow Run and that this practice does not compromise safety.

The OIG also reviewed the safety issues with FAA Headquarters Air Traffic personnel. According to the report, FAA officials stated that Willow Run is a Level 6 facility, the second lowest in volume and complexity, and a visual flight rules tower and can be safely managed by one controller. The FAA officials also stated that the staffing goals are guidelines and adjustments in a given facility are not violations of law or regulation. The OIG questioned management's practice of scheduling ATCs to work with Mr. Langteau and Mr. Grathen knowing that they would refuse, but was unable to substantiate any danger to public safety.

The report notes that both Mr. Langteau and Mr. Grathen stated that there had been a change in operations since March 16, 2002. Mr. Langteau reportedly informed the OIG that the staffing guidelines were now being adhered to and that he and Mr. Grathen were no longer scheduled to work alone. Mr. Langteau and Mr. Grathen also stated that since disclosing the allegations to OSC in early 2002, they did not have reason to believe that the practice of shoving continued.

Finally, the report acknowledges that the practice of shoving has occurred in the past and could occur in the future. For this reason, the OIG recommends that the FAA periodically audit the scheduling practices at Willow Run and ensure that safeguards are in place to prevent the practice of shoves from recurring. In addition, the report concluded that there was an atmosphere of significant mistrust among ATCs and Willow Run management and recommended that the periodic audits attempt to address this matter.

The Whistleblowers' Comments

Mr. Langteau

Mr. Langteau provided detailed comments only briefly summarized here. He protests that he did not receive the agency's report until April 2003 while the report was prepared in November 2002, that the agency did not include a copy of the March 16, 2002, complaint, and that the agency did not save and review actual "hard evidence" including digital voice recording system audio tapes of all air traffic operations on March 16, 2002, which would have demonstrated the validity of his claim, the heavy volume of traffic, the difficulty of two controllers working alone over time, and the inability of one controller to work all the positions combined.

Mr. Langteau also stated that he was the Controller-In-Charge (CIC) on March 16, 2002, and denied Mr. Lewandowski's initial request for administrative duties. He emphasized that, as CIC, he is the most appropriate person to make determinations regarding staffing levels. He also points out that the SOP uses the word "shall" and that therefore, strict adherence to the determinations is required and can only be made by those on the scene. He contends that the OIG failed to apply the SOPs to this situation and did not address the disparities between the SOP and the agency's explanation.

Mr. Langteau strenuously disagrees with statements made by an unnamed FAA official that Willow Run can be managed by one controller. He believes the statement is erroneous and insists that the tower has never been, nor could it be, managed by one person for an extended period of time. He notes, among other things, that if that were the case Willow Run could reduce staffing by 25% and have no overtime pay.

Mr. Langteau also states that the OIG did not review pertinent information, such as schedule logs, and other records, and failed to interview witnesses such as Mr. Thomas Hart, Operations Supervisor and Jason Guitar who would have provided information on the understaffing that occurred in the tower during his shift.

Mr. Grathen

Mr. Grathen takes exception to several aspects of the OIG's report. He states that the OIG did not investigate all of the issues in his complaint of March 16, 2002. He also states that there are a number of inconsistencies which the OIG report does not attempt to reconcile. For instance, Mr. Grathen maintains that the claim Mr. Lewandowski wanted to avoid working with Mr. Langteau is false because Mr. Lewandowski worked alone with Mr. Langteau on a number of occasions before and after March 16, 2002, and late in the day of March 16, 2002, the CIC received authorization for overtime due to safety hazards but the report says no safety issues were presented that day. Mr. Grathen believes that these and other inconsistencies could have been resolved through an examination of the logs.

With respect to changing Mr. Lewandowski's duties on March 16, 2002, Mr. Grathen writes that, according to Chapters 10 and 11 of the SOP and past policy and practice, the CIC is the only legitimate authority to review leave requests that would reduce the staffing below the minimum core shifts. He contends that the CIC's denial of Mr. Lewandowski's initial request for administrative duties was based on the working conditions in the tower that morning. When Mr. Lewandowski received approval from the manager to perform administrative duties, it overrode the CIC's authority regarding working conditions.

Finally, Mr. Grathen strongly disagrees with the statements made by FAA officials that the Willow Run tower can be managed by one controller. In addition, he states that the OIG could have addressed the concerns they raised about minimal staffing issues by reviewing

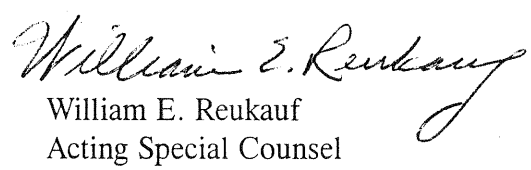
Willow Run records such as traffic logs, operating position logs, and work schedule logs. He also maintains that from February to June 2002, Mr. Thomas Hart, Operations Supervisor, provided written statements to the OIG which showed management's hostility toward him and Mr. Langteau and failed to hold others accountable for inappropriate actions toward them.

Conclusion

Based on the representations made in the report and as stated above, I have determined, pursuant to 5 U.S.C. § 1213(e)(2), that the findings in the agency's report include all of the information required by statute and appear to be reasonable.

As required by 5 U.S.C. § 1213(e)(3), a copy of the report and the whistleblowers' comments have been sent to the Chairman of the Senate Committee on Commerce, Science and Transportation and to the Chairman of the House Committee on Transportation and Infrastructure. We have also filed a copy of the report and the whistleblowers' comments in our public file and closed the matter.

Respectfully,



William E. Reukauf
Acting Special Counsel

Enclosures