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**Analysis of Disclosures, Agency Investigation and Report, Whistleblower Comments, and  
Comments of the Special Counsel**

**Summary of OSC File No. DI-06-1117**

Michael Dunkin, an Avionics Technician, disclosed to OSC that managers at the Federal Aviation Administration (FAA), Aviation System Standards 300 (AVN 300), Technical Operations Service Unit, Oklahoma City, Oklahoma and Anchorage, Alaska, purposely failed to record chronic aircraft equipment problems in the Inventory, Logistics, and Maintenance (ILM) database. He alleged that they did not record these problems because, once recorded, the aircraft would be grounded for maintenance and unavailable for flights. Mr. Dunkin alleged that management operated in this manner because aircraft availability is a standard used to evaluate management performance. Mr. Dunkin believed that allowing aircraft with equipment problems to fly unnecessarily placed the aircraft and crew in substantial danger and violated Federal Aviation Regulations. He also alleged that Dan Murphy, Airframe and Powerplant Mechanic, used FAA equipment and facilities for his own personal benefit in violation of federal regulations. The Department of Transportation's investigation, conducted by the Office of the Inspector General, did not substantiate the allegations.

**The Whistleblower's Disclosures**

Mr. Dunkin has worked for FAA for 16 years, primarily as an Avionics Technician for AVN 300 which maintains the FAA flight inspection fleet. The FAA flight inspection fleet ensures compliance with Federal Aviation Regulations, Part 135, is comprised of 33 aircraft equipped to monitor instrument approaches and airway procedures at over 5,500 facilities throughout the world, and averages 20,000 flight-hours annually. During his 16 years of service, Mr. Dunkin diagnosed and repaired a wide variety of electronic problems. Because of his experience, management and pilots often requested Mr. Dunkin's assistance with chronic equipment problems.

He alleged that management avoided using ILM to record chronic equipment problems in the FAA inspection fleet because ILM entries affect aircraft availability. For example, if an aircraft is experiencing an equipment problem that requires immediate repair, ILM shows that the aircraft is in maintenance and unavailable for flight. Aircraft availability is, however, one of AVN 300 management's pay-for-performance measures and, as such, management has significant incentive to maximize aircraft availability. Thus, Mr. Dunkin alleged, management circumvented ILM reporting procedures, especially in the case of chronic equipment problems, in order to artificially inflate aircraft availability and improve its performance. The division that schedules inspections, Flight Inspection Central Operations (FICO), depends on ILM to determine if an aircraft is available to perform flight inspections and schedules aircraft for flight until an ILM entry is made. Consequently, Mr. Dunkin believed, aircraft in the FAA fleet often

flew with equipment problems in violation of 14 C.F.R. Part 135 placing the pilots and crew in danger.

Mr. Dunkin provided some examples. In one case, an equipment malfunction on aircraft N86, a long distance Canadair Challenger 601, caused the Primary Flight Display to relay information in an unsupported format which produced a loss of function input to the Flight Director and Autopilot systems. As a result, the Autopilot would freeze and not accept direction from the pilots or allow them to disengage the system. Essentially, the Autopilot overrode attempts to manually fly the plane. Mr. Dunkin alleged that the pilots were unable to control the aircraft for the duration of the malfunction. The onboard Diagnostics and Fault Detection System recorded 106 incidents of this failure over an 18 to 24-month period. The aircraft continued to fly even though it should have been grounded for maintenance and despite repeated repair attempts, the aircraft's maintenance history on ILM contained no information about the problem.

In another case, aircraft number N96 experienced Emergency Exit Lighting failures at least three times without any corresponding entry into ILM even though flight personnel had entered these failures into the aircraft logbook. Emergency Exit Lighting is a safety of flight item that must be operational for dispatch. By failing to note this problem in ILM, however, management prevented the aircraft from being grounded for maintenance thereby increasing its availability.

Mr. Dunkin further alleged that the failure to record chronic problems in ILM was not uncommon. He states that while he was stationed in Oklahoma City he saw an average of one airplane a week with a chronic equipment problem. While not all of these problems were severe enough to warrant immediate grounding, Mr. Dunkin disclosed that management instructed him not to enter information in ILM even when there was a window of time in which the airplane could continue flying while awaiting repair.

Mr. Dunkin also alleged that Mr. Murphy used FAA hangar facilities to wash his personal vehicles and work on personal projects. He stated that Mr. Murphy often took agency tools to his residence and when an equipment inventory was conducted, several items were missing. Mr. Dunkin maintained that many of the items were at Mr. Murphy's residence. In the past, this has created problems when a specific tool is needed to repair an aircraft, but was unavailable because Mr. Murphy had taken it home. In addition, Mr. Murphy used the hangar to wash and detail his car, truck, and motorcycle. Mr. Dunkin alleged that Mr. Murphy's conduct was a violation of regulations on the use of government property and an ethical violation under the regulations for Employees of the Executive Branch, 5 C.F.R. § 2635.704.

### **The Report of the Department of Transportation**

Mr. Dunkin's allegations were referred to the Secretary of Transportation for investigation. The Secretary assigned the investigation to the Office of the Inspector General (OIG). The OIG investigation did not substantiate Mr. Dunkin's allegations. A brief summary of the agency's report follows.

The report notes that Mr. Dunkin made two additional allegations to OIG investigators in October and November 2006. He alleged that in 2002, Supervisors J.D. Bittle and Frank Bridges instructed maintenance technicians to ignore a "deep gouge" in the nose landing gear of AVN aircraft number N57. He also alleged that in 2002, Mr. Bittle improperly directed maintenance mechanic Mark Adams to repair, rather than replace, a rib on the right wing of N99.

During his interview with investigators, Mr. Dunkin stated that he knew of only one instance when a manager ordered a maintenance technician not to enter equipment malfunction information into the ILM. Mr. Dunkin reported that in December 2005, Anchorage Manager Charles Kelley told him not to record the malfunction of the cockpit voice recorder on FAA aircraft N85. Mr. Dunkin explained that AVN pilot Mike Ryder told him that the cockpit voice recorder on N85 had malfunctioned. Mr. Dunkin stated that Mr. Kelley ordered him not to record the malfunction and instead to have the airplane continue to Oklahoma City. Mr. Dunkin stated that he then relayed the order by telephone to Dan Wheeler, an Aircraft Lead Technician in Oklahoma City and repeated it in an e-mail to Mr. Wheeler in December 2005.

The investigation included interviews with Mr. Ryder, Mr. Wheeler, and Mr. Kelley as well as a review of N85's logbook. Mr. Ryder did not recall telling Mr. Dunkin that the cockpit voice recorder malfunctioned during the flight from Asia to Alaska. He described himself as a "stickler" for entering problems in the aircraft logbook and had not made such an entry. The logbook did reflect an entry for the malfunction of the cockpit voice recorder during the flight from Anchorage to Oklahoma. The report notes that the necessary repair was deferrable under the Minimum Equipment List and would only have delayed the flight's departure, not resulted in a flight cancellation. As a result, the investigation found that Mr. Ryder did not have a motive to omit the malfunction from the logbook.

Mr. Wheeler stated in his interview that Mr. Dunkin did not tell him Mr. Kelley had ordered him not to record the malfunction. The report also notes that Mr. Dunkin's e-mail does not mention Mr. Kelley's order. Mr. Kelley denied issuing such an order to Mr. Dunkin. The report recognizes that his denial is self-serving, but concludes that nevertheless, the weight of the evidence does not support the conclusion that Mr. Kelley ordered Mr. Dunkin not to enter the malfunction information in the ILM.

Mr. Dunkin also alleged that aircraft N86's autopilot malfunctioned causing it to freeze and override the pilot's attempts to fly manually. Specifically, Mr. Dunkin stated that the aircraft's onboard Diagnostics Fault Detection System froze 106 times between mid-2003 to mid-2005, that none of these incidents were recorded in the aircraft logbook or the ILM database, and that the aircraft should have been grounded for maintenance. During his interview, Mr. Dunkin stated that this allegation was based on a rumor he heard in Oklahoma City in 2003. After his transfer to Anchorage, he was told by two AVN pilots in July 2005 that the autopilot in N86 failed to disengage not allowing them to fly the aircraft manually; he assumed it was the same aircraft. While the investigation did not reveal any evidence of the autopilot malfunction, it did reveal that N85 had a problem with the Flight Director providing faulty input to the autopilot causing it to switch off and requiring the pilot to fly the aircraft manually.

The pilots of the aircraft reported that the aircraft was experiencing a problem which switched its operation from a single cue to a double cue. This changed the visual displays in the aircraft and switched off the autopilot requiring the pilots to fly the airplane manually. As such they reported it was not a safety issue. The problem stopped and started from June-July 2005. The pilots documented the instances of the problem, which occurred on occasion several times during a flight. Mr. Dunkin noted that as of July 7, 2005, there were 106 instances recorded by the diagnostic fault history. He repaired the aircraft, entered the information in the ILM database and returned it to service. He stated that when he saw the flight history, he assumed that this aircraft was the one he had heard about with the autopilot freezing problem.

Based upon the information in the logbooks, the ILM database and the pilots' statements, there was no evidence of an aircraft experiencing a repetitive freeze of the autopilot system which prevented the pilot from manually flying the airplane. Rather, the aircraft had a malfunction that prevented the autopilot from flying the plane, thus requiring the pilots to fly manually. Indeed, the pilots asserted that had the autopilot prevented them from flying the plane manually, they would not only have recorded it but complained loudly because such a malfunction would have put their lives in jeopardy.

Third, the investigation found that N96 had an Emergency Exit Lighting failure. Mr. Dunkin repaired the problem and entered it and the repair into the logbook in great detail. Mr. Dunkin alleged that Mr. Kelley mistreated him because he had provided too much information in the logbook on the repair. Mr. Kelley confirmed that he spoke to Mr. Dunkin regarding his entry because it did not follow established procedures and used two pages instead of one. Mr. Kelley asserted that one page is used so that it can be attached to the logbook page and correctly tracked in the ILM database. A review of the logbook confirmed the repair was completed and the information entered into the ILM database as required.

Fourth, the investigation did not reveal evidence that Supervisors J.D. Bittle and Frank Bridges instructed maintenance technicians to ignore a deep gouge in the nose landing gear of N57. Mr. Dunkin alleged that in September 2002, Supervisors Bittle and Bridges failed to replace the nose strut of N57 after it was discovered that the strut contained a deep gouge. He further alleged that the airplane was improperly cleared for flight and that the strut was repaired only after the airplane was returned for repair and he complained about the improper instruction to AVN Director Joseph Doubleday.

According to the report, Supervisors Bittle and Bridges stated they were aware of the gouge but that technicians had told them its depth was within acceptable limits as defined in the Learjet maintenance manual. The technicians were also interviewed and confirmed their determination. The report also states that the nose strut was eventually replaced upon the recommendation of a maintenance technician who recommended it be replaced after a safety check.

Fifth, while the agency concluded there was no evidence that Mr. Bittle improperly directed Mr. Adams to repair, instead of replace, a rib on the right wing of N99, there was a disagreement between the two regarding the repair. Mr. Adams confirmed that he repaired a rib on the right wing of a Hawker, eight-passenger twin-engine airplane. He stated, however, that

because the aircraft's Structural Repair Manual calls for replacement of the rib, he refused to sign the logbook. Mr. Bittle signed the logbook citing FAA Advisory Circular 43.13 as authorization for the repair.

Investigators consulted with David Newton, a representative of Raytheon, the company which owns the BAE business jets manufacturing division. Mr. Newton stated that some ribs may be repaired while others must be replaced. Because neither Mr. Adams nor Mr. Bittle could identify with certainty the tail number of the aircraft at issue, a physical inspection of all AVN operated BAE Hawkers was undertaken. The review of the aircraft and the repairs of those aircraft did not find any improper rib repair to any BAE Hawker operated by AVN.

Finally, the investigation found that the allegations regarding Mr. Murphy's alleged misuse of government property and drinking beer on government property have already been addressed. The allegations were made in June 2005 to AVN Anchorage line station Manager Kelley. Mr. Kelley investigated and took corrective action. An additional investigation was conducted in April 2006. The OIG found that after the investigation FAA took appropriate action to correct the misuse of government equipment by Mr. Murphy and other Anchorage AVN employees. The report notes that Mr. Murphy is now on long-term disability status after becoming a quadriplegic as a result of a non-work related injury.

### **The Whistleblower's Comments**

Mr. Dunkin provided detailed comments on the agency's report which are only briefly summarized here. Generally, Mr. Dunkin finds fault with the investigative process in this case. He states that in situations, such as this one, where an agency is investigating itself, the investigation is subject to agency politics, and is not objective, but rather, focused on maintaining the *status quo*. Mr. Dunkin notes his considerable work experience in the field of avionics and states that because of his expertise he was frequently assigned repair work that other technicians could not complete. He remains devoted to aviation safety and calls for management to be held accountable for ensuring compliance with safety-related procedures and guidelines. He noted that, in his view, management's nonchalant approach to the mission of the agency has led to a degradation of ethics and employee morale.

Mr. Dunkin also stated that some of the information provided by his co-workers was not accurate. He also points out that his access to the information maintained on Lotus notes was terminated when his employment was terminated. This may explain why there was some confusion regarding the tail number of the airplane alleged to have been fixed improperly. He also refutes a number of the agency's assertions. For instance, he states that his allegation regarding the malfunctioning of the autopilot was not based on rumor, but rather, oral reports and complaints from pilots. He said that such oral reports are common before a problem is written up. Describing it as a rumor casts the information in an unnecessarily bad light. Mr. Dunkin maintained the problem did not occur over a 2-month period but over an 18-month period. He explained the problem was intermittent and written up after 18 months of verbal complaints. Mr. Dunkin stated further, that the problem was ultimately resolved through his perseverance and noted the OIG investigators did not fully understand the technical aspects of the issue.

Mr. Dunkin also explained that that he entered the three malfunctions of the emergency exit lighting into the ILM because they had not been previously noted in the database and he did not want the information to be lost. He further explains that each activity is tracked in the ILM, not each page, contrary to Mr. Kelley's explanation. Finally, he again states that J.D. Bittle did improperly direct Mark Adams to repair a wing rib which was contrary to the instruction set forth in the Aircraft Manufacturer's Maintenance manual. He points out that under the Federal Aviation Regulations, a repair procedure covered by the Aircraft Manufacturer's manual, cannot be superceded by another publication. Thus, at the time the repair of the wing rib was completed, Mr. Dunkin maintains that it was not in compliance with the relevant regulations.

### **Conclusions**

Based on the representations made in the agency report and as stated above, I have determined that the agency report contains all of the information required by statute and that its findings appear to be reasonable.