



**U.S. Department
of Transportation**

Office of the Secretary
of Transportation

GENERAL COUNSEL

1200 New Jersey Avenue, SE
Washington, DC 20590

November 12, 2010

Karen P. Gorman, Esq.
Deputy Chief, Disclosure Unit
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, DC 20036-4505

Re: OSC File No. DI-08-3138

Dear Ms. Gorman:

This is to follow up on your recent request for supplemental information in the above-referenced matter. Attached please find a November 10, 2010 memorandum from the Office of Inspector General, to whom the Secretary delegated the investigation. Please treat this memorandum as our supplemental report.

Please do not hesitate to contact Debra Rosen or me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Judith S. Kaleta", with a horizontal line extending to the right.

Judith S. Kaleta
Assistant General Counsel for General Law

Enclosure

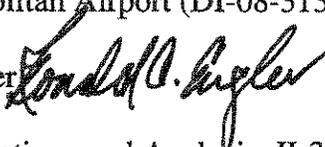


U.S. Department of
Transportation
Office of the Secretary
of Transportation
Office of Inspector General

Memorandum

Subject: **INFORMATION:** OIG Investigation
#I09Z000021SINV, Re: TRACON
Management at Detroit Wayne
County Metropolitan Airport (DI-08-3138)

Date: Nov. 10, 2010

From: Ronald C. Engler 
Director
Special Investigations and Analysis, JI-3

Reply to
Attn. of: R. Engler

To: Judith S. Kaleta
Assistant General Counsel for General Law
Office of General Counsel

This memorandum/supplemental report responds to a U.S. Office of Special Counsel (OSC) email dated September 17, 2010, requesting clarification regarding the Office of Inspector General (OIG) investigation into aviation safety concerns at the Federal Aviation Administration (FAA) Terminal Radar Approach Control (TRACON) facility at Detroit Metropolitan Wayne County Airport. We respectfully request that you forward this information to OSC.

1. **OSC request:** We are requesting clarification as to the alleged loss of separation that took place on January 17, 2010,¹ for which corresponding voice data was not retained, and the original allegations relating to that event. The supplemental report dated June 25, 2010, found that because the data was destroyed, AOV was unable to determine if a loss of separation occurred on that date. Mr. Funari has supplied additional data to OSC, copies of which are transmitted with this request.

This event relates to Mr. Funari's allegation that the procedures in use by controllers at the D21 TRACON do not ensure proper protection for missed approaches off of a satellite airport. See the March 19, 2009, OSC Report of

¹ The event occurred on January 17, 2010, at approximately 3:00 a.m. Greenwich Mean Time, which FAA uses for all operations. In Detroit, it occurred on January 16, 2010, at approximately 10:00 p.m. Eastern Standard Time (EST).

Disclosures Referred for Investigation, Page 2, which states: "For example, the TRACON airspace has an uncontrolled satellite airport called Troy/Oakland (VLL). One of the approaches to this airport is the VOR/GPS A. If an aircraft on that approach misses the approach, the flight pattern would take the aircraft directly over the Pontiac/Oakland County International Airport (PTK) at 3,000 feet to hold at the Pontiac VOR (PSI). Mr. Funari further reports that the TRACON routinely releases aircraft off of PTK after they have terminated radar services on the VLL arrival. As such, there are then two non-radar clearances utilizing the same airspace at the same time. There is no FAA Order or other guidance that allows two aircraft to occupy the same non-radar-protected airspace at the same time. Mr. Funari believes that this results in a routine violation of separation minima requirements."

Mr. Funari believes that there may be confusion regarding his allegations. He cites a misplaced reliance on a loss of separation during the "execution" of a missed approach procedure, centering the discussion on an aircraft known to be executing a missed approach. Rather, the investigation should have verified that aircraft were indeed allowed to transit the protected airspace in violation of FAA Order 7110.65. He contends that the system event that occurred on January 17, [2010], as discussed above, demonstrates the concern. [Footnote omitted.] Mr. Funari's point is that it is not acceptable to wait until the controller knows the aircraft has executed a missed approach, and then scramble to start separating from it. Controllers would not, for example, release a departure from Oakland-Troy Airport under these circumstances; they would wait for a report from the aircraft or comply with the timeframe of the traffic restriction paragraphs of FAA Order 7110.65, 10-4-1 and 10-4-3.

OIG response: FAA examined the data OSC provided in the September 17, 2010 request for clarification, as well as the National Offload Program replay file of the January 16, 2010 event, and concluded that the controller did not protect the airspace authorized for aircraft N3845G.

When an arriving pilot cancels Instrument Flight Rules (IFR) clearance, he no longer requires air traffic separation from the TRACON controller and indicates a missed approach will no longer be necessary. Consequently, the TRACON controller no longer protects the airspace that the aircraft would occupy if it conducted a missed approach.

The evidence, including the flight progress strip on a problem report, indicates that during its arrival to Oakland-Troy Airport on January 16, 2010, aircraft N3845G was unable to cancel its IFR clearance with the TRACON until after Northwest Airlines Flight 2434 entered the airspace that the TRACON controller was to

protect if N3845G had conducted a missed approach while attempting to land. Had N3845G executed a missed approach and, although unlikely, the TRACON was unable to establish radio or radar contact with that aircraft, the potential existed for it to occupy the same airspace as Flight 2434, thereby resulting in an increased potential for collision.²

FAA has acted to address Mr. Funari's concern – which he believes the January 16, 2010 incident demonstrates – that the Detroit TRACON "routinely" fails to protect airspace for missed approaches off of satellite airports. On December 21, 2009, the TRACON issued guidance³ Mr. Funari authored reminding TRACON air traffic control staff to provide, as required under FAA Order 7110.65, non-radar separation between aircraft. Moreover, the FAA Central Service Area, Quality Control Group, is continuing to review TRACON operations to determine whether controllers are, in fact, providing non-radar separation. The December 21 guidance also rescinded an April 16, 2009 TRACON guidance that allowed controllers to issue non-approved alternate missed approach *instructions*, which could result in two aircraft occupying the same airspace, rather than published FAA alternate missed approach *procedures*. Finally, the FAA Air Traffic Organization is reviewing whether additional procedures are necessary to protect airspace for missed approaches off of satellite airports within the Detroit TRACON.

2. OSC request: We request clarification regarding the finding that TRACON management did not discourage the reporting of operational errors and deviations. The March 22, 2010, report, in Allegation 7, states that investigators substantiated that Quality Assurance Review procedures and investigations into operational errors and deviations at DTW have been inadequate, but did not substantiate that Detroit TRACON officials discouraged employees from reporting operational errors and/or deviations.

Specifically, the report stated that the "evidence does not substantiate the existence of a culture within the Detroit TRACON that does not allow or support the reporting of air traffic events such as operational errors or deviations or discourages air traffic control staff from reporting such events." This appears to be based, at least in part, on interviews with management officials charged with enforcing the requirements to report operational errors and deviations.

² Because N3845G did not execute a missed approach and was on the ground when Flight 2434 was in the protected airspace, there was not a risk of an airborne collision.

³ See Attachment 1.

The June 25, 2010, supplemental report included a copy of a May 2009 Memorandum from Mary Kate Strawbridge, Manager, Quality Assurance, to James C. Bedow, Acting Director, Quality Assurance, addressing prior investigations at the Detroit Air Traffic Control Tower and TRACON, including an investigation by the Central Service Area, Safety Assurance Group (CSAG) conducted between February 9 and 16, 2009. As summarized in the May 2009 memorandum, the CSAG found, with regard to an allegation that events were not being reported as required by national directives, that "the D21 management team had given its 'tacit approval' to these views."

The May 2009 memo concluded that "[a]lthough facility management told the AJS team that 'everything is reported,' the above findings [including the CSAG investigation] and also those concerning the facility's Quality Assurance Review process ... indicates this is not the case." As stated, we seek clarification of the findings in view of the investigative conclusions of the prior investigations, and copies of reports referenced in the May 2009 Memorandum from Ms. Strawbridge to Mr. Bedow.

OIG response: In its May 2009 memorandum, Quality Assurance (AJS) noted CSAG's finding that Detroit management officials had given their "tacit approval" to controllers' failure to report air traffic events. Specifically, CSAG reported:

The majority of the events identified during our review involve boundary or letter of agreement violations. Considerable discussion took place with interviewees about these events and rules involved. It was shared several times how difficult it is for controllers to tell if aircraft are less than 1.5 [nautical miles] from the boundary. As it was stated by an [Operations Manager], "There is good cheating and there is bad cheating..." appears [sic] to reflect cultural norms around event reporting. The team does not believe the reporting culture has been created by controllers. It appears management has given its tacit approval of the operations as observed.

Although we also found evidence of unreported boundary separation violations, the evidence does not allow us to conclude that Detroit TRACON management "tacitly approves" of controllers not reporting these or other air traffic events. Rather, we found evidence that TRACON management and FAA have undertaken several initiatives to identify unreported air traffic events.

First, as stated in our February 22, 2010 report, the Detroit TRACON Quality Assurance Manager has developed a new Quality Assurance Review Directive and Reporting Form, and the facility has contracted with a former Frontline Manager

to conduct weekly audits and trained its air traffic control staff regarding the appropriate Quality Assurance Review procedures.

Second, since March 17, 2010, the Detroit TRACON is required to conduct two hours of Traffic Analysis and Review Program audits each week to ensure the facility's reporting processes effectively identify losses of separation. (Other radar facilities are required to conduct such audits monthly.) FAA advises that the Quality Control Group conducts daily audits of the Detroit TRACON's peak traffic hours (11:00 a.m. to 1:00 p.m. EST) to review compliance with the requirements for straight and level approach prior to final approach course intercept and 1.5 mile airspace boundary separation.

Third, FAA has advised us that the Air Traffic Organization is drafting an order that will remove responsibility for categorizing suspected air traffic events from TRACON personnel and instruct personnel to refer all mandatory reportable events to AJS for independent review and determination. At the same time, the Air Traffic Organization will increase automatic detection and reporting to AJS of potential losses of separation using the Traffic Analysis and Review Program and Operational Error Detection Patch until all radar facilities are monitored continuously, 24 hours per day.

3. OSC request: We seek clarification regarding the findings of the March 22, 2010, report, Allegation 7, that it was "process" rather than personnel that failed to adequately detect and investigate system events. In response to Mr. Funari's allegation that operational errors he reported have not been investigated in accordance with Quality Assurance Review requirements, the June 25, 2010, report found that "the Quality Assurance Review process within Detroit Metro failed to adequately detect and investigate operational errors and deviations," and cited a March 26, 2009, QCR Report.

The QCR Report found that, among other things, the facility did not appear to handle, process, track and follow-up on Quality Assurance Reviews and Random Monthly Audits in compliance with FAA Order 7210.56. For example, the QCR report stated that the Quality Assurance Review Forms did not always contain complete information or sufficiently describe the event, and that it was unclear if the Quality Assurance Department conducted a follow-up review of the events reported in the daily logs and forms.

As stated, we request clarification regarding whether specific individuals were identified in connection with the "process" failures, in view of the findings that the TRACON's directive appeared to comply with FAA Order 7210.56, and that deficiencies identified by the various reviews conducted at the facility reflected weaknesses in compliance with established directives.

OIG response: In summarizing our finding concerning Mr. Funari's allegation that Detroit TRACON officials failed to properly investigate operational errors he reported, we wrote in our February 22, 2010 Report of Investigation that "the Quality Assurance Review process within Detroit Metro failed to adequately detect and investigate operational errors and deviations." The paragraphs following the summary more completely describe our findings. We concluded that Detroit TRACON personnel indeed failed to adequately investigate alleged air traffic events:

[Mr. Funari] provided us with copies of several reported operational errors or deviations that indicate the initial review conducted by the relevant Frontline Manager was insufficient. Specifically, the reviews consisted only of interviews with the controller rather than a review of the applicable data replay to determine whether an operational error or deviation actually occurred. Additionally, we spoke with the Director of Terminal Operations and her Acting Senior Advisor, who reiterated these findings.

We note, however, FAA officials in Detroit and at the Quality Control Group and AJS have taken the various actions described in OIG Response 2 to address weaknesses in the facility's Quality Assurance Review process.

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Federal Aviation Administration

Memorandum

Date: 12/21/2009

To: All D21 Personnel

A handwritten signature in black ink, appearing to read "Tim Funari".

From: Tim Funari, Support Manager (Acting), Detroit TRACON (D21)

Prepared By:

Subject: Interpretation of 7110.65, paragraph 4-8-9, Missed Approach

Previous guidance from this office indicated that a controller can issue an alternate missed approach *instruction* in lieu of a published missed approach *procedure*. This guidance was based on the application of a December 26, 1996 interpretation, the application of which has been called into question

Our request for a clarifying interpretation has been submitted. In the interim, and effective immediately, only published missed approach procedures, or published alternate missed approach procedures shall be provided. This does not affect our ability to utilize JO 7110.65, 5-9-3 to vector departing aircraft, or one executing a missed approach, before it reaches the minimum altitude for IFR operations, once the aircraft is radar identified.

Also, please remember that our request for clarification of the non-radar airspace to be protected for the missed approach is still pending. Previous guidance has been, and remains, a non-radar block of the airspace that contains the missed approach procedure shall be provided, once radar contact is lost. Please consider the relative impact of protecting for the missed approach procedure when authorizing a particular approach (for example, at VLL, protecting the missed approach for the VOR or GPS-A shuts down IFR traffic at PTK, while the RNAV RWY 9 does not).

All personnel shall be briefed on the contents of this memo before being assigned an operational position.

Mandatory Briefing Item

**** Interpretation of 7110.65, para 4-8-9, missed apch ****

		O.I.	Date		O.I.	Date			
DTW-8	Auxier, Cliff	CD		DTW-9	Grammes, Kevin	KJ	14	12/20/01	
DTW-8.1	Bussey, Dan	BZ	12/21	DTW-9.1	Murphy, Tom	TM	TM	12/26	
Bennett, Teresa	TQ			Bailey, Dennis	BL	BL		12/21	
Czub, Mike	MC	MC	12/21	Eberhart, Patrick	PE	PE		12/22	
Perczak, John	PK	PK	12/22	Fraker, Joshua	FJ	FJ		12/26	
Quinn, Glenn	GO	GO	12/22	Gonzalez, Armando	AA	AA		12/22	
Roy, Kim	KR	KR	12/22	Hopkins, Charles	CH	CH		12/22	
Scruggs, Glynn	GS	GS	12/21	Kosek, Terri	VT	VT		12/21	
Thomas, Paul	PT	PT	12/23	Moore, Kenneth	KC	KC		12/26	
Vasquez, Lupe (ATA)	OV	OV	12/22						
				DTW-9.2	Gill, Tom	TG	TG	12/25	
DTW-8.2	Kuhn, Tom	KN	KN	12/21/01	Cryderman, Dave	CY	CY	12/21	
Brown, Steve	SB	SB	12/22	Laddell, Jennifer	JL	JL		12/29	
Burgess, James	GM	GM	12/22	Malboeuf, Jacques	JM	JM		12/22	
Cid, Sal (ATA)	SC	N/A		Rawski, Ryan	RR	RR		12/22	
Fisher, Al	FR	FR	12/21	Reynolds, Mark	MM	MM			
Green, James	SG	SG	12/21	Sheridan, Rich (ATA)	RS	RS			
Hasselbach, Russell	HR	HR	12/21	Teuber, John	TZ	TZ		12/22	
Keefe, Terry	TT	TT	12-22-01	Tumble, Jamie	JT	JT		12/25	
Lindman, Russell	LR	LR	12/22	Vosters, David	DV	DV		12/25	
Mack, Steve	HB	HB	12/22						
Rawls, Lanna	LL	LL	12/24						
Slota, Eric	ES	ES	12-22	DTW-9.3	Sawyer, Robert	SJ	SJ	12/31	
Trujillo, Anthony	TS	TS	12/21	Blow, Jeff	JF	JF		12/22	
				Brouwers, Lynn	RE	RE		12-24	
DTW-8.3	Vacant			Cerda, Chris	CC	CC		12/31	
				Green, Alicia	AG	AG		12/26	
				Jenkins, Dave	DJ	DJ		12-25	
				Juhl, Jeremy	UM	UM		12/24	
				Richeson, Joel	JR	JR		12/24	
DTW-8.4	Walsh, Paul	OO	OO	12-23	DTW-9.4	Gillen, Tracy	TD	TD	12/23
Belue, Dirk (ATA)	DB	N/A		Frutos, Tom	FS	FS		12/24	
Bragg, Maia	MA	MA	12/26	Haller, Eric	EH	EH		12/23	
Figueroa, Chris	CR	CR	12-24	Huttenga, Alex	AH	AH		12/23	
Hatchard, Deidre	PI	PI	12-23	Kanavel Rolly	RK	RK		12/23	
Kivela, Karl	KI	KI	12-23	Klinski, Kevin	VD	VD		12/23	
Lanham, Tod	TL	TL	12-29	Marihugh, Patrick	PM	PM		12-25	
Smith, Tammy	TB	TB	1-6-10	Mendoza, Dan (ATA)	DM	N/A			
				Meyers, Daniel	DW	DW		12/23	
DTW-5	Grand, Earl	EG							
Olson, Randy	RO			SYS-1	Guth, John	GH			
				Glaze, Tom	GE	GE		12/27	
				Harcuta, Brian	BH	BH		12/26	
D21-09-087				Kurziel, Ken	KK	KK		12/26	
Updated 10/21/2009				Rockman, Mike	RC	RC		12/23	

W-2-1-1