



THE SECRETARY OF TRANSPORTATION

WASHINGTON, DC 20590

OFFICE OF
SPECIAL COUNSEL
WASHINGTON, D.C.

2015 AUG 25 AM 10:02

August 18, 2015

The Honorable Carolyn Lerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street NW., Suite 218
Washington, DC 20036

Re: OSC File No. DI-15-3034

Dear Ms. Lerner:

By letter dated June 19, 2015, you referred for investigation disclosures from an anonymous whistleblower who alleged: (1) upper-level managers at the Chicago Air Route Traffic Control Center (ZAU), Federal Aviation Administration (FAA), have jeopardized situational awareness and endangered public safety by assigning front-line managers (FLMs) to geographic areas in which they are neither certified, nor current; and (2) these upper-level managers have jeopardized situational awareness and endangered public safety by assigning FLMs to fill in as temporary supervisory traffic management coordinators (STMCs), despite the fact that these FLMs are either no longer current in their STMC certifications or have never been certified as STMCs.

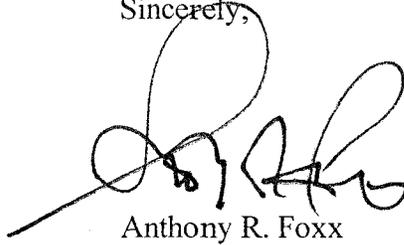
I delegated investigation of these allegations to FAA's Office of Audit and Evaluation (AAE). Enclosed is AAE's Report of Investigation (ROI). While AAE confirmed that ZAU managers were making "out-of-area" assignments as alleged, the investigation found no violation of FAA Order or policy associated with either allegation. Most importantly, the investigation found no nexus between these assignments and any safety event occurring in ZAU airspace.

As a result of this investigation, however, the Vice President of Air Traffic Services directed the facility to limit the practice of assigning FLMs to areas in which they have no familiarity except in extraordinarily unusual circumstances such as a national or local emergency (effective July 28, 2015). He also directed the facility to utilize FLM overtime and supervisory Controllers-in-Charge to cover staff shortages and to maintain area familiarity. In addition, a new Air Traffic Manager will be assigned to ZAU within the next 30 days and the Air Traffic Organization (ATO) will issue new national policy guidance on this matter to all air traffic facilities by September 30, 2015.

Page 2
The Honorable Carolyn Lerner

I am grateful to the whistleblower for raising these concerns and appreciate the opportunity to review this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony R. Foxx', with a large loop at the top and a long horizontal stroke extending to the left.

Anthony R. Foxx

Enclosure

**Federal Aviation Administration
Report of Investigation
To the Secretary**

In response to:

U.S. Office of Special Counsel (OSC)

File DI-15-3034

**Director, Office of Audit and Evaluation (AAE-1)
Federal Aviation Administration
Washington, D.C.**

August 11, 2015

Executive Summary

Secretary of Transportation, Anthony Foxx directed the Federal Aviation Administration (FAA), Office of Audit and Evaluation (AAE) to investigate a U.S. Office of Special Counsel (OSC) whistleblower disclosure (OSC File No. DI-15-3034) referred on June 19, 2015. AAE is an independent FAA organization with the statutory authority to conduct impartial investigations of aviation safety-related whistleblower disclosures. This disclosure, regarding practices at the Chicago Air Route Traffic Control Center (ZAU) in Aurora, IL, was submitted by an anonymous whistleblower presumed to be employed by the FAA at ZAU.

The whistleblower alleged that: (1) upper-level managers have jeopardized situational awareness and endangered public safety by assigning front-line managers (FLMs) to geographic areas in which they are neither certified, nor current; and (2) upper-level managers have jeopardized situational awareness and endangered public safety by assigning FLMs to fill in as temporary supervisory traffic management coordinators (STMCs), despite the fact that these FLMs are either no longer current in their STMC certifications or have never been certified as STMCs.

We found no violation of an FAA Order or policy associated with either allegation. The anonymous complainant's allegation was confirmed that ZAU managers were assigning FLMs to work in geographic areas in which they did not maintain currency. However, no FAA Order prohibits this practice. Regarding Allegation 2, we found that ZAU is assigning FLMs to fill in as temporary STMCs in the Traffic Management Unit (TMU). However, this also is not prohibited by an FAA Order or policy.

The FLM's role is not to control air traffic, but to provide oversight ensuring that general procedures (e.g. standard phraseology and other operating practices) are being adhered to. At ZAU, FLMs are assigned to supervise an average of 12 controllers per shift, with an average of 7 controllers working traffic in different geographic zones, at any given time. Even if an FLM is current and qualified in two of those positions, it is not humanly possible to maintain situational awareness of that amount of activity simultaneously during busy traffic periods, and the FLM's attention is frequently focused upon resource management tasks unrelated to directly controlling traffic.

The STMC's role is to supervise Traffic Management Coordinators (TMCs) that are coordinating with the internal areas/sectors and all external entities. They also monitor all of the traffic flows within ZAU boundaries. Neither the TMC nor the STMC provide control instructions to, or communicate directly with any aircraft.

Most importantly, we found no nexus between these assignments and any safety event occurring in ZAU airspace. A thorough examination of all FAA air traffic records, including systems that automatically record losses of separation, as well as safety reporting data bases, revealed no evidence that public safety was endangered during these "out-of-area" FLM/STMC assignments.

During interviews of ZAU personnel,¹ no instances of unsafe actions on the part of the FLMs were reported. The complainant reported no specific instances in which safety was compromised.

However, this investigation also concluded that these “out-of-area” FLM assignments, which began at ZAU in late 2014, are not a preferred operating practice in complex air traffic facilities during busy traffic periods. This practice is also in conflict with traditional FLM staffing philosophy in large facilities like ZAU. Moreover, this recent staffing practice was implemented in a disorganized, inefficient manner, without clarification or guidance to the affected FLMs.

At the time of this investigation, ZAU had a 30% shortage in authorized FLM headcount, and the air traffic manager instituted a policy of not authorizing overtime duty to FLMs, which exacerbated the shortage. In addition, the ZAU air traffic manager had the option of assigning supervisory Controllers-in-Charge (CICs)² to serve in FLM roles. Supervisory CICs were available for assignment and would have been qualified in one or more of the areas supervised, but ZAU management failed to utilize this option, instead opting to assign FLMs to areas in which they had no operational experience. Thus, the ZAU air traffic manager’s decisions were questionable.

In summary, there was no violation of law, rule or regulation, and no substantial or specific danger to public safety. The investigation did find flawed management decisions made by the ZAU air traffic manager.

As a result of this investigation, the Vice President of Air Traffic Services directed the facility to limit the practice of assigning FLMs to areas in which they have no familiarity except in extraordinarily unusual circumstances such as a national or local emergency (effective July 28, 2015). FLM overtime and CICs will be utilized to cover shortages and to maintain area familiarity. A new Air Traffic Manager will be assigned to ZAU within the next 30 days. In addition, the Air Traffic Organization (ATO) will issue new national policy guidance on this matter to all air traffic facilities by September 30, 2015.

Detailed Findings

Allegation 1: Upper level managers have jeopardized situational awareness and endangered public safety by assigning Front-line Managers (FLMs) to areas in which they are not certified or current.

No violations of an FAA Order occurred. The investigation found that ZAU managers are assigning FLMs to work in geographic areas in which they do not maintain currency, but this not

¹ Since the complainant requested anonymity and is known only to the U.S. Office of Special Counsel, it is not known whether he or she was interviewed during the investigation. However, the investigative team interviewed all available personnel during a week-long visit to the facility in July 2015.

² Controllers-in-Charge (CICs) are senior air traffic control specialists who have completed accreditation to assume the roles of FLMs when they are not available for assignment. However, they are not FAA management employees.

prohibited by either FAA rules or policy, and no evidence was found to suggest that public safety was ever endangered. During interviews with numerous ZAU personnel, no instances of unsafe actions on the part of the FLMs were reported. A review of 126 Mandatory Occurrence Reports and all 2014 and 2015 ZAU System Service Reviews³ did not identify any safety events attributable to FLM actions. Finally, the complainant reported no specific instances in which safety was compromised.

The complaint alleges that the practice of assigning FLMs to areas in which they are not certified or current jeopardizes situational awareness. Situational awareness is subjective because it involves individual perceptions and varying degrees of ability. As such, quantifying and determining whether situational awareness has been “jeopardized” is not possible. All individuals interviewed denied losing situational awareness when they provided supervision to an area in which they did not have currency, or in their own area in which they do maintain currency.

FAA Order 7210.3Y, *Facility Operation and Administration* only requires FLMs to maintain currency on a minimum of two control positions in order to perform Front Line Manager-in-Charge (FLMIC) duties. The Order neither requires FLMs to be assigned to specific areas exclusively, nor does it prohibit FLMs from supervising areas in which they do not maintain currency. Section 2-6-1(a) requires a watch supervisor to maintain situational awareness of traffic activity and operational conditions in order to provide timely assistance to controllers by assigning available resources when needed, or by opening additional positions and assigning controllers to work to ensure efficiency and safety. There is no expectation that an FLM would be able to intervene and control traffic should a controller ask for help. Supervisory assistance to controllers is a more standardized role, and includes actions such as coordinating with adjacent facilities, coordinating with traffic management, coordinating with search and rescue as needed in emergency situations, and calling other controllers off break to alleviate high workload. These duties are not area specific.

When interviewed, nearly all FLMs expressed varying levels of discomfort, using terms such as “inefficiency” and/or “potential risk” associated with area assignments other than their primary work areas. An anonymous FLM, who contacted the lead investigator, expressed frustration that it was not fair to hold FLMs accountable to a standard they cannot meet, and that the supervisor would not be able to lend operational support to a controller if needed. This FLM believed the practice was unsafe, but could not identify an actual safety event attributable to an “out of area” FLM.

All members of the ZAU management team advised that FLM staffing shortages and fiscal constraints at ZAU have necessitated the assignment of FLMs to alternate areas. Initially, the facility attempted to limit the assignment of FLMs to cross-aisle areas or areas where the FLMs

³ Mandatory Occurrence Reports (MORs) are used by the facility to document occurrences involving air traffic services for which the collection of associated safety-related data and conditions is mandatory. Such instances include suspected losses of separation, airborne air traffic control anomalies not involving a loss of separation, and incidents occurring in the airport environment. See FAA Order 7210.632. System Service Reviews (SSRs) are reviews of individual MORs to identify whether safety events are systemic in nature.

had previous experience. Recently, significant impacts to FLM staffing numbers have reduced FLM numbers to the point where the facility began assigning FLMs to areas where they had no previous experience. One Operations Manager told investigators that the facility management team's philosophy is that there is no distinction between an FLM watching all the areas including the Traffic Management Unit (TMU) during the midnight shift when one FLM supervises all areas at ZAU, and an FLM being assigned a day or evening shift in an area where he/she does not maintain currency. It is a longstanding practice to have only one FLM or CIC assigned to supervise the "midnight shift" at some facilities when traffic is very light.

Around March 5, 2015, concerns regarding this alternate area scheduling practice were raised to the facility via an Air Traffic Safety Action Program (ATSAP)⁴ report. In an April 16, 2015 response to the Event Review Committee (ERC)⁵, ZAU management indicated they were implementing "best practices" to employ before assigning FLMs to alternate areas. Such practices were to include only assigning FLMs to areas in which they previously were a supervisor or controller or to a cross-aisle assignment. Additionally, ZAU management committed to implementing familiarization training for all supervisors. To date, the management at ZAU failed to follow through on this promise. Moreover, area familiarization training has not occurred except on an informal, ad-hoc basis, which is not documented as required of all training. Of the ten FLMs investigators spoke to, only one FLM reported receiving area familiarization training.

Allegation 2: Upper level managers have jeopardized situational awareness and endangered public safety by assigning FLMs to fill in as temporary supervisory traffic management coordinators (STMCs), despite the fact that these FLMs are either no longer current on their STMC certifications or have never been certified as STMCs.

The investigation found that ZAU management is assigning FLMs to work as STMCs despite lacking current STMC certifications. Again, this practice is not a violation of an FAA Order, and no evidence was found indicating a danger to public safety. The STMC's role is to supervise Traffic Management Coordinators (TMCs) that are coordinating with the internal areas/sectors and all external entities. They also monitor all of the traffic flows within ZAU boundaries. Neither the TMC, nor the STMC provide control instructions to, or communicate directly with any aircraft.

Instead, they work with other agency employees to communicate with the airlines and the military regarding Traffic Management Initiatives (TMI). TMIs include ground stops, miles-in-trail spacing, and rerouting of aircraft to ensure that demand does not exceed capacity within any element of the national airspace system.

⁴ ATSAP is a voluntary, cooperative, non-punitive safety reporting system which allows controllers and others, including managers engaged in air traffic control services to self-report safety events for appropriate action to occur to improve air traffic safety.

⁵ The Event Review Committee is a group of personnel which reviews and analyzes confidential reports submitted via the ATSAP program to identify actual or potential safety problems and ensure appropriate action is taken.

Approximately two years ago, management at ZAU decided to rotate personnel as STMCs through the TMU on two to three year details in lieu of permanent assignments. This new policy applied to Traffic Management Coordinators (TMCs) as well as STMCs.

The FLMs most often assigned to the TMU are two experienced former STMCs who were reassigned to the FLM position when the facility transitioned to the rotational policy. Additionally, we determined through records, that one FLM identified in the OSC referral as an FLM who had never worked as an STMC was assigned STMC duties on May 10, 2015. However, the FLM in question was certified as a TMC in 1995.

ZAU management asserts that there is no distinction between supervising all areas during the midnight shift without individual area certifications, and being assigned to supervise one of the areas (including the STMC position) for a day or evening shift. There is no prohibition in facility or National Orders preventing an FLM, who maintains currency in one area of the facility from supervising other areas or the TMU. Further, if inclement weather has caused delays, the FLM makes traffic management decisions such as arrival rate or traffic restrictions as the OMIC, and as part of their daily routine.

Additional Considerations:

The duties of supervisory air traffic controllers (FLMs) have evolved over time. In the past, FLMs were certified on all sectors that they were assigned to supervise. FLMs functioned as senior controllers, who were expected to intervene and control traffic if they deemed it necessary. Today, the Next Generation Air Traffic Control System (NextGen) is being deployed throughout the National Airspace System (NAS), and numerous decision support tools, automation, and equipment enhancements have been deployed in many facilities to enhance situational awareness. Accordingly, modern air traffic control technology is changing the role of the FLM to a different type of supervision, but the current system is still in a transitional phase between traditional air traffic control practices and the state-of-the-art NextGen system.

Today's FLM role is becoming more focused upon resource management, inter-and intra-facility coordination for traffic management restrictions, and general supervision. The latter includes ensuring that controller provided separation and phraseology is compliant and general conduct is appropriate, which is standard in all facilities and areas. During the transition to NextGen, new guidance and additional training will be required to ensure that both FLMs and facilities are prepared to perform a different type of supervisory role in the NextGen environment.

Investigation Methodology:

The investigative team was comprised of a senior investigator-in-charge from the Office of Audit and Evaluation (AAE) and subject matter experts from the ATO Safety and Technical Training organization. During the week of July 13-16, 2015, the team traveled to Aurora, IL to conduct interviews and review records. The investigators interviewed 15 individuals, including the air traffic manager, frontline managers, operations managers, and the training manager. The investigators reviewed training records, correspondence, FAA Orders and all databases

containing safety and operational records at ZAU. FAA employees interviewed or spoken to included:

Robert Mickolayck, Front-line Manager
Joseph Bocik, Front-line Manager
Alex Govan, Front-line Manager
Keith Friedlein, Front-line Manager
Joel Brown, Front-line Manager
Jamie Feger, Front-line Manager
Cherie Obert, Front-line Manager
Wallace Charles, Front-line Manager
Bob Langerveld, Operations Manager
Doug Holland, Operations Manager
Ray Cummins, Acting Executive Officer
John Etherington, Support Manager, Training and Planning and Requirements
Tom Rucker, Acting Quality Assurance Manager
Doris Arno, Acting Air Traffic Manager
Anonymous Front-line Manager (telephone call received)

Since the complainant requested anonymity and is known only to the U.S. Office of Special Counsel, it is not known whether he or she was interviewed during the investigation.

Corrective Actions by the Agency:

The ATO has implemented the following process improvements at ZAU:

- Effective July 28, 2015, the facility was instructed by the Vice President, Air Traffic Services to limit the practice of assigning FLMs outside of geographic areas where they currently maintain familiarity, except in extraordinarily unusual circumstances such as a national or local emergency.
- ZAU was also instructed to utilize overtime or supervisory CIC in lieu of FLMs unfamiliar with a given area.
- The staffing of the ZAU TMU unit with a combination of permanent and detailed personnel will be adjusted to reduce the ratio of detailed positions.
- A new Air Traffic Manager will report to ZAU within 30 days.
- The ATO will issue new national policy guidance on this matter to all air traffic facilities by September 30, 2015.