



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

The Inspector General

Office of Inspector General  
Washington, D.C. 20590

December 4, 2001

The Honorable Roy Blunt  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Blunt:

This is in response to your letter of June 13, 2001, concerning the alleged harassment of Joseph Brinell, then-Director of Aviation for the College of the Ozarks, by officials of the Federal Aviation Administration's (FAA) Kansas City Flight Standards District Office (FSDO). On December 9, 1999, Mr. Brinell perished while piloting an aircraft owned by the College from St. Louis to Point Lookout, Missouri. The crash also claimed the lives of five other persons, including College officials and family members.

The National Transportation Safety Board (NTSB), in its Accident Investigation Report, concluded that the crash resulted from pilot error under adverse weather conditions<sup>1</sup>.

The NTSB report included the following narrative based on an interview its accident investigator conducted:

“A corporate operator and friend of the pilot [Mr. Brinell] said that he met the pilot [on December 9, 1999] after the pilot's airplane landed at St. Louis . . . [Mr. Brinell] said, “I need to talk to you.” . . . He said that [Mr. Brinell] told him that he hadn't slept for three days, and expressed that a supervisor in the Kansas City FSDO “is trying to destroy me.” . . .”

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<sup>1</sup> The NTSB cited as its investigative findings the following: (1) Proper altitude – not maintained – pilot in command; (2) Fatigue (lack of sleep) – pilot in command; (3) Weather condition – low ceiling; (4) Use of inappropriate medication/drug – pilot in command; (5) Weather condition – rain; and (6) **Pressure induced by others – FAA inspector** [emphasis added by OIG]. Regarding finding #4, per NTSB's report, Mr. Brinell had been taking a commonly prescribed medication known as Sinequan, which reportedly may cause drowsiness.

By letter dated February 25, 2000, you requested that the Federal Aviation Administrator and FAA's Central Region Administrator investigate allegations you received that FAA's Kansas City FSDO<sup>2</sup> had wrongfully targeted Mr. Brinell for regulatory enforcement<sup>3</sup>. FAA conducted an internal investigation and reported its findings to you by letter dated July 3, 2000, followed by an October 10, 2000, letter relating its final disposition.

FAA's internal investigation concluded that the FSDO's proposed formal re-examination of Mr. Brinell—potentially resulting in revocation of his Airline Transport Pilot certificate—was not warranted. However, FAA further found, as reported to you, that the FSDO was not “*remiss in its oversight responsibilities or abusive in exercising its empowerment to re-examine Mr. Brinell, and the actions taken by the FSDO manager were appropriate.*” You subsequently asked us to review FAA's actions in this matter.

As agreed with your staff, we examined the thoroughness and accuracy of FAA's internal investigation. This required us to sort through several enforcement-related actions initiated against Mr. Brinell and the College of the Ozarks. Although we did not investigate the crash or probe NTSB's findings, we did review NTSB's report and interviewed NTSB's lead investigator. We also examined the accuracy of FAA's October 10, 2000, letter to you, which detailed several remedial actions resultant of FAA's internal investigation.

In examining both FAA's internal investigation and its correspondence to you, we identified a number of troubling irregularities. Most significantly, we found an evident lack of objectivity and an underlying bias in favor of FSDO personnel—against whom the allegations were made—which implicate a compromise of the integrity of FAA's investigation. These irregularities, which are central to the allegations that FAA investigated, are summarized as follows:

1. Although the FAA assigned personnel from outside the Kansas City FSDO to investigate the allegations you reported to the Administrator, two of these team

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<sup>2</sup> Organizationally within FAA, FSDOs report to the Regional Flight Standards Division office. Though not collocated, the Kansas City FSDO and Central Region Flight Standards Division office are in close proximity to one-another.

<sup>3</sup> None of FAA's enforcement actions against Mr. Brinell resulted in any proposed fines or suspension/revocation of his pilot certificates. Two actions were withdrawn—based on lack of substantiation—and the other, for which Mr. Brinell maintained he had not committed any violation, was pending at the time of his death.

members told us that the investigative team leader instructed them at the outset that they had “reputations [of FSDO inspectors] to protect.” Further, one member of the investigative team asserted—in a dissenting report he prepared, as well as to us—that the leader advised the team to consider that the FSDO personnel subject to the allegations had applied for promotions. The team leader told us she did not recall making such statements. We determined that the FSDO Supervisor was promoted to the position of FSDO Manager during the pendency of FAA’s internal investigation, and is presently assigned (per a temporary promotion) as Acting Assistant Regional Flight Standards Manager<sup>4</sup>.

2. We found serious omissions from FAA’s Report of Investigation (ROI), the exclusions of which can give rise to a perception of bias. We were unable to determine if these omissions resulted from inexperience on the part of the investigative team, or were intentional. Significantly, we found that conflicting statements of witnesses, while contained in the investigative team’s reports of interview, were not presented in FAA’s ROI and, moreover, the team did not attempt to reconcile the discrepancies. This fosters an appearance that the ROI is selective and potentially misleading in presenting the results of investigation.

Specifically, FAA’s ROI included a witness statement—constituting hearsay—from a FSDO inspector who quoted the College’s Maintenance Director as saying he personally informed Mr. Brinell that College aircraft had exceeded 100-flight hour inspection requirements and violated FAA airworthiness directives (ADs), and that Mr. Brinell “didn’t want to do anything about it.” The Maintenance Director subsequently told FAA’s investigative team that Mr. Brinell never ignored inspections or ADs, and had not flown in the aircraft found to be in violation.

The FAA’s ROI did not reference the Maintenance Director’s interview and the contradictory statements, and the investigative team did not attempt to reconcile this discrepancy. The question of Mr. Brinell’s knowledge of, and involvement in, violation of FAA standards was central to the FSDO’s case for pursuing formal re-examination of Mr. Brinell. Not only should the Maintenance Director’s interview statements have been noted in FAA’s ROI, but it was incumbent upon the investigative team to attempt to resolve the discrepancy.

Moreover, we found that there were Certified Flight Instructors (CFIs) employed by the College who were more likely than Mr. Brinell to have flown College-owned aircraft in violation of 100-hour inspection requirements and

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<sup>4</sup> This individual is eligible to compete for the permanent position of Assistant Regional Flight Standards Manager.

airworthiness directives. Notably, FAA's investigative team made no attempt to determine whether the FSDO explored the potential culpability of any CFIs before pursuing re-examination of Mr. Brinell, and the ROI does not reference this issue. The investigative team leader told us that the team did not consider the CFIs issue until we raised it to her.

3. In addition, our investigation disclosed a dissenting report prepared by a member of the investigative team that highlighted deficiencies in FAA's internal investigation. Along with the team member's assertion that the investigation was biased in favor of FSDO personnel whom the allegations concerned, the dissenting report includes an assertion that the ROI excluded the FSDO Supervisor's statement that he could not document Mr. Brinell's alleged operation of College aircraft in violation of FAA standards. The team member who prepared the dissenting report told us that he signed the final ROI because he felt pressured to do so but did not agree with what it reported. FAA neither included nor acknowledged the dissenting report in its final ROI.
4. We concluded that a significant remedial action pledged by the FAA in its correspondence to you—concerning FSDO personnel assignment changes—was ambiguous in terms of what action FAA intended to take, and that specific action directed by management was not adhered to, resulting in an unfortunate incident. In his October 10, 2000, letter to you, FAA's then-Associate Administrator for Regulation and Certification advised you as follows:

“The Kansas City FSDO Manager has reviewed inspector assignments in the Springfield/Branson area and changes have been made to alleviate concerns about conflicts with inspectors.”

The then-Acting Regional Manager told us that, pursuant to FAA's internal investigation, he directed the FSDO Manager (formerly the FSDO Supervisor) to no longer assign two FSDO inspectors—including the principal inspector who pursued enforcement action against Mr. Brinell—to duties at the College. The then-Acting Regional Manager further advised, however, that “We didn't take people completely out as I think Congressman Blunt's letter alleged—out of [FSDO positions in] Southwest Missouri. We don't have the bodies to do that.”

The then-Acting Regional Manager told us of an incident when, unbeknownst to him, the same principal inspector involved in the proposed enforcement actions against Mr. Brinell went to the College to conduct a practical flight examination (check-ride) of a student pilot and was seen by Mrs. Brinell while

he was sitting at the desk of her late husband. Mrs. Brinell, who felt this inspector had targeted her husband for enforcement, told us she had received the personal assurance of the then-Acting Regional Manager that this inspector would never return to the College. Mrs. Brinell further related that she observed the inspector sitting with his feet atop her late husband's desk. Needless to say, this encounter, though apparently unintentional, appeared callous on FAA's part and greatly upset Mrs. Brinell. The then-Acting Regional Manager described this as an unfortunate incident and told us it would not happen again.

In light of the foregoing, we have serious reservations about the objectivity and fairness of FAA's internal investigation regarding the Kansas City FSDO's alleged abuse of its enforcement authority against Mr. Brinell. We have concluded, therefore, that rather than request FAA to re-investigate this matter, we consider it more appropriate for our office to investigate the alleged FSDO improprieties. We note that this is the third investigation we have recently conducted involving fatal general aviation accidents and alleged improprieties on the part of FSDOs. In the two prior cases, FAA investigations—conducted by FSDOs—had not found FSDO personnel to have been remiss in performing their regulatory oversight functions. Conversely, our investigations concluded that FSDO management did not recognize, adequately investigate, or remedy key FSDO deficiencies.

Additionally, based on the results of our investigation to date, we are transmitting the findings referenced herein to the FAA Administrator, with the following recommendations:

1. That the newly-assigned Associate Administrator for Regulation and Certification immediately review his predecessor's letter to you of October 10, 2000, and clarify to you—following coordination with our office—the remedial actions pledged therein.
2. That any grade or position promotions of Kansas City FSDO and Central Region Flight Standards personnel involved in this matter be held in abeyance pending our additional investigation.
3. That any proposed disciplinary or other administrative actions resultant of our investigation be coordinated in advance with our office.

We recently discussed our findings and recommendations with the new Associate Administrator, who expressed support for our continued investigation and agreed to carry out the above recommended actions. We will continue to closely coordinate this matter with your staff and will report our complete findings to you at the conclusion of our investigation.

If I can answer any questions or be of further assistance in this or any other matter, please feel free to call me at (202) 366-1959, or my Deputy, Todd Zinser, at (202) 366-6767.

Sincerely,



Kenneth M. Mead  
Inspector General

Enclosure  
Member Correspondence