

Before the Committee on Transportation and Infrastructure

U.S. House of Representatives

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**Federal Aviation Administration
Efforts to Locate Aircraft N711RD**

Statement of

The Honorable Kenneth M. Mead

Inspector General

U.S. Department of Transportation



Mr. Chairman, Representative Oberstar and Members of the Committee:

Our testimony today will report on the results of our investigation into efforts by FAA to locate a private aircraft reportedly associated with absent Texas legislators on May 12, 2003.

Our investigation was requested by Senator Joseph I. Lieberman, Ranking Minority Member of the Senate Committee on Governmental Affairs, by letter dated May 27, 2003. We responded to Senator Lieberman by letter dated July 11, 2003. A copy of our response was provided to the Committee on July 11, and we have included it, as well, as an attachment to our testimony.

Prior to our receiving Senator Lieberman's request for investigation, the Secretary, as soon as he and his office learned of FAA's involvement in this matter, directed the Department's General Counsel to investigate the facts and circumstances of FAA's involvement. The General Counsel suspended his investigation when we initiated ours.

Our investigation included over thirty (30) interviews of individuals, examination of FAA transcripts and other FAA and Department of Transportation records, and research we performed to determine the extent to which flight data information about general aviation aircraft is publicly available.

The Committee requested our testimony pursuant to consideration of House Resolution 288. On July 14, 2003, we provided supporting documents to the Committee pursuant to their official request.

We would like to acknowledge the cooperation of the Secretary and his senior staff, as well as the Federal Aviation Administrator. The Secretary and the Administrator fully concurred with our findings and recommendations, and the Department and FAA are taking remedial action in response. As part of our investigation, we interviewed the staff member for Representative DeLay who contacted FAA's Assistant Administrator for Government and Industry Affairs for assistance on May 12. We would like to thank Representative DeLay for his cooperation in making his staff available to be interviewed and for providing additional information.

Our testimony today will summarize our investigative findings, our recommendations to the Department, and the actions the Department is taking in response.

Our investigative results are presented as follows:

1. On May 12, 2003, FAA received requests from three organizations for information about N711RD.

- On May 12, 2003, at least 13 FAA employees, over an eight-hour period of time, responded to requests for information about N711RD from three organizations: the Texas Department of Public Safety (DPS), the Department of Homeland Security, and the staff of Representative Tom DeLay.
- FAA provided all three of the requesting organizations with flight data about State Representative Laney's plane. The contacts to FAA began just before 1:00 p.m. EDT, when Texas DPS called FAA's designated law enforcement liaison unit, which is based in Oklahoma City.

According to the Oklahoma City FAA employee who received the inquiry, the DPS caller said that over 50 Texas legislators were "in hiding" and that the Governor of Texas had issued a warrant for their apprehension. We were unable to ascertain whether the Governor had issued any warrant, though DPS provided a copy of a May 12 letter from the Texas Attorney General asserting the legality of DPS' actions. We are aware that the District Court for Travis County, Texas, ruled on July 10 that DPS' actions were not lawful; however, reports indicate that an appeal of that ruling is anticipated.

The caller said that DPS needed FAA's assistance in locating a plane believed to be carrying legislators. The FAA employee told us that since that FAA office lacks the direct capability to locate aircraft, and DPS did not have the plane's tail number or name of the pilot, she simply referred DPS to a Department of Homeland Security facility in California, without providing any information.

- The next inquiry was around 4:00 p.m. EDT, when a senior staffer for Representative DeLay called David Balloff, FAA's Assistant Administrator for Government & Industry Affairs, asking for the current location of N711RD. Balloff checked with FAA's Washington Operations Center and—at 4:21 p.m. EDT—advised the staffer that the plane would be landing in about seven minutes in Ardmore, OK. When Balloff advised the staffer of this, she then requested the locations of the plane on May 11, the day before. The information the Operations Center provided Balloff was from FAA databases, but comparable information was publicly available thru commercial databases accessible via the internet.

Balloff told us that Rep. DeLay's staffer offered no explanation for the request and he did not ask about it, though he told us that having worked at the

National Transportation Safety Board (NTSB), the first thing that came to his mind was that a safety issue might be involved.

- Lastly, beginning at about 8:40 p.m. EDT, air traffic controllers in FAA’s Fort Worth Center were contacted, first by the Department of Homeland Security facility in California, and then by Texas DPS. In response, the controllers provided current aircraft location and flight plan information to callers from both the Department of Homeland Security and DPS. This included information that N711RD had departed Ardmore that evening around 8:00 p.m. EDT and appeared to be heading for Mineral Wells, TX. At least two controllers were aware of the purpose of the inquiries at the time they were received.

A Fort Worth controller told us that the DPS officer who called him said N711RD was overdue to arrive at Mineral Wells and requested a search and rescue operation. While the controller told the DPS officer that a search and rescue operation was not warranted as there was no evidence the plane had experienced flight trouble, the Fort Worth Center did post an “alert” for N711RD in its air traffic control computer system, which would have triggered immediate notification—to the Fort Worth Center only—had the plane contacted any air traffic control unit within the Center’s area of coverage.

When DPS advised an FAA controller that the plane had not arrived at Mineral Wells, the controller informed the DPS officer of four or five airports in the vicinity of the Mineral Wells airport where the plane could have landed, including Graham, TX. Later that night, DPS located the plane in Graham, TX, and notified the Fort Worth Center, which, at some point after 11:30 p.m. EDT, canceled the alert.

2. ***FAA lacks clear internal guidance for the processing of requests for FAA flight information received from law enforcement and other government entities. A separate issue exists concerning public availability to aircraft location and flight data via commercial databases.***
- FAA lacks clear internal guidance for the processing of requests for FAA flight information received from law enforcement and other government entities. A separate issue exists concerning public availability to aircraft location and destination data via commercial databases.

Specifically, FAA protocols for the processing of information requests from law enforcement or other government entities require considerable strengthening. We found that air traffic controllers took no action to verify the identities of callers, inquire about the reason for the request (i.e., in order to

identify flight safety issues), or log the contacts—to include annotating the information that was provided. In fact, none of the involved Fort Worth controllers even recalled the name of the caller purporting to be a DPS officer. The controllers believed they were responding to legitimate law enforcement inquiries, of which they receive such requests on only an occasional basis.

We recommended to the Secretary that clear policy and procedures in this area be implemented. The Secretary and Administrator have concurred with our findings and recommendation, and are prescribing new policy guidelines.

- As distinguished from the above issue concerning FAA's need for clear internal policy, we note the broader, and more complex, issue of public availability to aircraft location and flight data. While the information FAA personnel provided about N711RD was retrieved from FAA databases, we confirmed that comparable information—including near real-time aircraft locator data (5-10 minute lag)—is currently available to the general public through commercial databases accessible via the internet.

Using known internet search engines, we were able to quickly determine the current locations (near real-time) and destinations of airborne general aviation aircraft, as well as historical destination data. In fact, using the internet, we were able to determine the locations of N711RD on May 12. Pursuant to a request from Representatives Oberstar and Turner, this issue is currently the subject of review by the Department and FAA.

We recommended to the Secretary that this issue continue to receive close examination by senior levels of the Department and FAA, in consultation with other Government agencies. The Secretary and Administrator concurred.

3. The Administrator and the Secretary should have been informed sooner of FAA's involvement. Information that FAA provided flight data to the Department of Homeland Security, DPS, and Rep. DeLay's staff was not communicated to the Administrator and the Secretary until May 21.

- We found that the FAA Administrator and the Secretary should have been informed sooner of FAA's involvement. Information that FAA provided flight data to the Texas Department of Public Safety, the Department of Homeland Security, and Rep. DeLay's staff was not communicated to the Administrator and the Secretary until May 21. When the Administrator and the Secretary were finally informed, they recognized its importance and took timely, appropriate action to have the circumstances investigated.

On May 15, a Minority staffer for the House Homeland Security Appropriations Subcommittee asked FAA whether the agency had been contacted by anyone on May 12 for information about N711RD. As a result of this inquiry, FAA's Chief of Staff, David Mandell, directed fact-finding. It was not until May 21 that Mandell learned that Balloff and FAA's Fort Worth Center had provided information. Mandell notified the Administrator and the Department's Chief of Staff, who, in turn, immediately informed the Deputy Secretary, General Counsel, and the Secretary.

We did not find Balloff's actions in this matter to have violated any rules or regulations. However, while we do not have evidence that Balloff knew the purpose of the staffer's request when he responded to it, we do not understand why he did not ask the staffer about the purpose of her request—particularly since he told us he thought it might involve a safety issue.

We concluded that Balloff should have promptly informed the Administrator of the information he provided in response to the request from Rep. DeLay's staffer when he realized, on May 13, after reading the *Washington Post*, that this matter was one of national attention. Had he reported the contact at that point, the Administrator and the Secretary would have been informed more than a full week earlier, thus enabling FAA to be responsive to the Minority staffer for the Homeland Security Appropriations Subcommittee, who had asked whether FAA had received any inquiries about the plane.

4. Remedial Actions Taken

In conclusion, we believe the actions taken by the Department are responsive to the recommendations we made pursuant to our investigative findings. The full text of the Department's response is provided as an attachment to our letter report to Senator Lieberman. We anticipate no further investigative action in this matter. However, we will advise you of the implementation of the Department's actions as soon as they are complete.

Summary of Findings

- 1. On May 12, 2003, FAA received requests from three organizations for information about N711RD.**

Our investigation found that on Monday, May 12, FAA personnel in Oklahoma City, OK, Washington, DC, and Fort Worth, TX, received separate requests for information as to the location and destinations of a general aviation airplane reportedly associated with the absent Texas legislators. This airplane, a twin-engine Piper Cherokee—tail number N711RD—is registered to State Representative Pete Laney. We found that at least 13 FAA personnel were involved in responding to the various requests for information about N711RD on May 12.

- (a) At approximately 1:00 p.m. EDT, the Texas Department of Public Safety (DPS) called an FAA office in Oklahoma City.*

This FAA unit, based in Oklahoma City, is responsible for law enforcement liaison agency-wide. According to the FAA employee who received the inquiry, the caller said that over 50 Texas legislators were in hiding and that the Governor of Texas had issued a warrant for their apprehension.

DPS asked for FAA's assistance in locating a plane believed to be carrying some of the legislators. As this FAA office lacks the direct capability to locate aircraft, and DPS did not have the plane's registration/tail number or the pilot's name, it simply referred DPS to the Department of Homeland Security's Air & Marine Interdiction Coordination Center (AMICC) in Riverside, CA, without providing any information.

We were unable to ascertain whether, in fact, the Governor ever issued any warrant or summons. However, Texas DPS provided us with a copy of a letter from the Attorney General of Texas to the Director of DPS, dated May 12, 2003, upholding, as lawful, a letter to DPS, on that same date, from the Sergeant-at-Arms of the Texas House, requesting that DPS secure and return to the House, by any available means, absent House members. The Texas Attorney General's letter cites legal authority under the State's Constitution and House Rules "to arrest absentees wherever they may be found." A copy of this letter is included in the documentation we provided to the Committee. We are aware that the District Court for Travis County, Texas, ruled on July 10 that DPS' actions were not lawful; however, reports indicate that an appeal of that ruling is anticipated.

(b) Around 4:00 p.m. EDT, a staffer for Representative Tom DeLay called David Balloff, FAA's Assistant Administrator for Government and Industry Affairs.

A senior staffer for Representative DeLay called David Balloff, FAA's Assistant Administrator for Government & Industry Affairs at approximately 4:00 p.m. EDT, asking for the current location of N711RD. Balloff checked with FAA's Washington Operations Center and advised the staffer at approximately 4:21 p.m. EDT that the plane would be landing in about seven minutes in Ardmore, OK. Upon informing the staffer of this, she then requested the plane's locations on May 11. Balloff again contacted the Operations Center and early in the evening of May 12, he called the staffer, providing her with the requested information.

As Washington Operations Center telephone communications are recorded, we obtained a transcript for May 12 that included Balloff's conversations with Operations Center Personnel. We included a copy of this transcript in our response to Senator Lieberman and in the documentation we provided the Committee.

Per our review, the earliest media report that absent Texas legislators had been located in Ardmore occurred after Balloff's 4:20 p.m. EDT advisement to

Rep. DeLay's staffer. A May 14 *Fort Worth Telegram* article states, "The location of Laney's plane proved to be a key piece of information because, [Texas House Speaker Tom] Craddick said, it's how he determined that the Democrats were in Ardmore."

Balloff told us that Rep. DeLay's staffer offered no explanation for her request and he did not ask her about it, though he stated to us, "Having worked at the [National Transportation Safety Board], the first thing that came to my mind was a safety issue." We interviewed Rep. DeLay's staffer, who corroborated Balloff's account of their conversations. We also identified and interviewed a GS-15 subordinate of Balloff's, who was present with him when Balloff called the Operations Center to ascertain the plane's current location and in turn informed the staffer that it was landing shortly in Ardmore. The GS-15 employee confirmed that in calling the staffer back, Balloff did not query her about the reason for the request or whether there was a flight safety concern involved. According to the GS-15 employee, Balloff indicated no awareness of the purpose of the staffer's request.

(c) Beginning around 8:40 p.m. EDT, the Department of Homeland Security's AMICC facility, followed by Texas DPS, called FAA's Fort Worth Air Route Traffic Control Center.

Beginning at about 8:40 p.m. EDT on May 12, a series of five calls were placed to FAA's Fort Worth Center by representatives of the Department of Homeland Security and DPS requesting the current location of N711RD, which having landed earlier at Ardmore, had taken-off again heading back into Texas. Air traffic controllers in the Fort Worth Center provided aircraft location and flight plan information to the Department of Homeland Security and DPS callers. We found that the controllers believed they were responding to legitimate law enforcement inquiries, of which they receive such requests on only an occasional basis.

At least two controllers in Fort Worth were aware of the purpose of the inquiries at the time they were received and processed. A supervisory controller told us he first learned of the search for the absent Texas legislators from local news reports prior to reporting for work on May 12. He advised that later, in fielding the call from DPS, he stated to the DPS officer, "You must be looking for the missing Democrats," which the officer acknowledged.

A second Fort Worth controller related that in contacting an Air Traffic Control facility in Lubbock, pursuant to a call he received from the Department of Homeland Security, the controller with whom he spoke said, "You know who that [plane] belongs to, don't you? It's the outgoing Speaker, Laney, Speaker of the House."

A Fort Worth controller told us that the DPS officer who called him said N711RD was overdue to its presumed destination of Mineral Wells and requested a search and rescue operation; earlier that evening, FAA's Fort Worth Center had informed the Department of Homeland Security facility in California that N711RD had an active flight plan from Ardmore to Mineral Wells. The Department of Homeland Security in turn passed this information on to DPS. The controller advised the DPS officer that a search and rescue operation was not warranted as there was no evidence the plane had experienced trouble in flight.

A Fort Worth controller also advised that during the evening of May 12, the Fort Worth Center entered an "alert" for N711RD in the Air Traffic Control computer system. An alert would have triggered immediate notification to the Fort Worth Center had the plane contacted any air traffic control unit within the Fort Worth Center's area of coverage. The alert was canceled that night, at some point after 11:30 p.m. EDT according to a supervisory controller, when DPS located the plane on the ground in Graham, TX, which is in the vicinity of Mineral Wells. The Fort Worth Center had informed the DPS officer of four or five airports in the vicinity of the Mineral Wells airport where the plane could have landed.

2. FAA lacks clear internal guidance for the processing of requests for FAA aircraft/flight information received from law enforcement and other Government entities. A separate issue exists concerning public availability to aircraft location/flight data via commercial databases.

It is clear from our findings that FAA protocols for the processing of information requests from law enforcement or other government entities require considerable strengthening. We did not consider it our role, nor did we attempt as part of our investigation, to define what does, and does not, constitute a legitimate request from law enforcement and other government organizations. As indicated below, we have recommended that the Department and FAA address the issue of availability of flight data as part of their remedial actions in response to this investigation.

Personnel at FAA's Washington Operations Center, the Fort Worth Center, and the law enforcement liaison office in Oklahoma City related that they receive aircraft location and flight information requests from law enforcement and other government entities on an occasional basis, though they were uncertain of the volume of requests they receive per week or month. The controllers we interviewed were not aware of any protocols to follow in responding to such requests. We found that controllers took no action to verify the identities of callers, inquire about the reason for the request (i.e., in

order to identify flight safety issues), or log the contacts—to include annotating what information was provided. In fact, none of the involved Fort Worth controllers even recalled the name of the caller purporting to be a DPS officer. If the calls had concerned a safety of flight issue, for example, the controllers would not have known who specifically to call back to provide further assistance if necessary.

Such a method of operation potentially limits FAA's effectiveness in carrying out its safety mission. At the same time, such a lack of protocols creates additional vulnerabilities, namely the possibility of releasing data from its information systems to individuals who may falsely identify themselves as law enforcement or other government officials.

Further, we found that there was some uncertainty and confusion on the part of FAA personnel as to whether flight data was publicly releasable. This, too, supports the need for clear policy guidance. As addressed below, we have recommended to the Secretary that clear policy and procedures in this area be implemented. The Secretary and Administrator have concurred with our findings and recommendation, and are prescribing new policy guidelines.

As distinguished from the above issue of clear policy and procedures needed for requests for information from FAA databases, we also note the broader,

and more complex, issue of public availability of aircraft location and flight data. While the information FAA personnel provided about N711RD was retrieved from FAA databases, we confirmed that comparable information—including near real-time aircraft locator data—is currently available to the general public through commercial databases accessible via the internet.

Through a program known as the Aircraft Situation Display to Industry (ASDI), DOT's Volpe Center makes certain raw FAA Air Traffic Control data—both near real-time (5-10 minute lag) and historical—for general aviation and commercial aircraft, available to designated industry parties in accordance with user agreements. The industry parties, in turn, process the data and make it publicly available (some requiring subscription fees) via the internet. Our research shows that similar capabilities exist for general aviation and commercial aircraft operating in Canada, England, the Caribbean, and over the Atlantic and Pacific Oceans.

Using known internet search engines, we were able to quickly determine the current locations (near real-time) and destinations of airborne general aviation aircraft, as well as historical aircraft destination data. In fact, on June 10, when we performed our internet search, were able to determine the flight origination and destination points of N711RD on May 12. A copy of the

results of our research is included in the documentation we provided the Committee.

We are aware that pursuant to a request from Representatives James Oberstar and Jim Turner, this issue is currently the subject of review by the Department's General Counsel and FAA's Chief Counsel. In their letter, Reps. Oberstar and Turner raised concern about "the homeland security implications of a policy that "routinely" makes information about the flight pattern of private aircraft available to the public." We have recommended to the Secretary that this issue continue to receive close examination and deliberations by senior levels of the Department and FAA, in consultation with other appropriate Government agencies.

- 3. The Administrator and the Secretary should have been informed sooner of FAA's involvement. Information that FAA provided flight data to the Department of Homeland Security, DPS, and Rep. DeLay's staff was not communicated to the Administrator and the Secretary until May 21.**

We found that Administrator Marion Blakey first learned on May 16 that FAA had been asked for assistance on this matter. FAA's Chief of Staff, David Mandell, informed her on May 16 that DPS had contacted FAA's Oklahoma

City office, but that DPS was referred to the Department of Homeland Security facility in California, and no information was released.

On May 19 or 20, Mandell was briefed that DPS and the Department of Homeland Security had called FAA's Fort Worth Center, but he did not brief the Administrator pending receipt of further details. On May 20, Mandell was provided with a chronology prepared by FAA's regional office in Fort Worth, but he advised that he did not have an opportunity to read it until May 21. This chronology showed, in summary form, Department of Homeland Security and DPS contacts with Fort Worth controllers, but, more significantly, it also showed that on May 12, the Fort Worth Center had received a call from the Washington Operations Center requesting information on N711RD. This information caused Mandell to question how the Operations Center became involved. Mandell then contacted the Operations Center, ultimately learning that day, May 21, that Balloff had inquired of the Operations Center about N711RD on May 12. Mandell then spoke to Balloff and learned, for the first time, about the request from Rep. DeLay's staff.

Shortly thereafter on May 21—but nine days after the fact—Mandell notified the Administrator and the Department's Chief of Staff, who, in turn, immediately informed the Deputy Secretary, General Counsel, and the Secretary. When the Administrator and the Secretary were finally informed of

Balloff's contact with Rep. DeLay's staffer, they recognized its importance and, in our opinion, took timely and appropriate action to have the circumstances investigated.

Balloff told us he first learned of the absent Texas legislators in reading the *Washington Post* late on May 13. Balloff stated, in part, as follows:

“. . . I figured out why they were calling. . . I just felt like I had been used. . . I don't do anything for political purposes. . . and I just did not like. . . somebody calling me for political reasons. . . I would never use my office to help somebody out politically, for any political reasons, period.”

We did not find Balloff's actions in this matter to have violated any rules or regulations. However, while we do not have evidence that Balloff knew the purpose of the staffer's request when he responded to it, we do not understand why he did not ask the staffer about the purpose of her request—particularly since he told us he thought it might involve a safety issue.

Further, we concluded that Balloff should have promptly informed the Administrator when he realized on May 13, after reading the *Washington Post*, that the matter was one of national interest. Had he reported the contact at that point, the Administrator and the Secretary would have been informed

more than a full week earlier, thus enabling FAA to be responsive to the Minority staffer for the House Homeland Security Appropriations Subcommittee, who asked on May 15 whether FAA had received any inquiries about the plane.

In fact, Balloff had the opportunity to disclose the contact on May 15 when questioned by an FAA manager conducting fact-finding in relation to the Subcommittee's inquiry. In view of differing statements by this manager and Balloff, we nonetheless believe that the manager's inquiry of Balloff should reasonably have elicited his disclosure of the request from Rep. DeLay's staffer. When we asked Balloff why he had informed no one, in light of the matter becoming one of national attention, he advised that he did not know why, stating he "just didn't."

DOT Chief of Staff Flaherty told us that he made a contemporaneous audio dictation within a few hours of his May 21 discussions with Mandell, the General Counsel, the Deputy Secretary, and the Secretary. We transcribed the tape, which expresses that both he and the Secretary were perplexed over the report they received that Rep. DeLay's staffer had not explained the purpose of the request, and that Balloff did not ask about it.

Consistent with the concern expressed by DOT Chief of Staff Flaherty, we, too, find it difficult to understand why Balloff did not ask Rep. DeLay's staffer about the purpose of the request, especially since, as a former employee of the National Transportation Safety Board, Balloff told us he had thought, at the time, that a safety issue might be involved.

Our correspondence to Senator Lieberman also noted that Balloff's response to our investigation contributed to our difficulty in understanding why he did not inquire about the purpose of the request from Rep. DeLay's staffer. In particular, it was necessary for us to interview Balloff on four separate occasions because he had not advised us of at least three events of considerable relevance to the matter we were investigating.

Specifically, Balloff did not recall when interviewed that another person was present with him when he called Rep. DeLay's staffer to inform her of the current location of N711RD, and then, upon reinterview after we identified the individual, he still did not recall this person's presence, even though this person corroborated some of his statements. Secondly, Balloff did not disclose the May 15 inquiry of him by the FAA manager who conducted fact-finding in response to the request of the Minority staffer for the House Homeland Security Appropriations Subcommittee.

When we learned of the FAA manager's May 15 inquiry of Balloff and reinterviewed him, he told us that he had not recalled it during our initial interview. Third, Rep. DeLay's staffer told us that on the morning of May 13, she sent Balloff an email that included a newspaper article about the matter in Texas. Rep. DeLay's office provided us with a copy of the email, reflecting that the staffer sent it to Balloff at 11:23 a.m., followed by text of an online article from the *Houston Chronicle*, captioned "Some rebel Texas lawmakers surface in Oklahoma town." Balloff told us he did not recall having seen it.

Recommendations

We have briefed senior levels of the FAA and the Office of the Secretary regarding our investigative results in this matter and have made the following recommendations for remedial action:

- As discussed above, we have recommended that the Department, in consultation with the FAA, develop specific policy and procedures regarding the processing of requests for aircraft and flight data from FAA's information systems. In the interest of enhancing security and safety, we believe procedures should be instituted for FAA personnel—throughout the agency—to (a) positively identify requestors by name, organization, and point-of-contact; (b) inquire about the purpose of requests (i.e., in order to identify and

address safety issues); and (c) formally log requests, with annotations as to what, if any, information was provided by FAA. Regarding (b) above, we recognize that there may be confidential reasons for law enforcement and other government agencies to request aircraft/flight information. Accordingly, procedures are needed for handling such confidential requests.

- Pursuant to the request from Representatives Oberstar and Turner, the issue of public availability (i.e., via the internet) of Air Traffic Control data, issue is currently the subject of review by the Department's General Counsel and FAA's Chief Counsel. We have recommended that this issue continue to receive close examination and deliberations by senior levels of the Department and FAA. Also, we recommended that the Department's review include a determination of the extent to which DOT's Volpe Center and its contractors have coordinated their actions (vis-à-vis public availability of Air Traffic Control data) with FAA and the Department.

Remedial Actions by the Department and FAA

The Office of the Secretary and the FAA have reviewed our report, and the Secretary and the Administrator fully concur with our findings and recommendations. In response, the Department and FAA are taking the following remedial actions:

1. The FAA Administrator and Chief Counsel have counseled Assistant Administrator David Balloff, verbally and in writing, concerning issues in regard to his judgment in this matter.

2. With respect to FAA's need for clear policy for the disclosure of aircraft and flight data from FAA information systems, the FAA Administrator and Chief Counsel have prepared a draft FAA Order addressing those matters for the Secretary's review. Upon approval by the Secretary, the FAA Order will be distributed agency-wide, and will be provided directly to FAA personnel having access to such information.

3. Regarding the issues associated with public availability (i.e., via the internet) of Air Traffic Control data, the Department and FAA are continuing to study the matter and will provide us with a copy of the written results upon completion. Following the terrorist attacks of September 11, the FAA had reviewed this subject, and recently conducted an informal review of these issues as a direct result of the issues we investigated in this matter. As part of the current review, the Department and FAA have already consulted with the Transportation Security Administration (TSA) and plan to obtain TSA's formal assessment of the potential threats to aviation security.

This concludes my prepared statement. I would be pleased to answer any questions of the Committee.