



MEMORANDUM FOR THE RECORD

Event: Federal Aviation Administration (FAA) New York Air Route Center

Type of event: Interview with Kevin Delaney

Date: Tuesday, September 30, 2003

Special Access Issues: None

Prepared by: John Azzarello and Geoffrey Brown

Team Number: 8

Location: FAA New York Air Route Center, Ronkonkoma, New York

Participants - Non-Commission: Alfred Johnson, FAA Counsel

Participants - Commission: John Azzarello, Miles Kara, Geoffrey Brown

NOTE: Please refer to the recording of the interview for a complete account.

Background Information

Kevin Delaney worked in Area A at ZNY for approximately twenty-one and a half years until December 2000 when he became the Supervisor of the ZNY Quality Assurance Office.

Events of 9-11

Delaney was working at ZNY on the morning of 9/11. He was assigned to the Quality Assurance Office. According to Delaney, Bruce Barrett supervised the watch area, Pete Mulligan was the Supervisory Traffic Management Coordinator, Bob Felser was the Military Operations Specialist (MOS), and Evanna Dowis was the Controller-in-Charge (CIC) in Area B. Paul Thumser was the Operations Supervisor in Area B. However, in accordance with FAA procedures, Thumser left Area B and "went to pull a tape" when the "alert machine" indicated a controller from Area B may have committed an error related to the rules governing separation of aircraft. The potential controller error was unrelated to the events involving AA 11 and UAL 175. When Thumser left the Area, he appointed Dowis the Controller-in-Charge of Area B.

Sometime shortly after the North Tower of the WTC was struck, Mike McCormick, ZNY ATM (New York Center Air Traffic Manager), asked Delaney to go to the cafeteria and monitor CNN on television to obtain information about the incident. While monitoring CNN, Delaney watched UAL 175 as it crashed into the South Tower of the WTC ("WTC 2"). He stated he knew upon watching CNN's slow motion replay that a "jumbo jet", but not necessarily a 767, impacted WTC 2. Delaney went right to the "watch desk" and then to "Area B" and reported his observations to McCormick.

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According to Delaney, Dowis was doing an excellent job and was keeping a log of events at the time.

Delaney did not quite remember when any detailed information regarding AA11 was disseminated. After WTC 2 was struck, Delaney said "they" were not sure what struck WTC 1 and were not sure whether it was AA 11. Delaney said there were still reports that a twin engine jet was missing after WTC 2 was struck. In Delaney's view, there was a good amount of confusion on which aircraft hit which building. He advised McCormick the second WTC crash was not a mistake. Delaney stated it became more of a "military type situation" than an FAA situation after WTC 2 was struck.

At some point in time, ZNY started to get information from FAA Boston Center regarding the identities of aircraft they were missing and what communications were heard from AA 11 on the Boston frequency. He stated he did not talk to New York Tracon on 9-11.

Delaney said they were just starting to form the "telcon" shortly after he advised McCormick about the second crash. He did not think the people on the teleconference at ZNY concluded AA 11 crashed into WTC 1. He believes there was no "consensus" on the teleconference at ZNY regarding what type of aircraft had struck WTC 1. He does not recall anyone on the teleconference reporting a helicopter struck WTC 1. Delaney said it was not until sometime after the teleconference started that AA11 was recognized as the aircraft that struck WTC 1.

Delaney said a controller is unable to obtain an aircraft's altitude reading when the plane is on primary radar only. He said ZNY usually "filters out" primary radar returns so controllers could perform their jobs. Delaney said it is very hard for a pilot of one aircraft to gauge another aircraft's altitude through visual observation. If an aircraft's transponder failed prior to 9-11, a controller would simply vector another aircraft in the area towards the non-transponding aircraft to identify it. Although Delaney worked the MOS position at ZNY during Desert Storm (1990-91), he was not aware that certain military radar facilities could read altitude on a primary target.

Delaney stated, prior to 9-11, nobody would have anticipated someone hijacking an aircraft and crashing it into a building. Prior to 9-11 the mindset of the FAA and passengers was to "cooperate" with hijackers because the plane would eventually land safely somewhere. Today, Delaney believes everyone would react differently.

Prior to 9-11, air traffic controllers usually detected hijacked aircraft because the pilot would squawk code 7500 (the "hijack code") on his transponder. Controllers and supervisors were trained to verify the hijack code with the pilot. Today, the information regarding hijack codes is not well protected.

Prior to 9-11, Delaney would have associated an electrical or mechanical failure with an aircraft that had deviated significantly from its intended course, lost its transponder signal and radio communications. In his opinion, a drastic deviation in an

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aircraft's course does not necessarily translate in the mind of a controller to the possibility of a hijack because a pilot without a functioning transponder may not know exactly what direction his plane is headed in. Delaney said the thought of a "hijack" would eventually "creep" back into the controller's thought process. Delaney opined that knowledge of the threatening cockpit communications overheard by the Boston ATC and the UAL 175 pilot would certainly lead one to conclude that AA 11 had been hijacked. However, Delaney stated the information ZNY received from ZBW was "sketchy" regarding the content of the hijacker's statements in the cockpit of AA 11.

Delaney was not sure if Boston Center spoke initially to someone in Area C or Area B regarding AA 11. Boston Center told ZNY they were treating AA 11 as a hijack and reported its last known altitude was 29,000 feet. According to Delaney, that is when the Sector 56 controller vectored another aircraft towards AA 11 in an attempt to determine its altitude. The aircraft was unable to locate AA 11 and discern its altitude.

Delaney stated that Dave Bottiglia was fairly certain that UAL 175 was the aircraft that struck WTC 2. In Delaney's opinion, even if the fighter pilots had reached UAL 175 before the impact, the military would not have given them an order to shoot down the aircraft over New York City because too many people on the ground would have perished.

However Delaney did state that he believed the US government shot down UAL 93. Delaney's belief was based solely on the fact that people told him the debris from the impact of UAL 93 was spread over an eight mile area.

Delaney noted that after 9/11 the FAA received a large number of false bomb reports at flight service stations.

Delaney advised Commission staff that he had an argument with FAA headquarters regarding whether the events of 9/11 should be declared an aircraft accident or an incident. If it was deemed an accident, Delaney stated that he was supposed to provide the names of everyone involved in the accident including those that perished at the WTC. Delaney further noted that in an accident package he is required to provide transcripts and other pertinent information that relates the status of the aircraft in question. This information is not included in an incident package. He noted to Commission staff that the attacks of September 11th were acts of war, and that as such he did not personally feel it was appropriate to put those names in the compilation of materials to be submitted. He noted as well that there is no category in the tools available to him as an FAA Quality Assurance officer to account for aircraft involvement in acts of war. Delaney noted that Paul Falley and Mike Pomfrey were asked to assist him in creating the transcripts, since Marty Fournier, another ZNY Quality Assurance officer was on emergency sick leave due to appendicitis. Delaney noted the urgency of the task since it was his understanding that the FBI sought information immediately.

After questioned by Commission staff Delaney continued to explain the difference between an "FAA Accident Package" and an "Incident Review". Essentially,

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an accident package includes transcripts related to the event while an incident review requires less information be included. Delaney stated that he, Falley, and Pomfrey transcribed audio tapes related to the events of 9/11 for seven straight days after the attacks. Moreover, at the direction of Ron Ruggeri, Delaney prepared a ZNY timeline of events, and gave it to Ruggeri. Ruggeri was the Quality Assurance manager of the New York Region (AEA). Delaney estimated it took him approximately 90 days to complete the accident package and file.

In the first few days following the attacks and at the direction of Delaney's supervisors at AEA, Delaney forwarded information to AEA via an unsecured website. Delaney opined that some of the information reported by the media (e.g., the New York Times article that quoted Dave Bottiglia's conversations on 9/11) was obtained from this website.

Every piece of paper related to the accident was stored in a safe at ZNY. Delaney stated that items had to be signed out before anyone removed items from the safe. He noted that there were approximately three boxes of materials in the safe.

Delaney stated that the National Transportation Safety Bureau was not involved with the investigation at same level as was the FBI.

According to Delaney, on the morning of 9/11 Bob Ott and Marty Fournier gathered ZNY Area B employees in a conference room to tape their perspectives on what occurred that morning. Delaney chose not to include that tape in the accident package. Delaney noted that the tape was originally placed in the EAP (Employee Assistant Package), and that in his opinion the tape was not a fact gathering exercise. Delaney stated that he is not sure if "anyone" at ZNY listened to the tape for "hard facts". Delaney further noted that everyone involved in the tape record was asked to do an official FAA statement. [NOTE: In subsequent interviews with ZNY employees Commission staff gathered information that contradicts Delaney's statements. Please see Commission MFRs for Michael McCormack and David LaCates for further information].

RECOMMENDATIONS:

Delaney expressed the opinion that the air space caps currently operated are effective.

Delaney also expressed that aviation industry employees are too willing to verify a situation as an emergency before conducting a more thorough inquiry. This situation leads to many false alarms.

Delaney stated ZNY should be equipped with technology to determine altitudes on primary targets and other information similar to the technology used by NEADS and US Customs.

Delaney stated that if the FAA asked ZNY to take over the air traffic control of an

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adjacent FAA center, ZNY could not execute the order because they lack the necessary equipment and training.

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