

is evident in the testimony, but the chain of command above the inspector level was at fault, and that suggests that it could well be at fault elsewhere in the FAA and other Flight Standards District Offices. Correcting the problem at the top has to be our primary concern.

I want to thank this panel for their candor, their integrity, for putting public service ahead of private interest and personal interest, for risking yourselves for the safety of the flying public. You have done aviation and aviation safety an immense service. Thank you.

The panel is dismissed.

Mr. BOUTRIS. Thank you, sir.

Mr. OBERSTAR. Our next panel consists of the Honorable Calvin Scovel, Inspector General of DOT; Scott Bloch, Special Counsel, the U.S. Office of Special Counsel; Mr. Nicholas Sabatini, Associate Administrator for Aviation Safety at FAA; Mr. James Ballough, the Director of Flight Standards Service; Mr. Thomas Stuckey, Manager, Flight Standards Division, FAA Southwest Region.

I ask you all to rise, raise your right hand. Do you solemnly swear that the testimony you will give before this Committee in the matters now under consideration will be the truth, the whole truth and nothing but the truth, so help you God?

[Witnesses respond in the affirmative.]

Mr. OBERSTAR. You are sworn in, and we thank you for your presence at the hearing.

Mr. Scovel, we will begin with you.

**TESTIMONY OF THE HONORABLE CALVIN L. SCOVEL, III, INSPECTOR GENERAL, U.S. DEPARTMENT OF TRANSPORTATION; THE HONORABLE SCOTT J. BLOCH, SPECIAL COUNSEL, U.S. OFFICE OF THE SPECIAL COUNSEL; NICHOLAS A. SABATINI, ASSOCIATE ADMINISTRATOR FOR AVIATION SAFETY, FEDERAL AVIATION ADMINISTRATION; JAMES J. BALLOUGH, DIRECTOR, FLIGHT STANDARDS SERVICE, FEDERAL AVIATION ADMINISTRATION; AND THOMAS STUCKEY, MANAGER, FLIGHT STANDARDS DIVISION, FEDERAL AVIATION ADMINISTRATION, SOUTHWEST REGION**

Mr. SCOVEL. Thank you, Mr. Chairman.

I apologize, but if I may request what I hope will be a minor departure from protocol. I know the Committee's time is limited. I estimate, however, that I will need about eight minutes for my oral statement in order to inform the Committee of our findings, our conclusions regarding FAA's programs and our recommendations.

Mr. OBERSTAR. We do not want to limit witnesses arbitrarily by time. I want you to give your testimony and what you think is necessary in your oral remarks. Your written testimony, of course, will be part of the record, and I have read all of that already anyway, but please proceed.

Mr. SCOVEL. Thank you, Mr. Chairman, Ranking Member Petri, Members of the Committee.

At the request of this Committee, we are reviewing FAA's handling of whistleblower concerns regarding Southwest Airlines' failure to follow a critical FAA airworthiness directive or AD. As you heard from the first panel, these are serious matters.

Let me clear. The events at Southwest Airlines and the actions of an FAA inspector represent significant breakdowns in safety oversight that unnecessarily increased risk to the traveling public. We also have concerns about FAA handled the matter, and we are deeply troubled by the treatment of the whistleblowers. Corrective actions are urgently needed to strengthen FAA's oversight and prevent similar problems from recurring.

Before I discuss these matters in detail, let me highlight some key facts. The AD in this case required Southwest to inspect the fuselages of its Boeing 737s for potential cracks. FAA issued this AD in response to the Aloha Airlines 737 incident in 1988 where an aircraft lost a major portion of its fuselage in flight, resulting in one fatality and multiple injuries.

According to FAA, when an air carrier determines that it has not implemented an AD, it is required to ground, immediately, all non-compliant aircraft. FAA inspectors share this responsibility by ensuring that this is done.

We found, however, that Southwest did not have an effective system to ensure it completed these inspections. As a result, Southwest operated 46 aircraft in violation of the AD on over 6,000 flights for up to 9 months, carrying an estimated 6 million passenger. Southwest discovered it had violated this AD on March 14th of last year and notified an FAA principal maintenance inspector, a PMI, the following day.

However, the PMI did not direct the airline to ground the affected planes as required and, Southwest continued to operate them for nine more days. The PMI permitted and encouraged Southwest to formally self-disclose the AD violation through FAA's voluntary disclosure program which allowed the airline to avoid penalties.

FAA accepted the self-disclosure, even though multiple disclosures on AD violations had already been accepted. This should have raised the question of whether underlying problems had been corrected. Once it self-disclosed violation, Southwest stated that it had inspected or grounded all affected aircraft.

However, two FAA inspectors, whistleblowers, reported that the PMI knowingly permitted Southwest to continue flying the identified aircraft. Southwest officials confirmed this and stated that the PMI gave them verbal permission to continue flying the aircraft. When Southwest finally inspected them, it found fuselage cracks in five.

While these critical safety lapses indicate problem with an airline's compliance, they are symptomatic of much deeper problems in several key areas of FAA oversight.

First, problems with FAA's partnership programs. We found that FAA's Southwest inspection office developed an overly collaborative relationship with the air carrier which repeatedly self-disclosed AD violations without ensuring that a comprehensive solution was implemented. The balance has tipped too heavily in favor of collaboration at the expense of effective oversight and appropriate enforcement.

Southwest violated four different ADs eight times since December, 2006 including five in 2008. Lack of FAA oversight in this area appears to allow rather than mitigate recurring safety violations.

Partnership programs can help to identify and correct safety issues, using information that might not otherwise be available. However, FAA cannot rely too heavily on self-disclosures at the expense of rigorous oversight and appropriate enforcement.

Second, weaknesses in FAA's national oversight allowed the problems at Southwest to go undetected for several years. Red flags were flying and should have been warning signs to FAA.

As early as 2003, one of the whistleblowers expressed concerns about Southwest's compliance with ADs. In 2006, he began urging FAA to conduct system-wide reviews, but FAA did not begin these reviews until after the details of the March, 2007 disclosure became public.

In fact, we found that FAA inspectors had not reviewed Southwest's system for compliance with ADs since 1999. At the time of the Southwest disclosure, 21 key inspections were overdue since more than 5 years had elapsed since the last inspection date.

As of March 25th, 2008, FAA still had not completed at least five of these required inspections with eight years having elapsed since the last inspection date in some cases.

We have identified problems with FAA's national program for risk-based oversight in the past. For example, in 2005, we found that inspectors did not complete 26 percent of planned inspections and half of these were in identified risk areas. We had recommended the need for greater national oversight in 2002 and again in that 2005 report, and this is still needed today.

Third, problems with FAA's process for conducting internal reviews and ensuring appropriate corrective actions. In the Southwest case, FAA's internal reviews found, as early as April, 2007, that the PMI was complicit in allowing Southwest to continue flying aircraft in violation of the AD.

FAA did not attempt to determine the root cause of the safety issue or begin enforcement action against the carrier until November, 2007. Too much attention was focused on the messenger, not on fixing legitimate safety concerns. This also raises questions about FAA's ability to investigate safety allegations raised by inspectors.

We are deeply troubled by the fact that FAA failed to protect the whistleblowers from retaliation. For example, after one whistleblower voiced his concerns to FAA, Southwest lodged an anonymous hot line complaint against him according to the PMI. The complaint was nonspecific and never substantiated, but the inspector was removed from oversight duties for five months.

However, FAA did not suspend other inspectors who were subjects of similar complaints, including the PMI who admitted that he had allowed Southwest to continue flying in violation of the AD.

Our work at Northwest Airlines found the same problem with FAA's handling of an inspector who reported legitimate safety concerns. As with the inspector in the Southwest case, FAA managers reassigned the experienced inspector to office duties and restricted him from performing oversight on the carrier's premises based on a complaint from the airline. The inspector's safety concerns were later validated.

Mr. OBERSTAR. By complaint from the airline, you mean Northwest?

Mr. SCOVEL. Northwest, yes, sir.

Mr. OBERSTAR. Yes. Okay.

Mr. SCOVEL. Both the Southwest and Northwest cases demonstrate that FAA must take steps to improve how it investigates safety issues and protects employees who bring important safety issues to light.

Finally, I would like to turn to the actions needed to prevent these events from occurring again. As the Committee is well aware, FAA has taken actions but only after events became public last month and this Committee's investigation was well underway.

FAA has proposed to fine Southwest over \$10 million and initiate a review of AD compliance at Southwest and other air carriers. These actions are necessary but long overdue, given the overflight was discovered a year ago. FAA must take actions to improve oversight of all air carriers, strengthen the use of partnership programs and restore confidence in the agency's ability to conduct oversight.

In addition to steps underway, we recommend that FAA establish an independent body to investigate inspector concerns, periodically transfer supervisory inspectors to ensure reliable and objective air carrier oversight, revise guidance to ensure that air carriers take corrective actions to address violations identified through self-disclosure, implement a process for second level review of self-disclosures before accepting and closing them, implement a process to track field office inspections and alert local, regional and headquarters offices to overdue inspections, and revise post-employment guidance to require an appropriate cooling off period for inspectors.

My office will continue to examine FAA's oversight approach from a national perspective as requested by the Chairman. We must ensure that these problems are not repeated and that corrective actions are properly implemented. We will report to you on our progress as well as other steps that can be taken to enhance safety.

That concludes my statement, Mr. Chairman. I welcome questions.

Mr. OBERSTAR. Thank you very much for a very strong, hard-hitting, straightforward statement.

Mr. Bloch.

Mr. BLOCH. Thank you, Mr. Chairman, Ranking Member Mr. Petri, Members of the Committee, thank you for this opportunity to discuss the work of the U.S. Office of Special Counsel regarding today's important hearing.

OSC exists as the chief protector of whistleblowers and the enforcer of the Whistleblower Protection Act.

The French have a saying: *La plus ca change, la plus c'est la meme chose*, which translates the more things change, the more they stay the same.

Things have changed in air travel but too much has stayed the same like safety, compliance and oversight. Management at FAA has fostered a culture of convenience and complacency which compromises safety.

In this case, thousands of real passengers were put at real risk because of FAA's breach of duty. The work of my office over the last four years shows this is not merely an isolated instance of one manager's cozy relationship with the airlines. It shows FAA has a