

Team 8

MEMORANDUM FOR COMMISSIONER BEN-VENISTE

FROM: DANA HYDE
DATE: June 4, 2003
SUBJECT: Status of NORAD/FAA Follow Up

Per our conversation today, outlined below is a brief overview of where we stand with respect to the issues raised at the recent aviation hearing. As you can see, we are pursuing information on a number of different fronts. I would be happy to discuss these items with you in greater detail at your convenience.

(1) **Questions for the Record:** Attached are questions for the record that were sent to NORAD today. As we discussed, most of the issues raised at the hearing will be the subject of team document requests and interviews; our questions for the record were therefore purposefully limited in some areas.

(2) **DoD Third Document Request:** Attached is a draft follow-up document request to the Defense Department, based on the hearing and the documents reviewed thus far. We intend to finalize the request by Friday COB.

(3) **FBI Document Request:** As you know, at the hearing the FAA witnesses did not provide any details of what happened on 9/11 (e.g., how many hijackers were pulled aside at security, did they have box cutters, etc.), and instead passed all factual inquiries to the FBI. The staff has since received a briefing from the FBI's PENTTBOM investigation; we are in the process of drafting a FBI document request that focuses on PENTTBOM's investigation of the flights and what happened that day.

(4) **Secret Service Document Request:** Attached is our outstanding document request to the Secret Service that includes all documents relating to communications between the USSS and Andrews Air Force Base. I have spoken to the Secret Service point of contact and we should be on track to meet the June 13, 2003 return date.

(5) **Briefing at FAA:** Team 7 and Team 8 spent four hours today at the FAA operations center, receiving a briefing from many of the staff that were in the operations center on September 11th. As part of the briefing the staff listed to the cockpit voice transmissions and viewed the radar data from the hijacked airliners. We should have a comprehensive memo on the briefing by the end of the week.

(6) **FAA & DoD Documents Received:** To date, Team 8 has received the first installment of documents from DoD and FAA. While we have not yet had the

opportunity to carefully review all the documents received, here are some of the highlights from the information we have reviewed:

- (a) We learned this week that a transcript exists of the Air Threat Conference Call on 9/11. The call was requested by NORAD and convened by the National Military Command Center, and, according to log entries, appears to have been an open line from 0930 until 1848 local time.
- (b) We have received the raw radar data tracking the four hijacked flights and the planes scrambled out of Otis and Langley. Both the Otis and Langley fighters vectored over water and took a rather circuitous route to their intended destinations; their routing raises additional questions about whether, given a more direct flight path, the scrambled aircraft could have reached the hijacked aircraft in time. This issue will be the subject of further document requests and interviews.
- (c) We have learned about a C130 aircraft that National Airport, at approximately 0932, asked Andrews to divert from its scheduled mission to go look for Flight 77. The C130 encountered Flight 77 west of the Pentagon and literally followed it as it crashed into the Pentagon. This is the first we learned of this aircraft (NORAD did not mention it at the hearing) and it raises a number of questions regarding the orders and communications its pilots received.

cc: Commissioners



Team 8

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The National Commission on Terrorist Attacks Upon the United States (the "Commission") requests that the North American Aerospace Command (NORAD or the "respondent") provide the Commission, no later than June 17, 2003 (the "production date"), with answers to the following questions related to the testimony of NORAD officials at the Commission hearing held on May 23, 2003:

1. What open lines were established between the FAA and any NORAD elements on 9/11/01, when were such open lines established, and how long were they in operation? Indicate whether NORAD is aware of the existence of any recordings or transcripts of conversations that occurred over such open lines, and provide copies of any such recordings or transcripts.
2. What information did NORAD have about United Airlines flight 77 prior to the official notification by the FAA of a hijacking reported to be at 9:24 am on 9/11/01?
3. With respect to any orders authorizing the shoot down of commercial aircraft on 9/11/01, supplement your testimony with a description of the chain of command or chain of authorizations by which any such orders were passed and provide copies of any documents relating to such authority.
4. When on 9/11/01 was the airspace over the D.C. area closed? Provide copies of any Andrews Air Force Base tower transmission logs relating to the closure of airspace in the D.C. area on 9/11/01.
5. Describe the effect the closure of the airspace in the D.C. area on 9/11/01 had on NORAD's authority to shoot down commercial or other civilian aircraft, and provide any documents relating to such authority.
6. What rules of engagement are currently in effect with regard to the shoot down of commercial or other civilian aircraft? Provide a copy of such rules as well as the names of the military officials who have delegated authority to authorize the shoot down of commercial or other civilian aircraft.
7. What would be necessary, in NORAD's judgment, to bring the FAA radar system up to the standards required to defend U.S. airspace?

8. As consumers of intelligence information, provide your analysis of what went wrong with respect to intelligence sharing prior to 9/11/01.
9. From NORAD's perspective, what can and should be done currently to break down barriers to the sharing of intelligence and law enforcement information?

The Commission requests that the information requested above be provided as soon as possible, even though all information may not be provided at the same time, through means of a "rolling" production.

If access to any of the requested information is withheld, even temporarily, based on an alleged claim of privilege or for any other reason, the Commission requests that the respondent, as soon as possible and in no event later than the production date, identify and describe such information, as well as the alleged basis for withholding it, with sufficient specificity to allow a meaningful challenge to any such withholding.

If the respondent cannot answer some of the questions listed in this request but has information about where answers to such questions might be found, the Commission requests that the respondent provide such information as soon as possible and in no event later than the production date.

If the respondent has any questions or concerns about the interpretation or scope of this request, the Commission asks that any such questions or concerns be raised with the Commission as soon as possible so that any such issues can be addressed and resolved prior to the production date.

June 3, 2003

Daniel Marcus
General Counsel