



United States
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Office of Special Investigations

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August 13, 1999

The Honorable Charles E. Grassley
Chairman, Subcommittee on Administrative Oversight
and the Courts
Committee on the Judiciary
United States Senate

Subject: FBI: Delivery of ATF Report on TWA Flight 800 Crash

Dear Mr. Chairman:

As you requested, we have enclosed a copy of our June 29, 1999, briefing before the Subcommittee on Administrative Oversight and the Courts. This briefing was in response to your request for information about a January 20, 1997, Bureau of Alcohol, Tobacco and Firearms (ATF) report on the crash of Trans World Airlines, Inc. (TWA) flight 800. That information concerned whether the Federal Bureau of Investigation (FBI) had forwarded the ATF report to the National Transportation Safety Board (NTSB), as the FBI claimed in written and oral testimony before the Subcommittee in May 1999.

Our investigation revealed that the NTSB has no record of receiving the ATF report from the FBI. FBI officials stated that although they believed the ATF report was forwarded to the NTSB, it was possible that the report may not have been sent due to administrative error. Officials of the FBI stated that during the TWA flight 800 case, the FBI determined what information would be disseminated to the NTSB and when it would be disseminated.

We will make copies of this letter available to others on request. If you have any questions, please contact Assistant Director Ron Malfi at (202) 512-6722.

Sincerely yours,

Robert H. Hast
Acting Assistant Comptroller General
for Special Investigations

Enclosure

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BRIEFING PAPER
ATF Report on the Cause of the Crash of TWA Flight 800

For the Subcommittee on Administrative Oversight and the Courts, Senate Committee on the Judiciary

◆ **QUESTION**

Did the Federal Bureau of Investigation (FBI) forward to the National Transportation Safety Board (NTSB) a January 20, 1997, Bureau of Alcohol, Tobacco and Firearms (ATF) report on the crash of Trans World Airlines, Inc. (TWA) flight 800, as the FBI claimed in written and oral testimony before the Subcommittee?

◆ **BACKGROUND**

Central to a May 10, 1999, hearing before the Subcommittee was a January 20, 1997, ATF report. That report concludes that the mechanical failure of the aircraft's center wing fuel tank was the likely cause of the explosion that brought down Trans World Airlines, Inc. (TWA) flight 800. At the hearing ATF Assistant Director Andrew Vita testified that he had ordered the Special Agent-in-Charge of ATF's New York Office to deliver the report to the FBI and, in the interest of public safety, to NTSB. On March 13, 1997, when ATF first attempted to deliver the report, the then Assistant Director-in-Charge (ADIC) James Kallstrom of the FBI's New York Office refused to accept it. Subsequently, ADIC Kallstrom reluctantly received the report, but told ATF he did not want the report delivered to NTSB.

The Subcommittee determined that ADIC Kallstrom contacted Raymond Kelly, then Under Secretary for Enforcement, Department of the Treasury, regarding the ATF report. Under Secretary Kelly ordered ATF Director John Magaw not to deliver the report to NTSB. NTSB officials informed the Subcommittee that they never received an official copy of the report from the FBI.

Also at the May 10, 1999, hearing, Lewis Schiliro, the current ADIC of the FBI's New York Office, produced a March 17, 1997, unsigned "transmittal letter" from ADIC Kallstrom to NTSB Chairman James Hall as proof that the report had been delivered to NTSB. ADIC Schiliro dismissed as "ludicrous" suggestions that the FBI did not deliver the ATF report to NTSB.

◆ **SUMMARY OF SIGNIFICANT FINDINGS**

National Transportation Safety Board

Our investigation revealed that NTSB has no record of receiving the ATF report from the FBI. Senior NTSB officials involved in the TWA flight 800 crash investigation are certain they never received the ATF report, formally or informally, from the FBI. NTSB did receive an unofficial or "bootleg" copy of the report from ATF. However, because this was not an official copy of the report, NTSB was not able to refer to it in any of its public statements or public documents. Hence, NTSB was not able to use it to help convince the Federal Aviation Administration to force the airline industry to act faster to implement safety recommendations concerning the center wing fuel tank on Boeing 747 aircraft.

Senior NTSB officials believe the FBI “rolled over” NTSB during the TWA flight 800 case. According to Chairman James Hall, the NTSB should have been in charge of the case since no evidence of a criminal act was developed. However, unlike normal aviation accident investigations, the FBI took charge of the TWA flight 800 case to the detriment of NTSB. Chairman Hall stated that a number of factors caused NTSB to lose control, including the strong personality of FBI ADIC James Kallstrom and the weak personalities of the NTSB officials at the scene of the crash. The FBI withheld critical information from NTSB, such as a Central Intelligence Agency report. That report concluded that a missile did not cause TWA flight 800 to crash.

Bureau of Alcohol, Tobacco and Firearms

ATF Director John Magaw and Assistant Director Andrew Vita informed us that the agents who prepared the ATF report are certified fire investigators. These agents, who worked closely with FBI and NTSB personnel at the crash site on Long Island, believed that the report raised safety concerns about Boeing 747 aircraft. They disagreed, but complied, with Under Secretary Kelly’s decision to order ATF to deliver the report only to the FBI.

Department of the Treasury

Former Under Secretary Raymond Kelly said he ordered ATF to deliver the report only to the FBI based on a request made by ADIC Kallstrom, a longtime friend. Under Secretary Kelly stated that the FBI should have been the disseminator of the ATF report because the FBI was the lead investigative agency. He stated that he believed that the FBI would forward a copy of the report to NTSB.

Department of Justice

The two Assistant U.S. Attorneys assigned to work the TWA flight 800 case in the Eastern District of New York had no recollection of the ATF report. No record of the report could be located in the TWA flight 800 case files at the U.S. Attorney’s Office.

Federal Bureau of Investigation

The FBI cooperated with our investigation and afforded us access to its records and personnel. We reviewed the official FBI files for the TWA flight 800 case at FBI Headquarters in Washington, DC, and at its New York Office.

We found no copies of the ATF report or the teletype (also known as an Electronic Communication or “EC”) from ADIC Kallstrom to the FBI Director in the FBI Headquarters case file. We were informed that these documents should have been located in the file. (One month after our visit, we were informed that the missing documents had been located in the workpapers of a supervisor at FBI Headquarters.)

In the New York Office file, we found (1) the unsigned transmittal letter from ADIC Kallstrom to Chairman Hall dated March 17, 1999, (2) an EC from ADIC Kallstrom to the FBI Director dated March 14, 1997, and (3) an ATF report dated January 20, 1997. We examined the unsigned transmittal letter and determined it was an “original” document that is suitable for signature. A FBI official told us that it was possible that this unsigned letter was actually the original that somehow had not been signed by ADIC Kallstrom and then placed in the file by mistake. He added that this scenario could explain why NTSB never received the ATF report.

Retired ADIC Kallstrom and current ADIC Lewis Schiliro stated to us that they believe the ATF report was sent to NTSB. However, both also said that it was possible but unlikely that the ATF report had not been sent to NTSB and somehow “fell through the cracks.” In addition, both stated that during the TWA flight 800 case, the FBI determined what information would be disseminated to NTSB and when it would be disseminated. The FBI was concerned about sharing classified or sensitive information with NTSB, especially because of the “party system” used by NTSB in accident investigations. Both ADIC Kallstrom and ADIC Schiliro told us they believe the party system had a built-in conflict-of-interest concern.

◆ **SCOPE AND METHODOLOGY**

We conducted our investigation from May 17, 1999, to July 8, 1999. We reviewed relevant documents and interviewed knowledgeable representatives of the Department of the Treasury, Department of Justice, NTSB, ATF, and FBI.

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