



**U.S. House of Representatives**  
**Committee on Transportation and Infrastructure**

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**Washington, DC 20515**

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April 1, 2008

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**SUMMARY OF SUBJECT MATTER**

**TO:** Members of the Committee on Transportation and Infrastructure

**FROM:** Majority Oversight and Investigations Staff, Committee on Transportation and Infrastructure

**SUBJECT:** Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory “Partnership Programs.”

**PURPOSE OF HEARING**

The Committee on Transportation and Infrastructure will meet on Thursday, April 3, 2008, at 10:00 a.m. in 2167 Rayburn House Office Building to review the results of an oversight investigation. Two FAA Aviation Safety Inspectors, Mr. Charalambe “Bobby” Boutris and Mr. Douglas E. Peters, have provided T&I oversight staff with extensive evidence raising serious questions of conduct violating the Federal Aviation Regulations (FARs) in the inspection and maintenance program of FAA’s Southwest Airlines (SWA) Certificate Management Office (CMO). According to the United States Office of Special Counsel (OSC)<sup>1</sup> and documents provided to the Committee, the whistleblowers’ disclosures allege that FAA management employees have engaged in conduct, “which constitutes a violation of Federal law, rule or regulation, gross mismanagement, an abuse of authority and a substantial and specific damage to public safety.” The evidence supplied by Mr. Boutris and Mr. Peters documents that the Supervisory Principal Maintenance Inspector (SPMI) for SWA, Mr. Douglas T. Gawadzinski, knowingly allowed the airline to operate aircraft in revenue passenger service in March 2007 (and possibly beyond), and well after the inspection deadlines on a mandatory FAA Airworthiness Directive (AD) and an unrelated required service interval check. The evidence also points toward a systematic pattern of FAA failure to exercise the required regulatory oversight in the SWA CMO and to ensure carrier compliance for years prior to this occurrence.

Beyond the SWA cases, there is evidence that there may be a pattern of regulatory abuse and that these regulatory lapses may be more widespread. On March 6, 2008, just prior to the originally

<sup>1</sup> OSC is an independent federal investigative and prosecutorial agency, whose basic authorities come from three federal statutes, the Civil Service Reform Act, the Whistleblower Protection Act, and the Hatch Act.

scheduled date for this hearing, FAA notified SWA of a \$10.2 million civil penalty action for 46 aircraft that had over-flown the fuselage inspection AD for up to 30 months. On March 10, 2008, FAA Assistant Administrator for Safety, Nicholas Sabatini, sent a special team of FAA inspectors to do a thorough examination of SWA regulatory compliance. On March 11, 2008, SWA announced that it had placed three employees on “administrative leave,” pending their internal investigation of this matter. On March 12, 2008, SWA announced it was grounding 41 more aircraft for “inspections.” On March 13, 2008, the FAA issued a national order (N 8900.36) instructing all FAA regional Flight Standards Offices to conduct a “special emphasis validation of AD oversight.”

### EXECUTIVE SUMMARY

FARs require the immediate grounding of any aircraft that is past due mandatory AD requirements or required maintenance checks.<sup>2</sup> There are no exceptions to this rule.

The FAA maintains oversight of airlines through its Flight Standards Service, which is comprised of approximately 3,600 inspectors. This division reports to the Director of Flight Standards Service at FAA Headquarters (“HQ”), who reports to the Associate Administrator for Aviation Safety at FAA. The Associate Administrator for Aviation Safety reports to the FAA Administrator. Flight Standards is organized into Regional Offices and Certificate Management Offices (CMO). Each major airline is assigned a CMO that is responsible for overseeing a particular airline. The CMO reports to a Regional Flight Standards Director, who reports to the Director of Flight Standards at HQ. See the organizational chart attached.

FAA issues regulations such as ADs that require certain mandatory aircraft inspections at specific intervals. These ADs and mandatory inspections are specific to each type of aircraft, and the CMO for the airline is responsible for seeing that these mandatory inspections take place. The FAA relies heavily on “partnership programs” such as the Voluntary Disclosure Reporting Program (VDRP)<sup>3</sup> and the Aviation Safety Action Program (ASAP)<sup>4</sup> to motivate airlines, mechanics, and other operational personnel to self-disclose violations as means of identifying non-compliance with the regulations that the FAA otherwise might not have detected. There are incentives to airlines and certificate holders (in the form of immunity from the finding of a violation) for self-disclosing as a means of correcting compliance problems and detecting important safety-related trends. These programs are discussed in more detail below.

On March 15, 2007, SWA notified, by telephone, FAA SPMI Gawadzinski in the SWA CMO of a voluntary disclosure that potentially up to 100 aircraft were overdue the required inspection and compliance for one AD. Under VDRP guidelines, it was mandatory that the SWA non-compliance with the FARs should have immediately ceased on the date of disclosure. This clearly did not occur. Once airline maintenance officials were able to evaluate and define the scope of the problem, the number of aircraft involved was later revised to 47 aircraft.

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<sup>2</sup> 14 CFR 39.

<sup>3</sup> FAA Advisory Circular AC-00-58A, Voluntary Disclosure Reporting Program (VDRP), September 8, 2006.

<sup>4</sup> FAA Advisory Circular, Aviation Safety Action Program (ASAP), AC 120-66B, November 15, 2002.

On March 20, 2007, another 70 aircraft were self-disclosed as having missed a separate mandatory rudder check. Overall, 47 aircraft under the AD and 70 aircraft under the rudder check were allowed to keep flying with full knowledge of the FAA SPMI for a number of days until SWA could schedule them for inspections without disrupting their commercial schedule. Grounding these aircraft immediately, as required by the FARs, would have cancelled hundreds of SWA commercial flights.

The Manager of Regulatory Compliance for SWA, Mr. Paul Comeau, was a former FAA safety inspector in the SWA CMO until his resignation from the FAA in 2006 to assume his current position with SWA, in compliance with FAA ethics guidelines. Mr. Comeau was the SWA official who self-disclosed the violations to FAA. It is alleged that Mr. Comeau had a close working relationship with SPMI Gawadzinski when he was at the FAA overseeing SWA, and this relationship continued in his new role with the airline. There are numerous allegations that Mr. Gawadzinski was too close to the management of SWA, and these allegations gain credibility from the number of surveillance investigations that were interfered with by the SPMI.<sup>5</sup>

FAA AD 2004-18-06 requires the inspection of the Boeing 737 fuselage for cracks every 4,500 cycles<sup>6</sup> after the aircraft reaches 35,000 cycles.<sup>7</sup> This AD is one of a series of ADs pertaining to aging aircraft that require mandatory inspection procedures at specific intervals. This series of ADs was issued as a direct result of the 1988 accident of an Aloha Airlines Boeing-737, where the entire top of the fuselage separated due to cracking and metal fatigue.<sup>8</sup> Subsequent inspections after that accident found a large number of fuselage cracks in aging B-737s.

The mandatory maintenance interval check<sup>9</sup> required inspection of the standby rudder power control unit (PCU) for leakage every 12,500 hours and was issued as one of several related mandatory checks in response to two fatal B-737 accidents—United Airlines at Colorado Springs in 1991<sup>10</sup> and US Airways at Pittsburgh in 1994<sup>11</sup>—as well as multiple reports of un-commanded rudder movements on 737 aircraft.

For the fuselage AD alone, after the date of voluntary disclosure, SWA conducted at least 1,451 flights, potentially transporting as many as 200,000 passengers, on at least 47 aircraft. Under Federal law, the 47 aircraft should have been grounded until compliance was achieved. Additionally, 70 aircraft were overdue the rudder PCU inspections, but the number of flights conducted after airline disclosure is unknown, although many of them flew in commercial service up to 9 days past disclosure.

Some of these aircraft involved were overdue for 30 months before the airline self-disclosures. It should be noted that these are the aircraft for which airworthiness violations at SWA

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<sup>5</sup> FAA's internal investigation, "Report of Investigation," File No. ASW20070070.

<sup>6</sup> An aircraft "cycle" is defined as one takeoff and one landing.

<sup>7</sup> FAA Airworthiness Directive, AD 2004-18-06.

<sup>8</sup> Aircraft Accident Report, Aloha Airlines Flight 243, Boeing 737-200, N73711, near Maui, HI, April 28, 1988, National Transportation Safety Board, AAR-89-03.

<sup>9</sup> Boeing Commercial Aircraft Company, 737-700 Task Card 29-190-00-01.

<sup>10</sup> Aircraft Accident Report, United Air Lines Flight 535, Boeing 737-291, N999UA, in Colorado Springs, CO, March 3, 1991, National Transportation Safety Board, AAR-01-01.

<sup>11</sup> Aircraft Accident Report, US Air Flight 427, Boeing 737-300, N513AU, near Aliquippa, PA, September 8, 1994, National Transportation Safety Board, AAR-99-01.

have been documented at this stage of the investigation, and others could have been affected. In November 2007 (about 8 months following the disclosure by the airline), FAA senior HQ management asked the FAA SWA CMO for the follow-up inspections on the SWA aircraft in question.

It is important to note that the SWA CMO did not have any records showing that follow-up inspections were ever performed on the 47 aircraft. Neither the SWA CMO, nor FAA Regional, nor HQ organizations took any action to check that the aircraft had been brought into compliance with Federal law until nearly 8 months after the self-disclosure was filed by the airline. The FAA HQ follow-up inspection inquiries were made only after FAA HQ became aware of investigations initiated by T&I, and after our requests to the Department of Transportation Office of Inspector General (DOT OIG) to further investigate these matters. FAA initially refused to cooperate with requests for information by T&I Majority staff. The FAA internal investigation<sup>12</sup> was only obtained by T&I Majority staff under threat of subpoena in an October 5, 2007 letter from the Chairman of the T&I Committee and the Chairman of the Aviation Subcommittee.<sup>13</sup>

Documents supplied by both Boutris and Peters suggest that the maintenance and inspection record-keeping systems at SWA were deficient and did not meet regulatory standards, and the evidence demonstrated that Boutris and Peters had been warning regional FAA management about these record-keeping and inspection deficiencies for years. They alleged that efforts to increase the surveillance of SWA and to discipline the carrier were either repeatedly undermined, or no action was taken by local nor regional FAA Flight Standards management. Boutris provided 38 examples of problems communicated to regional FAA management, and he reports receiving no answer to any of his communications to the Regional Director of Flight Standards, Mr. Thomas Stuckey.

In January 2006, Mr. Boutris began reviewing SWA maintenance records with an emphasis on AD compliance requirements for the B-737-700 fleet. In the course of that review, he discovered numerous discrepancies with SWA aircraft AD compliance records, again determined that the airline's records did not meet FAR compliance requirements, and he informed the appropriate SWA maintenance official. Mr. Boutris also recommended to the SPMI that a letter of investigation be issued, but the SPMI, Mr. Gawadzinski, refused to issue the letter to the carrier.

In January 2007, Mr. Boutris was assigned to conduct an AD management safety attributes inspection (SAI). SAI inspections are required every 5 years by FAA policy, and the last inspection on SWA was accomplished in 1999. Mr. Boutris reported to FAA management that it was already 3 years overdue. Evidence supplied to the Committee, and interviews with the whistleblowers indicates that when SWA maintenance officials learned that Mr. Boutris had been assigned to lead the inspection, they met with Mr. Gawadzinski and actively sought his removal. Mr. Gawadzinski then instructed Mr. Boutris to delay the review until he gave permission for it to proceed at a later date. Mr. Boutris met with Mr. Gawadzinski's supervisor, Mr. Mike Mills, and told him he believed the airline was trying to influence the outcome of the investigation by "hand-picking" the inspector. Ultimately, Mr. Boutris was allowed to proceed with this long overdue inspection, and he believes

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<sup>12</sup> FAA's internal investigation began in May 2007 and was closed in July 2007. It was later re-opened on October 2, 2007 and a "supplemental" piece was added on October 5, 2007.

<sup>13</sup> October 5, 2007 letter from Chairman James L. Oberstar and Chairman Jerry F. Costello to Acting FAA Administrator Robert Sturgell.

this led SWA to begin closely examining its own maintenance records, which led to the discovery of the AD over-flights, and subsequent self-disclosure under the VDRP.

Majority Committee investigators also interviewed FAA aviation safety inspectors overseeing other airlines. It was a common complaint that they found it difficult to bring enforcement action against airlines because FAA management appeared to be “too close to airline management.” The most common response was, “I often don’t even bother, because I know FAA management won’t do anything with it.” Unfortunately, most of the currently-employed FAA inspectors making these charges would not supply documentation or be identified publicly, citing fear of retaliation, and commonly stating, “it would be the end of my FAA career if I became a whistleblower, but I wish someone could expose how bad things are.” When advised, in general, of the findings in the SWA CMO, no FAA inspector expressed surprise. However, it is clear that the level of interpersonal strife appears to be unique.

Under so-called regulatory “partnership programs” such as the VDRP<sup>14</sup> and the Aviation Safety Action Partnership (ASAP),<sup>15</sup> airlines and employees are encouraged to come forward and share violations in exchange for some level of immunity from the finding of a violation of FARs. However, once an FAA inspector has begun an investigation, those incidents under investigation are not eligible for disclosure under VDRP or ASAP. However, FAA inspectors in offices across the country allege to Majority staff that airlines have been warned when surveillance efforts are underway, and that the VDRP and ASAP programs are often utilized in ways that were not intended and that are not in accordance with FAA policy guidelines or FARs.

### FAA REGULATORY “PARTNERSHIP PROGRAMS”

Traditionally, civil penalties under the FAA’s enforcement program have always been considered a means to promote compliance with the FAA’s regulations. They have served as a form of deterrence, not only because they can result in substantial monetary payments by certificate holders, but also they are typically announced publicly and can result in substantial negative publicity for an air carrier, as they have in the past.

A drawback of the traditional regulatory approach is that the FAA inspector workforce will never be large enough, given the size of the airline industry in the U.S., to oversee every aspect of maintenance and flight operations. Moreover, it was believed that the traditional civil penalty enforcement model led airlines to conceal incidents of regulatory non-compliance in an attempt to avoid the penalties and resulting negative publicity. In the past, it was common practice for airline management officials to warn employees against communicating with FAA inspectors.

In the 1990’s, the industry and the FAA reached consensus that regulatory oversight should be conducted as a “partnership” with the industry. It was believed that airlines, pilots, maintenance personnel, and all other certificate holders should be provided with incentives for coming forward and disclosing cases of non-compliance that were not previously known to the FAA—making possible preemptive safety initiatives not possible using the traditional regulatory approach. As an incentive to encourage certificate holders to come forward and to share important safety

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<sup>14</sup> See footnote 3.

<sup>15</sup> See footnote 4.

information with the FAA, the agency currently follows a policy of agreeing to forgo proceeding with civil penalty actions in exchange for self-disclosure. The guiding philosophy of this regulatory “partnership” approach is that important safety information will be disclosed that otherwise might have never been known to the FAA. However, it is important to note that each program was designed to operate under very strict guidelines, and these programs were never intended to be replacements for traditional civil penalty enforcement actions.

Today, these notions of partnership and the airlines as the FAA’s “customers” have become firmly rooted in the FAA culture. The FAA’s website prominently features the FAA’s one sentence statement entitled “Our Vision” which states, “Our vision is to improve the safety and efficiency of aviation, while being responsive to our customers and accountable to the public.”<sup>16</sup>

Two major “partnership programs” are VDRP<sup>17</sup> and ASAP.<sup>18</sup> Each is briefly summarized below.

### **VOLUNTARY DISCLOSURE REPORTING PROGRAM (VDRP)**

The FAA believes that the open sharing of apparent violations and a cooperative, as well as an advisory approach to solving problems, will enhance and promote aviation safety. The overwhelming majority of the safety community strongly supports this basic tenant. Certificate holders will receive a letter of correction in lieu of a civil penalty action for covered instances of non-compliance that are voluntarily disclosed to the FAA in accordance with the procedures set forth in FAA Advisory Circular 00-58A. Once the letter of correction is issued, the case will be considered closed unless the agreed-upon comprehensive fix is not satisfactorily completed by the reporting entity. It is incumbent upon the FAA to monitor compliance with the comprehensive fixes submitted along the VDRP.

The guidelines for submitting a VDRP require an evaluation of whether an apparent violation is eligible, and the FAA must ensure that the following five conditions are met:

- (1) The certificate holder has notified the FAA of the apparent violation immediately after detecting it and before the FAA has learned of it by other means.
- (2) The apparent violation was inadvertent.
- (3) The apparent violation does not indicate a lack, or reasonable question, of qualification of the certificate holder.
- (4) Immediate action, satisfactory to the FAA, was taken upon discovery to terminate the conduct that resulted in the apparent violation.
- (5) The certificate holder has developed or is developing a comprehensive fix and schedule of implementation satisfactory to the FAA. The comprehensive fix includes a follow-up self-audit to ensure that the action taken corrects the non-compliance. The self-audit is in addition to any audits conducted by the FAA.

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<sup>16</sup> Federal Aviation Administration website, [www.faa.gov/about/mission/](http://www.faa.gov/about/mission/).

<sup>17</sup> See footnote 3.

<sup>18</sup> See footnote 4.

AC 00-58A specifically precludes eligibility for VDRP, and exemptions from legal enforcement action, if the certificate holder informs the FAA of the apparent violation during, or in anticipation of, an FAA investigation/inspection or in association with an accident or incident. It is also important to note that FAA policy also dictates that any non-compliance reported after a FAA inspector has begun a compliance investigation is automatically not eligible for submission as a VDRP.

#### **AVIATION SAFETY ACTION PROGRAM (ASAP)**

ASAP is similar to VDRP except that it pertains to individual employees of airlines and aviation repair stations. The objective of ASAP is to encourage these employees to voluntarily report safety information that may be critical to identifying potential precursors to accidents. Like VDRP, safety issues are to be resolved through corrective action rather than through punishment or discipline. ASAP is designed to allow for the collection, analysis, and retention of safety data that would otherwise be unobtainable, and the program is intended as a database for the development of corrective actions designed to prevent the recurrence of the same types of safety events. Strict guidelines are also outlined as to whether an event is eligible for inclusion as an ASAP.

#### **DETAILED DISCUSSION OF FAA SOUTHWEST CMO WHISTLEBLOWER ALLEGATIONS**

Mr. Boutris and Mr. Peters filed for whistleblower protection with the U.S. Office of Special Counsel (OSC) in August 2007, after contacting T&I Committee staff, and this case was referred to the Secretary of Transportation on December 20, 2007 for investigation and response to the allegations.<sup>19</sup> In addition, they have provided substantial documentation to T&I staff. The Secretary of Transportation directed the DOT OIG to investigate the allegations on February 4, 2008, almost a year after they occurred. However, Majority T&I staff previously turned over the evidence to OIG in November 2007, along with a request to begin an immediate investigation.

Mr. Boutris and Mr. Peters disclosed to T&I staff that SPMI Gawadzinski, along with other collaborators, violated FAA policy and regulations pertaining to the maintenance of aircraft by airlines. The evidence suggests that these actions have led to “chronic, systemic, and repetitive non-compliance” with required maintenance procedures.<sup>20</sup> They charge that Mr. Gawadzinski knowingly allowed SWA to operate aircraft which were “not safe,” as defined by FAA airworthiness standards.<sup>21</sup> The evidence also suggests that Inspector Vincent L. Collamore was aware that the aircraft were not airworthy, but did not challenge or report Mr. Gawadzinski’s actions.

Mr. Boutris reported to Committee investigators that for the past three years he raised his concerns to Mr. Gawadzinski’s supervisor, the SWA CMO Manager, Michael C. Mills. Mr. Mills supported Boutris’ findings, and thus attempted to elevate the concerns to FAA Regional Management. Inspectors said that Regional Management consistently failed to take action. In fact, Mr. Boutris reports that 38 separate concerns were both e-mailed and hand-delivered to Regional

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<sup>19</sup> U.S. Office of Special Counsel, Report of Disclosures Referred for Investigation, OSC File Nos. DI-07-2793 and DI-2868, December 20, 2007.

<sup>20</sup> Ibid.

<sup>21</sup> By definition, if an aircraft is not in compliance with mandatory FAA airworthiness standards, and required maintenance intervals, the aircraft is considered unsafe for passenger service.

Flight Standards Director, Thomas Stuckey, and that he has yet to receive a formal response to any of them. Additionally, it is alleged that Mr. Gawadzinski made frequent references to his alleged connections with FAA HQ Flight Standards Director, James Ballough,<sup>22</sup> and that he used these references to intimidate others who attempted to challenge Gawadzinski's deviations from FAA national policy guidance.

FAA Order 8300.10, Inspectors Handbook, in the section under "inspector responsibility" states: "An inspector who becomes aware of an unsafe condition in an aircraft that is being operated or about to be operated and fails to act under the provisions of Section 605(b), FAA Act of 1958, as amended, is in dereliction of duty. This duty is placed specifically by Congress upon the inspector rather than upon the Administrator. If the inspector, after due consideration, still has any doubts regarding whether to ground the aircraft, the grounding notice should be issued."<sup>23</sup>

### **A Pattern of FAA SWA CMO and Airline Non-Compliance with Regulations**

Mr. Boutris requested assignment to the FAA SWA CMO in March 2003. He was initially assigned responsibility for the inspection of aircraft engines at SWA. As a result of his review of the airline's AD compliance records for several aircraft engines, it was discovered that the type of documentation varied significantly in form and content for each engine, which made it difficult to track overall compliance, and is a violation of FAR Part 121.380(2) (VI). Mr. Boutris recommended to his supervisor, Mr. Gawadzinski, that a formal "Letter of Investigation" be sent in compliance with FAA Order 2150.<sup>24</sup> Mr. Gawadzinski refused and asked that a "Letter of Concern" be issued which constitutes a lower level of action and does not constitute a formal FAA investigation. Nonetheless, SWA did not disagree with Mr. Boutris' findings, and he worked with the airline for the next year to bring the engine programs into regulatory compliance.

In January 2006, Mr. Boutris was assigned responsibility for B-737-700 airframes and systems. He immediately began a review of AD compliance on the SWA fleet. He again discovered significant discrepancies in AD compliance records and again determined that the records did not meet the requirements of FAR Part 121.380. He shared his findings with SWA maintenance officials and again recommended to Mr. Gawadzinski that a Letter of Investigation be sent and was again refused. Instead, he told Mr. Boutris that an AD management safety attributes inspection (SAI) would be conducted to determine whether policy requirements were being met at the airline. The last SAI at SWA occurred in 1999, even though these inspections are required every 5 years.<sup>25</sup> The 1999 SAI included numerous negative findings that should have been tracked in follow-up investigations.

Approximately one year later in January 2007, SPMI Gawadzinski allowed the AD management safety inspection (SAI) to begin, which was now 3 years overdue. It is alleged that upon learning that Mr. Boutris would be leading the SAI, SWA maintenance officials met with Mr. Gawadzinski and attempted to have Boutris removed from the inspection team, in light of a Hotline compliant and subsequent required investigation, which was later proven to be erroneous. Although

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<sup>22</sup> Mr. Ballough is the FAA executive in charge of the entire Flight Standards Organization.

<sup>23</sup> FAA Order 8300.10, Inspectors Handbook. (On September 13, 2007, the entire contents of this document were incorporated into a new order FAA 8900.1).

<sup>24</sup> FAA Order 2150 provides guidance to Aviation Safety Inspectors on Compliance and Enforcement procedures.

<sup>25</sup> FAA Order 8400.10 (now superseded by Order 8900.11) requires an AD SAI every 5 years.

Mr. Boutris was allowed to remain as team leader, the SAI was further delayed, and Mr. Boutris again took his concerns to CMO Manager Mills, alleging that the airline was trying to influence the outcome of the investigation by hand-selecting an inspector more “friendly” to the airline.

The evidence collected during our the Majority staff’s investigation suggested a pattern of giving preferential treatment to the airline that was apparently well known among FAA inspectors within the SWA CMO. Five witnesses in this investigation reported that Mr. Gawadzinski often discouraged other FAA inspectors from sending Letters of Investigation to SWA, despite their findings that would warrant such action. One inspector reported that the SPMI instructed him to alter a serious finding in the Program Tracking and Reporting System (PTRS) to reflect that the violation was initially found and disclosed under VDRP by the airline—a direct violation of VDRP policy guidance. Eight inspectors or former inspectors in the CMO told Majority staff investigators that Mr. Gawadzinski often seemed to be performing favors for SWA and appeared to be making decisions that benefited SWA.

### **Fuselage Inspection AD Over-fly and SWA Self Disclosure (VDRP)**

On March 15, 2007, SWA informed the SPMI by telephone that on March 14, 2007, during an AD compliance review, the airline had identified a number of their aircraft that may have over-flown the inspection requirements of AD 2004-18-06. At that time, SWA believed that over 100 B-737-300 aircraft could be affected. AD 2004-18-06 requires inspections of the fuselage on the B-737-200, -200C, -300, -400, and -500 models that are, “necessary to find and fix fatigue cracking of the skin panels, which could result in sudden fracture and failure of the skin panels of the fuselage, and consequent rapid decompression of the airplane.”<sup>26</sup> On March 19, 2007, SWA submitted a VDRP, which provided updated information previously provided on the telephone, and it was disclosed 47 aircraft were affected rather than the 100 originally reported.

According to records supplied to both T&I staff and OSC, during a records review within a few days after the March 15, 2007 disclosure, Mr. Boutris discovered that SWA did not cease operations of the affected aircraft when the non-compliance with the AD was discovered. The affected aircraft should have been grounded on March 15, 2007 at the time of the original disclosure, but they continued to fly between that date and at least March 23, 2007, so that each aircraft could be routed to a maintenance base to complete the overdue AD inspections. Most of the 47 aircraft remained in commercial service on revenue passenger operations. Six of the affected aircraft were found to have significant (up to 4-inch) fuselage cracks. It should also be noted that although March 15, 2007 was the date SWA discovered that many airplanes were overdue. It was later discovered that the affected aircraft were overdue inspection for 30 months prior to the submission of the VDRP.

The FAA VDRP form has a section entitled “Did Non-Compliance Cease after Detection?” In the VDRP submitted by the SWA Manager of Regulatory Compliance, Mr. Comeau, to the FAA SPMI, Mr. Gawadzinski, Mr. Comeau falsely answered “Yes” for the response to that question, and Mr. Gawadzinski accepted the entry, even though evidence indicates that he knew it was not true. Allowing the affected aircraft to remain in passenger revenue service, and flying passengers with a known unsafe condition, as defined by the airworthiness directives is a violation of Federal Regulations.

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<sup>26</sup> See footnote 6.

There is no controversy or disagreement among FAA officials that flights of the affected aircraft should have ceased upon the date of discovery of the violation. SWA maintenance officials had a statutory responsibility to ground the aircraft without FAA prompting, and the SPMI had knowledge of the over-flights. The SPMI should have followed mandatory FAA guidance under FAR Parts 39.7 and 39.11 and enforced the cessation of operations of all affected aircraft.

Mr. Kermit Teppen and Mr. Cecil Whitrock, who were Assistant Managers in the American Airlines (AMR) CMO, investigated this incident and they reported their findings in a memo on April 18, 2007 to SWA CMO Manager Mike Mills. They concluded that Mr. Gawadzinski neither ensured that the non-compliance ceased, nor did he inform upper management of this significant event stating that, “. . . the SWA CMO has a relaxed culture in maintaining substantiating data as well as any documents that would support any decisions made by the airworthiness unit.”<sup>27</sup> In addition, the memo states that the “affected aircraft operated for roughly 30 months without being inspected” [emphasis added] and due to past events pertaining to B-737 aircraft skin fatigue, this should have been considered a serious safety issue. Additionally, in a memo entitled, “record of conversation” by Mr. Whitrock to regional FAA management, which was obtained by T&I staff, Mr. Whitrock said that Mr. Gawadzinski visited him and attempted to persuade him to change his findings.

Mr. Boutris continued his AD inspection (SAI) and met with SWA management on March 28, 2007. By the end of that meeting, he had documented 21 negative findings. He reported these findings to SPMI Gawadzinski, who instructed him not to enter them into the Air Transportation Oversight System (ATOS) database.<sup>28</sup>

On April 9, 2007, Mr. Mills advised Mr. Boutris that he was being removed from his position because of an anonymous complaint filed against him, per FAA guidelines. He was forced to cease all inspections. This began a pattern of harassment against Mr. Boutris, and this and other allegations against Mr. Boutris were found to be without merit seven months later. During the week of February 18, 2008, as the details of this hearing began to circulate within FAA offices, derogatory notes regarding Mr. Boutris were posted on the CMO bulletin board, were removed by management, and reappeared three different times. On March 10, 2008, Mr. Collamore was removed from the SWA CMO.

On February 22, 2008, Mr. Boutris' spouse received a package at their residence, which contained an article entitled, “How to survive the sudden death of your husband. . . .” along with a hand-written note addressed to her suggesting, “Catherine thought youd [sic] be interested!” Committee staff coordinated with the House of Representatives General Counsel, who requested that the Federal Bureau of Investigation (FBI) take the lead in the case with DOT IG assistance. The FBI interviewed Mr. Boutris and his spouse on the evening of February 22, 2008, the evidence was retrieved, and it is currently being analyzed for DNA and fingerprints in FBI laboratories.

The SAI inspection continued under Inspectors Collamore and Bassler, and this team reported 50 favorable findings and only 8 negative findings. Mr. Boutris again appealed to FAA

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<sup>27</sup> FAA Memorandum from Kermit Teppen/Cecil Whitrock, Assistant Managers, AMR CMO to Mike Mills, Manager, SWO COM, April 18, 2007.

<sup>28</sup> All investigative findings from FAA inspectors are supposed to be entered into the ATOS database, which is intended as tool to identify regulatory compliance trends at airlines.

regional management and asked for a review of the Collamore and Bassler findings. That regional FAA review found the Collamore and Bassler inspection contained conflicting findings, and it did not support the favorable review of SWA AD compliance.

### **Over-flights of Other Mandatory Maintenance Interval Checks (Rudder Leak Inspections)**

In April 2007, FAA Inspector and whistleblower Peters became aware of a self-disclosure (VDRP submitted to FAA on March 20, 2007) that SWA had also over-flown a mandatory maintenance check of the Standby Rudder Power Control Unit Hydraulic System Internal Leakage Check on 70 aircraft. As with the disclosure associated with the fuselage inspections, SWA falsely disclosed that the non-compliance ceased upon the date of disclosure, even though later in the VDRP, SWA states that it will take the airline 14 days to complete the inspections. Obviously, it is impossible to say that the non-compliance ceased on the date of disclosure and at the same time disclose that it will take 14 days to complete the inspections. Again, under the FARs, it was mandatory that these aircraft be immediately grounded, but SPMI Gawadzinski accepted the VDRP and granted SWA the 14 days to continue the aircraft in revenue passenger service until they could, for commercial convenience, be routed to a location where the maintenance inspection could be accomplished and the schedule not interrupted.

Mr. Boutris reports that the non-compliance with this mandatory inspection went undetected for over one year. Although the VDRP was dated March 20, 2007 and indicated that SWA discovered this over-fly on March 19, 2007, the affected aircraft continued to fly in commercial service for 9 days after the date of detection. As with the fuselage inspection AD, there is no allowable provision or justification in FAA policy or in the FARs for continuing passenger operations while maintenance checks are pending or so that checks can be scheduled for commercial convenience. The matter was classified as closed by the FAA on April 10, 2007, and no follow-up was done to ensure tracking and completion of all the outstanding corrective actions, as required by the SWA CMO's Quality Procedures Manual and FAA policy. To date, FAA has taken no enforcement action on this matter.

### **RELATIONSHIP BETWEEN SWA FAA CMO AND THE AIRLINE**

The systemic failures in the SWA CMO had been a long-standing concern prior to this incident and evidence shows repeated warnings to FAA Regional Flight Standards management. No direct evidence of FAA HQ knowledge has been obtained by T&I staff. Mr. Boutris, among others, had been warning of this "relaxed culture," lack of documentation, and non-adherence to procedures in the SWA maintenance program for years. Additionally, a July 26, 2005 memo entitled, "A Time for Change," written by CMO Manager Mills shortly after his arrival in the CMO, to all personnel in the SWA CMO states:

We have noticed that many FAA approvals, certifications, and authorizations issued by this office have not followed handbook guidance. Our review of the files has revealed many instances where no paper trail can be established for critical regulatory transactions. There is also evidence that some of Southwest's manuals, bulletins, and checklists do not appear to exist in master copy and do not show approval signatures or an alternate approval protocol. There is also evidence that proper controls are not

in place here or at the carrier to verify the currency of some of Southwest's manuals and bulletins.

There are also indications that we may have retreated from the proper exertion of our influence and authority in some areas. It has been a long-standing and seemingly justified complaint of some of our inspectors that certain of Southwest's departments operate to a degree in a rogue manner, creating and publishing policies and procedures for vast numbers of Southwest employees to follow without benefit of prior coordination with the FAA principal.

The relaxation into a level of coziness with Southwest did not occur overnight. Over time, familiarity with our counterparts at the carrier, combined with our intermingling with their freewheeling and informal culture, have perhaps influenced us to settle for winks, nods, verbals, and e-mails as acceptable methods by which we do our business as regulators. Who wouldn't find Southwest's easygoing camaraderie and jovial atmosphere appealing? What we want to avoid at all costs is a relationship so comfortable that the line of distinction blurs between the regulator and the regulated. . . . We are hired by the taxpayers to look over Southwest's shoulder and ensure they conduct their business with safety as the uppermost consideration at all times—nothing more, nothing less.<sup>29</sup>

Several witnesses will testify that SMPI Gawadzinski allowed SWA to keep the 117 non-airworthy aircraft in commercial service because of his personal relationship with Mr. Comeau, the Manager of Regulatory Affairs at SWA and former subordinate of Mr. Gawadzinski at FAA, and his overall level of "closeness" to SWA management. Mr. Boutris reports that in March 2007, he shared his concerns with FAA Security Special Agent David Friant, describing the safety concerns he had been voicing for the previous 3 years and the inappropriate interactions between SMPI Gawadzinski and the airline. FAA Security Special Agent Jay La Flair and FAA SW Region Supervisor Terry Lambert also interviewed Mr. Boutris in June 2007. Effective May 9, 2007, CMO Manager Mills, and SMPI Gawadzinski were temporarily reassigned.

In June 2007, Mr. Peters reported his concerns regarding inappropriate communications between SWA CMO inspectors and the airline. During his initial investigation of the fuselage inspection AD over-flights, Mr. Peters became aware that certain FAA inspectors were informing the airline about his access to SWA maintenance records, which he had the authority to access as an FAA inspector. Mr. Peters suspects that this exchange was to warn the airline about the details of his investigation. In addition, Mr. Peters was able to document that airline manager, Comeau shared a computer report detailing FAA employee' access to SWA's maintenance database. The fact that FAA inspectors shared details about the conduct of a FAA investigation with the subject of that investigation was highly inappropriate and suggests that a level of collusion was taking place between the regulator and the regulated. FAA Inspectors Stennis and Bassler admitted that they did share this information with SWA and were shown the report by Mr. Comeau, in the presence of CMO Acting Manager Robert Naccache.

A number of witnesses will testify that while many of the allegations have been investigated and documented, they are concerned that FAA has taken virtually no action to address the root

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<sup>29</sup> Memo from SWA CMO Manager Michael C. Mills to all SWA CMO employees, July 26, 2005.

cause of these regulatory breakdowns or hold individuals accountable for knowingly violating FARs. Mr. Gawadzinski remained an inspector until a few weeks ago. As late as the week of March 3, 2008, Mr. Gawadzinski was assigned to the AMR CMO under the same FAA regional management. Mr. Collamore, who is alleged to have conspired with Mr. Gawadzinski, continued his duties as a SWA CMO partial program manager until the week of March 10, 2008 when he was removed, and as late as December 2007, was serving as the Acting SPMI in the SWA CMO. At a minimum, the evidence seems to demonstrate a long-term pattern of neglect that was reported to FAA Regional management with no significant corrective action taken.

### DOES THIS PATTERN EXIST WITHIN OTHER FAA CMOs?

Majority Committee investigators conducted interviews with a number of FAA inspectors and retired FAA inspectors who are, or have been, assigned to CMOs overseeing other airlines. Most of these individuals were reluctant to provide their identities or evidence to T&I staff, but many did speak on condition of anonymity. The Professional Aviation Safety Specialists (PASS), which represents 11,000 FAA employees, including approximately 2,800 FAA Aviation Safety Inspectors,<sup>30</sup> also conducted numerous interviews with its FAA inspector members.

FAA Aviation Safety Inspectors are responsible for performing surveillance on aircraft operations and maintenance procedures for air carriers. FAA inspectors must perform in a role of “safety-enforcer” taking appropriate actions against violations of regulations. Both PASS, as well as many of the inspectors interviewed in this investigation, alleged that the “safety-enforcer” role has become increasingly overshadowed by the relationship between the FAA and airlines. A frequently heard complaint from current and former FAA safety inspectors is that these programs are often used as “get out of jail free cards.”

As previously discussed, airlines are given the option to self-disclose a safety violation or non-compliance when they, internally and alone, discover the incident themselves. However, once a FAA inspector is in possession of evidence pertaining to a violation, that discovery is supposed to be handled as an enforcement case, and the airline no longer has the option to submit a VDRP.<sup>31</sup> PASS provided numerous examples to committee staff alleging that FAA inspectors, who were in the process of conducting an investigation, have been ordered by their front line managers to refrain from moving forward with investigations and thus allowing airlines to file a VDRP. The implication is that FAA managers are sometimes inappropriately communicating with airlines when an inspector is investigating an issue. It is not known how widespread these incidents are.

Many inspectors allege that there is pressure from management to not identify too many problems with an airline, suggesting that there may be “retribution” or reassignment as a result. PASS alleges to have several cases where an inspector has identified a violation and is then counseled by FAA management that they are straining relationships with a certificate holder. It is alleged that CSI has been exploited by some airlines seeking to remove individual inspectors from oversight of their certificate.

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<sup>30</sup> As of February 2007, the FAA lists the number of Flight Standards inspectors as 3,593. This figure includes first line field and office managers, and the PASS figure only includes inspectors who actually perform inspection functions in the field.

<sup>31</sup> See footnote 3.

Inspectors from several CMOs alleged that they have been ordered to change entries in various FAA enforcement databases, thereby allowing a clear path for the carrier to submit a VDRP and escape an enforcement action. Even in cases where FAA inspectors are permitted by management to move forward with enforcement actions, they often complain the process today has become so “convoluted and time-consuming,” it can take an extended period of time to proceed. Several veteran inspectors reported to committee staff “they rarely even bother trying to file an enforcement case against an airline in the current environment because there is little chance anything will ever get done.” If the many required hurdles are overcome, enforcement actions are often delayed until they are dropped. License suspension or revocation cases that are inactive for six months or longer are generally considered stale and often dropped. The DOT OIG issued a report in 2007 that noted, “FAA needs better procedures for responding and resolving safety complaints identified by inspectors.”<sup>32</sup>

The General Accountability Office (GAO), in September 2006 testimony before the T&I Aviation Subcommittee, concluded that “it remains unclear the extent to which they [aviation safety oversight partnership programs] are achieving their intended effects.” The GAO also noted that:

FAA’s enforcement program, which is an outgrowth of its inspection process, is intended to ensure industry compliance with safety regulations and is another important element of its safety oversight system. A key objective of FAA’s policy of assessing legal sanctions against entities or individuals that do not comply with aviation safety regulations is to deter future violations. However, we found that recommendations for sanctions are sometimes reduced on the basis of factors that are not associated with the merits of the case, and the economic literature on deterrence suggests that the goal of preventing future violations is weakened when the penalties for violations are lowered for reasons not associated with the merits of the case. For fiscal years 1993 through 2003, we found that civil monetary penalties were reduced by 52 percent from a total of \$334 million to \$162 million. It is important for FAA to have effective evaluative processes and relevant data on its numerous safety programs so that the agency can assure the programs are having their intended effect, especially as FAA’s oversight becomes more indirect and as significant program changes are made.<sup>33</sup>

Since some of the details of this investigation were divulged and widely covered in the news media due to the rescheduling of this hearing (from March 12, 2008), the FAA has ordered a national audit of AD compliance. Since that announcement on March 13, 2008, at least six major U.S. airlines have announced the voluntary grounding of hundreds of aircraft for precautionary inspections including those related to AD compliance. FAA’s actions with in the last two weeks and many airlines’ responses suggest that the problem may be widespread.

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<sup>32</sup> “Actions Taken to Address Allegations of Unsafe Maintenance Practices at Northwest Airlines, Report Number: AV-2007-080, September 28, 2007.

<sup>33</sup> Testimony before the Subcommittee on Aviation, Committee on Transportation and Infrastructure, House of Representatives, Aviation Safety: FAA’s Safety Efforts Generally Strong but Face Strong Challenges, U.S. General Accountability Office, September 20, 2006.

WITNESSES

PANEL 1

**Mr. Charalambe (Bobby) Boutris**

Aviation Safety Inspector and Boeing 737-700 Partial Program Manager for aircraft maintenance  
Southwest Airlines (SWA) Certificate Management Office (CMO)

**Mr. Douglas E. Peters**

Aviation Safety Inspector and Boeing 757 Partial Program Manager  
American Airlines Certification Unit, AMR CMO

**Mr. Michael C. Mills**

Assistant Manager, Dallas Fort Worth Flight Standards District Office (FSDO)

**Mr. Paul E. Cotti**

Supervisor, American Eagle Airworthiness Unit, AMR CMO

**Mr. Robert A. Naccache**

Ret. Assistant Manager, SWA CMO

**Mr. Terry D. Lambert**

Manager, Safety and Analysis Group, Flight Standards Division, FAA Southwest Region

PANEL II

**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

**Mr. Nicholas A. Sabatini**

Associate Administrator for Aviation Safety  
Federal Aviation Administration

**Mr. James J. Ballough**

Director, Flight Standards Service, Federal Aviation Administration

**Mr. Thomas Stuckey**

Manager, Flight Standards Division, FAA Southwest Region

PANEL III

**Mr. Herb Kelleher**

Executive Chairman, Southwest Airlines Co.

**Mr. Gary Kelly**

Chief Executive Officer, Southwest Airlines Co.

**Mr. Vincent Larry Collamore**

Aviation Safety Inspector, SWA CMO

**Mr. John Bassler**

Principal Avionics Inspector, Dallas Fort Worth FSDO

PANEL IV

**Mr. Tom Brantley**

President, Professional Aviation Safety Specialists

*Accompanied by*

**Ms. Linda Goodrich**

Region IV Vice President, Professional Aviation Safety Specialists

**Mr. Richard A. Andrews**

Aviation Safety Inspector, American Eagle Operations Unit, AMR CMO  
Professional Aviation Safety Specialists

**Mr. Joseph P. Thrash**

Ret. Aviation Safety Inspector, Continental Airlines CMO

**Mr. Bill McNease**

Ret. Aviation Safety Inspector, FedEx CMO

# Southwest Airlines Investigation Organizational Chart for FAA SWA CMO

**Acting FAA Administrator Robert Sturgell**  
(Marion Blakey was Administrator until Sept. 2007)

**Deputy Administrator**

**Associate Administrator for Aviation Safety**  
Nicolas Sabatini

**Assistant Administrator for Region and Center Operations**

**Southwest Region, Flight Standards**  
Director: Thomas Stuckey  
Manager for Safety and Analysis Group: Terry Lambert

All other Regional Offices

**Flight Standards Service (AFS)**  
Director: James Ballough

All other offices, including Accident Investigation, Aerospace Medicine, Aircraft Certification, etc.

**Southwest Airlines CMO**  
Manager: Michael Mills  
Assistant Manager: Robert Naccache  
Supervisor: Paul Corti

**AMR CMO**  
Assistant Managers: Kermit Teppen and Cecil Whitrock

Other CMOs in the Southwest Region

**Supervisory Principal Maintenance Inspector (SPMI)**  
Douglas Gawadzinski

**Aviation Safety Inspectors (ASIs):**  
Bobby Boutris, Douglas Peters, Paul Corti, Larry Collamore, John Bassler, Paul Comeau\*, Sanford Stennis

**Supervisory Principal Operations Inspector (SPOI)**

**\*Paul Comeau** was an ASI in the Southwest CMO until the end of 2006 (prior to the discovery of non-compliance). He then became Manager of Regulatory Compliance for Southwest Airlines. As of March 11, 2008 he is on administrative leave.

\*Chart is valid during period which is referenced in the investigation