

**PANEL I, DAY II OF THE TWELFTH PUBLIC HEARING OF THE NATIONAL
COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES
CHAired BY: THOMAS KEAN, CHAIRMAN**

**SUBJECT: STAFF STATEMENTS ON THE MILITARY AND CIVILIAN AVIATION
AUTHORITIES**

NTSB CONFERENCE CENTER, L'ENFANT PLAZA, WASHINGTON, D.C.
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MR. KEAN: Good morning. As Chair of the Commission on the Terrorist Attacks on the United States I hereby reconvene this twelfth public hearing. Today we will explore the federal government's immediate response to the terrorist attacks of September 11th, 2001. We'll present a comprehensive picture of when the hijackings occurred, when air traffic controllers learned of the hijackings, when this information was communicated up the line, when military commanders and civilian leaders made decisions, what decisions were made, and how those decisions were communicated and implemented.

So I will call at this point upon Phil Zelikow to start out the Staff Statement.

MR.ZELIKOW: Thank you. Members of the Commission, with your help, your staff is prepared to present its findings regarding national defense and crisis management on 9/11. Our findings represent the result of our work to date. We remain ready to revise our understanding in light of new information. This statement represents the collective effort of a number of members of the staff. John Farmer, Miles Kara, Dana Hyde, John Azzarello, Kevin Shaeffer, Steve Dunne, Geoffrey Brown, Lisa Sullivan, and Cate Taylor did most of the investigative work reflected in this report. In addition, Charles Pereira of the National Transportation Safety Board assisted greatly in the reconstruction and interpretation of flight data. We are grateful to the NTSB for its assistance and cooperation. We would also like to acknowledge the assistance of the Environmental Systems Research Institute in preparing the visual components of this presentation.

In the course of this investigation, we have received documents and other information from the Executive Office of the President, and the Departments of Defense, Transportation, and Homeland Security. Unless otherwise noted, all times given are rounded to the nearest minute. None of the audio excerpts you

will hear this morning are derived from cockpit voice recorders, disclosure of which is prevented by federal law.

The FAA and NORAD. On 9/11, the defense of U.S. air space depended on close interaction between two federal agencies: the FAA and the North American Aerospace Defense Command (NORAD). The last hijacking that involved U.S. air traffic controllers, FAA management, and military coordination, had occurred in 1993. In order to understand how the two agencies interacted eight years later, we will review their missions, command-and-control structures, and working relationship on the morning of 9/11.

FAA Mission and Structure. As of September 11, 2001, the FAA was mandated by law to regulate the safety and security of civil aviation. From an air traffic controller's perspective, that meant maintaining a safe distance between airborne aircraft. Many controllers work at the FAA's 22 Air Route Traffic Control Centers. These centers are grouped under regional offices and coordinate closely with the national Air Traffic Control System Command Center, commonly referred to as the "Command Center," which oversees daily traffic flow within the entire airspace system. That Command Center is located in Herndon, Virginia. Regional offices report to FAA headquarters in Washington, D.C. FAA headquarters is ultimately responsible for the management of the National Airspace System. An operations center located at FAA headquarters receives notifications of incidents, including accidents and hijackings.

FAA centers often receive information and make operational decisions independent of one another. On 9/11, the four hijacked aircraft were monitored mainly by four of these FAA Air Route Traffic Control Centers, based in Boston, New York, Cleveland and Indianapolis. Each center thus had part of the knowledge of what was going on across the system. But it is important to remember that what Boston Center knew was not necessarily known by the centers in New York, Cleveland or Indianapolis.

Controllers track airliners like the four aircraft hijacked on 9/11 primarily by watching the data from a signal emitted by the aircraft's transponder equipment. The four aircraft hijacked on 9/11, like all aircraft traveling above 10,000 feet, were required to emit a unique transponder signal while in flight. On 9/11, the terrorists turned off the transponders on three of the four hijacked aircraft. With the transponder turned off, it may be possible, although more difficult, to track an aircraft by its primary radar returns. A primary radar return occurs when the signal sent from a radar site bounces off an object in the

sky and indicates the presence of that object. But primary radar returns do not include the transponder data, which show the aircraft's identity and altitude. Controllers at centers rely on transponder signals and usually do not display primary radar returns on their scopes. But they can change the configuration of their radar scopes so they can see primary radar returns. And in fact, the controllers did just that on 9/11 when the transponders were turned off in three of the four hijacked aircraft. Tower or terminal approach controllers handle a wider variety of lower-flying aircraft; they often use primary radar returns as well as transponder signals.

NORAD Mission and Structure. NORAD was, and is, responsible for the air defense of the continental United States. The threat of Soviet bombers diminished significantly after the end of the Cold War, and the number of NORAD alert sites were reduced. On 9/11 there were only seven left in the United States, each with two fighter aircraft on alert. All the hijacked aircraft were in one of NORAD's Continental U.S. sectors, the Northeast Air Defense Sector, also known as NEADS. NEADS is based in Rome, New York. On 9/11, it could call on two alert sites, each with one pair of ready fighters. These were the Otis Air National Guard Base in Cape Cod, Massachusetts and Langley Air Force Base in Langley, Virginia (sic). NEADS reported to the continental region headquarters in Florida, which reported to NORAD headquarters in Colorado Springs, Colorado. Most FAA centers had a civilian employee to coordinate with NORAD, for situations like training exercises. The agencies had also developed protocols for working together in the event of a hijacking. As they existed on 9/11, the protocols for the FAA to obtain military assistance from NORAD required multiple levels of notification and approval at the highest levels of government, as I think you can see graphically depicted by that complicated chart.

FAA guidance to controllers on hijack procedures assumed that the aircraft pilot would notify the controller of the hijack via radio communication or by squawking a transponder code of "7500" -- the universal code for a hijack in progress. Controllers would notify their supervisors, who in turn would inform management all the way up to FAA headquarters in Washington. Headquarters then had a hijack coordinator who was the director or his designate of the FAA Office of Civil Aviation Security. If a hijack was confirmed, procedures called for the hijack coordinator to contact the Pentagon's National Military Command Center, NMCC, and ask for a military escort aircraft to follow the flight, report anything unusual, and aid search and rescue

in the event of an emergency. The NMCC would then seek approval from the Office of the Secretary of Defense to get that assistance. If there was approval, the orders would be transmitted down NORAD's chain of command and direct the sector to launch a fighter escort. The protocols did not contemplate an intercept. They assumed the fighter escort would be discreet, "vectored to a position five miles directly behind the hijacked aircraft," where it could perform its mission to monitor the flight path of the aircraft.

In sum, the protocols in place on 9/11 for the FAA and NORAD to respond to a hijacking presumed that: one, the hijacked aircraft would be readily identifiable and would not attempt to disappear; two, there would be time to address the problem through the appropriate FAA and NORAD chains of command; and, three, the hijacking would take the traditional form, not a suicide hijacking designed to convert the aircraft into a guided missile. On the morning of 9/11, the existing protocol was unsuited in every respect for what was about to happen. What ensued was the hurried attempt to create an improvised defense by officials who had never encountered or trained against the situation they faced.

Staff Statement Number Four offered an initial summary of what took place on the four flights. What we will do now is review how people on the ground comprehended what was happening to each flight. So, for each flight, we will first describe what the FAA understood, and then how the military was notified and responded.

MR. JOHN AZZARELLO: American Airlines Flight 11 FAA Awareness. At 8:00 on September 11, 2001, American Airlines Flight 11 began its takeoff roll at Logan Airport in Boston. A Boeing 767, Flight 11 was bound for Los Angeles with 81 passengers, 11 crew, and 24,000 gallons of jet fuel. By 8:09, it was being monitored by FAA's Boston Center, located in New Hampshire. At 8:13, the controller instructed the flight to "turn twenty degrees right," which the flight acknowledged. This was the last transmission to which the flight responded. Sixteen seconds later, the controller instructed the flight to climb to 35,000 feet. When there was no response, the controller repeated the command seconds later, and then tried repeatedly to raise the flight. He used the emergency frequency to try to reach the pilot. Though there was no response, he kept trying to contact the aircraft.

At 8:21, American 11 turned off its transponder, immediately degrading the available information about the aircraft. The controller told his supervisor that he thought something was seriously wrong with the plane. At this point, neither the controller nor his supervisor suspected a hijacking. The supervisor instructed the controller to follow standard operating procedures for handling a "no radio," aircraft.

The controller checked to see if American Airlines could establish communication with American 11. He became even more concerned as its route changed, moving into another sector's airspace. Controllers immediately began to move aircraft out of its path, and searched from aircraft to aircraft in an effort to have another pilot contact American 11.

At 8:24 and 38 seconds, the following transmission came from American 11:

American 11 (from audiotape): We have some planes. Just stay quiet, and you'll be okay. We are returning to the airport.

MR. AZZARELLO: The controller only heard something unintelligible; he did not hear the specific words, "We have some planes."

Then the next transmission came seconds later:

American 11 (from audiotape): Nobody move. Everything will be okay. If you try to make any moves, you'll endanger yourself and the airplane. Just stay quiet.

MR. AZZARELLO: Hearing that, the controller told us he then knew it was a hijacking. The controller alerted his supervisor, who assigned another controller to assist him, and redoubled efforts to ascertain the flight's altitude. Because the controller didn't understand the initial transmission, the manager of Boston Center instructed the Center's quality assurance specialist to, "pull the tape" of the radio transmission, listen to it closely, and report back.

Between 8:25 and 8:32, in accordance with the FAA protocol, Boston Center managers started notifying their chain of command that American 11 had been hijacked.

At 8:28, Boston Center called the Command Center in Herndon, Virginia to advise management that it believed American 11 had been hijacked and was heading towards New York Center's

airspace. By this point in time, American 11 had taken a dramatic turn to the south.

At 8:32, the Command Center passed word of a possible hijacking to the Operations Center at FAA headquarters. The duty officer replied that security personnel at headquarters had just begun discussing the hijack situation on a conference call with the New England regional office. The Herndon Command Center immediately established a teleconference between Boston, New York, and Cleveland Centers so that Boston Center could help the others understand what was happening.

At 8:34, the Boston Center controller received a third transmission from American 11:

American 11 (from audiotape): Nobody move please. We are going back to the airport. Don't try to make any stupid moves.

MR. AZZARELLO: In the succeeding minutes, controllers were attempting to ascertain the altitude of the southbound Flight 11.

Military Notification and Response. Boston Center did not just follow the routine protocol in seeking military assistance through the prescribed chain of command. In addition to making notifications within the FAA, Boston Center took the initiative, at 8:34, to contact the military through the FAA's Cape Cod facility.

They also tried to obtain assistance from a former alert site in Atlantic City, unaware that it had been phased out. At 8:37 and 52 seconds, Boston Center reached NEADS. This was the first notification received by the military at any level that American 11 had been hijacked:

(Begin audiotape.)

FAA (from audiotape): Hi. Boston Center TMU. We have a problem here. We have a hijacked aircraft headed towards New York, and we need you guys to -- we need someone to scramble some F-16s or something up there, to help us out.

NEADS: Is this real-world or exercise?

FAA: No, this is not an exercise, not a test.

(End audiotape.)

MR. AZZARELLO: NEADS promptly ordered to battle stations the two F-15 alert aircraft at Otis Air Force Base, about 153 miles away from New York City. The air defense of America began with this call.

At NEADS, the reported hijacking was relayed immediately to Battle Commander Colonel Robert Marr. After ordering the Otis fighters to battle stations, Colonel Marr phoned Major General Larry Arnold, commanding general of the First Air Force and the Continental Region. Marr sought authorization to scramble the Otis fighters. General Arnold instructed Marr, "to go ahead and scramble the airplanes, and we'd get permission later," end quote. General Arnold then called NORAD headquarters to report. F-15 fighters were ordered scrambled at 8:46 from Otis Air Force Base. But NEADS did not know where to send the alert fighter aircraft. "I don't know where I'm scrambling these guys to. I need a direction, a destination."

Because the hijackers had turned off the plane's transponder, NEADS personnel spent the next minutes searching their radar scopes for the elusive primary radar return. American 11 impacted the World Trade Center's North Tower at 8:46 and 40 seconds. Shortly after 8:50, while NEADS personnel were still trying to locate American 11, word reached them that a plane had hit the World Trade Center. Radar data show the Otis fighters were airborne at 8:53. Lacking a target, they were vectored toward military-controlled airspace off the Long Island coast. To avoid New York area air traffic, and uncertain about what to do, the fighters were brought down to military air space to, "hold as needed." From 9:08 to 9:13, the Otis fighters were in this holding pattern.

In summary, NEADS received notice of the hijacking nine minutes before it impacted the North Tower. The nine minutes notice was the most the military would receive that morning of any of the four hijackings.

United Airlines Flight 175 FAA Awareness. United Airlines Flight 175, a Boeing 767 carrying 65 passengers from Boston to Los Angeles, took off from Logan Airport at 8:14. At 8:37 Boston Center polled United 175, along with other aircraft, about whether they had seen a, "American 767," American 11 that they were looking for. And United 175's pilots said they had seen it. The controller turned United 175 away from it as a safety precaution.

At 8:41, United 175 entered New York Center's airspace. The controller responsible for United 175 was unfortunately the same controller assigned the job of tracking the hijacked American 11. At 8:47, at almost the same time American 11 crashed into the North Tower, United 175's assigned transponder code changed -- then changed again. These changes were not noticed for several minutes, because the controller was focused on finding American 11, which had disappeared. At 8:48, the New York Center manager provided the following report on a Command Center teleconference about American 11, including information that had been relayed by the airline:

MANAGER, NEW YORK CENTER (from audiotape): Okay. This is New York Center. We're watching the airplane. I also had conversation with American Airlines, and they've told us that they believe that one of their stewardesses was stabbed and that there are people in the cockpit that have control of the aircraft, and that's all the information they have right now.

MR. AZZARELLO: The New York Center controller and manager were unaware that American 11 had already crashed.

At 8:51, the controller noticed the change in the transponder reading from United 175. The controller asked United 175 to go back to the proper code. There was no response. Beginning at 8:52, the controller made repeated attempts to reach the crew of United 175. Still no response. The controller checked that his radio equipment was working and kept trying to reach United 175. He contacted another controller at 8:53, and worried that, "we may have a hijack," and that he could not find the aircraft.

Another commercial aircraft in the vicinity then radioed in with, "reports over the radio of a commuter plane hitting the World Trade Center." The controller spent the next several minutes handing off the other flights on his scope to other controllers and moving aircraft out of the way of the unidentified aircraft believed to be United 175 as it moved southwest and then turned northeast toward New York City.

At approximately 8:55, the controller-in-charge notified a New York Center manager that she believed United 175 had also been hijacked. The manager tried to notify the regional managers and was told that the managers were discussing a hijacked aircraft, presumably American 11, and refused to be disturbed. At 8:58, the New York Center controller searching for United 175 told another New York controller, "we might have a hijack over here, two of them."

Between 9:01 and 9:02, a manager from New York Center told the Command Center in Herndon:

MANAGER, NEW YORK CENTER (from audiotape): We have several situations going on here. It's escalating big, big time, and we need to get the military involved with us.

COMMAND CENTER: We're -- we're involved with something else. We have other aircraft that may have a similar situation going on here.

MR. AZZARELLO: The, "other aircraft," New York Center referred to was United 175. Evidence indicates that this conversation was the only notice received prior to the second crash by either FAA headquarters or the Herndon Command Center that there was a second hijack.

While Command Center was told about this, "other aircraft" at 9:01, New York Center contacted New York terminal approach control and asked for help in locating United 175.

(Begin audiotape.)

TERMINAL: I got somebody who keeps coasting but it looks like he's going into one of the small airports down there.

CENTER: Hold on a second. I'm trying to bring him up here and get you -- there he is right there. Hold on.

TERMINAL: Got him just out of 9,500-9,000 now.

CENTER: Do you know who he is?

TERMINAL: We're just, we just we don't know who he is. We're just picking him up now.

CENTER (at 9:02): All right. Heads up man, it looks like another one coming in.

MR. AZZARELLO: The controllers observed the plane in a rapid descent; the radar data terminated over Lower Manhattan. At 9:03 and two seconds, United 175 crashed into the South Tower.

Meanwhile, a manager from Boston Center reported that they had deciphered what they had heard in one of the first hijacker transmissions from American 11:

(Begin audiotape.)

BOSTON CENTER: Hey -- you still there?

NEW ENGLAND REGION: Yes, I am.

BOSTON CENTER: I'm gonna reconfirm with, with downstairs, but the, as far as the tape -- seemed to think the guy said that "we have planes." Now, I don't know if it was because it was the accent, or if there's more than one, but I'm gonna -- I'm gonna reconfirm that for you, and I'll get back to you real quick. Okay?

NEW ENGLAND REGION: Appreciate it.

UNIDENTIFIED FEMALE VOICE: They have what?

BOSTON CENTER: Planes, as in plural. It sounds like, we're talking to New York, that there's another one aimed at the World Trade Center.

NEW ENGLAND REGION: There's another aircraft?

BOSTON CENTER: A second one just hit the Trade Center.

NEW ENGLAND REGION: Okay. Yeah, we gotta get -- you know, we gotta alert the military real quick on this.

MR. AZZARELLO: Boston Center immediately advised the New England Region that it was going to stop all aircraft scheduled to depart from any airport within Boston Center. At 9:05, Boston Center confirmed for both FAA Command Center and the New England Region that the hijackers aboard American 11 said, "we have planes."

At the same time, New York Center declared, "ATC zero," -- meaning that aircraft were not permitted to depart from, arrive at, or travel through New York Center's airspace until further notice.

Within minutes of the second impact, Boston Center's operations manager instructed all air traffic controllers in his center to use their radio frequencies to inform all aircraft in Boston Center of the events unfolding in New York, and to advise aircraft to heighten cockpit security.

Boston Center also asked Herndon Command Center to issue a similar cockpit security alert to all aircraft nationwide. We have found no evidence to suggest that Command Center managers instructed any centers to issue a cockpit security alert.

Military Notification and Response. The first indication that the NORAD air defenders had of the second hijacked aircraft, United 175, came in a phone call from New York Center to NEADS at 9:03. The notice came in at about the time the plane was hitting the South Tower. At 9:08, the mission crew commander at NEADS learned of the second explosion at the World Trade Center and decided against holding the fighters in military air space away from Manhattan:

MISSION CREW COMMANDER, NEADS (from audiotape): This is what I foresee that we probably need to do. We need to talk to FAA. We need to tell 'em if this stuff is gonna keep on going, we need to take those fighters, put 'em over Manhattan. That's best thing, that's the best play right now. So coordinate with the FAA. Tell 'em if there's more out there, which we don't know, let's get 'em over Manhattan. At least we've got some kind of play.

(End of audio tape.)

MR. FARMER: The FAA cleared the air space. The Otis fighters were sent to Manhattan. A combat air patrol was established over the city at 9:25. Because the Otis fighters had expended a great deal of fuel in flying first to military air space and then to New York, the battle commanders were concerned about refueling.

NEADS considered scrambling alert fighters from Langley Air Force Base in Virginia to New York to provide backup. The Langley fighters were placed on battle stations at 9:09. NORAD had no indication that any other plane had been hijacked.

The following is a time-lapse depiction of the flight paths of American 11 and United 175.

(Video depiction shown.)

MR. FARMER: American Airlines Flight 77, FAA awareness.

American 77 began its takeoff from Dulles International Airport at 8:20. The flight was handed off routinely from Washington Center to Indianapolis Center at approximately 8:40. American 77 was acknowledged by the Indianapolis controller, who

had 14 other planes in his sector at the time. The controller instructed the aircraft to climb, and at 8:50 cleared it to its next navigational aid. American 77 acknowledged. This was the last transmission from American 77.

At 8:54, American 77 began deviating from its flight plan, first with a slight turn toward the south. Two minutes later it disappeared completely from Indianapolis radar. The controller tracking American 77 told us he first noticed the aircraft turning to the southwest and then saw the data disappear.

The controller looked for primary radar returns. He searched along its projected flight path and the air space to the southwest, where it had started to turn. No primary targets appeared. He tried the radios, first calling the aircraft directly, then the airline. Again, there was nothing.

At this point the Indianapolis controller had no knowledge of the situation in New York. He did not know that other aircraft had been hijacked. He believed American 77 had experienced serious electrical and/or mechanical failure and was gone.

Shortly after 9:00, Indianapolis Center started notifying other agencies that American 77 was missing and had possibly crashed. At 9:08, Indianapolis Center contacted Air Force search and rescue at Langley Air Force Base, Virginia, and told them to look out for a downed aircraft. They also contacted the West Virginia state police and asked whether they had any reports of a downed aircraft.

At 9:09, they reported the loss of contact to the FAA regional center, which passed this information to FAA headquarters at 9:24. By 9:20, Indianapolis Center learned that there were other hijacked aircraft in the system and began to doubt their initial assumption that American 77 had crashed. A discussion of this concern between the manager at Indianapolis and the Command Center in Herndon prompted the Command Center to notify some FAA field facilities that American 77 was lost.

By 9:21, the Command Center, some FAA field facilities and American Airlines had started to search for American 77. They feared it had been hijacked. At 9:25, the Command Center advised FAA headquarters that American 77 was lost in Indianapolis Center's air space, that Indianapolis Center had no primary radar track, and that it was looking for the aircraft.

The failure to find a primary radar return for American 77 led us to investigate this issue further. Radar reconstructions performed after 9/11 reveal that FAA radar equipment tracked the flight from the moment its transponder was turned off at 8:56, but for eight minutes and 13 seconds, between 8:56 and 9:05, this primary radar information on American 77 was not displayed to controllers at Indianapolis Center. The reasons are technical, arising from the way software processed radar information, as well as from core primary radar coverage where American 77 had been flying.

According to the radar reconstruction, American 77 re-emerged as a primary target on Indianapolis Center radar scopes at 9:05, east of its last known position. The target remained in Indianapolis Center's air space for another six minutes, then crossed into the western portion of Washington Center's air space at 9:10.

As Indianapolis Center continued searching for the aircraft, two managers and the controller responsible for American 77 looked to the west and southwest along the flight's projected path, not east, where the aircraft was now heading. The managers did not construct other controllers at Indianapolis Center to turn on their primary radar coverage to join in the search for American 77.

In sum, Indianapolis Center never saw Flight 77 turn around. By the time it reappeared in primary radar coverage, controllers had either stopped looking for the aircraft because they thought it had crashed or they were looking toward the west.

In addition, while the Command Center learned Flight 77 was missing, neither it nor FAA headquarters issued an all-points bulletin to surrounding centers to search for primary radar targets. American 77 traveled undetected for 36 minutes on a course heading due east to Washington, D.C.

By 9:25, FAA's Herndon Command Center and FAA Headquarters knew the following. They knew two aircraft had crashed into the World Trade Center. They knew American 77 was lost. They knew that a hijacker on board American 11 had said, "We have some planes." Concerns over the safety of other aircraft began to mount.

The manager at the Herndon Command Center asked FAA Headquarters if they wanted to order a, "nationwide ground

stop." While executives at FAA Headquarters discussed it, the Command Center went ahead and ordered one anyway at 9:25.

The Command Center kept looking for American 77. At 9:21 it advised the Dulles terminal control facility, which urged its controllers to look for primary targets. At 9:32, they found one. Several of the Dulles controllers, "observed the primary radar target tracking eastbound at a high rate of speed," and notified Reagan Airport. FAA personnel at both Reagan and Dulles Airports notified the Secret Service. The identity or aircraft type was unknown.

Reagan Airport controllers then vectored an unarmed National Guard C-130H cargo aircraft, which had just taken off en route to Minnesota, to identify and follow the suspicious aircraft. The C-130H pilot spotted it, identified it as a Boeing 757, attempted to follow its path, and at 9:38, seconds after impact, reported to Washington tower: "Looks like that aircraft crashed into the Pentagon, sir."

Military notification and response. NORAD did not know about the search for American 77. Instead, they heard once again about a plane that no longer existed, American 11. At 9:21, NEADS received a report from the FAA.

(Begin audiotape.)

FAA REPRESENTATIVE: FAA military to Boston Center. I just had a report that American 11 is still in the air and it's on its way towards -- heading towards Washington.

NEADS TECHNICIAN: American 11 is still in the air --

FAA REPRESENTATIVE: Yes.

NEADS TECHNICIAN: -- on its way towards Washington?

FAA REPRESENTATIVE: It was another aircraft that hit the tower. That's the latest report we have.

NEADS TECHNICIAN: Okay.

FAA REPRESENTATIVE: I'm going to try to confirm an ID for you, but I would assume he's somewhere over either New Jersey or somewhere further south.

NEADS TECHNICIAN: Okay. So American 11 isn't a hijack at all, then, right?

FAA REPRESENTATIVE: No, he is a hijack.

NEADS TECHNICIAN: American 11 is a hijack?

FAA REPRESENTATIVE: Yes.

NEADS TECHNICIAN: And he's going into Washington.

FAA REPRESENTATIVE: This could be a third aircraft.

(End of audiotape.)

MR. FARMER: This mention of a, "third aircraft," was not a reference to American 77. There was confusion at that moment in the FAA. Two planes had struck the World Trade Center, and Boston Center had heard from FAA Headquarters in Washington that American 11 was still airborne. We have been unable to identify the source of this mistaken FAA information.

The NEADS technician who took this call from the FAA immediately passed the word to the mission crew commander. He in turn reported to the NEADS battle commander.

(Begin audiotape.)

MISSION CREW COMMANDER: Okay, American Airlines is still airborne -- 11, the first guy. He's heading towards Washington. Okay, I think we need to scramble Langley right now and I'm going to take the fighters from Otis and try to chase this guy down if I can find him.

(End of audiotape.)

MR. FARMER: The mission crew commander at NEADS issued an order at 9:23: "Okay, scramble Langley. Head them towards the Washington area." That order was processed and transmitted to Langley Air Force Base at 9:24, and radar data show the Langley fighters were airborne at 9:30.

NEADS decided to keep the Otis fighters over New York. The heading of the Langley fighters was adjusted to send them to the Baltimore area. The mission crew commander explained to us that the purpose was to position the Langley fighters between the reported southbound American 11 and the nation's capital.

At the suggestion of the Boston Center's military liaison, NEADS contacted the FAA's Washington Center to ask about American 11. In the course of the conversation, a Washington Center manager informed NEADS that: "We're looking. We also lost American 77." The time was 9:34.

This was the first notice to the military that American 77 was missing, and it had come by chance. If NEADS had not placed that call, the NEADS air defenders would have received no information whatsoever that American 77 was even missing, although the FAA had been searching for it. No one at FAA Command Center or Headquarters ever asked for military assistance with American 77.

At 9:36, the FAA's Boston Center called NEADS and related the discovery about the aircraft closing in on Washington, an aircraft that still had not been linked with the missing American 77. The FAA told NEADS: "Latest report, aircraft VFR" -- visual flight rules -- "six miles southeast of the White House -- six southwest, six southwest of the White House, deviating away."

This startling news prompted the mission crew commander at NEADS to take immediate control of the air space to clear a flight path for the Langley fighters. "Okay, we're going to turn it, crank it up. Run them to the White House."

He then discovered, to his surprise, that the Langley fighters were not headed north to the Baltimore area as instructed but east over the ocean. "I don't care how many windows you break," he said. "Damn it. Okay, push them back."

The Langley fighters were heading east, not north, for three reasons. First, unlike the normal scramble order, this order did not include a distance to the target or the target's location.

Second, a generic flight plan incorrectly led the Langley fighters to believe they were ordered to fly due east 090 for 60 miles. The purpose of a generic flight plan was to quickly get the aircraft airborne and out of local air space.

Third, the lead pilot and local FAA controller incorrectly assumed the flight plan instruction to go, "090 for 60," was newer guidance that superseded the original scramble order. After the 9:36 call to NEADS about the unidentified aircraft a few miles from the White House, the Langley fighters were ordered to Washington D.C.

Controllers at NEADS located an unknown primary radar track but, "It kind of faded" over Washington. The time was 9:38. The Pentagon had been struck by American 77 at 9:37:46. The Langley fighters were approximately 150 miles away.

Right after the Pentagon was hit, NEADS learned of another possible hijacked aircraft. It was an aircraft that, in fact, had not been hijacked at all. After the second World Trade Center crash, Boston Center managers recognized both aircraft were transcontinental 767 jetliners that had departed Logan Airport.

Remembering the, "we have some planes" remark, Boston Center had guessed that Delta 1989 might also be hijacked. Boston Center called NEADS at 9:41 and identified Delta 1989, a 767 jet that departed Logan Airport destined for Las Vegas, as a possible hijack. NEADS warned the FAA's Cleveland air traffic control center to watch Delta 1989. The FAA's Herndon Command Center and FAA Headquarters were watching it too.

During the course of the morning, there were multiple erroneous reports of hijacked aircraft in the system. The report of American 11 heading south was the first. Delta 1989 was the second. NEADS never lost track of Delta 1989 and even launched fighter aircraft from Ohio and Michigan to intercept it. The flight never turned off its transponder. NEADS soon learned, however, that the aircraft was not hijacked and tracked Delta 1989 as it reversed course over Toledo, headed east and landed in Cleveland.

But another aircraft was heading toward Washington, United 93. The following is a time-lapse depiction of the flight path of American 77.

(Video depiction is shown.)

MR. FARMER: United Airlines Flight 93, FAA awareness.

United 93 took off from Newark at 8:42. It was more than 40 minutes late. At 9:28, United 93 acknowledged the transmission from the controller. This was the last normal contact the FAA had with United 93. Less than a minute later, the Cleveland controller and the pilots of aircraft in the vicinity heard, "a radio transmission of unintelligible sounds, of possible screaming or a struggle from an unknown origin."

The controller responded seconds later: "Somebody call Cleveland." This was followed by a second radio transmission with sounds of screaming and someone yelling--"Get out of here! Get out of here!" Again, from an unknown source.

The Cleveland Center controllers began to try to identify the possible sources of transmissions and noticed that United 93 had descended some 700 feet. The controller attempted again to raise United 93 several times with no response. At 9:30, the controller began to poll the other flights in his frequency to determine if they heard the screaming. Several said that they had.

At 9:32, a third radio transmission came over the frequency. "Keep remaining sitting. We have a bomb on board." The controller understood but chose to respond: "Calling Cleveland Center. You're unreadable. Say again slowly." He notified his supervisor, who passed the notice up the chain of command.

By 9:34, word of the hijacking had reached FAA headquarters in Washington. FAA headquarters had by this time established an open line of communication with the Command Center at Herndon and instructed it to poll all the centers about suspect aircraft. The Command Center executed the request, and a minute later Cleveland Center reported that "United 93 may have a bomb on board."

That was the information Command Center relayed to FAA Headquarters at 9:34. Between 9:34 and 9:38, the controller observed United 93 climbing to 40,700 feet and immediately moved several aircraft out of its way. The controller continued to try to contact United 93 and asked whether the pilot could confirm that he had been hijacked. There was no response. Then, at 9:39, a fifth radio transmission came over the radio frequency from United 93.

ZIAD JARRAH: (Communication from United Flight 93.): Uh, is the captain. Would like you all to remain seated. There is a bomb on board and are going back to the airport, and to have our demands -- (inaudible). Please remain quiet.

MR. FARMER: The controller responded: "United 93, understand you have a bomb on board. Go ahead." The flight did not respond. At 9:41, Cleveland Center lost United 93's transponder signal. The controller located it on primary radar, matched its position with visual sightings from other aircraft, and tracked the flight as turned east, then south.

At about 9:36, Cleveland Center asked Command Center specifically whether someone had requested the military to launch fighter aircraft to intercept United 93. Cleveland Center offered to contact a nearby military base. Command Center replied that FAA personnel well above them in the chain of command had to make that decision and were working the issue.

From 9:34 to 10:08, a Command Center manager updated executives at FAA Headquarters on the progress of United 93. During this time, the plane reversed course over Ohio and headed toward Washington. At 9:42, Command Center learned from television news reports that a plane had struck the Pentagon.

The Command Center's national operations manager, Ben Sliney ordered all FAA facilities to instruct all airborne aircraft to land at the nearest airport. This was a totally unprecedented order. The air traffic control system handled it with great skill, as about 4,500 commercial and general-aviation aircraft soon landed without incident.

At 9:46, and again two minutes later, Command Center updated FAA Headquarters that United 93 was now "29 minutes out of Washington DC," A minute after that, at 9:49, 13 minutes after getting the question from Cleveland Center about military help, Command Center suggested that someone at headquarters should decide whether to request military assistance.

(Begin audiotape.)

FAA HEADQUARTERS: They're pulling Jeff away to go talk about United 93.

COMMAND CENTER: Do we want to think about scrambling aircraft?

FAA HEADQUARTERS: Oh, God, I don't know.

COMMAND CENTER: That's a decision somebody's going to have to make probably in the next 10 minutes.

FAA HEADQUARTERS: You know, everybody just left the room.

(End of audiotape.)

MR. FARMER: At 9:53, FAA Headquarters informed Command Center that the deputy director for air traffic services was talking to Deputy Administrator Monte Belger about scrambling aircraft.

Then Command Center informed Headquarters they lost track of United 93 over the Pittsburgh area.

Within seconds, Command Center received a visual report from another aircraft and informed headquarters that the aircraft was 20 miles northwest of Johnstown. United 93 was spotted by another aircraft, and at 10:01 Command Center advised FAA Headquarters that one of the aircraft had seen United 93 "waving his wings." The aircraft had witnessed the radical gyrations in what we believe was the hijackers' effort to defeat the passenger assault on the cockpit.

United 93 crashed in Pennsylvania at 10:03:11, 125 miles from Washington D.C. The precise crash time has been the subject of some dispute. The 10:03:11 time is supported by evidence from the staff's radar analysis, the flight data recorder, NTSB analysis and infrared satellite data. Five minutes later, Command Center forwarded this update to Headquarters.

(Begin audio tape.)

COMMAND CENTER: Okay, there is now -- on United 93 --

FAA HEADQUARTERS: Yes.

COMMAND CENTER: -- there is a report of black smoke in the last position I gave you, 15 miles south of Johnstown.

FAA HEADQUARTERS: From the airplane or from the ground?

COMMAND CENTER: They're speculating it's from the aircraft.

FAA HEADQUARTERS: Okay.

COMMAND CENTER: It hit the ground. That's what they're speculating. That's speculation only.

(End of audio tape.)

MR. FARMER: The aircraft that spotted the "black smoke" was the same unarmed Air National Guard cargo plane that had seen United 77 crash into the Pentagon 26 minutes earlier. It had resumed its flight to Minnesota and saw the smoke from the crash of United 93 less than two minutes after the plane went down.

At 10:17, Command Center advised Headquarters of its conclusion that United 93 had indeed crashed. Despite the

discussions about military assistance, no one from FAA Headquarters requested military assistance regarding United 93, nor did any manager at FAA Headquarters pass any of the information it had about United 93 to the military.

Military notification and response. NEADS first received a call about United 93 from the military liaison at Cleveland Center at 10:07. Unaware that the aircraft had already crashed, Cleveland passed to NEADS the aircraft's last known latitude and longitude. NEADS was never able to locate United 93 on radar because it was already in the ground.

At the same time, the NEADS mission crew commander was dealing with the arrival of the Langley fighters over Washington, D.C. He was sorting out what their orders were with respect to potential targets. Shortly after 10:10, and having no knowledge either that United 93 had been heading toward Washington, or that it had crashed, the mission crew commander explicitly instructed that the Langley fighters did not have "clearance to shoot" aircraft over the nation's capital.

The news of a reported bomb on board United 93 spread quickly at NEADS. The air defenders searched for United 93's primary radar return and tried to locate assets to scramble toward the plane. NEADS called Washington Center to report:

(Begin audiotape.)

NEADS: I also want to give you a heads-up, Washington.

FAA-D.C.: Go ahead.

NEADS: United 93 -- have you got information on that yet?

FAA: Yeah, he's down.

NEADS: He's down?

FAA: Yes.

NEADS: When did he land? 'Cause we have confirmation --

FAA: He did not land.

NEADS: Oh, he's down-down?

FAA: Yes. Somewhere up northeast of Camp David.

NEADS: Northeast of Camp David.

FAA: That's the last report. They don't know exactly where.

(End audiotape.)

MR. FARMER: The time of notification of the crash of United 93 was 10:15. The NEADS air defenders never located the flight or followed it on their radar scopes. The flight had already crashed by the time they learned it was hijacked.

The following is a time-lapsed depiction of United 93.

(Videotape.)

To provide an overview of the materials presented thus far, the following is a time lapsed depiction of all four hijacked flights and the military's response.

(Videotape.)

MR. ZELIKOW: Conflicting Accounts. In May 2003, public testimony before this commission, NORAD officials stated that, at 9:16 NEADS received hijack notification of United 93 from the FAA. This statement was incorrect. There was no hijack to report at 9:16. United 93 was proceeding normally at that time. In this same public testimony, NORAD officials stated that, at 9:24, NEADS received notification of the hijacking of American 77. This statement was also incorrect. The notice NEADS received at 9:24 was not about American 77. It was notification that American 11 had not hit the World Trade Center and was heading for Washington, D.C.

A 9:24 entry in a NEADS event log records: "American Airlines No. N334AA hijacked." This is the tail number of American 11.

In their testimony, and in other public statements, NORAD officials also stated that the Langley fighters were scrambled to respond to the notifications about American 77 and/or United 93. These statements were incorrect as well. The report of American 11 heading south as the cause of the Langley scramble is reflected not just in taped conversations at NEADS, but in taped conversations in FAA centers, on chat logs compiled at NEADS, continental region headquarters, and NORAD, and in other records. Yet this response to a phantom aircraft, American 11, is not recounted in a single public timeline or statement issued by FAA or DOD. Instead, since 9/11, the scramble of the Langley

fighters has been described as a response to the reported hijacking of American 77, or United 93, or some combination of the two. This inaccurate account created the appearance that the Langley scramble was a logical response to an actual hijacked aircraft.

Not only was the scramble prompted by the mistaken information about American 11, but NEADS never even received notice that American 77 was hijacked. It was notified at 9:34 that American 77 was lost. Then, minutes later, NEADS was told that an unknown plane was six miles southwest of the White House. Only then did the already scrambled airplanes start moving directly to Washington, D.C.

Thus the military did not have 14 minutes to respond to American 77, as testimony last year suggested. It had at most one or two minutes to respond to the unidentified plane approaching Washington, and the fighters were in the wrong place to be able to help. They had been responding to a report about an aircraft that did not exist.

Nor did the military have 47 minutes to respond to United 93, as would be implied by the account that it received notice about it at 9:16. By the time the military learned about the flight, it had crashed.

At one point the FAA projected that United 93 would reach Washington, at about 10:15. By that time the Langley fighters were over Washington. But, as late as 10:10, the operating orders were still "negative clearance to shoot" regarding non-responsive targets over Washington, D.C. The word of the authorization to shoot down hijacked civilian aircraft did not reach NEADS until 10:31.

We do not believe that an accurate understanding of the events of this morning reflects discredit on the operational personnel from NEADS or FAA facilities. The NEADS commanders and floor officers were proactive in seeking information, and made the best judgments they could based on the information they received. Individual FAA controllers, facility managers, and command center managers thought outside the box in recommending a nationwide alert, in ground-stopping local traffic, and ultimately in deciding to land all aircraft and executing that unprecedented order flawlessly. In fact, it was inaccurate accounts of what happened that created questions about supposed delays in the military's interception of the hijacked aircraft. They also had the effect of deflecting questions about the

military's capacity to obtain timely and accurate information from its own resources. They overstated the FAA's ability to provide the military timely and useful information that morning.

We now turn to the timing and circumstances of that shutdown authorization -- and the role of national leadership in the events that morning.

MS. HYDE: On the morning of 9/11 there was no one decision-maker in Washington with perfect information. Various people had various pieces of information, and they were in different locations. The president was initially at an elementary school in Florida, and then en route to Louisiana. At the White House, other decision-makers gathered in either the White House Situation Room or the underground shelter, formally known as the Presidential Emergency Operations Center. At the Department of Defense, the center of crisis management was the Pentagon's National Military Command Center. At the FAA, two locations were pivotal: Washington headquarters and the Command Center in Herndon.

National Decision-making from 8:46 to 9:03. When American 11 struck the World Trade Center at 8:46, no one in the White House or traveling with the president knew that it had been hijacked. Immediately afterward, duty officers at the White House and Pentagon began notifying senior officials what had happened. Even within FAA, the administrator and her deputy had not been told of a confirmed hijacking before they learned from television that a plane had crashed. Others in the agency were aware, as we explained earlier in this statement.

In Florida, the president's motorcade was just arriving at the Emma E. Booker Elementary School, where President Bush was to read to a class and talk about education. White House Chief of Staff Andrew Card told us he was standing with the president outside the classroom when senior advisor to the president Karl Rove first informed them that a small, twin engine plane had crashed into the World Trade Center. The president's reaction was that the incident must have been caused by pilot error.

At 8:55, before entering the classroom, the president spoke to National Security Advisor Condoleezza Rice, who was at the White House. She recalled first telling the president it was a twin-engine aircraft, then that it was commercial, saying, "That's all we know right now, Mr. President."

At the White House, the vice president had just sat down for a meeting when his assistant told him to turn on his television because a plane had struck the North Tower of the World Trade Center. The vice president was wondering "how the hell a plane could hit the World Trade Center" when he saw the second aircraft strike the South Tower.

The Agencies Confer. When they learned a second plane had struck the World Trade Center, nearly everyone in the White House told us they immediately knew it was not an accident. The Secret Service initiated a number of security enhancements around the White House complex. The officials who issued these orders did not know that there were additional hijacked aircraft, or that one such aircraft was en route to Washington. These measures were precautionary steps because of the strikes in New York.

Officials across the government struggled to find out what was going on. The FAA, the White House, and the Defense Department each initiated a multi-agency teleconference before 9:30. The FAA, following its protocol, set up a hijacking teleconference at approximately 9:20 with several agencies, including the Defense Department. However, FAA and Defense Department participants in this teleconference told us the call played no role in coordinating the military and FAA response to the attacks of 9/11.

The White House Situation Room initiated a video teleconference, chaired by Richard Clarke. While important, it had no immediate effect on the emergency defense efforts.

The Defense Department's NMCC initiated a key teleconference that started at 9:29 as a "Significant Event Conference" and then at 9:37 resumed as an Air Threat Conference call. This teleconference lasted over eight hours. The president, vice president, secretary of Defense, vice chairman of the Joint Chiefs of Staff, and deputy national security advisor all participated in the Air Threat Conference at various points in the day, as did military personnel from the White House underground shelter. So did the president's military aide on Air Force One.

Operators worked feverishly to include the FAA in this teleconference, but they had equipment problems and difficulty finding secure phone numbers. NORAD asked three times before 10:03 to confirm the presence of FAA on the conference, to provide an update on hijackings. The FAA did not join the call

until 10:17. The FAA representative who joined the call had no familiarity with or responsibility for a hijack situation, had no access to decision-makers, and had none of the information available to senior FAA officials by that time. We found no evidence that, at this critical time, during the morning of September 11th, NORAD's top commanders in Florida or Cheyenne Mountain ever coordinated with their counterparts at FAA headquarters to improve situational awareness and organize a common response. Lower-level officials improvised -- the FAA's Boston Center bypassing the chain of command to contact NEADS. But the highest level Defense Department officials relied on the NMCC's Air Threat Conference, in which the FAA did not meaningfully participate.

At 9:39, the NMCC's deputy director for operations, a military officer, opened the call from the Pentagon, which had just been struck by a Boeing 757 airliner. He began: "An air attack against North America may be in progress. NORAD, what's the situation?" NORAD said it had conflicting reports. Its latest information was "of a possible hijacked aircraft taking off out of JFK en route to Washington D.C."

The NMCC mentioned reports of a crash into the Mall side of the Pentagon and requested that the secretary of Defense be added to the conference. At 9:44, NORAD briefed the conference on the possible hijacking of Delta Flight 1989. Two minutes later, the Office of the Secretary of Defense and the Office of the Vice Chairman of the Joint Chiefs of Staff reported that they were still trying to track down the secretary and vice chairman, and bring them into the conference. The chairman was out of the country.

At 9:48, a representative from the underground shelter at the White House asked if there were any indications of another hijacked aircraft. The NMCC deputy director for operations mentioned the Delta flight and concluded "that would be the fourth possible hijack."

At 9:49, the commander of NORAD directed all air sovereignty aircraft to battle stations fully armed. At 9:59, an Air Force lieutenant colonel working in the White House Military Office joined the conference, and stated that he had just talked to Deputy National Security Advisor Steve Hadley. The White House requested: one, the implementation of continuity of government measures; two, fighter escorts for Air Force One; and, three, the establishment of a fighter combat air patrol over Washington, D.C.

The President and the Vice President. The President was seated in a classroom of second graders when, at approximately 9:05, Andrew Card whispered to him, "A second plane hit the second tower. America is under attack." The president told us his instinct was to project calm, not to have the country see an excited reaction at a moment of crisis.

The national press corps was standing behind the children in the classroom; he saw their phones and pagers start to ring. The president felt he should project strength and calm until he could better understand what was happening. The president remained in the classroom for another five to seven minutes, while the children continued reading. He then returned to a holding room shortly before 9:15, where he was briefed by staff and saw television coverage. He then spoke to Vice President Cheney, Dr. Rice, Governor Pataki, and FBI Director Mueller. He decided to make a brief statement from the school before leaving for the airport. The Secret Service told us they were anxious to move the president to a safer location, but did not think it imperative for him to run out the door.

Between 9:15 and 9:30, the staff was busy arranging a return to Washington, while the president consulted his senior advisors about his remarks. No one in the traveling party had any information during this time that other aircraft were hijacked or missing. As far as we know, no one was in contact with the Pentagon. The focus was on the president's statements to the nation. No decisions were made during this time, other than the decision to return to Washington.

The president's motorcade departed at 9:35, and arrived at the airport between 9:42 and 9:45. During the ride the president learned about the attack on the Pentagon. He boarded the aircraft, asked the Secret Service about the safety of his family, and called the vice president. According to notes of this call, at about 9:45 the president told the vice president, "Sounds like we have a minor war going on here, I heard about the Pentagon. We're at war -- somebody's going to pay."

About this time Card, the lead Secret Service agent, the president's military aide, and the pilot were conferring on a possible destination for Air Force One. The Secret Service agent felt strongly that the situation in Washington was too unstable to return. Card agreed. The president, however, needed convincing. All witnesses agreed that the president strongly wanted to return to Washington and only grudgingly agreed to go elsewhere. The issue was still undecided when the president

conferred with the vice president at about the time Air Force One was taking off. The vice president recalled urging the president not to come back to Washington. Air Force One departed at approximately 9:55, with no destination at take-off. The objective was to get up in the air, as fast and as high as possible, and then decide where to go.

News of an incoming aircraft, later discovered to be American 77, prompted the Secret Service to order the evacuation of the vice president just before 9:36. The vice president entered the underground tunnel that led to the shelter at 9:37. Once inside, Vice President Cheney and the agents paused in an area of the tunnel that had a secure phone, a bench, and a television. The vice president asked to speak to the president, but it took some time for the call to be connected. He learned in the tunnel that the Pentagon had been hit, and saw television coverage of smoke coming from the building.

The Secret Service logged Mrs. Cheney's arrival at the White House at 9:52. She joined her husband in the tunnel. According to contemporaneous notes, at 9:55 the vice president was still on the phone with the president, advising that three planes were missing and one had hit the Pentagon. We believe this is the same call initiated close to the time Air Force One took off, in which the vice president joined the chorus of advisers urging the president not to return to Washington. The call ended. She and the vice president moved from the tunnel to the shelter conference room.

MR. FARMER: United 93 and the Shootdown Order. There was not an open line of communication between the president and vice president on the morning of 9/11, but rather a series of calls between the two leaders. The vice president remembered placing a call to the president just after entering the shelter conference room. There is conflicting evidence as to when the vice president arrived in the shelter conference room. We have concluded, after reviewing all the available evidence, that the vice president arrived in the shelter conference room shortly before 10:00, perhaps at 9:58. The vice president recalls being told just after his arrival that an Air Force combat air patrol was up over Washington. At 9:59, a White House request for such a CAP was communicated to the military through the Air Threat Conference.

The vice president states that the purpose of his call to the president was to discuss the rules of engagement for the CAP. He recalled he felt it did not do any good to put the CAP up there

unless the pilots had instructions to tell them whether they were authorized to shoot if the plane would not divert. He said the president signed off on that concept. The president said he remembered such a conversation, and that it reminded him of when he had been a fighter pilot. The president emphasized to us that he had authorized the shutdown of hijacked aircraft. The vice president's military aide told us he believed the vice president spoke to the president just after entering the conference room, but he did not hear what they said. Rice, who entered the conference room shortly after the vice president and sat next to him, recalled hearing the vice president inform the president that, "Sir, the CAPs are up. Sir, they're going to want to know what to do." Then she recalled hearing him say, "Yes sir." She believed this conversation occurred a few minutes, perhaps five, after they entered the conference room.

We believe this call would have taken place some time before 10:10 to 10:15. Among the sources that reflect other important events that morning, there is no documentary evidence for this call, although the relevant sources are incomplete. Others nearby who were taking notes, such as the vice president's chief of staff, Scooter Libby, who sat next to him, and Mrs. Cheney, did not note a call between the president and vice president immediately after the vice president entered the conference room.

At 10:02, the communicators in the shelter began receiving reports from the Secret Service of an inbound aircraft -- presumably hijacked -- heading toward Washington. That aircraft was United 93. The Secret Service was getting this information directly from the FAA, through its links to that agency. The Service's operations center and their FAA contact were tracking the progress of the aircraft on a display that showed its projected path, not its actual radar return. Thus, for a time, they were not aware the aircraft was going down in Pennsylvania.

At some time between 10:10 and 10:15, a military aide told the vice president and others that the aircraft was 80 miles out. Vice President Cheney was asked for authority to engage the aircraft. The vice president's reaction was described as quick and decisive: "In about the time it takes a batter to decide to swing." He authorized fighter aircraft to engage the inbound plane. He told us this was based on his prior conversation with the president. The military aide returned a few minutes later, probably between 10:12 and 10:18, and said the aircraft was 60 miles out. He again asked for authorization to engage. The vice

president again said yes. The Secret Service was postulating the flight path of United 93, not knowing it had already crashed.

Also at the conference table was White House Deputy Chief of Staff Joshua Bolten. Bolten watched the exchanges and, after what he called "a quiet moment," suggested that the vice president get in touch with the president and confirm the engage order. Bolten told us he wanted to make sure the president was told that the vice president had executed the order. He said he had not heard any prior conversation on the subject with the president. The vice president was logged calling the president at 10:18 for a two-minute call that obtained the confirmation. On Air Force One, at 10:20, the president's press secretary, Ari Fleischer, noted that the president had told him he had authorized a shutdown of aircraft, if necessary.

Minutes went by and word arrived of an aircraft down over Pennsylvania. Those in the conference room wondered if perhaps the aircraft had been shot down pursuant to these directions. At approximately 10:30, the shelter started receiving reports of another hijacked plane, this time only five to ten miles out. Believing they had only a minute or two, once again the vice president communicated authority to, "engage," or "take out" the airborne aircraft. At 10:33, Deputy National Security Advisor Stephen Hadley passed that guidance on the Air Threat Conference call, "I need to get word to Dick Myers that our reports are there's an inbound aircraft flying low five miles out. The vice president's guidance was we need to take them out."

Once again, there was no immediate information about the fate of the inbound aircraft. As one witness to the event described, "It drops below the radar screen, and it's just continually hovering in your imagination; you don't know where it is or what happens to it." Eventually, the shelter received word that the alleged hijacker five miles away had been a Medevac helicopter.

Transmission of the Authorization from the White House to the Pilots. The National Military Command Center learned of the hijacking of United 93 at about 10:03. The FAA had not yet been connected to the Air Threat Conference and in general had practically no contact with the military at the level of national command. The NMCC instead received news about the hijacking of United 93 from the White House. The White House had received the word from the Secret Service's contacts with the FAA.

NORAD had no information either. In response to questions, the NORAD representative on the Air Threat Conference stated at 10:07, "NORAD has no indication of a hijack heading to Washington, D.C. at this time." Repeatedly between 10:14 and 10:19, a lieutenant colonel at the White House relayed the information to the National Military Command Center that the vice president had confirmed fighters were cleared to engage the inbound aircraft if they could verify that the aircraft was hijacked.

The commander of NORAD, General Eberhart, was en route to the NORAD operations center in Cheyenne Mountain, Colorado when the shutdown order was communicated on the Air Threat Conference. He told us that by the time he arrived at the mountain the order had already been passed down the NORAD chain of command. It is not clear how the shutdown order was communicated to the continental region headquarters. But we know that at 10:31 General Larry Arnold instructed his staff to broadcast the following message over a NORAD chat log, "10:31 vice president has cleared to us to intercept tracks of interest and shoot them down if they do not respond, per CONR CC -- General Arnold."

In Upstate New York, NEADS personnel first learned of the shutdown order from that chat log message:

(Begin audiotape.)

FLOOR LEADERSHIP: You need to read this. The region commander has declared that we can shoot down aircraft that do not respond to our direction. Copy that?

CONTROLLERS: Copy that, sir.

FLOOR LEADERSHIP: So if you're trying to divert somebody and he won't divert --

CONTROLLERS: DO is saying no.

FLOOR LEADERSHIP: No? It came over the chat. You got a conflict on that direction?

CONTROLLERS: Right now no, but --

FLOOR LEADERSHIP: Okay. Okay, you read that from the vice president, right? Vice President has cleared. Vice President has cleared us to intercept traffic and shoot them down if they do not respond per CONR CC.

(End audiotape.)

MR. FARMER: In interviews with us, NEADS personnel expressed considerable confusion over the nature and effect of the order. Indeed, the NEADS commander told us he did not pass along the order because he was unaware of its ramifications. Both the mission commander and the weapons director indicated they did not pass the order to the fighters circling Washington and New York City because they were unsure how the pilots would, or should, proceed with this guidance.

In short, while leaders in Washington believed the fighters circling above them had been instructed to "take out" hostile aircraft, the only orders actually conveyed to the Langley pilots were to "ID type and tail."

In most cases the chain of command in authorizing the use of force runs from the president to the secretary of Defense and from the secretary to the combatant commander. The president apparently spoke to Secretary Rumsfeld briefly sometime after 10:00, but no one can recall any content beyond a general request to alert forces. The president and the secretary did not discuss the use of force against hijacked airliners in this conversation. The secretary did not become part of the chain of command for those orders to engage until he arrived in the NMCC.

At 10:39, the vice president tried to bring the secretary up to date as both participated in the Air Threat Conference:

MR. ZELIKOW: The vice president said, "There's been at least three instances here where we've had reports of aircraft approaching Washington -- a couple were confirmed hijack. And, pursuant to the president's instructions I gave authorization for them to be taken out. Hello?"

The secretary of Defense: "Yes, I understand. Who did you give that direction to?"

The vice president: "It was passed from here through the operations center at the White House, from the shelter."

Secretary of Defense: "Okay, let me ask the question here" Has that directive been transmitted to the aircraft?"

Vice President: "Yes, it has."

Secretary of Defense: "So we've got a couple of aircraft up there that have those instructions at the present time?"

The vice president: "That is correct. And it's my understanding they've already taken a couple of aircraft out."

The secretary of Defense: "We can't confirm that. We're told that one aircraft is down but we do not have a pilot report that they did it."

MR. FARMER: As this exchange shows, Secretary Rumsfeld was not involved when the shutdown order was first passed on the Air Threat Conference. After the Pentagon was hit, Secretary Rumsfeld went to the parking lot to assist with rescue efforts. He arrived in the National Military Command Center shortly before 10:30. He told us he was just gaining situational awareness when he spoke with the vice president, and that his primary concern was ensuring that the pilots had a clear understanding of their rules of engagement. The vice president was mistaken in his belief that shutdown authorization had been passed to the pilots flying at NORAD's direction.

By 10:45 there was, however, another set of fighters circling Washington that had entirely different rules of engagement. These fighters, part of the 113th Wing of the D.C. Air National Guard, launched out of Andrews Air Force Base based on information passed to them by the Secret Service. The first of the Andrews fighters was airborne at 10:38. General Wherley, the commander of the 113th Wing, reached out to the Secret Service after hearing secondhand reports that it wanted fighters airborne. A Secret Service agent had a phone in each ear, one to Wherley and one to a fellow agent at the White House, relaying instructions that the White House agent said he was getting from the vice president. The guidance for Wherley was to send up the aircraft, with orders to protect the White House and take out any aircraft that threatens the Capitol. General Wherley translated this in military terms to, "weapons free," which means the decision to shoot rests in the cockpit, or in this case the cockpit of the lead pilot. He passed these instructions to the pilots that launched at 10:42 and afterward.

Thus, while the fighter pilots under NORAD direction who had scrambled out of Langley never received any type of engagement order, the Andrews pilots were operating under weapons free, a permissive rule of engagement. The president and the vice president told us they had not been aware that fighters had been

scrambled out of Andrews, at the request of the Secret Service and outside of the military chain of command.

MR. ZELIKOW: Reflections on United 93. Had it not crashed in Pennsylvania at 10:03, we estimate that United 93 could not have reached Washington, D.C. any earlier than 10:13, and most probably would have arrived before 10:23. We examined the military's ability to intercept it. There was only one set of fighters orbiting Washington, D.C. during this timeframe -- the Langley F-16s. They were armed and under NORAD's control. But the Langley pilots were never briefed about the reason they were scrambled. As the lead pilot explained, "I reverted to the Russian threat -- I'm thinking cruise missile threat from the sea. You know you look down and see the Pentagon burning and I thought the bastards snuck one by us. You couldn't see any airplanes, and no one told us anything."

The pilots knew their mission was to identify and divert aircraft flying within a certain radius of Washington, but did not know that the threat came from hijacked commercial airliners. Also, NEADS did not know where United 93 was when it first heard about the hijacking from FAA at 10:07. Presumably FAA would have provided the information, but we do not know how long it would have taken, nor how long it would have taken NEADS to find and track the target on its own equipment.

Once the target was known and identified, NEADS needed orders to pass to the pilots. Shootdown authority was first communicated to NEADS at 10:31. Given the clear attack on the United States, it is also possible -- though unlikely -- that NORAD commanders could have ordered the shootdown without the authorization communicated by the vice president.

NORAD officials have maintained that they would have intercepted and shot down United 93. We are not so sure. We are sure that the nation owes a debt to the passengers of United 93. Their actions saved the lives of countless others, and may have saved either the U.S. Capitol or the White House from destruction.

The details of what happened on the morning of September 11th are complex. But the details play out a simple theme. NORAD and the FAA were unprepared for the type of attacks launched against the United States on September 11th, 2001. They struggled, under difficult circumstances, to improvise a homeland defense against an unprecedented challenge they had never encountered and had never trained to meet.

END.

**PANEL II, DAY II OF THE TWELFTH PUBLIC HEARING OF THE NATIONAL
COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES
CHAired BY: THOMAS KEAN, CHAIRMAN**

**SUBJECT: MILITARY AVIATION AUTHORITIES ON SEPTEMBER 11, 2001
WITNESSES: GENERAL RICHARD MYERS, CHAIRMAN OF THE JOINT CHIEFS
OF STAFF, PAST COMMANDER OF NORAD; ADMIRAL-SELECT CHARLES JOSEPH
LEIDIG, COMMANDANT OF THE NAVAL ACADEMY, FORMER DEPUTY DIRECTOR
OF OPERATIONS, NATIONAL MILITARY COMMAND CENTER; GENERAL RALPH
EBERHARD, COMMANDER OF NORAD AND THE U.S. NORTHERN COMMAND;
MAJOR GENERAL (RET.) LARRY ARNOLD, FORMER COMMANDER OF
CONTINENTAL U.S. NORAD REGION**

MR. KEAN: Our first panel today will focus on the military's response on the morning of September 11th. We are joined by a distinguished group of military leaders: General Richard Myers, the chairman of the Joint Chiefs of Staff and past commander of NORAD; Admiral-Select Charles Joseph Leidig, current commandant of the Naval Academy, who served as deputy director of operations in the National Military Command Center on 9/11; General Ralph E. Eberhart, commander of NORAD and the United States Northern Command; and Retired Major General Larry Arnold, who served on 9/11 as the commander of the Continental United States NORAD Region.

Could you please raise your hands while I place you under oath?

Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?

WITNESSES: I do.

MR. KEAN: You may be seated. All written statements will be entered into the record in full. We recognize that General Myers has to leave for another engagement, so we'll proceed directly to questions after General Myers' opening statement. After General Myers departs, we'll proceed with the rest of the panel.

GEN. RICHARD MYERS: Thank you, sir. I have a brief statement, and then we'll get right to questions. First, I want to thank the Commission for your efforts to help our nation guard against

future attacks. We share a common goal to capture the lessons of September 11th, 2001, in order to better protect the American people. You have my written statement, and I'll just make a few comments so we have as much time left for questions.

First, our military posture on 9/11, by law, by policy and in practice, was focused on responding to external threats, threats originating outside of our borders. Nevertheless, we executed the continuity of government plan very well on 9/11, and our service men and women displayed superb professionalism, judgment and flexibility at ever level that day, and I'm very proud of their performance.

That said, the lessons learned from 9/11 are many. Our armed forces' efforts to respond militarily, reorganize our forces, define and effectively resource our evolving tasks and our missions, and revive -- revise our processes have been colossal, and are still ongoing.

Day in and day out, our service men and women bravely combat terrorists in Afghanistan, Iraq and other places around the world, maintain alert for the homeland defense mission here in the United States, and work phenomenal hours on headquarters staffs to do everything they can to keep America and our allies safe and free. I appreciate everyone who supports their efforts, including this committee, of course.

And with that, we'll take your questions.

MR. KEAN: Thank you, sir.

The questioning -- the questioning this morning will be led by Commissioner Ben-Veniste and Commissioner Lehman. Commissioner Ben-Veniste.

MR. RICHARD BEN-VENISTE: Good morning, gentlemen.

GEN. MYERS: Good morning, sir.

MR. BEN-VENISTE: I'd like to start first by commending our staff for an extraordinary, detailed, 18-month investigation, which has provided the detail which we have provided today to the American public. I want to say that nothing that we have found indicates anything but the highest commitment to duty and valor among the pilots and support personnel involved in the air mission on that infamous day of September 11th, 2001. By the same token, General Myers, our staff has found that NORAD and

FAA were unprepared for the type of attacks launched against the United States on September 11th, 2001.

And so, I would like to ask you, sir, whether you and the chairman of the Joint Chiefs, were made available -- were made aware of the available information during the summer threat in 2001, which reflected the preparations by al Qaeda for a spectacular attack against the United States, and specifically whether the information in the August 6th PDB was shared with you or the chairman of the Joint Chiefs?

GEN. MYERS: We were aware -- I think it started, some of this information started flowing, intelligence information, at the end of the May, and it continued through June, July, the August 6th memo. It talked, as I recall, about al Qaeda threat to U.S. -- United States, primarily overseas. It was -- it was focused primarily on the Saudi Arabian peninsula, is my memory of that. And it, that threat reporting continued through those -- through those months, and we were certainly aware of it. But, in fact, we even took action when -- I think it was in July -- we actually sortied some ships out of Bahrain because of the threat in the peninsula area. And that, as I recall, the best -- the estimate from the intel analysis was that it would take place either on the Saudi peninsula, perhaps in Turkey, they even -- there was one mention, I remember, of Italy, actually. And then there was a potential threat to the United States, but never including an aircraft.

MR. BEN-VENISTE: Now, in the PDB memo that I am referring to, specifically mentions FBI information of suspicious activity within this country, consistent with the preparations for hijackings. Was that information shared with you?

GEN. MYERS: Not -- not information, at least that I saw, other than what was contained in the Presidential Daily Brief memorandum, which I think was the last couple of paragraphs, or last paragraph.

MR. BEN-VENISTE: Was information shared with you, General, with respect to the arrest of Mr. Zacarias Moussaoui, which occurred on or about the 17th of August, in which the FBI quickly came to the conclusion that Mr. Moussaoui was a suicide hijacker, an individual with jihadist connections who had sought and received some training on a commercial airliner?

GEN. MYERS: I don't recall. I simply can't recall. I think I would have, so -- but I don't recall.

MR. BEN-VENISTE: Wouldn't that be something that you would recall?

GEN. MYERS: I would -- don't know, but it -- it's pretty significant information, but I don't recall.

MR. BEN-VENISTE: Had you received such information tying together the potential reflected in the August 6th PDB memorandum that was titled "Bin Ladin Determined to Strike in the United States," together with this additional information, might you have followed up on a training scenario at the least, such as the positive force training scenario where a hijacked plane was presumed to fly into the Pentagon, a proposal that was made and rejected in the year 2000?

GEN. MYERS: Well, a couple of things. I don't know that we would have because exercising alone is not enough, if you look at all, and you have -- you've looked at all the policy that we've gotten through the '90s into early 2000, 2001, and all the policy guidance was that we treat terrorism primarily as a criminal event. And the role of the Defense Department was to defend our forces, primarily, it was force protection, anti-terrorism, not counterterrorism -- counterterrorism responsibilities for, domestically were the FBI, externally were the CIA.

There was an exercise, and this was -- the idea was to stress the continuity of command, the one you referenced there, but it was an exercise focused on Korea, and that's why the scenario was rejected, because it did not -- it did not contribute to the exercise at hand.

I can't answer the hypothetical. It's more -- it's the way that we were directed to posture, looking outward, those were the orders that NORAD had, and it's had for, ever since the end of the Soviet Union when we had, at that time, I think it was 26 alert sites around the United States, and we'd gone down to seven. So, it would have -- it would have required more than exercising if you wanted to be effective, and it would have been not just the military, because civilian agencies had a -- had the major role.

MR. BEN-VENISTE: Well, you've anticipated my next question. It might not be the entire answer, but it would be a start.

Let me ask you whether that might not have stimulated an effort to determine the level of communications with FAA, which,

as we determined, on September 11th were abysmal. Would that not have also stimulated you had you thought about the information, had you received it, about an internal threat involving the United States air space, involving the hijacking of commercial airliners by a suicide hijack?

GEN. MYERS: It's certainly possible, and I can't -- you know, you just can't take hypothetical situations and say what you would have done in hindsight. I mean, obviously, we've got pretty good hindsight at this point.

The communications between the FAA and NORAD were specifically designed for the hijacking scenario, but a hijacking scenario where NORAD's role was to track the aircraft, if it crashed to report the crash site, but certainly not to take -- it was not the understandings and the policy at the time was not that these were hostile aircraft other than the fact that they had been hijacked. So, it was to track that, and help the FAA track that. And those were the rules that were standing at the time.

If we'd had definitive information, I think we would have probably taken steps to --

MR. BEN-VENISTE: I hope --

GEN. MYERS: -- to work that. But -- but to my knowledge, we didn't -- we didn't have that, sir.

MR. BEN-VENISTE: Let me direct my remaining to General Eberhart and General Arnold.

Why did no one mention the false report received from FAA that Flight 11 was heading south during your initial appearance before the 9/11 Commission back in May of last year? And why was there no report to us that contrary to the statements made at the time, that there had been no notification to NORAD that Flight 77 was a hijack?

GEN. LARRY ARNOLD: Well, the first part of your question -- Mr. Commissioner, first of all, I would like to say that a lot of the information that you have found out in your study of this of this 9/11, the things that happened on that day, helped us reconstruct what was going on.

And if you're talking about the American 11, in particular, the call of American 11, is that what you are referring to?

MR. BEN-VENISTE: Yes.

GEN. ARNOLD: The American 11, that was -- call after it had impacted, is that what you're referring to?

MR. BEN-VENISTE: No. I'm talking about the fact that there was miscommunication that Flight 11 was still heading south instead of having impacted --

GEN. ARNOLD: That's what I'm referring to. That's correct. As we -- as we worked with your committee in looking at that, that was probably the point in time where we were concerned -- remember, that call, as I recall, actually came after United 175, as well as American 11, had already impacted the North and South Towers of the World Trade Center. And then we became very concerned, not knowing what the call signs of those aircraft were that had hit the World Trade Center, we became very concerned at that particular point that those aircraft, that some aircraft might be heading towards Washington, D.C.

MR. BEN-VENISTE: General, is it not a fact that the failure to call our attention to the miscommunication and the notion of a phantom Flight 11 continuing from New York City south in fact skewed the whole reporting of 9/11, it skewed the official Air Force report, which is contained in a book called "The Air War Over America," which does not contain any information about the fact that you were following, or thinking of a continuation of Flight 11, and that you had not received notification that Flight 77 had been hijacked?

GEN. ARNOLD: Well, as I recall, first of all, I didn't know the call signs of the airplanes when these things happened. When the call came that American 11 was possible hijacked aircraft, that aircraft just led me to come to the conclusion that there were other aircraft in the system that were a threat to the United States.

MR. BEN-VENISTE: General Arnold, surely by May of last year, when you testified before this commission, you knew those facts.

GEN. ARNOLD: I didn't recall those facts in May of last year. That's the correct answer to that. In fact, as I recall, during that time frame, my concern was, why did -- the question that came to me was, why did we scramble the aircraft out of Langley Air Force Base, the F-16s out of Langley Air Force Base? And there had been statements made by some that we scrambled that

aircraft the report of American 77, which was not the case, and I knew that.

And I was trying to remember in my own mind what was it that persuaded us to scramble those aircraft. And I thought at the time it was United 93. But as I was able to -- we did not have the times when these things were -- when we were notified of this. I did not have that information at that time. I didn't have it.

MR. BEN-VENISTE: General Arnold --

MR. ARNOLD: And so we scrambled those aircraft to get them over Washington D.C. to protect Washington D.C.

MR. BEN-VENISTE: According to our staff, you know that there was a substantial problem in getting information from NORAD, that we received information, we were told that the information was complete. We went out into the field, our staff did, and did a number of interviews. And as a result of those interviews, we found that there were tapes which reflected the facts relating to Flight 11.

And we found additional information by which we were able, through assiduous and painstaking work, listening to any number of tape recordings, to reconstruct what actually occurred, as you have heard in the Staff Statement.

I take it you have no disagreement with the facts put forward in the Staff Statement. That's been produced in advance for comment, and I take it you're in agreement now with our staff's conclusions with respect to those facts.

MR. ARNOLD: I am.

MR. BEN-VENISTE: We have -- and I'm not going to go through it, but it is disturbing to see that there were efforts at after-action reports which were available shortly after 9/11. There were communications which our staff has received with respect to e-mails that reflect some of the facts on nearly a contemporaneous basis with the 9/11 catastrophe that reflect a story which unfortunately is different from the one which was presented to this commission earlier.

When you and General Eberhart were asked about the existence of tape recordings reflecting these open-line communications, both of you indicated that you had no such recollections.

GEN. EBERHART: Mr. Commissioner, I think it's important to note that I did not testify in front of this commission. So to say that I said that that day is categorically wrong.

MR. BEN-VENISTE: I'm sorry, sir. I'm sorry. You are correct. I will refer to General Arnold's comments, both with respect to --

MR. KEAN: This is the last question, Commissioner.

MR. BEN-VENISTE: Thank you.

MR. ARNOLD: Yeah, the Northeast Air Defense Sector apparently had a tape that we were unaware of at the time. And your -- to the best of my knowledge, what I've been told by your staff is that they were unable to make that tape run. But they were later able to -- your staff was able, through a contractor, to get that tape to run.

And so, to the best of my knowledge, that was an accurate statement in May that I did not know of any tape recordings. If I had had them available to me, I certainly would have been able to give you more accurate information.

Our focus was on when the events occurred, and we did not focus on when we -- we didn't have a record -- I did not have a record of when we had been told different things.

MR. BEN-VENISTE: In order to clarify it -- and I apologize again, General Eberhart -- the statement that I was referring to was a statement which we are advised was made to the staff. It was General McKinley, as well as General Arnold. When I asked the question, "Let me ask you whether there's a regularly-made tape recording of these open-line communications," General Arnold answered, "Not to my knowledge" and General McKinley answered, "Not to my knowledge."

It was through the painstaking investigation that discovered these tapes and then our staff listening to those tapes which assisted us in being able to provide the level of detail and accuracy which we've done today.

Thank you, Mr. Chairman.

MR. KEAN: Thank you very much, Commissioner. Commissioner Lehman, we're going to concentrate on questions for General

Myers because of his schedule. And we can come back, I guess, to the other members of the panel. They have a little more time.

MR. LEHMAN: General Myers, we're particularly pleased to have you here because your service from '98 to 2000 commanding NORAD gives you particular authority in talking about this.

I think what disturbs us most with regard to NORAD is not so much that this was an unprecedented threat -- and there were certainly problems relating to that with the orientation outward rather than inward and the sad capabilities, really, compared to military radars of the FAA radars that had to be depended on for much of the information -- what disturbs us most is that the glitches in command and control are glitches that had really nothing to do with the fact that it was an internal rather than external, because in the justification for maintaining NORAD, of course, the possibilities of intercepting hijacked airliners was part of the justification from the beginning, although the expectation was that they would be foreign airliners hijacked and incoming.

So the problems of command and control -- let's start at the top. Who was in charge on 9/11? Was it NORAD commander? Was it you? Was it NMCC? Was it SecDef? Was it FAA? With all the exercising that had been done in the past, clearly somebody should have been in charge. But we have been unable to find out who it was. And also, for all of my questions, if you could also say what's been done to change it and what's the situation today.

GEN. MYERS: That's a lot. In terms of national command authorities, you've interviewed the president and the vice president, and I'm not privy to that interview so I can't comment on that. I do know that the next person in the chain of command, Secretary Rumsfeld, was in contact with the president several times during that morning and through the rest of the day, to include -- I believe it's at least two video teleconferences we had with the president -- I may be wrong; it may have been only one -- but lots of conversations with the vice president --

MR. LEHMAN: No, but I'm talking about operationally, the minute-by-minute --

GEN. MYERS: And operationally, General Eberhart was on duty and at his duty station, as was General Arnold. In fact, the first call I got when I left Capitol Hill after a meeting with

Senator Cleland was from General Eberhart saying, "We've had these crashes and we're going to take certain actions." And it was shortly thereafter that the Pentagon was hit as we were on our way back to the Pentagon.

So as you know, I'm not in the chain of command. I'm a military adviser to the chain of command and to the National Security Council. So I went back to my duty station, and what we started doing at that time was to say, "Okay, we've had these attacks. Obviously they're hostile acts."

We were not sure at that point who perpetrated them. And my focus at that point and I think the secretary's focus was, "Okay, what else is out there that is possibly going to happen, either in the United States or in other regions of the world?" And that's where we started to focus. What is the next event to happen? It might not be an airliner. It might be some other attack.

So we were looking outward. We were on a threat conference that developed, as you all know. And NORAD was represented on that. I had several conversations that day and early that morning with General Eberhart as we talked our way through the actions that were being taken.

So as far as I'm concerned, the command and control, it was in place. The secretary, except for the short period of time that he went outside to examine where the aircraft came into the Pentagon and then to help, because at that point they needed hands and he lent his hand to help those injured and those responding, but then came back in sometime around 10:00 and was upstairs.

I know he talked to the president sometime in there. I knew he went to what we call the ESC where the communications for the secretary's office goes through. He was up there. He had a VTC with the White House. And about 10:30 he came down to the National Military Command Center, where we joined up. And we stayed joined the rest of the day together.

MR. LEHMAN: Let's talk a little bit about technology and --

GEN. MYERS: Can I just mention one other thing?

MR. LEHMAN: Sure.

GEN. MYERS: Because you asked me to tell what we've done. In the National Military Command Center, that day we did have trouble trying to conference the FAA into our threat conference that was ongoing. So we had to use a separate phone line for that which was not as efficient. That's been corrected.

And as you know, our posture today is quite a bit different as we look at this threat and other potential threats. So we've improved our communications and we've refined our procedures, both with the White House and with the FAA. And those procedures are in effect and are exercised.

MR. LEHMAN: Assets. I understand that there was a great argument during the period before 9/11 about whether NORAD should exist at all, and the reduction from 23 to seven sites. Why, given the increasing threat discussion of the possibility of hijackings and the intentions of al Qaeda, was this such a big issue? Because with so many fighter aircraft based around the country -- Reserve, Guard, Navy, Marine, Air Force -- why is it an asset issue? Why can't there be a much broader allocation of assignment, of alert, throughout the country to deal with the threat that was becoming so evident?

GEN. MYERS: I think it's because the threat was not perceived to be so evident, and we were following the same guidance that we got right after the fall of the Soviet Union: "Where is the dividend from this?" And so forces were scaled down. Alert facilities, which are expensive to maintain, were closed. And we wound up with those seven sites. And I think you all know --

MR. LEHMAN: Why is that so -- I mean, why do they have to be owned assets? Why is it so expensive just to require rotating units to sit on alert and keep aircraft armed, as opposed to their normal training cycle?

GEN. MYERS: Well, it's just the kind of -- it's the priorities that the Defense Department goes through to balance risk. And, again, the threat perception was not there to balance that risk. And --

MR. LEHMAN: But it seems to me a false dichotomy, because the assets exist. They're there. All of the services have huge training-ready capabilities. It's not as if you have to buy and own separate aircraft for NORAD. Why is it even an issue?

GEN. MYERS: And that was -- and by the way, that was the NORAD plan. The NORAD plan was as the threat became more

apparent, then we had access to Navy, Marine and Air Force aircraft, and we brought them up -- I think the last number I remember, we could bring 3,000 aircraft to defend this country, not to mention the Canadian aircraft that would be participating as well. So we could bring them up. We had alert sites designated.

So the plan was to do that, but you had to start with the perception of the threat and what we were asked to do. And our clear direction was to look outward. In fact, as General Arnold said, we fought many phantoms that day. There were many phantoms.

I remember getting to the NMCC, and we got the call that a bomb had gone off in front of the State Department. So you think, "Oh, my goodness, what else is happening in this town?" We got many aircraft calls inbound that morning that turned out to be phantoms.

So we were clearly looking outward. We did not have the situational awareness inward because we did not have the radar coverage. And that, by the way, will become an issue here later on as we discuss the fate of the FAA radars that exist in this country today, whether or not we keep radars and have situational awareness for the interior of this country.

MR. LEHMAN: And why shouldn't there be -- why shouldn't the Air Force today and the Army, the military, look at our domestic defense as part of their mission in terms of the air space? It's a huge gap between the normal common capabilities of tactical units, not only strategic units of the radar sophistication and capability compared to what the FAA is stumbling along with. What do you recommend we do about that?

GEN. MYERS: They are doing it. In fact, Army radars and Army air defense systems, as you know, are part of our defense of certain places. The national capital region is one of those places. We also have, as you know, lots of aircraft on alert today where we can respond to those potential sites that we have identified that might be of interest to future terrorist actions. So today there are a lot of resources being brought to that.

I think General Eberhart will recommend and has recommended to the department that we work with the FAA to determine who is going to pay for the radars for the interior of the country so we can have the situational awareness that we think we need. And

that's being debated now. My guess is it'll be a '06 budget issue as we go forward. And your recommendations in that regard would be helpful.

MR. LEHMAN: As you know, the Israeli air force has exercised, practiced and developed techniques for dealing with hijacked aircraft for years and years. For instance, they carry special missiles that are not to destroy -- designed not to destroy airliners but to force them to land, missiles with inert warheads and other sophisticated gear.

What have you guys done to equip our Air Guard and other NORAD potentially assigned units with the training, with the rules of engagement and the hardware that gives them an option other than what we have now, which is just to destroy the aircraft and all its passengers?

GEN. MYERS: I'm aware of at least one program which is classified, so we can either talk about it offline or provide you the classified paper on it. There may be others to do exactly that.

MR. LEHMAN: President Bush told us in our interview that he was deeply dissatisfied with the ability to communicate from Air Force One. He told us that this was a very major flaw. Has this been fixed, and are you personally satisfied that those communications have been improved sufficiently so that a president will have the connectivity that he didn't have that day?

GEN. MYERS: Let me answer that for the record, so I can be very specific on that. Let me answer that for the record.

MR. LEHMAN: Okay. One of the happy instances of the day was that NORAD happened to be fully mobilized in a CP exercise, and had everybody, in effect, at battle stations. And even so we saw these glitches like a failure to pass on rules of engagements to the pilots over the Capitol area. If they hadn't been at full mobilized status, what would have happened then? Would it have been much worse?

GEN. MYERS: Well, I would let General Eberhart answer that. But from my experience, no, it wouldn't have been much worse. It was fortuitous that it was the case, but certainly at the Northeast Air Defense Sector, Southeast, the CONR region at NORAD, there are people that are always on duty to respond, and whether or not we'd had the exercise or not, people would have

responded. And my best estimate is that the response would not have -- would have been very similar, even with not having all those additional that might have been present for an exercise. But I would let General Eberhart talk about that.

MR. LEHMAN: Secret Service has told us that they had repeatedly before 9/11 requested alert aircraft to protect the Capitol, particularly at Andrews Air Force Base, and other air defense, that this was never acted on by the Pentagon, was there a reason why?

GEN. MYERS: That never came to my attention. I was never -- as the vice chairman at the time, and I started in 1 March of 2000, from the time I was the vice chairman, I was never aware, or even as NORAD, I was never aware of a request from the Secret Service for that kind of service.

MR. LEHMAN: But when you were NORAD commander, there had already been a private aircraft that crashed into the White House grounds. There were repeated and written worries about the potential for private aircraft to make suicide attacks, and there were 11 separate intelligence reports circulating broadly through the intelligence community that al Qaeda had planned to use aircraft as weapons, although the focus was overseas. Didn't anybody at NORAD try to connect the dots and say that this is something we've got to worry about, that it's a target in the Capitol area, that we'd better get ready for it? But, instead, when even NORAD's own planning staff proposed to include in exercises the dealing with hijacked suicide aircraft, it was rejected by NORAD as by the NORAD commander, I think it was after your time, as something to be exercised and planned for.

GEN. MYERS: I think it was rejected, and General Eberhart can be clearer on this, I don't think it was by the commander, I think it was by the planning group that was meeting because it did not fit the scenario at the time. But, the use of aircraft as a weapon, as a missile, other than World War II and the Kamikaze situation, I'm not aware, and I've tried to research this, and the best information I get, I am not aware that an aircraft has ever been used as a weapon. Now, there have been landings on the White House lawn, there was a landing in Red Square, there have been lots of stupid things. There was talk about crashing airplanes into the CIA. But, in most of that threat reporting leading up to 9/11, it was hijacking an airplane and in the normal hijack mode, not in the mode of a weapon.

Now, there were some talks about in post hijack situations where they talked to about people over the demands were made that they were going to crash, one instance, into the Eiffel Tower, but even the work that was done and the hijackings that were planned for the Philippines, which is a well-known plot, they planned to hijack the airplanes and blow them up primarily.

So, no, the threat perception, there was not -- the intelligence did not point to this kind of threat, and I think that explains our posture.

MR. LEHMAN: Final question, as NORAD commander, and now as chairman, are you, were you then, and are you now, satisfied with the intelligence product that your J2 provides to you?

GEN. MYERS: Well, we've got a wonderful J2, and we've got a pretty good process. Information sharing is better today among the intel agencies, both civilian and military, and the CIA. It can be improved. We still have a ways to go in that regard. It's still, when we get threat warnings, you know, the venue, the type of attack, those kind of details are usually lacking, and we do have, as I think people well understand, and was announced publicly by, I think, the Attorney General the other day, still threats to the United States.

As a free nation with the freedom that we enjoy, we've -- as Secretary Ridge says, we've got to be right every time, and a suicide operative only has to be right once. And we worry about that very much. And with General Eberhart's hat as Northern Command, I think helps to focus all this in ways that we couldn't do before 9/11 because we've organized ourselves much differently. Am I satisfied? No. I'll never be satisfied. This is very tough work.

MR. LEHMAN: Thank you, General.

MR. KEAN: Brief questions, and then I know the General has to leave.

Commissioner Gorelick.

VOICE FROM AUDIENCE: Ask about the war games that were planned for 9-11.

MR. KEAN: Commissioner Gorelick.

MS. GORELICK: Um.

VOICE FROM AUDIENCE: Tell us about the 9-11 war games.

MS. GORELICK: Could you please be quiet, we only have a few minutes with General Myers, and I would like to ask a question.

VOICE FROM AUDIENCE: Tell us about the war games.

MS. GORELICK: I'm sorry.

MR. KEAN: I would ask please for the people in the audience to be quiet if you want to stay here.

MS. GORELICK: General Myers, if you listened to the Staff Statement this morning, I think that the question that has to be on the minds of the American people is, where was our military when it should have been defending us, and I think that is a fair question from a layman's point of view. And the response of NORAD, which you used to command, and which General Eberhart now commands, is that NORAD was not postured to defend us domestically unless someone was coming at us from abroad, and that has lots of implications. It has implications for where our fighters were to dispatch, how much we cared about the internal radars which didn't function particularly well, which you were, at NORAD, dependent on. It had implications for whether you can communicate with your fighter pilots when they're up in the air in the interior of the country. It has implications for how you quickly get authorities to the pilots. And so I want to explore very briefly this question with you, because for years the Department of Defense did, in fact, resist having a domestic mission. And, with all due respect, said this was a law enforcement function, we do not have a domestic role. It was very uncomfortable with that role, and I think it's important to address that. That's why I come back to this word posture, we were postured against an external threat.

In my experience, the military is very clear about its charters, and who is supposed to do what. So if you go back and you look at the foundational documents for NORAD, they do not say defend us only against a threat coming in from across the ocean, or across our borders. It has two missions, and one of them is control of the airspace above the domestic United States, and aerospace control is defined as providing surveillance and control of the airspace of Canada and the United States. To me that air sovereignty concept means that you have a role which, if you were postured only externally you defined out of the job.

So I have two questions for you, by what process was it decided to only posture us against a foreign threat, if you will? And two, if you look at the threats that were postulated to the military in the 1996 Olympics of a domestic hijacking, flying a plane into one of the stadiums in Atlanta, the 1998 PDB about an aircraft loaded with explosives, the kind of exercise that we did around the NATO 50th anniversary, the Genoa G8, the threats the Secretary Lehman is talking about. I would like to know, as the second question, is it your job, and if not whose job is it, to make current assessments of a threat, and decide whether you are positioned correctly to carry out a mission, which at least on paper NORAD had. And I apologize for the length of the question, but it is of some complexity, and also important.

GEN. MYERS: Right. A couple of comments, Ms. Gorelick. First, I don't know that the military has ever resisted, I mean, those are your words. What we try to do is follow the law, and the law is pretty clear on *Posse Comitatus* and that is whether or not the military should be involved in domestic law enforcement. As you know, the president can waive that, and the state's National Guard can be used by the governor under Title 32 to participate in that, and that's all very important. It's still being debated today, and my view on that has kind of changed a little bit from prior to 9/11 to today. And that's still a debate, and you can help with that debate.

MS. GORELICK: Let me just interrupt, when I was general counsel of the Defense Department, I repeatedly advised, and I believe others have advised that the *Posse Comitatus* says, you can't arrest people. It doesn't mean that the military has no authority, obligation, or ability to defend the United States from attacks that happen to happen in the domestic United States. And we will help you with that, if there's any lack of clarity on that yet today.

GEN. MYERS: We'll leave that to the lawyers, because my view is, I don't know if there's lack of clarity, but there's probably a plethora of opinions on it. In terms of the '96 Olympics, as far as I know there was no air threat postulated. I do know the FAA instituted some temporary flight restrictions, but they were so small they could not have prevented an aircraft from entering and crashing into a venue. But, it was more done to just de-conflict the air traffic over these venues so it did not congest there. But, certainly our job today in the military, and my job, is to look at the current threat assessment, and now that we have an organization such as Northern Command to do the

same, to look at how we can better defend this country against threats that are not traditional.

Again, at the time terrorism was viewed as a criminal act. And we have changed that, I think, in our government, and view it a little more broadly now, which I personally think is absolutely right. But, that view has persisted for over 10 years, as I read back through all the policy documents. So certainly our job today is to look at the threat assessment and figure out how we in the military can help protect this country, and this is something that I spend a lot of time on, I know that General Eberhart does, and we're looking at ways that are beyond -- if we need legislation, if we need policy change, we are looking at ways to do that, because we think that's our responsibility, clearly.

Did I answer both questions?

MS. GORELICK: Yes, and no, and my time has expired.

GEN. MYERS: Mr. Chairman, I really need to -- I apologize, but I really need to get to the next venue up in New York.

MR. KEAN: We understand that.

GEN. MYERS: Thank you, Governor.

MR. KEAN: Thank you.

We have questions now for the remaining members of the panel.

Senator Kerrey?

I'm sorry, you have some statements to make first, which we interrupted. If you'd like to make your statements, then we'll go on, Senator Kerrey. If you have statements that you'd like to read, I know you have submitted some.

GEN. EBERHART: Sir, I --

VOICE FROM AUDIENCE: I have a statement. This commission has not answered my questions. I'm walking out. It's a farce.

VOICE FROM AUDIENCE: Please walk out.

VOICE FROM AUDIENCE: I will. Thank you. (Laughter.)

VOICE FROM AUDIENCE: Adios.

GEN. EBERHART: Sir, I've submitted my statement for the record, and I think in the interest of time, and so that we address the issues that the Commissioners would like to address I will not make any further remarks at this time.

MR. KEAN: Would either of the -- Mr. Leidig?

General Arnold?

If not, then Senator Kerrey?

MR. KERREY: Actually it was a question for General Myers, but perhaps, General Eberhart, you can take it. Do you know what NORAD's experience is in intercepting planes prior to 9/11?

GEN. EBERHART: Sir, we can provide that for the record, and I think the staff has that, in terms of how many launches that we conducted each year back to about 1900, and why we were launched, and how many of those were suspected hijacks, and what roles we played. We can provide that for the record.

MR. KERREY: I've got some concern for the military in this whole situation, because the optics for me is, you all are taking a bullet for the FAA. I appreciate that may be wrong, but that's how it appears, because, General Arnold, you in particular on the day covered yourself in glory. I think the military performed, under the circumstances, exceptionally well, and I don't understand why the -- again, General Myers is the guy to ask, because there was a briefing at the White House on the 17th of September. And it feels like something happened in that briefing that produced almost a necessity to deliver a story that's different than what actually happened on that day.

General Arnold, is that an unfair optic on my part? As I said, if you look at what you all did on that day, it's hard to find fault. And we really haven't uncovered this stuff, it was readily available, the facts were all there. So it leaves the impression that there is an attempt to create a unified story there, and has you all, as I said, taking a bullet for the FAA, because the FAA should have told you what was going on -- it seems to me. It must be agonizing to -- you know, you lost 50 military personnel in the Pentagon and 75 civilians in the Pentagon that day -- it must be agonizing to know that Secret Service had information you didn't have. Help me out here. Am I looking at this wrong? Because, as I said, it looks like you

guys did a good job on that day, and now it -- you know, it just gives the appearance that you're standing in front of the FAA, and unnecessarily so.

GEN. EBERHART: Sir, I'd like to answer that question. And, first of all, there's no scheme here or plot to spin this story to try to cover or take a bullet for anyone. And I for one, from the day after 9/11 to today, do not get into FAA bashing, because as I can imagine being on those screens that morning, as I can imagine being in their shoes, and the confusion that existed that morning -- obviously we know we could have done it better. We know today that we're doing it better. And, most importantly, we know tomorrow we must do it even better. But there is no spin here for us to cover. We wish we had done things much like as outlined by the Commissioners that we now do because of what happened on 9/11. But I can assure you that there was -- we didn't get together and decide that we were going to cover for anybody or take a bullet for anybody.

MR. KERREY: Who briefed the White House on the 17th of September? Were you part of that briefing?

GEN. EBERHART: Sir, I don't know. I was not part of that briefing. I was -- 17th of September we were pretty much still bunkered down.

MR. KERREY: Yeah, I think General Myers was the one who briefed. Unfortunately, he's gone, so I can't him the question of what happened in that briefing. General Arnold, are you -- I presume you didn't accompany and weren't a part of that briefing?

MR. ARNOLD: Well, the only thing I can add is that the FAA -- we were dependent on the FAA on 9/11. Had the FAA -- I felt we worked very well together, in spite of the fact that we were not postured to handle that threat. We were in the process of launching aircraft all over the country during that timeframe. We had multiple aircraft called hijacked all over the country. We were trying to stand down all the aircraft that were flying. So we -- in case there were others. And we could not pass essentially an order to our aircraft. We had by the end of that day -- I think General Eberhart would confirm this -- we had hundreds of aircraft airborne on orbit in case there was another attack on the United States. And the only way we could communicate with those aircraft for the most part was through the FAA. So we worked hand in glove with the FAA in order to make that work.

MR. KERREY: Well, I appreciate your wanting not to bash the FAA, but, my God, the Cleveland Center said somebody needs to notify the military and scramble planes, and they didn't. You would have an additional 30 minutes of notification. Now it turns out that passengers on 93 took care of it for us. But it's -- you know, I don't consider it to be bashing just to say to them, My God, you guys should have notified us -- and didn't. And that's a fairly significant breakdown.

But I want to also just briefly bring your attention to something I did yesterday. I mean, I heard -- again, it's more directed to the guy who just left, General Myers. But when he says we were focused externally, you know, we have 10 military attacks against the United States, either attempted and successful, or attempted and interrupted, from 1992 through September 11 -- by al Qaeda. And we knew it all. We have the whole story. We didn't -- again, the 9/11 Commission didn't uncover this stuff. It was -- a lot of this is just open information that we had. And of those 10, all but one involved suicide. One of them involved a plot to try to take over airplanes and blow them up, but they were U.S aircraft out of Manila. And I just -- again, if I was sitting in General Myers' or any of your shoes, I'd -- it would make me just a little bit angry that that information wasn't delivered, so that your attention was directed inside the United States. Because these were military attacks against military personnel, including Rangers in Mogadishu, and we now have at least corroborating evidence that there involvement in the Khobar Towers incident. And General Myers says it was treated as law enforcement. That's technically true, but there was a significant, it seems to me, military involvement as well. Anyway, that's more of a -- the guy I wanted to ask the question for is gone. But I think you're entitled to criticize, and I think you're entitled to be angry, looking at the narrative over the last 10 years.

MR. KEAN: Thank you, senator.

Governor Thompson?

MR. THOMPSON: This is a question for everyone on the panel to the extent you can answer it. If everything had gone perfectly on the morning of September 11th, if all the information from the controllers -- and I assume you now accept the Staff Statement the timeline of all of these things is correct -- let's start from that premise -- if everything had gone perfectly, if all the information that the controllers had had gone smoothly to FAA command centers, if all the information at

the FAA command centers had gone smoothly to the military, the vice president's authorization to shoot down intruding aircraft had been communicated to the pilots, would it have been physically possible for the pilots, the military pilots, to have shot down the airplane that hit the first tower, the airplane that hit the second tower, and the airplane that hit the Pentagon? Assuming everything had gone perfectly, everybody was perfectly prepared, focused inward, scrambled, armed -- all the authorization there, all the information there -- would it have been physically possible for the military to have intercepted those three aircraft before they concluded their terrible mission?

GEN. EBERHART: Sir, our modeling, which we have shared with the staff, reflects that given the situation that you've outlined, which we think is the situation that exists today, because of the fixes, the remedies put in place, we would be to shoot down all three of them -- all four aircraft.

MR. KEAN: Commissioner Fielding.

MR. FIELDING: Thank you, Mr. Chairman. Gentlemen, in preparation for this hearing I went back and read the staff interviews, particularly General Eberhart's and General Arnold's interviews with our staff, and we thank you all for cooperating with our staff, as you have.

UNKNOWN: Louder please.

MR. FIELDING: But the question I have is that I was disturbed when I read them at things you said about the state of readiness of NORAD on November 11th. And I would hope that you would share those with us again today, and let's discuss what steps were taken, how can we help and what recommendations would you have.

I was particularly, General Arnold, concerned about your statements about that really we only had token air sovereignty. And so I would appreciate your comments, please.

GEN. EBERHART: Sir, General Myers referenced an ongoing debate after the implosion of the Soviet Union and the fall of the wall, and that centered on was NORAD a Cold War relic, a Cold War relic that we did not need, because the Soviet Union was no longer our enemy, and a much different Russia than the Soviet Union we faced for decades.

And so, again, there were great debates during the '90s, and we came close to having zero airplanes on alert during this debate. And that was one of the options, and one of the options that many times was an option that almost went to the end game. So, thank goodness, cooler heads prevailed -- and in many cases this came from our National Guard, our Air National Guard, and we did have some aircraft on alert that day. And the ability then, as General Myers said, based on actionable intelligence based on the change in the threat to then increase the number of airplanes on alert, increase the number of alert sites across North America, from Alaska through Canada to the continental United States.

And it was, again, a question of dollars: How much was it going to cost, even though the airplanes were already there, to have them on alert, have them armed, have them not available to go to fight Iraq in the first war, not have them available in Bosnia, Kosovo, et cetera? There was this debate, because there was an attendant cost.

The good news is that we had the airplanes on alert that day, and we were able to be flexible and put more aircraft on alert. The bad news is that we only had 14 airplanes on alert, seven alert sites. But I must caution you, commissioner, that even if I look at the height of the Cold War, and I looked at our posture at the height of the Cold War and where we had airplanes on alert, given the notification that we had that day, we still had a time distance problem and we would not have been able to respond to these threats. Atlantic City is the only alert site that we had in the vicinity of the threat, during the height of the Cold War that we did not have day. And Atlantic City, given the timelines we have, would not have been able to get there on time.

MR. FIELDING: General?

MR. ARNOLD: I was on the side of the argument, as General Eberhart remembers, that because I had been in the air defense business all my life, there was concern about our air defense. When you're making priorities you have to decide where you are going to choose to spend your money.

I think the Hart-Rudman study had indicated that the biggest threat to the United States in the aftermath of the demise of the Soviet Union was from rogue nations or terrorists. Our focus then was, What can we do to thwart a terrorist attack from outside the borders? Again, this focus that we had before. And

we were involved in that. We were working with NORAD, we were working with General Myers, later with General Eberhart, in trying to be able to bring in radars that we didn't have available to us at all times -- to be able to bring them into the system. And it was ACTD, Advanced Concept Technology Demonstration that we had, and it was ongoing and funded. So we were focused on the terrorist threat, but we certainly weren't focused on the terrorist threat in the way that it came down on 9/11.

MR. FIELDING: But is the situation better today, or is it worse, or is it the same?

GEN. EBERHART: Sir, the situation is much better, obviously. You don't have anyone questioning whether or not we should have aircraft on alert. We don't have anyone questioning whether or not we should have an integrated air defense system here in the nation's capital, or in other places, like the G-8. There no question in terms of the priorities. And then obviously we have the materiel and the residual solutions and changes that we've outlined in our statement. And if we have a concern, it's the concern that the chairman outlined briefly, and that is the future of these FAA radar. We've netted those all together now, added almost 100 radars, so that we have that visibility in our command centers and NORAD. We can't let that atrophy. And that we have to look for technology over time that allows us to have better situational awareness of our airspace and the approaches to this nation and over this nation. And that's where I believe we really need to concentrate.

But I also -- I feel compelled to mention that NORAD is not the right way to work this problem. It is a force of last resort. If you use us, if we have to be used, if we have to take action, it takes a bad situation from getting worse, because everybody on that airplane will die. So I mean this is a stop-gap final measure. We have to take it, we have to be prepared. But where we really need to focus is destroying these terrorist networks, not allowing them into our country -- don't allow them into our airports. Don't allow them on our aircraft. If they get on our aircraft, don't let them take control of the airplane. That's where we must focus.

MR. FIELDING: Thank you, gentlemen. Thank you, Mr. Chairman.

MR. THOMPSON: Mr. Chairman, I really need to re-ask my question, because I think we've gotten two different answers

from General Eberhart, and I want to be fair to him and have the public understand, if I might.

General, I think you may have misunderstood my question, because you prefaced your answer with, "if we were postured then as we are postured now." And then, in response to another question, you said we couldn't -- in the timeline given, given the time and distance, you could not have shot down the planes. So let me re-ask it to give you a fair chance.

Assuming we were postured as we were then -- forget now -- and assuming that the timelines in the Staff Statement Number 17 are correct -- as I think we all now concede they are -- would it have been physically possible, if everything had gone right in terms of communication of information and communication of orders -- would it still physically have been possible for the military pilots to have shot down either the plane that hit the first World Trade tower, or the plane that hit the second World Trade tower, or the plane that hit the Pentagon?

GEN. EBERHART: Sir, I'm sorry if I misunderstood your question. I assumed in the preface to your question you assumed that FAA told us as soon as they knew.

MR. THOMPSON: Right.

GEN. EBERHART: And if that is the case, yes, we could shoot down the airplanes.

MR. THOMPSON: All right. Thank you, general.

MR. HAMILTON: Commissioner Roemer.

GEN. EBERHART: The difference in the answers is that in answering the next question I assume that they told us when they actually told us on 9/11.

MR. HAMILTON: Commissioner Roemer.

MR. ROEMER: Thank you, Mr. Vice Chair.

I have a couple questions -- one about how we pass on intelligence from the FBI and the CIA to our military intelligence, how you gather your intelligence and pass it out. And, two, I want to ask a question or two about the vice president's shutdown order and how it was conveyed and why it was not executed in terms of passed on to the pilots.

First of all, back to the original question. We've heard time and time again about domestic threats and terrorists potentially getting a hold of an airplane and using it as a weapon. We had extensive testimony from Richard Clarke at the NSC where in 1996, in the Olympics, he's so worried that the terrorists are going to either commandeer a plane or somehow use a plane as a weapon against that venue, that he goes to the unbelievable extent of lashing up Treasury, Secret Service, having sharp shooters out of helicopters that can at least shoot at an airplane that might be coming at the Olympic Village. That threat is very real.

We continue to hear, however, from so many of our witnesses that it wasn't contemplated; it wasn't possible; it wasn't really in our exercise. Were you aware, General Eberhart, when you came into this job in your position that that effort had taken place in 1996?

GEN. EBERHART: No, sir.

MR. ROEMER: Were you aware today when you walked into the room?

GEN. EBERHART: Yes, sir.

MR. ROEMER: Why weren't we better prepared at that kind of a training posture?

GEN. EBERHART: Sir, I think the most important message is I wish we had been. But at the same time I can tell you that we didn't have any what we call actionable intelligence, intelligence that said you need to change your posture, need to change your orientation -- you need to do all the things that we have since done.

As we look at all the threats out there that we postulate -- and many on the roster up there know this -- we can't develop that capability across our government, across our federal forces, or we'd break the bank. We'd break the bank. We have to take those things that we think are most likely and prepare for those. And tragically, tragically, we were wrong.

But the important thing --

MR. ROEMER: This just seems --

GEN. EBERHART: The important thing to note is that this is not a zero-defect operation. I mean, at this very minute if somebody was to take off from a small airport in Kansas and fly five or ten minutes and crash someplace, I don't care what posture we develop, we can't preclude that. We can't preclude that. Nor do I think the people -- the citizens want to preclude that, but it's cost-prohibitive and what it does to our freedoms and our liberties is something that we're not prepared for.

MR. ROEMER: Well, let's go on to the second part of the question then, when we really do have information, at least a possibility that information is being conveyed from the vice president to NORAD that we have a threat out there. And this is so surprising, so shocking to some people, that I believe it's Colonel Marr decides not to convey the vice president's order on to the pilots that are circling around Washington.

Now, it may be highly unlikely that they could have done something, given that 93 has already crashed. But the fact is it was not passed on to those pilots that were protecting the city. How long would it have taken to authenticate that, if the colonel decides to pass that on at a later time? Why didn't he at least attempt to say to those pilots, This is a very tough thing to understand, but here's what the vice president of the United States has ordered for our military to consider for a specific target in Washington, D.C.?

GEN. EBERHART: Obviously I'd be speculating about what Colonel Marr -- why he made that decision --

MR. ROEMER: You haven't asked him this in an after-action report?

GEN. EBERHART: Well, we have. We did.

MR. ROEMER: What did he say?

GEN. EBERHART: There was great concern that morning, commissioner -- on my behalf, on Larry Arnold and Bob Marr as the chain of command goes -- that we were very concerned about the ability to shoot down a hijacked airplane. But frankly, we were just as concerned about making a mistake. And if you think this is an interesting session here this morning, and what you've been through, had we made a mistake on that morning, or subsequent days, I would offer it has a much different content.

MR. ROEMER: Mistake meaning that you shoot down the wrong airliner?

GEN. EBERHART: Exactly. So that was at the forefront of Bob Marr's concern, is we don't have a confirmed hijacking right now. Let's make sure we clearly understand this order, convey it properly, so that in fact we do not make a mistake.

MR. ROEMER: Wouldn't eliminating the possibility of mistake be better enhanced by starting that order rather than introducing it as soon as you have, you know, the possibility of making a mistake? Doesn't the possibility of making a mistake gather likelihood and possibility increase that the later you introduce such an unusual order into the system?

GEN. EBERHART: I don't believe so. I believe that if you qualify and transmit that order in terms and in language, in the lexicon the pilots will understand, then you reduce the chance of making a mistake.

MR. KEAN: Senator Gordon.

MR. GORTON: General Eberhart, General Arnold, I want to associate myself with the remarks that Senator Kerrey made, that under the circumstances, especially as we've outlined them here today, the response of NORAD was, you know, was quite remarkable, particularly given the fact that this was so unprecedented and we were dealing with a different kind of hijacking than we had previously anticipated. It seems to me, however, that it was remarkable in part because people didn't necessarily go through the appropriate chains of command. Whatever the mistakes that the FAA made here in Washington, D.C., Boston called Otis directly, which it was not supposed to do. And Colonel Marr responded immediately, under -- according to our statement here -- by ordering the Otis fighters to battle stations. Did Colonel Marr have the authority to do that without it coming from someone other than just a request from Otis? Was he -- was he acting on his own in making that decision?

GEN. ARNOLD: Of course, Colonel Marr was commander of the Northeast Air Defense Sector, so that communication, they called the tower, as I understand it, at Otis first, and then they called Colonel Marr.

MR. GORTON: Okay.

GEN. ARNOLD: And, he did have the authority to put them on battle stations, certainly. He then called me.

MR. GORTON: And you -- and you told him --

GEN. ARNOLD: He said, "I'd like to scramble" -- is what he told me.

MR. GORTON: And you said, "Scramble, I'll get the authority later."

GEN. ARNOLD: Exactly.

MR. GORTON: So, were you exercising an authority that you didn't have? Should you have gone higher before you ordered the scramble?

GEN. ARNOLD: I can order a scramble. We -- the issue is whether or not we intercept the hijacked airplane. So, we got the airplanes airborne, put them out in a warning area, where they are allowed to fly anyway, to -- then to determine whether we're going to have the priorities to --

MR. GORTON: And so you had to go higher up before you sent them to New York?

GEN. ARNOLD: Sure. I called -- I called the -- General Findlay, who was the (inaudible) DO, and told him what we were doing. He said, "Fine, we'll get the authorities."

And the fact that they were going towards New York, from my perspective, because that's where the warning area was initially, because we didn't know that -- we certainly didn't know that the hijacked airplane, even after we saw on the television the smoking hole in the World Trade Center, as tragic as it was, we did not know that that was caused by one of the hijacked airplanes.

MR. GORTON: Now, it's not in the report that we gave here today, but I understand from our staff that in your -- in a staff interview with you, General Arnold, you said that if you had deemed it necessary, you would have communicated a shoot-down order even though you hadn't heard through the secretary of defense or the vice president or anyone else, if you felt that it was necessary -- is that correct?

GEN. ARNOLD: I sure hope that I would never have to come to that. I think it's a reference to the United 93. We -- United 93, very shortly -- I guess by the time we had heard about it, your staff tells me, because we did not know that, the airplane was already -- had already hit the ground up in Pennsylvania, thanks to the heroic efforts of those passengers that were on board.

And the question that came to me was, "What would you have done?" And we were, at that time, again, seeking presidential authority to shoot that aircraft down, and as we were flying towards it. So, it never came to that point. But it's very typical in an intercept, you try to get that airplane, get to the side of them, get their attention, see if they will respond to you, and based on what had happened earlier, and we knew what happened earlier, obviously, the question came to me, "What would you have done?" And, using some emergency authorities, and God help me if I ever had to do this, we would have given the order to shoot them down.

MR. GORTON: And you would have been taking a huge responsibility on yourself in doing that, would you not have?

GEN. ARNOLD: Yes. But we -- but at that particular point in time, we fully anticipated that we would get presidential authority.

MR. GORTON: Now, you saw earlier, during the course of the staff presentation, the very elaborate system of going up through the FAA and then down through the military before, and again, before many of these orders can be made, in theory, at least. I take it, General Eberhart, that that chain of command is somewhat attenuated now, and that we can respond much more quickly?

GEN. EBERHART: Yes sir, it is, and for a variety of reasons. I mean, we go all the way to the cockpit. And in the cockpit today, if anything happens in that airplane that seems unusual, the first thing the crew does is get off a call and change their transponder. So, time starts to work for us right there.

The second thing that happens, that is soon as there is a problem, and FAA knows we're listening on the same network, and we know as soon as the FAA knows that there is a problem. And then, as we start to get more information, we'll put aircraft on battle stations or we'll even launch them, even if FAA hasn't asked, or TSA has not asked. As Larry said, we can launch them

any time we want to, send them on a training sortie and head them toward what we think might be the problem.

So -- so that type of cooperation and coordination, coupled with this increased situational awareness of netting the radars, and in some cases datalink where we can datalink that target right to the cockpit of the airplane, makes us much more responsive and unlikely to have the problems that we had on 9/11.

MR. GORTON: Thank you very much, the both of you.

MR. KEAN: I've got a couple of questions. First of all, beside the sites you had, the 14 alerted planes, the seven sites, what about other assets? Did you have -- what about the National Guard sites, Coast Guard, Customs, Alcohol, Tobacco and Firearms? Usually, you think of those planes, you look at whatever being alert and ready -- what about those assets? Did you have those available to you?

GEN. EBERHART: Sir, on 9/11, in terms of the other assets, we did not track them and we were not linked to them from other government agencies. And so we had not factored into our air defense because we believed the attack was going to come in the form an enemy bomber at 35,000 feet at .8 mach, et cetera, and don't have the capacity or capability to deal with that. They are now factored in, whether it's --

MR. KEAN: So you had no link to those other assets on that day, and you do now?

GEN. EBERHART: Exactly. Now, "no link" is not exactly right. As we work some drug enforcement issues, we worked with different organizations where, that we would, if they didn't have an asset available, we would go track an asset for them and tell them what we saw, identify it, and tell them where it landed, and then it was a law enforcement issue in terms of what -- suspected drug trafficking. So, we had that linkage through different organizations.

So -- but I think it's important to note, and it's back to Commissioner Lehman's question, is that we have access to all those assets, but right now, if we had to go get them right this minute and have them take off, they're not armed. They're not armed. They're not armed for good reason, because they're going to go fly a training sortie, so you don't want to be up there flying training sorties armed. So, we would have to upload the

munitions. And so therefore, if you -- if it's a "come as you are" party, or tragedy as it was that morning, we had to take the assets that were armed, because otherwise all they could go up and do is observe, which is better than nothing, but it doesn't work the problem. And with notification, as we increase the air defense level today, then we arm more aircraft and put more aircraft on alert. So that's how the system works.

So, even though, for example, we talk about the aircraft that took off from Andrews that morning, they weren't armed. So, they were observers, is what they were. So they couldn't have shot down an airplane if need be. So, I think that's -- it's important to note that. So, we have lots of airplanes around there, but then to get them airborne and make a difference, that's the challenge.

MR. KEAN: So, the first aircraft were unarmed, then you launched aircraft that were armed?

GEN. EBERHART: No sir. NORAD's airplanes were launched armed. We were not running the F-16s out of Andrews. Those were not initially armed. And then they came back and armed.

MR. KEAN: And none of these other assets, Alcohol, Tobacco, Firearms, none of those other people are armed?

GEN. EBERHART: No. If you -- if you go to, if you pick an Air Force base today, Seymour Johnson, and you walk on base today, none of the airplanes are armed. They may have training munitions on them, but they're not armed for daily training. That's for -- that's for the safety of people on the ground and people who are working around those airplanes.

MR. KEAN: And if I understood you earlier, if 9/11 happened today, do you believe you could have intercepted all four planes?

GEN. EBERHART: Yes sir. And we've shared these models with the staff, and the staff has looked at them, and I think they -- they agree that when we compare the notification times, and we compare the results, if you will, on 9/11, we got six minutes of notification time for American Airlines Flight 11. Today, we believe we would have at least 17 minutes to make that decision. On 9/11, we were 153 miles away. Today, we would be in position to fire for eight minutes, eight minutes that we could decide that this is a hostile act that's got its nose down, because it's very important to note that if an airplane is flying

straight and level at 35,000 feet or 30,000 feet, even if it's been hijacked and we haven't seen a hostile act yet, it could be a classical, traditional hijacking, or we may have brave souls on board like we had on United Airlines Flight 93, and they wrest control back. It's important for us to see a hostile act.

MR. KEAN: And there was never -- you're assuming -- are assuming a different set of facts, different timelines, than occurred.

GEN. EBERHART: Yes sir. Yes sir. I -- again, I am assuming that they told us, FAA told us as soon as they knew.

MR. KEAN: Yes. So you would have had the seven minutes, five minutes, 14 minutes and 47 minutes.

GEN. EBERHART: Yes sir. That's the key.

MR. KEAN: Was there any consideration ever of ramming any of the planes?

GEN. EBERHART: Sir, we did not consider that because we were never in such a position to be able to do that, so that didn't cross our paths, or our idea. During -- during the Cold War, that was one of the things that we looked at in terms of enemy bombers. But I would say it was a much different airplane then, and it was an airplane when we had a very large tailhook that we would drop, and theoretically we would drag that across the cockpit of the enemy bomber. Now, I wouldn't want to be the one who does that, but if we thought that an enemy bomber had nuclear weapons on it and was coming to the U.S., it's probably a last-ditch maneuver. These are much different airplanes today than those airplanes we were talking about during the Cold War, the F-06 -- 106, et cetera.

MR. KEAN: And just, and one matter just to clarify the staff records, our records in the staff anyway, that the planes we have that took off from Andrews were launched at 10:38, those were unarmed, according to our staff report. The planes that were launched at 10:42 and 11:09 were armed. So, the first planes launched were unarmed --

GEN. EBERHART: I -- again --

MR. KEAN: -- according to our staff report.

GEN. EBERHART: -- they were not under our command and control. But my knowledge now is a little bit different, because I believe that one of those -- one of those airplanes, the first ones were definitely unarmed. I don't think they got the second set completely armed -- they may have armed the gun, which had training munitions in it. But by the -- but I would think it -- it was probably the third or fourth set that got up that had missiles and it was a full-up round, if you will.

MR. KEAN: Commissioner Gorelick.

MS. GORELICK: A couple of follow-up questions. First, for General Arnold, you testified before us before that the jets were scrambled in response to Flight 93, not American 11, and when you were asked about --

GEN. ARNOLD: I was wrong. I was wrong.

MS. GORELICK: Yeah. But -- but the question about that is, and I want to be fair to you and give you an opportunity to respond, you said that the reason that you were wrong was that you hadn't had an opportunity to listen to the tapes, or the tapes were not accessible. But, I mean, we have -- I'm just holding four of them -- different headquarters and CONR logs that are -- that clearly reflect that the scrambling was done in response to this phantom American 11, which didn't exist anymore. And it was responsibility, as I recall, to do the after-action report, or to lead it, or to be in part responsible for it. Did you not look at the logs in that process?

GEN. ARNOLD: Well, you refer to an after-action report that I was -- that we didn't do. I mean, I don't recall doing an after-action report --

MS. GORELICK: Well maybe --

GEN. ARNOLD: -- other than the fact that we tried to capture when the aircraft took off, when they, you know, how soon we were able to react to those aircraft, and that was the real issue. So, as I get older, I guess my memory was not as good as it should be, and your staff actually helped me out quite a bit in terms of this one particular area, because I was never comfortable with the fact that some people have said that we had scrambled because of American -- American 77, and that I knew was not the case. So, I guess in the way the human mind works, unfortunately, is we try to put things into some kind of category. And then, as we heard this log, or this log was

presented to me, it made more sense to me than that that's what had occurred. It occurred to us -- we have now had two airplanes that hit, and we got a call that this, another airplane, because it was another airplane to me, had been hijacked. And so now, the Northeast Air Defense Sector correct was scrambling aircraft out of Langley to get - to get an aircraft over Washington, D.C. in case that aircraft that was called was headed towards Washington, D.C.

MS. GORELICK: The reason I return to this is that, as a consequence of the NORAD conclusions that the jets were scrambled in response to notification on 93, was that senior policymakers reassured the American public that our military was on it and would have -- would have addressed this threat to the White House or the Capitol before the threat arrived. And that may or may not be the case. We have real doubts about whether it would have been possible to intercept that flight in any event, but certainly not with the notice that was received.

I'd like to follow-up on some questions, General Eberhart, that you've been asked this morning.

I'm struck by two times. After the second World Trade Center was hit, and 9:03, I think everybody concluded we were under attack. And as I understand it, you have the authority to put in place something that I don't know what it stands for, called SCATANA which is essentially that you, military, take control of the skies from the civilians, FAA, and that you did that at around 11:00. And my question for you is why that gap? And, whose decision would that have been?

GEN. EBERHART: SCATANA is a procedure that, as you say, allows us to take control of the airspace. It's a procedure that was designed, again, to counter the Soviet Union and their long-range bombers. It's a procedure that -- that if I had tried and -- and as the people approached me with "declare SCATANA" the problem was that we could not control the air space that day with the radars we had and all the aircraft that were airborne - - four to five thousand airplanes airborne. So, if I suddenly say, "We've got it, we will control the airspace," we would have had worse problems than we had that morning because I cannot provide traffic deconfliction like the FAA has. What mine is designed to do is we see a bomber coming from a long range, we tell everybody to get the aircraft down, safely, then nothing flies and we control the airspace. We are prepared to do that, but we're not prepared suddenly to take control of the airspace and say we have it, because now we're talking in terms of safety

and security of air travel. We're talking about a bad situation getting worse.

MS. GORELICK: So, you cannot --

GEN. EBERHART: The other thing -- the other thing -- and I have the authority to do that, but I have the authority to do it against an external threat. The second thing is, that's very important to note, there are procedures in "SCATANA" that are again designed, designed to counter long-range bombers. For example, we're supposed to turn off all the navigational aids.

That morning, the last thing we wanted to do was turn off all the navigational aids. You turn them off so the enemy bombers can't use them. But we don't want to turn them off so that the airplanes can't land safely. We don't want to turn them off so that law enforcement and flight for life can't fly.

So what we did -- you said we executed it, but I think it's very important to note that when we executed it, we executed a modified SCATANA. And that's what I told them is "I will execute SCATANA once you have a modified SCATANA that clearly delineates the lines in the road and doesn't cause a bad situation to become worse."

So our SCATANA said, "Leave the nav aids on." Our SCATANA said, "FAA, you still control the traffic that's flying." Our SCATANA said, "Law enforcement and flight for life can continue to fly. We don't want to ground them during this terrible tragedy." And then procedures for getting waivers to fly. So we had to take that procedure and modify it to this horrific act that occurred on 9/11.

MS. GORELICK: So another needed improvisation on your part, because this was a scenario that we had not planned for.

GEN. EBERHART: I don't say that to pat myself or ourselves on the back, but that's what we did.

MS. GORELICK: Thank you.

MR. KEAN: Commissioner Lehman.

MR. LEHMAN: Thank you. In this era of jointness, I think it's very unfair that the only sailor on the panel hasn't taken his fair share of hits. (Laughter.) Captain Leidig, you were the

administrator of the NMCC, the National Military Command Center, at the time.

It's still confusing to me, from the records of our staff, at the tactical level who really was in charge, whether it was NORAD or whether FAA saw it as the NMCC, whatever the NMCC is as an entity.

First, would you explain what you viewed the role of the NMCC to be that morning at that time?

ADM. LEIDIG: Yes, sir. In the National Military Command Center, again, I was the deputy director for operations, so I was the senior watch officer in the National Military Command Center.

Initially, when the first plane was reported on the news to have crashed into the first Trade Center tower, the National Military Command Center was primarily a means to notify senior leadership that, in fact, an event had occurred.

After the second aircraft impacted the second tower, the Command Center then became a focal point for coordinating information flow. And at that point I convened -- by the procedures that existed on 9/11, I convened a conference called a Significant Event Conference.

And what that does is that brings leadership and combatant commanders into the conference to start discussing what actions should be taken or might be taken. And so at that point I, as the senior watch officer, then control the conference that gets all these folks on the phone.

FAA tried to be included in that conference and we had difficulty throughout the morning getting them in the conference. That hampered information flow to some degree.

MR. LEHMAN: Why didn't somebody just pick up their cell phone and call them?

ADM. LEIDIG: Yes, sir, we did open a separate line to them. But the conference is on a special phone circuit and it's classified to be able to pass information, relay information between very senior leadership all the way over to the White House. And in some cases the president can be included in these conferences --

MR. LEHMAN: But how long was FAA out of connectivity to this conferencing?

ADM. LEIDIG: Sir, I couldn't tell you. I don't know how long. I know that they were intermittently in. Most of the time they were not in the conference.

MR. LEHMAN: They were not in. And do you think that interfered with NORAD learning about 93, which was a pretty critical failure of the day?

ADM. LEIDIG: I can't speak to that specific flight, sir, but I can say that it did hamper information flow because we were getting information in a more roundabout way from FAA. Sometimes it would come from a local commander to NORAD back to us, or sometimes it would come on an open line. We were trying to maintain just an open telephone line to the operations center.

MR. LEHMAN: Wouldn't it have been better to have FAA communicating directly with FAA and with NMCC monitoring if they could, but not being the focal point?

ADM. LEIDIG: I'm not sure I understand your question. Could you say it one more time, sir?

MR. LEHMAN: Well, if the commander of NORAD had picked up the phone and set up a line, secure or insecure, with the head of FAA, or whoever had the op-con at FAA, it seems to me that things would have worked a lot better than had everybody had to hook into this teleconference. Was it a teleconference or a voice conference?

ADM. LEIDIG: It's a voice conference, sir.

MR. LEHMAN: Voice conference.

ADM. LEIDIG: Yes, sir.

MR. LEHMAN: Voice conference. So, in drawing it up --

ADM. LEIDIG: I don't know if I can speak for NORAD, but I can say that the conference, as set up, includes a combatant commander and other entities. And so they're all on a conference. Whether it's controlled elsewhere or not, I don't know if that would have helped information flow. But if FAA had been in the same conference that was being directed by the

National Military Command Center, the information flow would have went directly to NORAD because they're in that conference.

MR. LEHMAN: Do you think the insistence on having a secure line as opposed to an open line, which is what FAA's excuse is, was the main problem? And, if so, why was it necessary?

ADM. LEIDIG: I know some changes have been made in the Command Center. I apologize; I've been gone from the Joint Staff for over a year now and I'm not familiar with the upgrades. I understand on that day that there were some compatibility issues between their secure phone and ours in the Command Center that caused them to drop out of the conference. But I'm not aware of the technical aspects of it.

MR. LEHMAN: General Eberhart, did you find that the set-up that was quickly put together, going through the NMCC, a help or a hindrance, in retrospect?

GEN. EBERHART: Sir, in retrospect, I think it was a help, because you have to have all these different players with all these different interests and responsibilities and authorities on the conference at the same time.

Because of just what you said, today we have all sorts of alternate paths to the FAA at the tactical and the operational and the strategic levels. I don't think, had FAA been up at that time, that we would have gotten any different information, because I don't think that the sectors, the FAA regions, had up-channeled this to the headquarters. And that's who we're trying to when we talk to.

And remember, on Flight 93, they didn't know where 93 was. And so when you see the line on the chart that reflects 93, we postulate that based on the last radar contact and where it crashed, sadly. So they didn't have the radar track, so therefore they couldn't tell us where it was.

MR. LEHMAN: Captain, were you satisfied with the connectivity you had with the White House, with the vice president, and through him to the president, or directly, say, to Air Force One?

ADM. LEIDIG: Sir, we were connected to the White House and I was satisfied with the communications to the White House.

MR. LEHMAN: Do you have any personal lessons learned? You're no longer there, but you certainly went through one of the most frantic crises as to those arrangements.

ADM. LEIDIG: Sir, the most significant lesson -- and I think you've kind of zeroed in on it -- was the communications capabilities and the ability to bring leadership at the important organizations together to make a decision in a timely manner. We were hampered that day by communications. And any improvements in that area would be significant.

MR. LEHMAN: Yeah, I think also we all know that there are always communications glitches, and there have got to be work-arounds. I mean, the fact was that FAA Headquarters did know about 93 very early on, from 9:34 on. And if somebody had just picked up the phone to keep the connectivity open, it could have made a difference.

Thank you.

MR. KEAN: Commissioner Roemer.

MR. ROEMER: Thank you, Mr. Chairman. Captain, just a brief follow-up to Commissioner Lehman's last question. He asked you, were you satisfied with your connectivity to the White House and Air Force One. You said you were satisfied with the White House. Were you satisfied with Air Force One? And I think it's been conveyed to you that in our interview with the president, the president said he was very frustrated and troubled with connections and connectivity that day.

ADM. LEIDIG: Sir, I can't speak to the connectivity with Air Force One. I was connected to the White House. And my understanding is Air Force One was in contact with the White House Situation Room. I was not in contact with --

MR. ROEMER: So you have no knowledge of that.

ADM. LEIDIG: No, sir.

MR. LEHMAN: Is there no NMCC protocol to connect directly with Air Force One?

ADM. LEIDIG: Yes, sir, there is a capability to do that. On that day we were connected with the White House.

MR. ROEMER: Why weren't you using that other capability?

ADM. LEIDIG: I don't recall, sir.

MR. ROEMER: General Eberhart, a question about our training posture on the day of 9/11. On page five of our Staff Statement, the FAA says at 8:38 in the morning, "Hi, Boston Center, TMU, we have a problem here. We have a hijacked aircraft headed towards New York and we need you guys to -- we need someone to scramble some F-16s or something up there. Help us out." NEADS says, "Is this real world or an exercise?"

My question is, you were postured for an exercise against the former Soviet Union. Did that help or hurt? Did that help in terms of were more people prepared? Did you have more people ready? Were more fighters fueled with more fuel? Or did this hurt in terms of people thinking, "No, there's no possibility that this is real world; we're engaged in an exercise," and delay things? Or did it have both impacts?

GEN. EBERHART: Sir, my belief is that it helped because of the manning, because of the focus, because the crews -- they have to be airborne in 15 minutes. And that morning, because of the exercise, they were airborne in six or eight minutes. And so I believe that focus helped.

The situation that you're referring to, I think, at most cost us 30 seconds -- 30 seconds.

MR. ROEMER: That's what we have recorded. I just wondered if there was more of that down the line.

GEN. EBERHART: No, it became painfully clear, Commissioner, that this was not an exercise.

MR. ROEMER: Thank you, Mr. Chairman.

MR. KEAN: Our last questioner for this panel will be Commissioner Ben-Veniste.

MR. BEN-VENISTE: Yes. I'd like to first relay information again from our staff report and so that there is clarity in the record. It is our information that FAA tracked Flight 93 from the moment it was hijacked. The problem was that it did not communicate the hijack information to NORAD so that NORAD was in position, with unarmed planes, over Washington and the Capitol at some point.

MR. ARNOLD: Armed.

MR. BEN-VENISTE: First unarmed and then armed.

MR. ARNOLD: First armed -- first armed.

MR. BEN-VENISTE: And then the Andrews planes were unarmed.

MR. ARNOLD: Thirty minutes later.

MR. BEN-VENISTE: Okay. So the point is that, whether or not - well, because the shoot-down order had not been communicated, whether or not those planes could have been -- that plane could have been intercepted and shot down was a matter of speculation within our staff report.

So with agreement on that --

MR. ARNOLD: Sir, I believe there's a time there where FAA lost radar contact with this airplane. And that's what I believe I remember, so we'll have to check the record.

MR. BEN-VENISTE: The information we have is they lost it briefly around Pittsburgh and they picked it back up again. So let me move to another question to try --

MR. ARNOLD: This one question has come up repeatedly, and I think it needs to be put in proper perspective. I'm not trying to defend Colonel Marr, but I think you need to understand that these aircraft that were airborne over Washington D.C. at that particular time were not, as we call it, paired. They were not directed at an aircraft at that particular time.

And the way we train with peacetime rules of engagement, the way we train is we pass along the authorities when they're required. So we'd require them to go out and intercept that airplane, not to shoot that airplane down but to try to divert that aircraft away from Washington D.C. And then, with the authorities that we had or would have had from the president at that particular time, when the time was pertinent, we would have said, "You're cleared to fire."

And that is the way we train. That's what the pilots would have expected. And so I don't find anything wrong with what Colonel Marr did. In fact, I think what General Eberhart stated was we were more concerned about shooting down an airplane. We had a lot of airplanes flying at that particular time.

MR. BEN-VENISTE: I would not in any way, shape or form seek to minimize the concern about shooting down an unarmed plane that posed no threat to the Capitol of the United States. My only point there was to clarify the record with respect to the time at which FAA had the plane, knowing it was hijacked.

The issue which we have repeatedly come back to is the disconnect between the fact that this plane was hijacked, that FAA knew it but did not communicate that information to NORAD. That problem was exacerbated by the fact that in our prior hearings and through prior public statements, there was a suggestion that NORAD was positioned in a knowing way with respect to both Flight 77 and 93.

Now, I want to turn to one other area where there has been some misconception. And perhaps I can start with Admiral Leidig. In this regard, you were a participant on the Air Threat Conference Call.

ADM. LEIDIG: Yes, sir.

MR. BEN-VENISTE: And do you recall at some point -- we have it at 10:37 -- that the vice president of the United States reported on that call that there was an anonymous threat against Air Force One, using the then-code name Angel, that it was to be the next target? Do you recall that, sir?

ADM. LEIDIG: Sir, I think that occurred right after I was relieved on the watch by General Winfield. Right after we resolved what was going on with United 93, around that time General Winfield took over. So I'm familiar because I've looked at the transcript, but I wasn't on the conference at that time.

MR. BEN-VENISTE: Now, let me ask General Eberhart and General Arnold whether that information was communicated to you in any real-time basis.

GEN. EBERHART: No, sir, not to me.

MR. BEN-VENISTE: The information, according to the staff, that that was another phantom report, that there was no anonymous call, there was no use of the code name Angel for Air Force One or a statement that Air Force One was to be next, and yet that mythology was perpetuated for some weeks, if not months, thereafter. And as we know, those things, it's hard for them to go away.

So to the best of your knowledge here, do you have any information which would suggest that there was a threat received on September 11th against Air Force One?

GEN. EBERHART: I was not aware of it that day nor this day, Mr. Commissioner.

MR. ARNOLD: Nor was I.

MR. BEN-VENISTE: Thank you, Mr. Chairman.

MR. KEAN: That concludes our questions for this panel. I want to thank you all very much for your service and for taking your time to be with us today.

END.

**PANEL III, DAY II OF THE TWELFTH PUBLIC HEARING OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES
CHAired BY: THOMAS KEAN, CHAIRMAN
SUBJECT: FEDERAL AVIATION ADMINISTRATION (FAA) RESPONSE ON 9/11**

WITNESSES: MONTE BELGER, FORMER ACTING DEPUTY ADMINISTRATOR, FAA; JEFF GRIFFITH, FORMER DEPUTY DIRECTOR, AIR TRAFFIC CONTROL, FAA; JOHN WHITE, FORMER FACILITY MANAGER, AIR TRAFFIC CONTROL SYSTEMS COMMAND CENTER, FAA BENEDICT SLINEY, OPERATIONS MANAGER, NEW YORK TERMINAL RADAR APPROACH CONTROL, FAA

MR. KEAN: The Commission now welcomes our second panel of the day which will focus on the Federal Aviation Administration's response to 9/11. Joining us Mr. Monte Belger, Former Acting Deputy Administrator of the FAA; Mr. Jeff Griffith, Former Deputy Director of Air Traffic Control for the FAA; Mr. John White, Former Facility Manager of the FAA Air Traffic Control System Command Center in Herndon, Virginia; and Mr. Benedict Sliney, the Former Operations Manager of the same Air Traffic Control System Command Center in Herndon, and the current Operations Manager of the FAA's New York Terminal Radar Approach Control.

Will you please raise your right hands while I place you under oath. Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?

(Panel answers affirmatively.)

MR. KEAN: Thank you. All written statements are going to be entered into the record in full. Mr. Belger, you can start by summarizing your remarks.

MR. BELGER: Yes, sir, very briefly, if I could. And I will be very brief.

You've introduced the four of us, and we will do our best to try to put in perspective our thoughts about the FAA's performance on 9/11. As you said, September 11, I was the Acting Deputy Administrator of the FAA. I was on duty that day in my office, and was obviously very much involved on that day.

Let me make just a couple remarks, if I could, kind of tailored to this morning's discussion. Before September 11, 2001, the FAA and the FBI were the key federal agencies in the management of historical hijackings in the United States. Procedures, protocols, the communication links were in place to manage a more traditional hijacking type of scenario. Roles and responsibilities were pretty much defined by law and by memorandums of agreement between FAA, the FBI, and the Department of Defense.

At that time, FAA's primary communication channel with the military was through the National Military Command Center, and we've heard that discussed this morning, and I think that's been validated that that is, and was, at that time, our primary communication point. And the National Military Command Center in a hijack scenario had the responsibility to coordinate DOD's response to requests from the FAA or the FBI. The FAA at that time did not have direct dedicated communication links with NORAD. The NMCC was the coordination authority between the FAA and DOD organizations.

I think it's important in the discussions about what information FAA passed to NORAD that it's important to understand that the NMCC was the primary communications point in the military with the FAA in terms of the hijack net in the FAA Headquarters.

On the morning of 9/11, it became clear that the historical procedures, the protocols, and the communication links were not adequate. The FAA and other agencies were reacting to a scenario that had not been practiced or modeled. Decision-makers, including myself, were reacting quickly and, in my opinion professionally, but in an untested environment. I think the staff's description of improvisation is accurate, and I

absolutely take no exception to that. We were, in my view, in a reaction mode in an environment in which we had not been in before.

Throughout the morning, our FAA focus, in my belief, was on our primary traffic mission, which was the safe operation of the air traffic control system. FAA facilities in New York, Boston, and the Air Traffic Control Command Center, stopped all arrivals and departures in certain regions and at various airports. At 9:45 a.m., when the order was given to land all aircraft immediately at the closest airport, over 4,500 aircraft were in the system.

Our focus at that time was to safely land those hundreds of thousands of passengers. By 12:16, for the first time in the history of the FAA, the U.S. air space was empty of all aircraft except for military and essential emergency flights. Over 4,500 aircraft, and hundreds of thousands of passengers were safely landed under unique and highly stressful conditions. Roughly one flight every two seconds under those stressful conditions landed throughout the country. FAA controllers, supervisors, pilots, crews, dispatchers, and the automation equipment they used all performed flawlessly.

And when we knew in the FAA Headquarters that all the flights were safely on the ground, our attention then turned later that early afternoon to the process of reopening the air space at some future time. There were enormous decisions and processes that we needed to go through to make sure the aircraft were safe, that the airports were safe. The airports had to recertify their security status and, of course, the airlines had enormous logistical challenges to get back into a schedule operation.

In terms of lessons learned, the most significant improvement in my opinion made after September 11th were establishing direct communication links between FAA facilities and NORAD, direct dedicated communication links, and establishing a 24-hour continuous communication link between the FAA, DOT, and other federal agencies. And you've heard that referenced to earlier this morning.

In my written statement, I listed numerous other improvements made by the FAA and the Department of Transportation subsequent to September 11. I won't go through all those now in the interest of time. I do want to, as a follow up to I guess the first question that was asked by Commissioner Lehman, one thought that I believe the Commission really ought to think

about in terms of recommendations for the future, as I said in the very beginning, since 9/11, the procedures, and the protocol, and the communication, and the training, awareness have changed since 9/11. I think the extensive steps that have been taken by the FAA to better integrate the domestic air traffic control system with the air defense system of the United States will ensure a quicker, more reliable response capability.

But I'm not as certain that the decision-making procedures are well established between the FAA, the DOD, the FBI and now the new player in the game, the Transportation Security Administration. And let me, if I could, very briefly just explain that concern which, quite frankly, I hope is not real, but I must tell you I think it is something you should focus on. Prior to 9/11, the procedures for managing a traditional hijacked aircraft, as I said, were in place and pretty well tested. The FAA and the FBI were the primary agencies. But, in today's world, these procedures have obviously changed. When TSA was created, it took over decision authority that was previously the responsibility of the FAA Administrator. DOD clearly has a more dominant role in today's world, and the FAA Air Traffic organization has much more responsibility. And I believe, I would suggest that your Commission strongly look at the suggestion to encourage those agencies to test the procedures, to make sure that the protocols in the agreements are consistent with existing law, so that should, God forbid, we have another incident, there's absolutely no hesitation in terms of who is in charge, because the world is different today than it was on September 11th.

Thank you very much, and we'll do our best to answer your questions.

MR. KEAN: Thank you.

Any other members have any statements they would like to make before we start the questioning?

All right then. The questioning will start with Commissioner Gorelick.

MS. GORELICK: Thank you, Mr. Chairman.

First of all, I would note, given the panel that we've just had, it's my observation that the government of the United States left the job of defending the American people from the scenario that played out on September 11th to the FAA, which is

an unfair burden to have placed on an agency whose job description is almost entirely not the situation it faced. And so, I want to thank the men and women of the FAA for the hard work that they did in excruciating circumstances. Certainly there were flaws, and we will explore them, but I am quite uncomfortable if we leave the impression that all of this would have been fine if you all had just done your job, because I personally don't believe that. I think there is plenty of fault to go around, if that's what we're doing, and I hope that's not what we're doing.

One of the ways that the government might have been better positioned as a whole, and the FAA better positioned in particular, would be if you had gotten some sense at a very high level of the threat. And I want to review that with Mr. Belger. During the summer of 2001 you've told us that you had no knowledge of the heightened threat, I think that was a quote. You said that the threat assessments that the FAA got were not reflective of an unusual or inordinate anxiety level. Am I correct in both of those, Mr. Belger?

MR. BELGER: That's correct.

MS. GORELICK: And you got no notice of anything of the sort that was in the August 6th presidential daily briefs, is that correct?

MR. BELGER: That's correct.

MS. GORELICK: Now, General Canavan is telling us that he was called to a meeting at the White House in the beginning of July, a meeting with the counterterrorist security group at which threat information was shared, and the FAA undertook then to put out -- to alert, to make some alerts. We've gone back and looked at those alerts. Are you aware that the FAA sent out nothing until July 24th? Have you gone back and looked at what the FAA actually did?

MR. BELGER: I have looked at all of the information circulars that were put out, actually, that summer and the previous summer.

MS. GORELICK: After General Canavan is called to the White House, just to cut through it, there were no additional security directives of any relevance, and the security directives, am I correct, are the things that would have allowed you to raise the

level of security alert, and change the actual operational and security baseline, is that correct?

MR. BELGER: That's correct, there were two types of information that was generally given to the industry. One was called a circular, which was just information, and secondly, as you are correct, a directive, which would have directed the airlines and the airports to do something different.

MS. GORELICK: And no such direction ever took place?

MR. BELGER: That's correct.

MS. GORELICK: And then there were information circulars that went out at various times, but they did not really put anyone on alert to anything remotely like the scenario that we had, and even then were full of caveats saying things like, we don't have credible information regarding any plans attacking U.S. civilian aviation, is that right?

MR. BELGER: That's correct.

MS. GORELICK: So as a practical matter, nothing that emanated from the FAA would have alerted people at any position of responsibility, whether it's at an airline check in counter, or a screener, or an airline in general, to do something that meaningfully might have stopped this plot, is that right?

MR. BELGER: That is correct, if I could just add to that very briefly. You're right. We did not -- the FAA did not put out any directives that summer requiring the airlines or the airports to do anything, other than what was at that time the ordinary. But, I must add to that answer that the airlines and the airports were already at a very heightened level in terms of the security procedures that were in place.

MS. GORELICK: But, there were additional levels in your toolbox that were not exercised that were not exercised, is that correct?

MR. BELGER: That is correct.

MS. GORELICK: Now I'm going to ask you a hypothetical question, and you can answer it any way you wish, but if you, Monty Belger, or your boss Jane Garvey, or her boss, Secretary Mineta, had been called to the White House and alerted to what we now know were the kinds of frightening intelligence coming

out in the so-called summer of threat, do you think you might have taken a different set of steps, might you have changed the actual security baseline that the airlines were holding themselves to at that point in time?

MR. BELGER: In the context of a hypothetical question, I'll answer it. I don't know exactly what General Canavan was told, or heard at that meeting, but the FAA's history is pretty clear that we were never reluctant to put out security directives if there was information upon which we could base those directives. So my answer to your question is, if I had known, if administrator Garvey had known, if the folks in the Secretary's office had known of any potential threat in which we could have put some procedures in place to alleviate, we would have done that.

MS. GORELICK: Now, we know that we in the federal government did not have specifics, so-called actionable intelligence in that so and so is going to hijack a plane on such and such a day, or even that what we were hearing about was something that was related to a domestic hijacking. But, the government as a whole, and certainly our intelligence community was, to use the phrase, running around with their hair on fire. People were very anxious. And I guess what I'm asking is, given that level of anxiety, given the chatter, given what I think Dr. Rice described the government as being at battle stations. My question to you is, were you at battle stations, and if, given the heightened threat, but the lack of specificity, would you have done something different, if you personally had been alerted, or your boss, or your boss' boss had been alerted to this heightened level of threat?

MR. BELGER: Well, there are two parts to that question, which I'll answer separately. First of all, as I said to the staff, during that summer period, I saw no intelligence, nor did our security folks tell me anything that would lead us to direct the airlines and the airports to do anything other than what they were doing. So if you use that phrase, heightened level of security, I don't think the FAA saw the need to do that. Secondly, though, if, as I said earlier, if we had any information that there was a potential threat that we could react to, we would have.

MS. GORELICK: Well, that's almost tautological, if you knew of a threat you would have reacted to it. You're saying that the -- I don't want to put words in your mouth, but you're saying that had you personally known of the general heightened level of

threat, you would or would not have taken additional steps to that which were taken?

MR. BELGER: Again, I think that's a little bit hypothetical, so I'm not sure just what that heightened level of threat information is that people were talking about. What I will say very clearly is, if information had been given to me, or the administrator, I have no doubt about that, that was directly related to aviation security, and there was something we could have done to put in new procedures, different procedures to react to that, we would have, without hesitation.

MS. GORELICK: I'm going to -- let me just follow that up. We know that half of the hijackers were stopped, because they came up in screening on CAPS. Yet, the only thing that was done related to their checked bags. If we were -- I might imagine that in a very heightened state of alert you would say, well, the consequence of being stopped is that you actually are screened, your hand bag is screened, for example. Now, if you had thought -- I mean, you have said to us you didn't know anything about this if you or your boss, or your boss' boss had known about the heightened level of threat, would you have considered directing the airlines to have a different set of procedures, a heightened level of procedures?

MR. BELGER: We would have considered it, and in fact, we did implement that after 9/11.

MS. GORELICK: Thank you.

My colleague, Senator Gorton, will have some additional questions. We've kind of divided up the territory here on the day of 9/11. But, I'm particularly interested in one thing. At 9:16 the tapes reveal that a manager from the Boston center asked the command center to issue a -- on the day of 9/11, issue a nationwide cockpit security alert, which Boston had done. Which meant, as I understand it, you told everybody, lock your cockpit doors, or beware of someone trying to enter the cockpit. But, such an alert was not issued, and a quarter of an hour later the cockpit in United 93 was breached. Can you explain that decision. Can any of you explain that decision?

MR. BELGER: Mr. White was the senior person at the command center, he might be best able to do that.

MR. WHITE: I wasn't aware of that request.

MS. GORELICK: Your mike.

MR. WHITE: I wasn't aware of that request, this is the first time I've heard of it, today. I wasn't in a position that day to have heard that request. I have always been under the assumption that we did issue a verbal warning to the air carriers about cockpit security. I don't know if we even made a decision, or if there was ever a determination made why we shouldn't send an advisory out. I'm not aware.

MS. GORELICK: All right. We will ask -- does anyone else on this panel have any relevant information on that? We'll follow up privately, then, thank you on that.

The protocol, as I understand it, for hijackings, was to -- on the day of 9/11, was to allow the hijacking to go forward, essentially not to resist, and to let it go forward, and deal with the consequences once the plane landed, on the assumption that that's what the hijackers were going to do. And it struck me that -- what struck a lot of people that that protocol did not reflect the kind of intelligence we have about what al Qaeda and other terrorists might be planning. Was there any effort made on the part of the leadership of the FAA to look at that protocol and test it against the kind of intelligence that you were getting about the threats to our aviation system?

MR. BELGER: The short answer is no. You are right that prior to 9/11 the protocol was get the airplane on the ground and start a negotiation with the hijacker -- make sure the airplane is on the ground safely and start a negotiation process. That worked throughout the years prior to 9/11.

I'm not aware of any particular scenarios or exercise that we went through to test that protocol against the type of intelligence that you talked about which, quite frankly as I said before, wasn't getting to the FAA.

MS. GORELICK: So, one can note that that protocol was changed by the passengers and the crew of United 93. They threw that protocol out the window in real time.

MR. BELGER: Yes.

MS. GORELICK: Our Staff Statement reflects a very long, 39-minute gap in between when the FAA became aware of the United 93 as a hijacking and when the military was notified at 10:07, which was of course after they impact into the Pentagon. And I

want to give you all an opportunity to explain why that occurred -- I'm sorry, not impacted the Pentagon --

MR. BELGER: Well --

MS. GORELICK: -- impact into the ground in Pennsylvania.

MR. BELGER: Right. The most frustrating after-the-fact scenario for me to understand is to explain is the communication link on that morning between the FAA operations center and the NMCC. That's still frustrating for me to understand how that -- I know how it's supposed to work, but I have to tell you it's still a little frustrating for me to understand how it actually did work on that day. It is clear I think in the record that at 9:20 the FAA operations center did call the National Military Command Center and add them into the hijacking net. The hijacking net is an open communication net run by the FAA hijack coordinator, who is a senior person from the FAA security organization, for the purpose of getting the affected federal agencies together to hear information at the same time. That's the purpose of the hijack net. There are other nets off of that, which some are classified and some are real technical command type of discussions. But the fundamental primary source of information between the FAA, DOD, FBI, Secret Service, and which every other agencies -- the airlines would probably be on that net -- is the FAA hijack net. That was activated with the NMCC at 9:20. It was my assumption that morning, as it had been for my 30 years of experience with the FAA, that the NMCC was on that net and hearing everything real-time.

MS. GORELICK: Did you do anything to ensure that your assumption, a costly one, was correct?

MR. BELGER: No. I did as I was -- I was real busy that morning. I did not ask specifically is the NMCC on. And I can tell you I've lived through dozens of hijackings in my 30-year FAA career, as a very low entry-level inspector up through to the headquarters, and they were always there. They were always on the net, and were always listening in with everybody else.

MS. GORELICK: At some point, however, in the course of that call you became aware that the military was not involved in any meaningful way. Is that correct? We heard some rather colorful language came from your mouth at that point.

MR. BELGER: I don't doubt that. Yeah, I mean later in the morning, as I had time to not just react to everything and

think, I believe I did ask, you know, Are they on? -- and make sure.

MS. GORELICK: And when you found out that they weren't?

MR. BELGER: No, I wasn't very happy.

MS. GORELICK: I guess I'll leave this to my colleague, Senator Gorton.

MR. KEAN: Senator Gorton?

MR. GORTON: Mr. Belger, I want to go back to one of Commissioner Gorelick's subjects. You very clearly describe the protocol with respect to hijacking that was in effect on 9/11. But we have a rather troubling note from the staff that I will share with you and ask you to comment on. Most managers at FAA headquarters have little or no recollection of the protocols in place on 9/11 with respect to their roles and responsibilities on a hijacking. With the exception of a few individuals from the Security Division, there appear to be little or no training at FAA headquarters or Command Center regarding hijacking procedures. Indeed, when asked to identify who the hijack coordinator was on 9/11, it was difficult to find two witnesses who identified the same individual. At the Command Center, no one could remember any training or exercises regarding the role that the center would play in a hijacking. Is that a fair statement?

MR. BELGER: Well, from my perspective there is no doubt in my mind that the FAA security organization knew what to do. There is no doubt in my mind that the air traffic organization knew what to do. They are the two key players in that type of scenario. I think Mr. Griffith was the senior air traffic person in the headquarters. He probably has more direct knowledge of what the air traffic people knew than I did, and maybe he could answer that.

MR. GORTON: Fine.

MR. GRIFFITH: Thank you. As Mr. Belger stated, from my point of view I'm absolutely sure that our field managers know -- knew on 9/11 what to do in the event of a hijacking. The procedures are very cleared. The procedures are trained as a matter of refresher training in our operational facilities every year, and it surprises me to hear that someone would think that our field managers would not know what to do in the event of a hijacking.

There are protocols, there are check lists, there are folders that are kept in operational positions where people have responsibility for reporting. And through the years -- not only for hijackings, but aircraft accidents and other incidents -- reporting is a very high priority. So it surprises me that people would think our managers didn't know how to report.

MR. GORTON: Well, Mr. Sliney, you were at the Command Center. As a matter of fact, you were in your job -- it was your first day on this particular job. In your statement, "At the Command Center no one could remember any training or exercises regarding the role the Command Center would play in a hijacking" -- correct?

MR. SLINEY: I don't believe it's correct, no. I believe that the FAA or the Command Center personnel understood that the protocol was in place that the center that reported the hijacking would notify the military. And I believe we have already outlined -- or Mr. Belger has already outlined that the usual practices of handling hijacks -- I go back to 1964, where I began my air traffic career, and they have always followed the same protocol. So I think that Command Center personnel were at least in tune to that aspect of the protocol. Now, whether they're aware of a specific protocol that involved NMCC, that I do not know. I could say I did not know.

MR. GORTON: Mr. Belger, how promptly after 9/11 was the hijacking protocol revised?

MR. BELGER: The next morning I asked for several things to be done. One was a complete review of the performance of our operations center, and then I asked a senior air traffic person from the field to come in and help me with that process in the air traffic organization. That process began immediately.

The things that we did most quickly were to put in direct communication capability -- at that time we didn't have the sophisticated capability we have today -- but direct communication capability between our field centers and NORAD, with the instructions to call NORAD immediately, as Mr. Sliney said. We put in the 24-hour communication net, which is still operational today, where the federal agencies are hearing real-time what's happening in the air traffic control system. We put out some awareness training for the controllers to make them a little better aware of the slightest deviation of an aircraft from their flight plan, the slightest communication problem, the slightest transponder problem which in the past might have been

handled differently. Those were now and as of the next day were reported immediately to NORAD. Those things were done immediately.

MR. GORTON: I'd like to go beyond that. Every element of your answer relates to how people within FAA and the controllers were to respond. But the previous protocol said to the airlines, to the pilots and to the crews, "Cooperate, get the plane down."

MR. BELGER: Yes.

MR. GORTON: How quickly was any change, if any change indeed was made? How quickly was any change of plan made in that respect?

MR. BELGER: We started talking about that immediately. Secretary Mineta put together a couple of rapid-response teams. One of their recommendations I think dealt with specifically what you're referring to, the training for flight crews. And those procedures were changed. I can't tell you exactly how long that took, but it was -- the process was put in place.

MR. GORTON: Is that protocol -- are those instructions to the airlines a matter of public knowledge now, or is this something that is simply regulated between FAA, TSA and the airlines themselves?

MR. BELGER: I don't know how public that is, to be honest with you. I've been gone for almost two years, and I honestly don't know.

MR. GORTON: Okay. Mr. Sliney, you're the only one that's still there. This isn't your direct responsibility, but do you know the answer to that question?

MR. SLINEY: I do not.

MR. GORTON: Okay. Let me go on to you, Mr. Sliney, with a few questions. When you on your first day on the job made two decisions on 9/11, that at one level at least weren't yours to make, did you not? First, that no one should take off; and, second, we should take all civilian aircraft out of the air. Is that not correct?

MR. SLINEY: That is correct.

MR. GORTON: And would you describe how you came to that decision and why you felt it imperative enough to make that decision without going through the usual command structure?

MR. SLINEY: I believed I had the authority to do those things on that day. I was charged with the safe and efficient operation of the national airspace system. The ground stop -- the national ground stop was, one, a matter of scope, not of unfamiliarity with the remedy, but a matter of scope. And had -- since we had already put in place ground stops that covered Boston, New York, and essentially the East Coast, and those -- we still had more reports of aircraft whose course or altitude or other aspects of their flight made them suspicious in light of the crashes. The national ground stop was just a natural extension of the smaller scope ground stops.

As to the order to land, that was the product of the men and women in the Command Center who gave me advice on that day, the supervisors and the specialists. We were searching for something more to do, and that was made and decided on, and the impetus for that of course was the crash into the Pentagon when we gave that order.

MR. GORTON: Was your career in the FAA either enhanced or hurt in any way by making those decisions as promptly as you did?

MR. SLINEY: I would say in neither respect, sir.

MR. GORTON: On 9/11, the Command Center effectively was the nerve center for information on suspicious aircraft. Yet as I understand it the Command Center had no defined role with respect to obtaining military assistance, fighter assistance. Is that correct? And, if so, why weren't those authorities combined?

MR. SLINEY: Available to us at the Command Center of course is the military cell, which was our liaison with the military services. They were present at all of the events that occurred on 9/11.

The normal protocols for the events that were transpiring then -- that is to say hijacked aircraft, which requires a notification to NORAD -- those, at least I was given to understand, were made promptly -- the notifications on each hijack. The --

MR. GORTON: You understood that they were made promptly?

MR. SLINEY: That's correct.

MR. GORTON: It wasn't you -- it wasn't your responsibility to do so?

MR. SLINEY: That is correct. I believe I am correct in stating that that responsibility devolves upon the air route traffic control center in whose jurisdiction that hijack occurs. I was given to understand that all such notifications were made. I had no reason to believe they were not.

The -- I'm getting away from your question, though. You ask me if we had a procedure in place to deal with such an event -- is that what you're asking?

MR. GORTON: At the Command Center.

MR. SLINEY: With -- well, I just want to be clear on this aspect of it. Dealing with aircraft that would be hijacked and used as weapons?

MR. GORTON: No.

MR. SLINEY: No. Dealing with hijacked --

MR. GORTON: Dealing with direct notification to the military or request for assistance from the military.

MR. SLINEY: In direct response to your question was FAA headquarters primarily through the security organization to request assistance from the military. We had no process in place where a Command Center would make such a request for a military assistance. I believe the military was involved, and you know I suppose in hindsight it's too simplistic to say that they all look alike to me. If you tell the military you've told the military. They have their own communication web that I think defeated some of the notification processes, as I've been listening to today. But in my mind everyone who needed to be notified about the events transpiring was notified, including the military.

MR. GORTON: By the Command Center?

MR. SLINEY: Correct.

MR. BELGER: Senator, can I just respond?

MR. GORTON: Yes, you certainly can.

MR. BELGER: Just in direct response to your question, the protocol on that day -- the official protocol on that day was for the FAA headquarters, primarily through the hijack coordinator, who is a senior person in the security organization, to request assistance from the NMCC if there was a need for DOD assistance. I mean, that was the formal protocol that day.

MR. GORTON: It wasn't the formal protocol for Mr. Sliney to have gotten headquarters permission before he put in these ground stops?

MR. BELGER: I don't agree with that personally. I think -- I agree with Mr. Sliney completely. I think they had the authority to make that decision. I think they made the right call.

MR. GORTON: No question about that.

MR. BELGER: They make those -- not into scope obviously -- but they make ground-stop type decisions on a daily basis. And I think the folks there, the folks in Boston, the folks in the facilities -- and frankly at the same time that the people in the Department of Transportation were coming to that same conclusion, at the same time they all made the right decision.

MR. GORTON: So no one criticized Mr. Sliney for having made it without getting permission from headquarters?

MR. BELGER: I never criticized him. Absolutely not. To the contrary.

MR. GORTON: That's not quite the answer to my question. Do you know whether anyone else did?

MR. BELGER: I don't know.

MR. GORTON: Mr. Sliney?

MR. SLINEY: I only -- I was not criticized directly by anyone for making that decision at all. I say that unequivocally. I could say I heard anecdotal information that someone was surprised that we had made that decision, but that was the

extent of it. No one has criticized me directly for doing either of those -- making either of those decisions.

MR. GORTON: Well, that's probably as much as we are going to get out of you on that one, so we'll let it go.

Mr. Sliney, I am told that your -- what is your present assignment?

MR. SLINEY: Presently I'm an operations manager at the New York terminal radar approach control. It's involved with the actual operation of the airports in the New York area. There's 20-odd airports, the major ones included.

MR. GORTON: So you're up in New York now?

MR. SLINEY: Correct.

MR. GORTON: I'm told that very recently, within the last two or three weeks, there was some kind of incident or occurrence there which would have involved a notice to the military. I don't really know any more about it than that, but I hope I've given you enough to ask you to describe what that incident was.

MR. SLINEY: The -- I think the incident highlights the need to develop the lines of communication between the operational elements and the military or the people who are going to make the decisions whether or not to scramble.

MR. GORTON: That's -- after almost three years, that's a pretty profound statement. So would you go -- proceed?

MR. SLINEY: On the day in question there was a -- and, by the way, you now have 16,000 pairs of eyes and ears -- the air traffic controller in this country that are extremely alert, in my view, to anything that is unusual in terms of course deviation, or any unusual flight at all is reported to the next level of authority. In this case I'm the second level of authority in the operation of the terminal radar approach control. And frequently the young men and women there report to me events that they deem to be suspicious, based on the events of 9/11, of course. And in this particular incident an aircraft was -- an unidentified aircraft at 16,000 feet approaching New York City from the northwest at a pretty moderate ground speed of 300 knots, when no one was working, and we did not know who the aircraft was. We reported immediately to FAA -- excuse me, the Air Route Traffic Control Center, who reported immediately

to NORAD. NORAD later in the episode, within a few minutes, asked me if I were requesting a military intervention. And I indicated to NORAD that I'm advising you of the facts of this particular incident -- I'm not requesting anything. I wasn't sure I even had the authority to request such a thing. And when the lady persisted at NORAD, I asked her if I could call her back, and I went to the domestic event net, which is available to all facilities, and most of the major facilities are on it, and I queried NORAD and the FAA headquarters as to whether or not I had such authority to ask for intervention by the military or scramble on this particular aircraft. And they did agree that I had such authority, after discussion on the virtues of collaboration. However, I indicated further, when I agreed that we should collaborate in such decisions, but if time did not permit it, did I have that authority. I persisted in that, and they said that I did. I did not know that prior to that moment in time.

MR. GORTON: Now, how long while that aircraft was going at 300 knots did this set of conversations take?

MR. SLINEY: This took several minutes, and it was -- at the point in which I finally received the answer, the aircraft was southeast of Manhattan and traveling east along the coastline. It turns out, through the remarkable radar that TSA possesses -- or the Customs people, excuse me, they have the best radar -- they indicated that they tracked that backwards to its point of departure, and we identified the aircraft as a photo mission of some civilian nature that was not coordinated with us. But definitely an aircraft that was suspicious.

But the point of the whole thing was that I don't believe the lines of communication are as clear as they should be devolving from the decision-making process down to the operational level where you have those 15--or 16,000 sets of eyes and ears that are fine attuned to the events that occurred on 9/11.

MR. GORTON: It would be hard to disagree with you, Mr. Sliney. Thank you, Mr. Chairman.

MR. KEAN: Thank you, Senator. I just had one question, I guess, on the transponder. As I understand it, and forgive me, because I don't know much technologically about anything, but the transponder can get turned off. At that point, at least temporarily, the aircraft disappears and you have to put it back to that -- just follow me and tell me if I'm right -- then you have to find it again on radar, but there are stretches of the

country where radar doesn't cover, as there was with one of these flights, and the aircraft then totally disappears for a while. Is that correct?

MR. SLINEY: Not to my understanding, and particularly not in the Northeast, where radar coverage is extensive. But I believe the altitude of the aircraft would affect our ability to track the primary or radar target. The transponder enhances that. If the transponder is on, you can pretty much follow the target anywhere. But at low altitudes, you would have the terrain and other anomalies of the radar that would prevent you from tracking the aircraft at a low altitude.

MR. KEAN: Well, I'm asking -- one of these - I'm asking this question is one of the aircraft did disappear, and for a period of time --

MR. SLINEY: Disappeared, yes. As I understood --

MR. KEAN: Because of the altitude, I guess, because it was flying high, and it was flying in an area where the radar coverage was not the same as it is in the Northeast?

MR. SLINEY: I would be speculating on who had it in radar contact. There are radars that would have seen the target regardless. Would they have known what to be looking for, I do not know. Did Boston Center lose radar control of the aircraft, or lose the target? They could have. Their altitude -- their altitude structure is much higher than the terminal radar approach controls, which probably could have seen it, but would not have had the electronic representation of the data associated with that target at those terminal radar approach controls as the center would have.

MR. KEAN: Well, I'm asking the question -- it did disappear -
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MR. SLINEY: I can talk forever.

MR. KEAN: -- for a period of time? The -- and -- but my main question, I guess, is if -- if the hijacker or somebody -- there's no reason for anybody who's a pilot ever to turn off the transponder. It should be on at all times while the plane is in the air.

MR. SLINEY: That's correct.

MR. KEAN: Why, then, is the transponder put inside the cockpit, in a place where a hijacker can walk in and simply turn it off, and then plane then, at least temporarily, disappears, maybe if it's high and out of radar control it disappears for a lot longer? Would it be -- would it be not sensible to build the transponder in another part of the plane, or outside the plane, or someplace where you wouldn't turn it off until it got down and the pilot or people in the cockpit couldn't do it?

MR. SLINEY: I would have to agree with you. It doesn't -- certainly in hindsight, the ability of the hijackers to shut off the transponder was one factor. I think the biggest factor, at least the biggest anomaly in my mind on that day was I had never experienced a situation where a hijacker could fly the plane.

MR. KEAN: Okay.

MR. BELGER: Commissioner?

MR. KEAN: Yes?

MR. BELGER: If I could, the FAA did look at regulations to require transponders to be equipped such that they could not be turned off in flight. I don't know the status of that because it occurred -- I think the finality occurred after I left, but the FAA did start a rulemaking process to require that.

MR. KEAN: But best as you know, nothing has been done as yet?

MR. BELGER: Well, I just -- I don't know one way or the other. Yeah, I just -- I don't know.

MR. KEAN: Thank you very much. Congressman Roemer.

MR. ROEMER: Thank you, Mr. Chairman.

I'd like to return to Flight 93 for a moment, if I might -- 93 is certainly headed towards Washington, D.C. The speculation between al Qaeda and terrorists from our Staff Statements yesterday are that the likely targets are the United States Capitol or the White House. The FAA finds out that this plane has been hijacked, it's the last of the four. And according to the Staff Statement today, Boston Center, at about 9:16 -- and I think Commissioner Gorelick started to ask this question and asked it, I believe, to Mr. White -- Boston Center strongly suggests or recommends that the warning be given to harden the cockpits, to try to make sure that more of these hijackings

might not be able to take place if you can protect the pilots and protect the plane from being taken over.

I know, Mr. White, you gave an answer to Commissioner Gorelick's question. You were on the phone in a conference call. I'd like to direct the question to Mr. Sliney. Mr. Sliney, you were on the floor, walking around talking to people. What's your firsthand knowledge of how this was handled between 9:16, when Boston Center recommends this, and the 12 critical minutes until 9:28, when 93 is actually taken over?

MR. SLINEY: I can say that I was not made aware of such a request. The -- we had divided the responsibilities in the command center that day between the staff and the operational elements. And my instructions were to concentrate on the operational elements. As such, every individual in the operational aspect of that facility reported to me any event or information that was given to them. That information was not given to me on that day, making a recommendation to increase the security in the cockpit.

MR. ROEMER: So, you never heard any discussion of this potential warning on the floor at all to harden the -- where does it go then, Mr. White, from Boston, who makes this, and we have this in our Staff Statement, to you, and to the floor?

MR. WHITE: I'm not -- as I said before, I wasn't aware of the call. I would be very curious as to who Boston Center called. It would help me more if I knew who they talked to.

MR. ROEMER: We have evidence that they called Ellen King, one of the floor managers.

MR. SLINEY: Well, on that day, if I may be permitted, on that day, that would have gone into my phone, at my desk. I did -- Ellen King took over those duties for me on that day, a very competent individual. Where that went from there, that may have gone out of the facility at that level -- in other words, those functions that the staff were handling, but it did not come to the operational elements. John was in the operational aspect of that facility that day.

MR. ROEMER: So, when did Ellen King take over?

MR. SLINEY: Take over?

MR. ROEMER: You said she --

MR. SLINEY: She -- yes, the -- earlier in the day, the facility manager, who was another individual, indicated that we should split the responsibilities this way, that I would handle the organizational elements, and that she would organize the staff to handle my other duties, which included manning that desk and that telephone. Ellen King was put in that position. I had little or no contact with Ellen King, nor the rest of the staff elements, for the balance of that day.

MR. ROEMER: So, could Ellen King on her own have done one of two things with the information -- not done anything, (A), or (B), tried to task the carriers or the regional centers to directly get the cockpits and the airlines informed that this was a danger out there in the system. We already had three hijacked airliners. Let's at least try to protect those that are still up in the air as we're trying to get them to land.

MR. SLINEY: She's as I indicated, a very competent individual. I would find it hard to believe that she did not pass that information on somewhere. It did not get passed to me as -- on the floor.

MR. ROEMER: But there are two options for her to pass it on, correct?

MR. SLINEY: She could go to headquarters or directly to the airlines. At that point, we're saying 9:16?

MR. ROEMER: Yes.

MR. SLINEY: We had initiated on the floor a conference, communication conference that kept everyone in the nation, as far as I know -- air traffic control nation -- informed of all aspects of the events then transpiring. I was not informed, and I do not know whether that information was given on that net. There was another net, I learned later, that was going on -- it may have been passed on that one. But I think Ellen King would be the one to ask.

MR. ROEMER: I think we've had conversations with her. We certainly wanted to talk to both Mr. White and Mr. Sliney, you know, and following up with the both of you on that as well, and we'll do more follow-up with Ellen King as well. It just seems to me that those 12 critical minutes were a real opportunity to potentially do something about that fourth flight. It was left in the courageous hands of those people to take that flight down.

Thank you.

MR. KEAN: Secretary Lehman.

MR. LEHMAN: Thank you. I'd like to clear up a couple of possible misconceptions here. First, that, Mr. Belger, you were not the acting administrator on 9/11, you were the acting deputy administrator, that Jane Garvey, the administrator, was there at headquarters and was in charge. Is that correct?

MR. BELGER: Yes sir. That is correct.

MR. LEHMAN: And a second misconception I am sure was unintentional by my colleague, Commissioner Gorelick, that if only the White House had cut you in on the intelligence of the threats of hijackings that you would have acted differently. In fact, the White House did ensure that FAA headquarters did get that intelligence, in fact, all of the intelligence that was referred to in the August 6th memorandum. And our staff has verified this, that Mr. Bono, the head of your security and intelligence, had received all of that, and had sent it forward, and that Ms. Garvey's assistant filtered it out. In fact, she didn't even have clearance for it. And that at no time was a request made for direct briefings on these matters in that period leading up to 9/11.

So, I think, in fact, if there's one real unescapable (sic) failure -- and I'm not talking about you personally here -- it is the failure of the performance of the headquarters of FAA that is very identifiable. In our hearings a year ago, we had testimony that the administrator never heard of any of these possibilities, never heard that there were reports that hijackings in the United States, potentially using aircraft as missiles, had been made and were currently being discussed. Never heard that four-inch knives, for instance, could be a threat and kept them permissible. Never heard that the airlines were not conforming to directives to keep cockpit doors locked and other security issues.

And, on the day itself, the testimony of witnesses, and you heard our report this morning, where FAA had what is to me a surprisingly hierarchal and centralized set of protocols where everything had to be cleared upstairs ultimately to headquarters, when it got to headquarters, it seemed to fall into a black hole. And during that day, there was virtually no -- until you made the decision after all of the crashes to lock-down everybody, which was very decisive and very effectively

carried -- up to that point, it was a black hole. There was no notification of multiple hijackings, which witnesses said was because they had reported and asked for it up to headquarters, nothing came out. There was no notification of the military on 93. There was no direct communication with NORAD from headquarters, even though headquarters had centralized the decision-making. The communications with NMCC, which you have said was where the focus of headquarters was, was never established during the critical period. There was never any attention paid to the secure communications because you had STU-2 in -- or the administrator had a STU-2, and NMCC and everybody else had STU-3. It had never been upgraded. Nobody took the common sense provision, since they couldn't get through, to pick up the telephone or go down into the pay phone and call the NMCC while all this was going on.

So, I'm not blaming this on you personally. You were only the acting deputy. But I'd like your view now, since you're no longer there. Can you tell us that these fairly gross shortcomings in the management of the headquarters of FAA have been corrected?

MR. BELGER: Yes, they have. I'd like to expand.

First of all, on that day, just a couple of thoughts in terms of your remarks. As I said before, the National Military Command Center was entered into the hijacking at 9:20 in the morning. That net's there for everybody to listen, real-time, to hear what's going on. So -- I mean, that's just a fact.

Secondly, I don't know about the efforts that the NMCC made to make secure communication calls with the FAA. The FAA has the latest communication capability. I don't know who they called, but our intelligence folks were right there next to the operations center, and they have the latest equipment. So, I'm frustrated by that because I just don't know who they called or what that -- what that specific situation was.

Now, I can tell you that subsequent to 9/11, your specific questions, a great deal of effort was put into improving the communication and the decision-making capability between the FAA and the military, specifically directly to NORAD. I believe it is no longer the FAA's protocol for everything to come to the headquarters and go from the headquarters to NMCC. I think there's a lot more flexibility and accountability and expectation that things will go directly to NORAD now, as Mr. Sliney said.

So, those things have been corrected. There is a -- there are dedicated phone lines from the FAA field facilities to NORAD. There's this 24-hour open communication net so that all the federal agencies -- they've got to listen, they've got to be there -- but it's there for everybody to hear the information at the same time.

MR. LEHMAN: Thank you. I have one last question, not directly related to that day, but to the pattern of toothlessness that came out of our staff investigations that contributed over many years to the laxity in air travel security, for which FAA was responsible. Do you believe that FAA has enough enforcement clout to enforce the safety of flights and against the kinds of threats we have today?

MR. BELGER: Well, I mean, the accurate answer to your question today is that security responsibility was transferred to TSA, so FAA does not have the aviation security responsibility today that it did on September 11th.

MR. LEHMAN: Including aboard the aircraft, aircraft internal security and so forth?

MR. BELGER: Yes sir. The airline security requirements, the airport security requirements, the inspection capability to ensure that those requirements are being met was transferred to the TSA. The FAA retains some of the responsibility to approve training programs and other things that affect the safety of flights, but the security responsibilities were transferred.

MR. LEHMAN: Are you comfortable with -- with that interface now, that nothing is falling between the cracks? Do you think it should stay in TSA?

MR. BELGER: Well, I -- TSA certainly has the capability to meet their mandates. I'll just say what I said in my opening statement. I'm a little bit concerned about the capability in today's very complex world between TSA, DOD, FAA, and the FBI, who's still a player, and I just -- those -- those protocols need to be exercised very, very frequently.

MR. LEHMAN: Thank you. That's a very helpful recommendation, and I appreciate your forthcoming testimony.

MR. BELGER: Thank you.

MR. KEAN: Senator Kerrey.

MR. KERREY: Well, first of all let me say I think this is a situation, very much like Secretary Lehman just said, where at the local level it was -- people responded with great heroism and took action that was appropriate under the circumstances, way beyond what most of us would have been able to do, including being able to get 4,500 airplanes out of the air without a single incident. So, New York, Boston are clearly the ones that we've looked at. You guys did a fabulous job. But I'm with Secretary Lehman, Mr. Belger, and I think headquarters blew it. And I appreciate that Garvey, is the one in responsibility, but as I understand it, she delegated significant authority to you as a 30-year career professional. So, I'm going to turn my attention to you.

If I'm -- if you want to disabuse me of that notion in answering the first question -- the first question is, following up on Senator Gorton, had to do with this conversation that occurred, the teleconference that NMCC initiated. How in God's name could you put somebody on the telephone who joined the call with no familiarity or responsibility for hijack situations, had no access to decision-makers, and had none of the information available to senior FAA officials at that time? What the hell is going on that you would do such a thing? And don't blame that on -- (inaudible) -- who did that? Who put somebody on the phone that was not able to participate, was not able to tell, at a very late date, I must -- time, I must say -- the military what was going on?

MR. BELGER: I don't know. I don't know, as I said, who the NMCC tried to call. What I will say --

MR. KERREY: No, no. Do you -- no, that's not the question. Somebody joined the call, the NMCC call --

MR. BELGER: Who --

MR. KERREY: -- No, an FAA representative joined the call who knew nothing, had no responsibility for hijack situations, had no access to decision-makers, and none of the information available to senior FAA officials.

MR. BELGER: It is my understanding that that was an NMCC call that they are referring to.

MR. KERREY: Yes. But why did you put somebody on the phone that knew nothing?

MR. BELGER: I didn't put anybody on that phone --

MR. KERREY: Well, who did?

MR. BELGER: I don't know. That's what I said, sir.

MR. KERREY: Well --

MR. BELGER: Now, I will tell you, though, let's -- this will be -- this is very, very important, in response to your question -- the NMC -- and this is an assumption on my part, I'll say that right up front, because I said earlier I did not specifically ask this question, one of the millions of questions I wish I would have asked that morning but I didn't -- at 9:20, the NMCC was called. They were added to this open communication net. In my 30 years of history, there was always somebody listening to that net.

MR. KERREY: Well --

MR. BELGER: Real-time information.

MR. KERREY: Let me move --

MR. BELGER: That was the purpose of it.

MR. KERREY: Let me move to my second one, then, Mr. Belger. Now, I'm not going to have very many to get -- I mean, I could -- I've got a long list here that I could do, and I'm not going to get them in five minutes. Let's talk about 93. Wheels up at 8:42. At 9:28, Cleveland confirms a hijack. You know it at 9:34. Now we have this conversation at 9:49, 13 minutes afterwards, where Cleveland initially had said, "Are you going to put planes in the air? And somebody at headquarters should do something about it." They called back. And I presume you've seen the Staff Statement where they replay the conversation.

Command Center, "We want to think about scrambling aircraft." Command Center says -- FAA headquarters says, "Oh, God, I don't know." Command Center, "That's a decision somebody's going to have to make in the next 10 minutes." FAA headquarters, "You know, everybody just left the room."

I mean, do we have this out of context? I mean, there was no information delivered to the military that a plane was coming into Washington D.C. And again, thank God the passengers on 93

took the plane over. But a plane was headed to Washington D.C. FAA Headquarters knew it and didn't let the military know.

MR. BELGER: Well, if I can -- and I truly do not mean this to be defensive, but it is a fact -- there were military people on duty at the FAA Command Center, as Mr. Sliney said. They were participating in what was going on. There were military people in the FAA's Air Traffic Organization in a situation room. They were participating in what was going on.

To my knowledge, the NMCC was added to the conference call, the open conference call, at 9:20. By 9:45 or so, my attention was completely on getting the airplanes and the hundreds of thousands of passengers safely on the ground. There was an FAA security person running the hijack net. I had confidence that they were doing the right things.

MR. KERREY: Well, let me move on to my third one. It deals with something you've said, but actually Administrator Garvey was much more vocal about this. We were watching for something happening overseas. Let me deal into that a little bit.

Bojinka happens in '95. FAA sends somebody over to Manila. Are you familiar with that? Are you familiar with the FAA sending a representative over to Manila?

MR. BELGER: Yes.

MR. KERREY: And what'd they come back and say? What did that person report after going over to Manila and finding out that a member of al Qaeda was going to hijack 12 American airplanes in a suicide fashion? I've got to get both words in here, because you all say, "Geez, I didn't think they could commit suicide." There were 10 attacks by al Qaeda against the United States from 1992 to 2001, and nine of them were suicides. We knew by then that Bin Ladin was going to come after the United States.

So what did the guy report when he came back in 1995? What did he tell you? And what was your response to it?

MR. BELGER: Well, my recollection -- and I do not have specific recollection of what was said -- but my general recollection was that the threat at that time, and continued up through September 11, was really directed outside the borders of the United States.

MR. KERREY: In 1998, after the East African embassy bombing, Mr. Belger, it was in the newspaper that the United States of America federal government arrested two suspects that were in the United States, one in California, one in Texas. Why would you reach that conclusion that they were only going to attack outside the United States?

MR. BELGER: The conclusion I reached, sir, was based on the intelligence information that was given to me. I mean, I can't be any more clear.

MR. KERREY: I'm talking about stuff that's reported in the newspapers. It doesn't come from CIA. It's right out of the darn newspaper.

MR. BELGER: I -- hopefully -- I don't know, sir. I don't remember reading that.

MR. KERREY: You're in luck. My time has expired. (Laughter.)

MR. KEAN: Commissioner Ben-Veniste.

MR. BEN-VENISTE: First of all, I would like to express my congratulations and profound respect for the men and women on September 11th who got the planes down. This was an extraordinary effort to safely land over 4,000 planes that were in the air at the time of the hijacking.

Having said that, I was struck by Mr. Sliney's observation that he had no idea that terrorists could learn how to fly and take over a commercial airplane.

Now, it's no secret that we have repeatedly observed that one of the failures of 9/11 was the inability of the government to share information which it had in its possession prior to 9/11 that could have helped the common good, could have helped others prepare, and sensibly, to deal with what was perceived as a threat.

So I will ask the question, as I have to others, whether any of you were advised that on August the 18th, 2001, the Minneapolis office of the FBI sent a detailed memo to FBI Headquarters describing the Moussaoui investigation -- Moussaoui had been arrested the day before -- and describing the facts as believing that Moussaoui and others yet unknown were conspiring to seize control of an airplane, and that was based on

Moussaoui's possession of weapons and his preparation, through physical training, for violent confrontation.

Did any of you receive that information in words or substance?

MR. BELGER: I did not.

MR. BEN-VENISTE: On August 27th, the FBI supervisor in Minneapolis, trying to get the attention of those in headquarters at FBI, said he was trying to make sure that Moussaoui, and I quote, "did not take control of a plane and fly it into the World Trade Center" -- August 27th, 2001. Did anyone receive, in words or substance, that information?

MR. BELGER: No.

MR. BEN-VENISTE: Finally, in characterizing, in a briefing to CIA Director Tenet later in the month of August, the headline "Islamic Extremist Learns to Fly," Mr. Sliney, if you had had such information, and going back to the question of the tool box available to you, and individuals, as yet unnamed, according to the suspicion, highly educated, by the Minneapolis office of the FBI, had the intention to take over a commercial airliner, that at least one of them had received flight training and had sought flight training for commercial airliners, recognizing the ongoing intifada -- we don't have to go all the way back to World War II and the kamikazes. Various of my colleagues have talked about the repeated information coming from the intelligence community that suicide bombing, suicide hijackings, were in the tool box of the other team.

Is there not something that you could have done, either in terms of screening at the airports, ratcheting down what people could carry onto the airplanes, advising pilots about keeping the door of the cockpit locked and secured, is there nothing that could have been done had you received that information?

MR. BELGER: I think, if we had received information as specific as you just laid it out, there are some things that we would have looked at doing.

MR. BEN-VENISTE: Such as?

MR. BELGER: Well, I think you described several of them. I think we would have also, off the top of my head, listening to

how you described it, we would have considered looking at who else might be getting flight training.

MR. BEN-VENISTE: Something which other offices of the FBI, particularly in Phoenix, had already suggested be done. Anything else from any of the other members of this panel?

MR. SLINEY: I think if the air traffic control community had known of such threats, I think our response to stop everyone would have been much sooner.

MR. BEN-VENISTE: Elaborate on that, if you will.

MR. SLINEY: Well, I'm relying on what I perceive to be the very inquisitive and bright minds of all the air traffic controllers in this nation. And the first hijack, had there been a suggestion to me that the hijacker could actually fly the aircraft, I think I would have shut down a lot more -- a lot sooner.

I think everyone would have reacted. I think Boston Center may have reacted quicker in requesting the ground stops through their area, based on that type of intelligence. That was the anomaly that I indicated earlier that no one had experience with hijackers who could fly the plane.

MR. BEN-VENISTE: I appreciate those comments. Let me conclude with a question about prospective recommendations and whether they've been adopted. There's such a thing, I'm told, as the Industry Transponder Task Force. Is that an organization or a group known to you all?

MR. SLINEY: Not to me. It is not known to me.

MR. BEN-VENISTE: They made a recommendation to remove the capacity to turn off the transponder. They made recommendations to lock in the "7500" hijack code after entering that code, as well as other recommendations. But these have not percolated up to any of you?

MR. BELGER: I think the three of us retired well over a year ago, and myself well over a year and a half ago, so I don't know.

MR. BEN-VENISTE: Fair enough. Do these recommendations make sense to you?

MR. SLINEY: Yes, absolutely. I believe one of your fellow commissioners asked that earlier. It seems almost obvious not to make it available to someone on the flight deck.

MR. BEN-VENISTE: We were told, and I'm not sure on the technical side of this, but that there is a capability to dump fuel remotely. Is that something which resonates with you as a technological possibility? We were told that it was, in fact, installed on other aircraft.

MR. SLINEY: I have read about that. I don't know much about it in terms of dealing with terrorism. But I have read that, and I've read about communication devices to communicate with the flight deck in ways that would not be obvious.

MR. BEN-VENISTE: Well, the lethality, if you will, of a hijacked airliner piloted by a suicide fanatic is diminished, would you not agree, by the fact that if you subtract 28,000 or so pounds of highly combustible fuel -- is that remote capability to dump fuel another suggestion that might have some merit?

MR. BELGER: It might. Yes, sir.

MR. BEN-VENISTE: Thank you, Mr. Chairman.

MR. KEAN: Commissioner Gorelick.

MS. GORELICK: I'd like to return to the question of the radars. As I understand it, the FAA had made a decision to phase out the primary radar system before 9/11. Is that correct?

MR. BELGER: That's correct.

MS. GORELICK: So if you'd actually implemented that before 9/11, we would have been completely blind with the transponders turned off. We would have had no visibility into where the planes with no transponders on were. Is that correct?

MR. BELGER: Not necessarily. The FAA's plan was to start de-commissioning some of the long-range radars, primarily those where we had some redundant coverage. We didn't plan to do anything that would affect our ability to see aircraft. But fundamentally, for operational financial reasons, and for costs associated for maintaining the old radars and the potential cost to replace those radars, the FAA did have a plan to start

decommissioning some of the redundant -- my word -- long-range radars.

I don't believe -- Jeff is a -- Mr. Griffith is more of an expert than I, but I don't believe that any of our plans would have materially impacted that part of the country that we're talking about where these flights were. They're primarily in the more remote areas. But, yes, we did have plans to decommission long-range radars, fundamentally for financial reasons.

MS. GORELICK: So we made a decision at that point to, A, not address the holes in the primary radar system. As the chairman has adverted to, we know that one plane disappeared for a material and deadly period of time. And that decision was based on resources.

At the same time, we have the military carrying out its responsibilities, however one might define them, within the domestic United States, dependent upon -- largely dependent upon the FAA system. Is that right?

MR. BELGER: That's correct.

MS. GORELICK: And what I heard this morning from the military was a little disturbing, which is that we still have not resolved the issue of whose responsibility it is to maintain a radar system that would permit visibility across the country in a fairly effective way.

Can any of you address that question and tell us whether we should not be worried about this?

MR. BELGER: Well, I think it is a worry. I don't know personally the status today, but when I left the FAA, there was an ongoing discussion about who in the government was going to have the responsibility for funding and accountability for maintaining these radars and for purchasing new radars in the future.

You know, the FAA's radars are optimized for FAA's management of air traffic control purposes. The DOD has radars that are optimized for their purposes. Secret Service has radars that are optimized for their purposes and Coast Guard has radars for various reasons -- Customs, I should have said -- I meant Customs rather than Coast Guard -- has radars for their purposes, and they're optimized for their needs.

I think it was General Eberhart, I believe, this morning who used the word "integrated," and that's what has to be done. All these assets have to be integrated to form one picture so that everybody's looking at the same thing at the same time with the same automated capability to point out suspicious aircraft. And most importantly, the money's got to be provided.

MS. GORELICK: And whose job is it to integrate the system as you, I think, quite correctly suggest it should be, and to make sure it's paid for?

MR. BELGER: Well, I believe for -- my opinion -- for defense purposes, the Department of Defense ought to be setting the requirements for what they need. And the FAA is following those requirements and has integrated most, if not all, of their long-range radars now into the NORAD system so that NORAD has feeds off of almost all the FAA radars now. So they can see virtually the same thing that the FAA controllers can see.

If it's for defense purposes, in my opinion, the Department of Defense has to take the lead for requesting the funding. If it's for air traffic control purposes, the FAA's got to take the lead. So it depends. If it's defense, it's DOD, in my opinion.

MS. GORELICK: And to your knowledge, has this issue been resolved to date?

MR. BELGER: I honestly don't know.

MS. GORELICK: Does anybody here know whether that issue has been resolved?

MR. SLINEY: No.

MS. GORELICK: Well, it is a question we need to address. Thank you very much.

MR. KEAN: Thank you very much. This concludes our public questioning for today. I want to take the opportunity to thank all our witnesses and all who have testified before us over the past 18 months of the Commission's existence. I want to thank the National Transportation Safety Board for making this superb facility available to us. Thank you to the members of the Commission staff who have been absolutely tireless in their work.

Thank you very much to the families of victims and the survivors of the 9/11 attacks, because you've been with us each step of the way. We thank you for your dedication. And to turn your private anguish into public good is something that is really very, very special.

From the first day, this commission has been united behind the belief that we should share our learning process as deeply as we can with the public. We've tried to be as open and transparent and accountable to the American people as possible, given the nature of the materials that we've been handling. That's why we've had these 19 days of public hearings. We hope that these hearings have enhanced the public's understanding of the 9/11 attacks, and the fact that we are still facing continuous threats.

In just over a month, this commission will issue its final report. We will provide a full and complete accounting of the circumstances surrounding the 9/11 attacks. And we will also present recommendations.

The greatest service the Commission can render is to help make this country safer and more secure. We cannot go back and rescue those who were taken from us on 9/11, but we can and we must take whatever steps are necessary to ensure that other Americans don't suffer that same fate. We are determined to see that happens.

This hearing is adjourned. (Applause.)

END.

MEDIA AVAILABILITY FOLLOW HEARING OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

**NTSB CONFERENCE CENTER, L'ENFANT PLAZA, WASHINGTON, D.C.
12:48 P.M. EDT, THURSDAY, JUNE 17, 2004**

AL FELZENBERG (commission spokesperson): Would everybody be seated, please. Thank you very much. The only ground rule, as always, is when recognized please give your name and your affiliation so we, and of course, the people listening at home know who is asking the questions. Thank you.

Governor, Congressman, I leave it to you.

MR. KEAN: Let us start off then, perhaps, with a couple of words on some of the things we think we've learned as a result of these hearings. We learned that NORAD and the FAA were unprepared for the type of attacks launched against the United States on September 11th. They struggled under very difficult circumstances to improve the homeland defense against a challenge that they had never encountered, and honestly never been trained to meet.

We learned there was great chaos that morning. Communications simply weren't good. Situational awareness was poor, and that was poor at all levels of government. We learned that the military had very little warning of the hijackings. The nine-minute notice of the American 11 hijacking was the very most the military received on the morning of the four hijackings. There was no prior notice of United 173, or United 93, and two-minute notice of an unidentified plane heading toward Washington later identified as American 77.

We learned that by the early 1990s, Bin Ladin had established a complex, well-organized terrorist organization with international reach. We did not begin to understand the scope and sophistication of al Qaeda until a number of years later.

MR. HAMILTON: We presented for the first time yesterday since 9/11 a complete overview of how the attack on America was conceived, and planned, and prepared, and executed as best we can possibly understand it at this time. We learned that the 9/11 plot was meticulously organized over many years. That the plotters had their problems, failure to train pilots, failure to get recruits into the United States, dissent, disagreement within the team, and dissent at the highest levels of al Qaeda.

But the plotters overcame their problems, al Qaeda adjusted. It exhibited flexibility and succeeded. We learned among the many details of the enemy plan, the role of Zacarias Moussaoui. He apparently received funding from al Qaeda for pilot training at a time when one of the pilots in the 9/11 plot nearly bailed out. We also learned just how little 9/11 cost. For less than half a million dollars, the plotters were able to inflict astounding devastation upon us.

And, finally, we were reminded again of the continuing threat of al Qaeda, it's intent to inflict harm is clear. It's capability today to harm us is unclear. And our efforts to collect intelligence on al Qaeda will, and must, continue.

We are prepared to receive your questions.

MR. FELZENBERG: When recognized please give your affiliation.

Q: Hi. Laura Fulton, Baltimore Sun. The FAA failed to tell the military for 30 minutes that these hijackings were going on, and failed to tell the pilots for 13 minutes to lock their cockpit doors. Do you feel satisfied with the answers you got from them?

MR. KEAN: No.

MR. HAMILTON: I think the encouraging thing is that they have testified about the improvements made since 9/11, a lot of steps have been made with respect to communications, protocol, and procedures, and training, and apparently exercises as well. And, the testimony is pretty strong that there have been remarkable improvements since 9/11.

MR. FELZENBERG: The gentleman right here.

Q: Hi, Mike Torahan, with the Denver Post. You said NORAD and FAA were unprepared. You've both served in government a long time, you know about the distractions that nip at bureaucrats and leaders every day. Hindsight is 20/20, but should they have been better prepared?

MR. KEAN: I believe they should have. Obviously they couldn't have been completely prepared, but there had been a number of warnings over a number of years. They weren't the only ones who weren't prepared in government. We hadn't taken seriously the rise of al Qaeda. We hadn't looked at the number of times they had attacked this country, in any number of ways. We hadn't looked at the fatwahs where Bin Ladin had said, the job of everybody who believes in my cause is to kill every American they can. We hadn't put together the various information in the various agencies that was available to us, and passed it around among government officials. So would you expect them to be prepared for the totally ingenious evil attack and the way it was performed? No. Should they have been more ready for something coming? Yes.

MR. HAMILTON: I agree with the governor's statement. I do recall this morning, it impressed me, I guess, again, General Myers saying that no one really had thought about using an airplane to crash into a building, and use it as a weapon, in effect. So one of the failures you have here, among others, is a

failure of imagination. Our policy people simply were not able to imagine using an airplane as a weapon. And the second thing I would say is that, because of that, the environment under which these people that we've been talking to today operated, was extremely difficult, and unprecedented. And I think the Commission has to have an appreciation for that, as we try to make judgments.

MR. FELZENBERG: Vince back there.

Q: Vince Morris, with the New York Post. Can both of you speak about your impressions of the description of Vice President Cheney that morning, and the extent to which he seemed to be running America's response to this?

MR. KEAN: Well, Vice President Cheney when he came into the PEOC if I can use that expression, you understand what that is, was, in a sense, the highest ranking government official with whom there was communication, because the president for a while, and the president described to us his frustration at the communication problems within Air Force I. So he had to get in touch with Vice President Cheney, they set up then the Air Threat Conference Call. The president gave the -- at Vice President Cheney's suggestion, I believe, gave the order for the shoot down, and they were in communication after that. But, Vice President Cheney was the highest ranking official who was in Washington, who had his fingers on the mechanisms of the United States government. And he was in communication with the president.

Q: Air Force I was not in real good communication, the president didn't have all the information?

MR. KEAN: Yes, that's what I said. That's one of the main problems. And I said, the president himself said in our interview with him how frustrated he was. And I asked him the question then, has this been fixed? If this ever happened again, have the communication problems in Air Force I been corrected. He said yes.

MR. FELZENBERG: Lady in the blue, over here.

Q: Yes, Victoria Jones, Talk Radio News Service. The Associated Press is reporting this morning that President Bush has disputed your finding that there was no collaborative relationship between Saddam Hussein and al Qaeda. Would you like to comment on that?

MR. KEAN: Well, what we're going on is the evidence we have found. What we have found is that, were there contacts between al Qaeda and Iraq? Yes. Some of it is shadowy, but there's no question they were there. That is correct. What our Staff Statement found is there is no credible evidence that we can discover, after a long investigation, that Iraq and Saddam Hussein in any way were part of the attack on the United States.

MR. HAMILTON: I must say I have trouble understanding the flack over this. The vice president is saying, I think, that there were connections between al Qaeda and Saddam Hussein's government. We don't disagree with that. What we have said is what the governor just said, we don't have any evidence of a cooperative, or a corroborative relationship between Saddam Hussein's government and these al Qaeda operatives with regard to the attacks on the United States. So it seems to me the sharp differences that the press has drawn, the media has drawn, are not that apparent to me.

MR. FELZENBERG: Bob, right up here.

Q: Commissioners, your colleague, Senator -- WNYC National Public Radio, New York. Your colleague, Senator Slade Gorton, really elicited one of the most interesting responses today when he actually brought up, I believe, a scenario that happened not two years ago, not three years ago, but a couple of weeks ago. What went through your mind when you heard that apparently this conscientious FAA employee found himself in somewhat of the same jackpot that they found themselves on September 11th, in terms of command and control, and who to talk to. Did that give you any pause about whether or not we've learned anything?

MR. KEAN: It gave me the jitters. What it basically said was that, although people are telling us these problems have been fixed, some of these problems are still out there, and he said that himself, he said, we've got to get this fixed, because people have got to know who is in charge when these emergencies occur, and that was another occasion all too recent, when nobody was quite sure who was in charge, and who should give the order.

Q: Marie Cocco with Newsday. Your Staff Statement says that at 9:05 that morning the White House Chief of Staff told the president, America is under attack. And it goes on to talk about a period until about 9:30, where it says no decisions were made. It then further says that at some time around the president apparently talked to Secretary Rumsfeld. Could you enlighten us at all about what was the president doing for that hour? The

Staff Statement says they were working on a public statement, but we have a rather large void, other than that, and I'm wondering, since many of us have been on Air Force I, or in the press pool for the White House, we know there is certainly some communication from that plane.

Would you please enlighten us about that hour, and my second question would be, was there ever any order given to evacuate Washington? We had all these government officials sitting in Washington, worried about the incoming plane, and to my knowledge no evacuation order.

MR. HAMILTON: I think the president after he was informed by Mr. Card that America was under attack, was in a very difficult situation. The worst thing for the president to have done, I think, would have conveyed to the American people a sense of panic, or disorder. I think he made the right decision in remaining calm, in not rushing out of the classroom. Remember, the press, perhaps some of you, were there in the room with the president. And information at this point was still uncertain. So there was a period of time when the president was in that room, and he finished his obligations, and then went out of the room and it took a while to get the president back to the airplane. One of the bits of trivia I remember is that the motorcade was headed in the wrong direction, and they had to turn the motorcade around and get it headed towards the airport. And those kinds of things do take time. And during this period of time, between the school and Air Force I, the communications were not good, and they were not secure. Now, that's an area that I think has been corrected, as I understand it. Once they got onto Air Force I communications were much better.

Your second question, with regard to an evacuation, I do not recall any consideration of such an order. But, there were quite a few moves towards maintaining the continuity of government, to make sure that very high ranking officials in all three branches of government were secure.

MR. KEAN: You also asked about the Secretary Rumsfeld. He was late into the planning, frankly, because -- you remember, the Pentagon had been hit, and Secretary Rumsfeld's first reaction was to go help those who were hurt. He was in there among the rubble for a period of time. Therefore, he was late into those calls that the president took to both Condi Rice, and the vice president, before Secretary Rumsfeld was involved.

MR. FELZENBERG: Gail.

Q: Gail Sheehy, Pacifica Radio. Governor Kean, the FAA command center in Boston knew by 9:16 there was a multiple hijacking. You spoke about Secretary Rumsfeld, the Department of Defense Secretary, why was he missing in action all morning, before the Pentagon was hit? You have FAA headquarters talking at 9:49 about Flight 93, and the command center saying, do we want to think about scrambling aircraft, that's 10 minutes, or 8 minutes before 93 was taken down by passengers? Why wasn't Secretary Rumsfeld in the loop, why wasn't he in the Situation Room, why was he just missing in action all morning?

MR. KEAN: Well, he wasn't missing all morning. He had no knowledge what was going on, I believe, until the Pentagon itself was hit.

Q: I mean, wouldn't he be expected to have knowledge?

MR. KEAN: Because the communications that we've outlined today, step by step, there was a real problem with communication that morning. There were a lot of people who should have been in the loop who weren't in the loop. There were a lot of things that should have been done that weren't done. And hopefully some of those things have been corrected. He was not, I believe, knowledgeable until the Pentagon was actually hit. Is that correct?

MR. HAMILTON: I think the Secretary of Defense, as you all recall, went immediately to try to see if he could be helpful. He was in the parking lot for an extended period of time trying to help with the rescue efforts. He then returned, and he joined the Air Threat Conference Call at 10:39 a.m. And by that time, the vice president and the president had already been in touch with one another, and the so-called "shoot down" authorization had been given.

Q: This is after Flight 93 had crashed. Correct? So, the shoot down order didn't apply except to other aircraft in the air. But the question I just keep coming back to is, Secretary Rumsfeld was in the dining room of the Pentagon. Then he was in his office, and he had to go to the window of his office to see that the Pentagon was shot down. Couldn't somebody have called him in his office? Doesn't that make us a little nervous about the Secretary of Defense?

MR. KEAN: A lot of things about this story make us nervous. Communications is one of the main ones, and the Secretary of Defense isn't the only one. He was aware that the second plane

had hit the Pentagon. By the time he became aware of that -- not the Pentagon, excuse me, the World Trade Center -- but they didn't convene the Command Center till about 9:30. And of course when the Pentagon was hit that took him out. But this whole story is one of a failure of communication, and you find it here, you find it in a lot of other places, that's been outlined today. And that's one of the areas that we have got to get it right.

MR. FELZENBERG: The gentleman in the front row, please.

Q: Mike -- (inaudible) -- Tribune. I just wanted to ask sort of a bottom-line question to you. Compared to the version of events that was publicly given right after the attack, it seems like there's a lot of what all the details you've learned since. Has this sort of surprised you how chaotic it was in comparison to the original public portrait of it? What's the difference in your mind between the original public portrait that was in the media that we were reporting before you guys did your independent investigation and the one you have now in terms of how people responded that day?

MR. HAMILTON: I guess what has surprised me is that we're really the first ones to put it all together. I think we have presented the most comprehensive detailed story of 9/11 that I've seen. And what I remember -- I may not remember correctly, but what I remember after 9/11 is that you had a lot of bits and pieces -- that is, every agency, every department was telling their story, and a lot of individuals were telling their stories, as they recollected the events of those days. And one of the things that struck me as we began the investigation here is that this story had never been put together in a comprehensive, coherent way -- detailed. And I guess that was our job to try to do it as extensively as we could.

MR. KEAN: But you're right to say the confusion affected so many other areas. I mean, it's been called I guess the fog of war. But when this happens, the phantom planes, the decisions were made based on a lack of information, the lack of communications. I mean, all this -- this is the story of a lot of problems. And shame on us if we don't learn from them. I mean, the whole point of our investigation is not just to do what we've done. We've got to learn from these problems.

MR. FELZENBERG: Chris, please, and then we'll move around.

Q: The Philadelphia Inquirer. Governor Kean and Chairman Hamilton, your report this morning makes clear that there was a lot of --

MR. FELZENBERG: Press that.

Q: I'm sorry. Your report makes clear that there was a lot of disparate information coming from disparate sources on the morning of September 11th, but with no one entity or person who was evaluating it or trying to make sense of it. What would your recommended fix for that be?

MR. KEAN: Well, I'm not going to talk about our recommendations now, because the committee frankly hasn't agreed to them. We're still talking about our recommendations. But the -- but certainly a unified command and control is very, very important. People have got to know where the buck stops in every one of these areas, and people have got to have that information in order to make proper decisions.

MR. FELZENBERG: The gentleman in the yellow over here. Thank you.

Q: Dan Gallo from Fox News. I'm wondering if you could elaborate a bit more on what you learned about the president's complaints about communication on Air Force One that morning. Was it phone connections or was it something that was routine before then? You know, was there a consistent problem, or what did you learn about that?

MR. HAMILTON: Yes, is the answer -- their phone connections - - they were trying everything. Keep in mind they're trying to understand what happened and they're trying to get the motorcade going and they're trying to get to Air Force One as quickly as they can. And the president is on the phone, and Andy Card is on the phone, and a half dozen other people are on the phone calling a variety of people in Washington. And so there was a real communication jam. At some point I think we heard that the president was using a cell phone. Is that right, Tom?

MR. KEAN: I don't remember --

MR. HAMILTON: I think I remember that.

MR. KEAN: Yeah, he was trying in every way as were his aides to get through. Because here's the commander-in-chief and there are decisions to be made. America is under attack, and the

commander in chief can't get through to the nation's capital. I mean, that's a serious problem, and the president I think was on top of that one. That was a lesson the president learned right away. So I gather the fix to the presidential communications was one of the first things that was done after 9/11.

Q: The telephone was in the motorcade or aboard Air Force One?

MR. HAMILTON: I'm not sure just at what point that was. My recollection, have to understand it's that -- it was the -- the president was trying to speak on a cell phone from the presidential limousine to Washington.

MR. FELZENBERG: Sean, please?

Q: Yes, can we just go back to this -- can we just go back to this incident that happened a few weeks ago over New York that Mr. Sliney was talking about? What does that say to you about the effectiveness of the fixes that the FAA has, you know, says it's put into place?

MR. HAMILTON: Well, I don't remember the details of that, but obviously the mere fact that you have a system in place doesn't necessarily mean that it works. And one of the key things you have to do is to not only agree upon the protocol and the procedures, but you've got to test it. And you don't just test it once. You test it in a variety of ways, and you repeat those tests. I don't know in the flow of things here just where all of this stands in this particular instance. But it does raise this question in mind: When you hear all of this testimony, as we have repeatedly heard again and again and again that that problem has been fixed, we've got it worked out, you have to have some doubts about that, and you have to be skeptical. And I think you should be skeptical to see if it really does work.

Now, at the end of the day we probably have to accept the word of the people that they are working on the problem and that they think they have a solution to it. But you have to keep testing that all of the time. And you have to test it under as near realistic conditions as you can develop.

MR. KEAN: Yeah, but this was very, very disturbing, because you had a decision-maker two or three weeks ago who didn't know he had the power to make the decision. and he was asking all over the place on the phone, Who makes this decision? And then he had to find out he had the authority to make it. I mean,

that's unacceptable. That is totally unacceptable, and we've got to keep on testing this system until we find out where those kind of breakdowns are and get them fixed.

MR. HAMILTON: One of the themes that runs through our entire investigation is the question, Who's in control? In any given circumstance, who is in control? Whether you're talking about emergency response or intelligence or putting together a counterterrorism policy, the question of who is in control is an absolutely key question. It's a simple question at least to state, but very, very difficult to work it all out.

MR. FELZENBERG: The lady on the aisle, and then we'll go to Bob up here. Bob, could we have the lady -- she has tried a couple of times. Is it a quick follow-up, Sean? All right.

Q: Are there any other problems that you've been told that are fixed that you are worried about?

MR. FELZENBERG: I should have stopped when we were ahead. (Laughter.)

MR. HAMILTON: Well, I've got quite a list of them.

MR. KEAN: Yeah.

MR. HAMILTON: There are quite a few things where we've been told it's been fixed or improved, and I'm not so sure it has been.

Q: Top five?

MR. HAMILTON: Well, I don't have top five, but I'll give you one. Is that enough? Okay. We think we've fixed the question of airport passenger screening, and I'm not sure we have.

MR. FELZENBERG: The lady on the end.

MR. KEAN: But you will find out, by the way, obviously some of the things which we don't believe yet are fixed are going to be addressed in our recommendations.

MR. FELZENBERG: Ma'am, go ahead, please.

Q: Hello, Samantha Levine with U.S. News and World Report. How concerned are you about some of the stark differences between the May 2003 testimony and what we're hearing now? And

does that cast any shadows over the information we are now receiving? Does it introduce any doubt for you as to the veracity of what we're hearing today?

MR. HAMILTON: I'm sorry, I didn't hear. The testimony when?

Q: From last May.

MR. FELZENBERG: The differences --

MR. HAMILTON: Oh, from NORAD and FAA?

MR. KEAN: Are there any doubts in our mind? Yeah, the interesting thing is that people who have gave that testimony have now told us how much the Commission has helped them to learn the facts, which I guess I'm glad about. But the -- but he is -- his point is I guess that all the policymakers on that day are now in total accord with our Staff Statements. The Commission's work is now the authoritative story and agreed to by all parties as the authoritative story.

MR. HAMILTON: I think one of the real contributions the Commission has made is right at this point. We have sent the staff into these various agencies and departments with a lot of very detailed questions. You can see the immense amount of detail and knowledge that our staff has. And they've gone to these various agencies and departments and they've asked these questions, and the very fact of asking those questions has prompted the agencies and the departments to review their own procedures and to strengthen them. And I think an enormous amount of good has been done just by the fact of what we used to call in the Congress oversight -- you go in and you ask the tough, hard questions, and those questions reverberate through an organization. And the organization responds to those questions, because they have to get answers to them. They know our power in this commission to get the answers. And so I think that's been a very helpful role that the Commission has played.

But I must say I have not been impressed with the way that government -- the federal government generally has looked back on 9/11 and seen what mistakes were made. In other words, I think the Commission has helped the government through that process of reviewing 9/11, identifying the mistakes that were made and trying to correct them.

MR. FELZENBERG: Bob, please?

Q: From the Newark Star-Ledger. Is there any possibility that the vice president issued this shoot down order before actually conferring with President Bush?

MR. KEAN: I didn't hear the last part of that question.

Q: Is it possible that Vice President Cheney issued the shoot down order prior to conferring with President Bush?

MR. KEAN: Well, the testimony we have is from the president and from the vice president and from Condi Rice, who says she overheard part of that phone call. The phone logs don't exist, because they evidently got so fouled up in communications that the phone logs have nothing. So that's the evidence we have.

MR. HAMILTON: There's no documentary evidence here. And the only evidence you have is the statement of the president and the vice president, which was that the president gave the order to shoot down.

Q: Are you at all disturbed at how that was carried out?

MR. HAMILTON: Well, I'm not sure it was carried out.

Q: Well, it didn't have to be carried out, but the --

MR. HAMILTON: Yeah. It just looked to me -- it looked to me like there was a good bit of miscommunication between the order given by the president and the vice to shoot down, and what the pilots understood the orders to be. The pilots at that time thought -- did not think they had a shutdown order. I believe that's the evidence, the testimony isn't it?

MR. KEAN: That's correct. And that's very, very disturbing. When the president of the United States gives a shoot down order, and the pilots who are supposed to carry it out do not get that order, then that's about as serious as it gets as far as the defense of this country goes.

MR. HAMILTON: Let me indicate here though that, as General Eberhart made very clear, this is a very grave order, and I can understand why a pilot flying around up there would question a few times the order. You're ordering American jet fighters to shoot down an American commercial airliner with possibly hundreds of Americans on board who are totally innocent. And that order -- if you don't question that order something's wrong

with you, I believe. So I appreciate -- I appreciated General Eberhart's caution at this point.

MR. FELZENBERG: James, please?

Q: James Major of -- Daily News. Governor Kean, you were just talking about how a lot of people in the government were out of the loop on 9/11 as these events were unfolding. But there was a window here, over an hour where these events were unfolding. Hijackings were traditionally the domain -- as has been testified -- of the FBI. That morning the FAA and NORAD were collecting all the information about the hijackings. But clearly neither fully -- neither agency or the officially fully understood what it all meant in terms of the scope of the potential attack that was going to unfold. Is there any evidence that you all have come up with that either the FBI or the CIA, which the Commission has said has gotten all this intelligence about al Qaeda's interest in aviation, were contacted that morning? Does anybody ask, What do you think is going on here? And if it were to happen today, would the FBI and CIA be within that FAA-NORAD-White House loop, as far as you know?

MR. KEAN: Well, first, I don't think we have any -- in the group reacting to the -- through the actual emergency, that clock was put in charge for the early group in the White House to react -- so that means that they were very aware it was al Qaeda, and very aware -- because he had been the collector and the coordinator of the information that was coming from the intelligence agencies. So I think they were -- that was -- but that became irrelevant, because their decisions then were made not by that group, but by the president and the vice president and the secretary of Defense.

Q: But I mean they didn't quite understand, necessary it seems like looking at all the tracks and the tapes you've been playing today, the potential of what these hijackings were going to accomplish, whereas perhaps somebody at the FBI or CIA might have.

But the second part of the question is today are they part of the loop? If there is a hijacking today, are they going to be in on the line so to speak to give their input?

MR. KEAN: I believe they would be.

MR. HAMILTON: I think -- yeah, I think they would be, because the intelligence would be gathered in TTIC, I believe, quickly -

- although that may be a little misleading, I'm not sure. But if I'm right about the intelligence coming there quickly, the FBI would be involved immediately.

MR. KEAN: Yeah, the staff based on their work believes they would be.

MR. HAMILTON: Yeah.

MR. FELZENBERG: Michael. And this will be the next to the last question. Go ahead.

Q: Mike Kelly, Bergen Record. Given the kinds of communications problems that we've heard about this morning, do you agree or disagree with -- I think it was General Eberhart's statement -- he said that had the military had the information sooner that they could have responded and prevented I think he said all four of the planes from being --

MR. HAMILTON: Well, it was an extraordinary statement, and he based it on modeling, as I recall, that they have done. We have no information otherwise. But he's make a lot of assumptions there I think about almost instantaneous communication, and it's almost a hypothetical -- well, it is I guess a hypothetical question. But I heard that statement with some surprise personally.

MR. KEAN: It -- what he -- more important to me was that he feels that now the communications is instantaneous, and he believes that if such an event were to happen today that they would be capable of taking out all four planes. I hope he's right.

MR. FELZENBERG: All right, Siobhan, you'll be the last question -- may get a chance to talk to some of you later on the way out. But, Siobhan, go ahead.

Q: Back on oversight. Given --

MR. FELZENBERG: Affiliation, please?

Q: Oh, Siobhan Gordon with National Journal. On oversight, given this commission's aggressive role in performing oversight, what concerns do you have about the government's ability to continue that and keep the pressure on once the Commission's work is done?

MR. HAMILTON: Well, I think our job in the follow-up to the Commission's recommendations will be to present those recommendations to the Congress and to the Executive branch. And I think the chairman and I are committed to doing that. We're thinking now about what kind of a plan we will have to achieve it. But of course the Commission goes out of business, and the oversight function then will fall to the Congress to carry on not just the implementation of the plan so far as legislation is concerned, which will be important, but also with regard to continuing oversight. I'm a very, very strong believer in robust congressional oversight of the activities of government, and I'm very worried about that in the Congress today. I think the intent is good to have oversight, but because of a lot of factors which we won't go into here, the oversight has not been all that robust in the Congress. So we will have to urge the Congress to follow up -- not just in terms of implementation by legislation, but also continuing sustained oversight.

MR. KEAN: I obviously agree totally with the vice chairman. I -- and I might say that, as you know, is one of our mandates to look at oversight. And it will be addressed, to some degree at any rate, in our recommendations that we are now talking about.

MR. FELZENBERG: I want to thank you all for joining us these past few days, and appreciate it very much.

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