9/11 Commission files

Team 7/ Box 10

Team 7 MFRs/ Jane Garvey

Scanned by Mike Williams of 911myths.com on 4th March 2009

MEMORANDUM FOR THE RECORD

Event: Jane Garvey

Type of Event: Interview

Date: October 21, 2003

Special Access Issues: None

Prepared by: Bill Johnstone

Team Number: 7

Location: Commission Offices: GSA Conference Room

Participants – Non-Commission: Jane Garvey

Participants – Commission: Sam Brinkley, Bill Johnstone, John Raidt, Lisa Sullivan

Background and Mission

[U] Ms. Garvey was FAA Administrator from 1997-2002.

[U] Ms. Garvey indicated that during her tenure at the FAA, the agency's top priorities were always safety, security and system efficiency. In backing up that statement, she pointed out that three of the main members of the FAA "management board" were the associate directors for security (Irish Flynn, later Mike Canavan), safety (Guy Gardner, later Nick Sabotini) and air traffic control (Steve Brown). She met with these managers twice a week (usually Mondays and Fridays).

Security Reporting

[U] When Ms. Garvey arrived at the FAA, she was aware of the good reputation that FAA Security chief Irish Flynn had both inside and outside the agency. Consequently, she didn't see a need to change the agency's security leadership. When she took over the agency had just gone through a difficult period, with the Pan Am 103, the ValuJet crash, and TWA 800, and Ms. Garvey looked to the recommendations of the Gore Commission as the blueprint she needed to focus on for safety (which was a "huge" issue) and security. She believed that Flynn received good cooperation from the agency leadership in implementing the Gore security recommendations. She added that the approach of Y2K was also a focal point for her, especially because of Congressional criticism of FAA's preparedness to deal with the problem.

[U] With respect to security reporting, Ms. Garvey indicated that Irish Flynn had a "pretty direct line" to both her and Deputy Administrator Belger whenever he needed to discuss anything. She did not receive daily reports, but relied on Flynn to keep her informed and anytime he needed her attention he got it. Ms. Garvey believed Flynn did a good job in keeping her informed on security matters. If there was a problem, she kept

on top of these, but she relied on Flynn's judgment, as well as that of Deputy Administrator Belger.

[U] Garvey valued DOT Inspector General Ken Mead's judgment and counsel. For example, they undertook a joint review of post-TWA 800 safety issues. She felt that Mead had constructive suggestions, but at the beginning of her tenure at the FAA he didn't focus much on security. Over time, there were a number of discussions between the FAA and Mead on airport access issues, and Garvey worked with him on these. It seemed to her that the FAA Director of Operations spent "all of his time" on airport access. Garvey believed that progress was made on this front, but not sustained. As a former airport director, she personally talked a lot about access issues, and brought the airports into the discussion.

[U] S-60 (DOT Director of Intelligence and Security) was Garvey's key link with the Secretary of Transportation. While she recalled doing briefings on follow-up to the Gore Commission recommendations, she didn't think she had initiated specific briefings on security with the Secretary.

Vulnerabilities

[U] Lynne Osmus briefed Garvey on Red Team results. Flynn provided her with more generic briefings on vulnerabilities. As to particular problems, she was aware of the technology challenges of Explosive Detection Systems (EDS), human factor problems in both safety and security, and the slowness of rulemaking. On EDS, she knew the technology was flawed, but there was a Congressional deadline on deployment; she felt such emphasis on this one component of the security system was "disturbing." On the whole, though, she felt the FAA was a solid organization, which had done good work.

[U] Ms. Garvey stated, "On balance, there was a positive feeling about security…You always worry about it…It's the unknown, the uncertainty, which keeps you awake."

[U] Garvey expressed the opinion that the aviation system's strengths were based on redundancies, in all areas (safety, security and efficiency). The security failures (documented by GAO, the IG and others) were a concern, but there were other ways to deal with them (such as by enhanced training of the aircraft crew).

Domestic Threat

[U] With the benefit of hindsight, Ms. Garvey indicated that the blindness to the threat to domestic civil aviation seems "obvious." At the time, the emphasis was on the overseas threat, particularly in the Middle East (which was also a reflection of her own "suspicions" as to threat). There were also concerns raised by the Arab-American community about being targets of security measures. She recalled a similar complaint on behalf of Arab-Americans from at least one Member of Congress. In response, Garvey went to Detroit to meet with the Arab-American community there.

She observed that they, like other Americans, were (and are) schizophrenic with respect to such measures: we want to be secure, but we also don't want to be inconvenienced.

[U] While Irish Flynn had raised general concerns, he had been unable to provide specifics about the threat. She was unaware of the frustrations felt by Irish Flynn in this time period (which Flynn testified to the Commission about) that led him to go to the CIA and FBI to seek better threat information. In hindsight, she wishes she had been asked to go to the intelligence community to push for such information.

[U] After Pan Am 103, the FAA had developed a better working relationship with the FBI, according to Garvey. However, pre-9/11, she had no knowledge of any information the FBI may have possessed on Moussaoui, on terrorists training as pilots or of the Phoenix memo.

[~~SSI~~] Ms. Garvey did not recall seeing a number of documents that dealt with the potential threat to domestic civil aviation (some of which raised but largely discounted the possibility of suicide hijackings in the U.S.), including the 1995 National Intelligence Estimate, a 1998 FAA assessment and a 1999 FAA Intelligence Note. She was aware of a 2000-1 CD-ROM briefing prepared by Pat McDonnell for the airlines and airports about the terrorist threat to civil aviation, but she learned more about its contents after 9/11.

[U] While Garvey was aware of Bin Laden pre-9/11, she saw hijacking as a relatively lower risk.

Computer Assisted Passenger Prescreening System (CAPPS)

[U] Ms. Garvey believes that CAPPS is an effective tool as part of a systemic approach to security. It provides a way to narrow the field in terms of potential threats. Pre-9/11, her mindset was focused on the explosives threat, and so was the CAPPS program. When CAPPS was to be implemented (after the Gore Commission), it was controversial. She informed the airlines that it was going to get done. The system's focus on checked bags was "sensible" in Garvey's view because: a) that was where the threat was (i.e. bombing), and b) that was what could get done.

[U] According to Garvey, the airlines were "difficult" to deal with concerning CAPPS and their relationship with the FAA was always somewhat confrontational. She talked with Bob Baker (American Airlines) about CAPPS and other security issues, and he thought CAPPS was a mistake from a resource allocation standpoint, given higher priority safety needs.

[U] Ms. Garvey did not recall the 1997 expiration of a Security Directive which had subjected "selectees" under the manual, pre-CAPPS profiling system to security measures which included searching their persons and carry-on baggage.

Checkpoint Screening

[U] Garvey was frustrated with the human and technological limitations with respect to screening, problems that she believes TSA still faces today. She indicated, "We knew we had to be better," and cited the FAA's efforts on screener training (Threat Image Projection system) and screening company certification. She also pointed to a certain schizophrenia with respect to the very expensive and somewhat flawed EDS machines: was this too much or too little in improving screening? Overall, she felt the system needed to focus more on redundancies (i.e. other security layers, especially intelligence) and on human factors. She was frustrated in watching Congress's post-9/11 deliberations on checkpoint screening. There needed to be recognition that it was virtually impossible to get a "foolproof" system.

Aircraft Security

[U] Garvey first got involved on this issue when she was Director at Logan Airport. After Desert Storm, she discussed the subject with Israeli authorities, who had implemented more secure cockpit doors in response to the terrorist threat. Garvey reported that, while at the FAA, she struggled with the issue because of Flight Standards' safety concerns about decompression. For the Israelis, the terrorist threat clearly outweighed the decompression risk, but this was not clear in the U.S. prior to 9/11.

[~~S~~SI] The Federal Air Marshal (FAM) program was in place when Garvey arrived, but its focus was on flights outside of the U.S. Garvey did not recall any instance in which she disapproved a request for security spending, including for FAM. However, the program still faced budget constraints (as did the rest of the FAA budget), and though the Gore Commission helped some by boosting overall aviation security spending by $100 million, Garvey and others (including in Congress) didn't think FAM was as high a priority as other FAA needs.

[~~S~~SI] Ms. Garvey did not recall discussions about revisions in the "Common Strategy" for dealing with hijackings. She indicated that it was felt to be the right approach, pre 9/11. She recalled a post-9/11 incident at Dulles where the pilots followed the old "common strategy" training and climbed out of the plane, rather than defend the cockpit. She was briefed on FAA hijacking procedures, and, prior to 9/11 there had been approximately a half-dozen previous suspected hijacking incidents while she was Administrator, none of which turned out to be a hijacking. She did not recall discussions during 2001 about raising the AVSEC alert level above level III. She indicated that such a decision would have been initiated by Flynn, or his successor Canavan, and subsequently approved by her and the Secretary.

Foreign Threat

[~~S~~SI] Garvey didn't think "hijacking was solved," or that anything else in aviation was finally solved, for that matter. She cited the extraordinary security measures at specific overseas airports (at one time, over 40 airports fell into this category) as the core of the

aviation security system's attempt to target heightened security where they were most needed. She was aware of the Security Directives and Information Circulars issued by the FAA during the spring and summer of 2001 that emphasized the overseas threat, and called on airlines and airports to be on guard and make sure their security measures were deployed.

Risk Management

[U] Risk management at the FAA was largely based on intelligence products, supplied by the intelligence community. The FAA itself was better at data analysis for both safety and security, or as Ms. Garvey observed, the agency was "data rich, but information poor." The Gore Commission had provided a blueprint for both safety and security, which the FAA tried to follow.

[U] Ms. Garvey indicated that FAA's security priorities were threat-driven, and she cited Brian Jenkins as making the point that security is often reactive. The key is how you identify trends. Aviation had historically developed its agenda based on historical data, such as the number and kind of safety incidents. Garvey stated that she was more familiar with safety issues, because these were very clearly entirely within FAA's purview. The bottom line was that the FAA's risk assessment was based primarily on the analyses done by its Intelligence office.

Fines

[U] Garvey reported that the FAA had sought Congressional approval to raise the fines for safety or security violations from $1,000 to $10,000. The agency's goal in so doing was not to raise revenue but to leverage improved compliance by the industry. She did not recall the fines on airlines or screening companies being reduced by as much as 90%, as some have charged.

[U] Ms. Garvey objected to terming the fine process as a "negotiation." As described by Ms. Garvey, the process would be initiated on site by a security inspector, who would recommend the imposition of a fine first to the Regional Office and then to Headquarters. The airlines would have an opportunity to present a rebuttal to the charges, with the process on the FAA end being handled by the General Counsel's office. Ms. Garvey could not recall any instance in which she was involved in making decisions on fines.

[U] Under Ms. Garvey, the FAA initiated a policy of publicizing fines, after a certain amount of time (one year) had passed. (The reason for the delay was to avoid publicizing contemporary vulnerability information, which could be exploited by those wishing to do harm.) She indicated that this new approach was effective enough to have drawn complaints from the airlines.

[U] Ms. Garvey recommended that the whole system of fines and enforcement should be reviewed. She believes that the airlines did regard the fines as just a cost of doing

business. However, she candidly admitted that changing the enforcement system was not high on her list of priorities as Administrator.

9-11 Families' Question

[U] Ms. Garvey was not aware of any information that the Attorney General and other high-ranking Cabinet officials had refrained from flying on commercial aircraft in the period prior to 9/11. Had there been such actions, she felt sure that she would have been made aware of them.

Rulemaking

[U] Ms. Garvey stated that rulemaking presented the challenge of allowing public comment while being responsive to dealing with the problem at hand. She doesn't believe that any federal agency has achieved the perfect balance, and that was especially true of the FAA. Part of the problem was the enormous number of rules. While Congress legislated expedited rulemaking procedures in 1996, in practice this provided little relief. Virtually everything still had to go through the regular process. One reaction to the cumbersome rulemaking process at the FAA was to use temporary measures (Security Directives for security, Action Directives for safety) to bypass the system. She believes that TSA's expedited rulemaking authority might be more useful.

[U] While the FAA's Challenge 2000 task force had developed recommendations for improving rulemaking, at that time the Office of the Secretary of Transportation only had one person (Nancy McFadden in the General Counsel's office) assigned to handle all FAA rules, and Garvey reported that the agency still hasn't "cracked the code" to enable expedited handling even within the department. Direct contact between the FAA and OMB was not encouraged.

[U] She cited the screener certification rule as one that had received severe criticism from the small business sector, which in turn caused the rule to be pulled back. On another front, she had thought that Jim Hall of NTSB would be an ally in producing an alternative to cost-benefit requirements in rulemaking and she tasked the FAA Policy office to work on this; however, nothing came of it.

The Airlines

[U] Ms. Garvey recalled discussions with Bob Baker of American Airlines on the rulemaking process, and she believed that Baker and some other airline operations people (Ed Bohler, Crowley and others) did understand the value of investments in safety and security, but this wasn't always reflected in their companies' positions on rulemaking. With respect to cost-benefit analysis, she indicated that this was where the FAA had to make the case to the airlines about the value of safety and security investments. Both the FAA and the airlines had far more experience with safety incidents, so such analysis was somewhat easier in that field. With respect to security, Garvey felt there was a need for

an alternative approach, such as a way to identify priority rules that must be done regardless of the cost-benefit analysis.

[U] Ms. Garvey indicated that the airline industry had proven its effectiveness on Capitol Hill, and would go to Congress directly on contentious issues. She cited the rule on background checks, which preceded her tenure at the FAA, Congressional pressure on specific technology deployments (such as L3 and Envision) and the post-9/11 "bail-out" as examples. However, she did not recall ever receiving a call from a Member of Congress urging that a rule not be promulgated.

[U] Garvey agreed that it was a fair characterization that airlines regarded security as an "externality" and this may be an even greater problem today when airlines think they can "wash their hands of it." She also indicated that the airlines were more concerned with safety than security because they had more recent and continuous experience with the former.

FAA Priorities

[U] According to Garvey, all elements of the FAA, with the exception of the Air Traffic Controllers, could have used additional funding, with training ranking as perhaps the biggest need. She and the agency spent more time on safety and efficiency (on issues such as traffic congestion and crew rest) because that was "what was eating our lunch." Furthermore, that was the feeling on Capitol Hill, of the Inspector General and of industry. However, she maintained that the FAA security leadership was able to get her attention whenever they needed to.

[U] Ms. Garvey pointed to the public's aversion to delays, and the FAA's need to focus on keeping the country moving: "that was the mood of the time. Every day in 2001 was like the day before Thanksgiving." She also worried about the impact of congestion on safety. While Garvey herself did not view security as "disruptive," she believes others, including the airlines, might have.

Hijacking Response Preparation

[U] Garvey noted that the last domestic hijacking had been in 1991. She felt that in traditional hijackings, the aviation security system had a greater sense of "control" (via negotiations) than in the case of explosives, and the latter also generally produced greater consequences. She did not believe, pre-9/11, that suicide hijackings rose to the same level of potential threat as either a traditional hijacking or sabotage.

[U] In the half-dozen suspected hijackings which had occurred on her watch prior to 9/11, Ms. Garvey indicated that the Security division had the lead, and they would activate the operations center and notify the Administrator who would oversee operations. There was no operational checklist for her. She was prepared to notify the Secretary and his Chief of Staff, but none of these previous instances turned out to be a big deal, and none was in any way a "warm-up" for the 9/11 events.

[U] While she did do preparatory exercises for Y2K, she didn't recall participating in hijacking ~~experiences~~. However, both Monte Belger and Lynne Osmus, who Garvey relied on, had significant security experience. She was confident that key staff had clearly defined roles in such emergencies, and she recalls at management meetings that Admiral Flynn stressed the need to know where everyone was so they could receive emergency notifications, as well as the importance of following procedures.

The Day of September 11, 2001

[U] Ms. Garvey had just returned from Texas, and on the morning of 9/11 she was in Sec. Mineta's office for a breakfast meeting with the European Union Transportation Minister (Madame Durant) and her aide (Michel Arrille) on environmental issues. The meeting was in the Secretary's Conference Room at DOT headquarters, and present, in addition to the Europeans were Sec. Mineta, Administrator Garvey, DOT's Chief Counsel, and Carl Burleson. Mineta Chief of Staff John Flaherty "rushed into the room" and notified the Secretary and Administrator that they were needed "right away." This was at the time of the first reports of the first plane hitting the World Trade Center (WTC). CNN was on in the Secretary's office.

[U] The first reaction in the room was that it was a small plane, possibly the result of a heart attack of the pilot. Garvey immediately called the FAA Operations Center to ask what was going on and was told, "They were not sure; we've just got word of a potential hijacking," but the two events were not necessarily connected.

[U] Ms. Garvey then left immediately for FAA, which would have been between the first and second WTC crashes (she did not make note of the times throughout the day), and once there went through the 10th Floor Operations Center, where Lee Longmire was located, on to the security operations area "vault" (SVTS), where she met up with Monte Belger, and tried to reach FAA Security chief Canavan. Once there, she was in communication with the Herndon Command Center (directed by Linda Schussler and Ben Sliney that day), which was handling most of the communications for FAA headquarters that day. The initial feeling was that this was an Air Traffic Control (ATC) matter, and the rest of the FAA would help and try to gather information. Ms. Garvey maintained an open line for communications with the field and was asking what was happening. Garvey called the Secretary, and Belger may have called the New York and Boston air traffic control offices at this time. She does not recall the arrival of the DOT Director of Intelligence and Security.

[U] After the second crash, she learned that FAA personnel at Logan were already testing the screening machines and interviewing relevant people at the airport. As she was listening in on the communications, it was clear that other agencies had been pulled in to the call, and her assumption (though unconfirmed at the time) was that this included the FBI and NORAD.

[U] While after the second crash there was growing awareness that the events had likely been hijackings, after the Pentagon crash, they knew they were dealing with an "extraordinary" event. At that point, Don Carty from American called, and he couldn't believe the Pentagon crash had been an American plane. He asked what she knew, which she told him was very little at that point, and she inquired what he knew about American flights. Shortly thereafter, there was a report of a 4th plane having gone down near the Ohio River, and with numerous repetitions became almost a fact. At that point, she went for a brief visit to check on the FAA Day Care Center, and to make sure that FAA employees weren't panicking, and those who were leaving were exiting safely. Ms. Garvey recalled that the atmosphere that morning throughout the building was intense, but calm and professional.

[U] Sometime between the Pentagon and Pennsylvania crashes, Garvey called Jim Goodwin (CEO of United Airlines) and Leo Mullin (CEO of Delta) to ask them what they knew about their planes (there was some concern at this time about a loss of communication with certain Delta flights as well). Mullin was apparently aware of the problems at American and United and he was more concerned to learn about what was going on those airlines.

The Ground Stop

[U] After the fourth crash, the challenge was to determine what to do about the national airspace. Sec. Mineta and John Flaherty had left by this time to go to the White House, but were still in communication with the FAA. Belger told Ms. Garvey that Boston and New York ATC had already instituted a ground stop, and Garvey indicated to the Commission that she felt that this was a case of the controllers themselves taking the proper action and that part of the response worked well. At that point, Garvey and Belger felt that they needed to get the Secretary more into the decision-making loop. Mineta then called, and Belger expressed the view that the FAA needed to bring all of the planes down. After conferring with Vice President Cheney, Mineta ordered that action.

[U] With respect to the issue of "pilot discretion" in implementing the ground stop, Ms. Garvey recalled that Belger had explained the standard protocol in groundings, whereby the pilot in charge had authority to implement in a way that didn't compromise the plane's safety (for example, with respect to fuel supply). She believes that the Secretary may have misunderstood the degree and nature of this discretion, and that may have led to the reports of him ordering the planes to land without any pilot discretion.

[U] Once the order was given to ground all planes in the national airspace, Ms. Garvey went back to the SVTS "vault" (which would have been around 11 AM). The order was treated as a matter for the ATC system to handle, and discretion was given to the flight controllers as to what to say to the pilots. Ms. Garvey cited a concern that the order to land be given to the pilots in very clear terms and not confused with other issues, and thus there was no clear, system-wide order given to communicate to pilots to secure their cockpits.

[U] As the planes were being grounded, screening the disembarking passengers was not considered. For one thing, given the many planes diverted to small airports in the U.S. and Canada, it is not at all certain that the capacity to do this in any reasonable time frame even existed.

Immediate Response to 9/11

[U] Ms. Garvey indicated that in the immediate aftermath of 9/11, her focus was to get the system up and running again, and top determine what security counter-measures would be need to be undertaken. Sometime in October, she asked the FBI for an intensive briefing on their recommendations as to what needed to be done, based on their investigation of the hijackings. The FAA's liaison to the FBI (Jack Salata) was involved in the briefing. Ms. Garvey recalled that the Bureau provided "evasive" and "imprecise" responses as to whether they had discovered other plots.

[U] With respect to reports of a gun having been used in the AAL Flight 11 hijacking, Ms. Garvey did not recall receiving such a report at the time and never believed this had occurred, but she subsequently heard about the reports through media accounts and a GAO investigation. When she was presented with several versions of the "Executive Summary" said to have been prepared for her (the first two versions of which cited the gun report), Garvey did not recall seeing these on the 11th and possibly not on the 12th either.

[U] Ms. Garvey did recall that the Secretary had received a report, later determined to have been "fabricated," of a shredded U.S. airline uniform (with ID stolen) having been found in France. With respect to cockpit jump seat usage, Ms. Garvey had no direct knowledge of any 9/11-related problems, but indicated that the FAA Flight Standards Office was in charge of such access issues and that the airlines had their own policies with respect to obtaining authorization to use the seats.

[U] Garvey recalled much action growing out of the recommendations of the Secretary's Rapid Response teams, input from the FBI and other sources, in the immediate aftermath of 9/11. Many, but not all, of these took the form of Security Directives (SD's). She remembered briefings and discussions on such issues as disallowance of silverware in First Class (on which she had "an interesting conversation with a CEO on knives"), the curbside check-in ban, and cockpit door re-enforcement.

[U] Ms. Garvey reported that Sec. Mineta had some tough conversations with airline CEOs in this period. Garvey was "surprised" to learn of reports that she had "watered down" the initial SD's and believes that all of the items that had been determined to be necessary were included. She recalled that she "might" have questioned some of the details and implementation of some of the SD's issued in the immediate aftermath of 9/11, she did not recall receiving any input from the airlines in that regard. As time went on, Garvey added, the airline and airport security directors did begin to question the need

for certain counter-measures, such as the 300-foot rule (for parking in front of a terminal) at smaller airports.

Lessons Learned

[U] Later, Ms. Garvey was made aware that there had been some confusion at the Operations Center at the outset, and that they didn't have the right training for such an emergency, which nothing in the recent past had prepared them to deal with. Belger did a review and focused on such issues as the composition of the Operations Center staffing and the notification of NORAD (which she learned was initially done at a "low level"). As a result, certain FAA policies were changed very quickly. Garvey acknowledged that the FAA did not do a very good job of documenting the lessons learned, and while one could see the results of what they learned in the many actions taken in the immediate aftermath of 9/11, she wished they had done more in this regard.

[U] Re-opening the national airspace required an ongoing review of the lessons learned, especially with respect to Reagan National Airport, and involved the input from other federal agencies as well as other interested parties.

[U] Ms. Garvey stated that, with the benefit of hindsight, one could lose sight of the context within which the aviation security system was operating on 9/11. She felt that they did a good job back then of doing what they knew to do: "we responded well to what we then understood the threat to be." She feels that she and others in the system should have done a better job of communicating their actions back then, and the reasons for them. Ms. Garvey believes that the Commission faces a challenge in trying to put its report in the perspective and tenor of the pre-9/11 timeframe.

Garvey Recommendations

1) Not just with respect to aviation but also more generally, there is a critical need to institutionalize the collection and sharing of relevant intelligence. Garvey thought this function probably needs to be centralized, with one entity possessing all of the relevant information for dissemination.

2) There is a continuing need to clarify the roles and responsibilities for aviation security. The airports should have a clear role carved out with respect to perimeter security. There should be federal control of checkpoint screening, but not necessarily a federal workforce. (Ms. Garvey expressed a concern that the airlines' overriding financial mission would always detract from security, if they were given responsibility for screening again.)

3) Security Boards for airlines is an "interesting idea" (in response to a suggestion from Commission staff).

4) We need better security training for flight crews (including certification). Ms. Garvey felt that now that the airlines had been relieved of screening responsibilities they could focus more on this and other layers of security.

5) The security system needs to retain an element of randomness to defeat determined adversaries.

6) We need more "robust" risk management. (She reported that FAA did this more intuitively.)