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Senator Maria Cantwell

Commerce Committee Hearing: FAA Reauthorization One Year Later: Aviation Safety, Air Traffic, and Next Generation Technology

FAA Witnesses: Franklin McIntosh, Deputy Chief Operating Officer, Air Traffic Organization; Jodi Baker, Deputy Associate Administrator for Aviation Safety; Wayne Heibeck, Deputy Associate Administrator for Airports

Q and A

VIDEO

Cantwell: Thank you, Mr. Chairman. I want to mention I heard that you said that there's great bipartisan support on working on DCA and the problems around DCA, and that is very true, and we remain committed to understanding what's transpired and continuing to get answers. I think Senator Moran might have mentioned that he thinks we are going to do a roundtable to get further information.

... [F]irst of all, I wish Acting Administrator Rocheleau was here. I'm not sure why he's not here. I think having somebody who's in charge of the operations and answering to that is very important. The NTSB report [on DCA mid-air crash] obviously was quite damning with a lot of information about close calls beyond the accident that happened. And so it begs the question about the ATO process that's in place, the safety risk management system that is supposed to be there. And now, post the [DCA] accident, we've had this other incident. So why is your system not working? Why is the FAA oversight of this not working?

McIntosh: Thank you for the question. Senator Cantwell, the SMS process the ATO utilizes is quite robust. We have independent reviews from different levels of the organization to ensure that we don't have any human biases. And what I mean by that is, we are required to review all events, ... at all of our FAA facilities, so any significant event is required to be entered into a mandatory occurrence report and then a subsequent investigation.

Cantwell: Okay, so are you saying nobody's investigating this? Because we, I have to get through about five issues here. So, all I'm saying is, if you had all those alarms going off, if you had all of that oversight, and you had a safety risk management system, but nobody read the data and nobody said anything. We've already asked this of the FAA, so now I want an answer from the Acting Administrator -- I'm pretty sure he already promised me an answer which I still don't have -- which is, what is your process for then saying this is a problem and we're going to put a stop to it. I think the answer right now is, "oh no, no, I'm going to call air traffic controllers." That is not the answer. The answer is, this is too big of a risk, and we're not going to continue to do this, and we're going to set up better separations and more standards. And you haven't done that. And so that's question number one.

Okay, Newark. There's been reports in the press that maybe there was only three people in the tower. Isn't there a requirement that there should be seven people in the tower, isn't DCA here similarly -- isn't it about seven air traffic controllers to staff a tower like either of these towers? Is that right?

McIntosh: Are you speaking to Newark tower or to Philadelphia Area C TRACON?

Cantwell: Either.

McIntosh: We have basic watch schedule guidelines. This is a number that we try to get to.

Cantwell: Which is what?

McIntosh: Depends on by facility and how many positions we open. Now, I believe you're well aware that we do have some critical staffing shortfalls.

Cantwell: I can't tell you how hard I worked to get the 3000 increase, and I would have gotten more. But back to this question. What I'm pinpointing is, if the New York Post is wrong, I don't know whether they are. Maybe there were three people there. But if your number is seven and you don't have seven, what is the FAA doing every day to monitor that situation and say, "this is a problem?" This is not, "I'm going to call the head of the air traffic controllers union." This is, what is the FAA going to do to fix the system?

You're going to hear a rejoining theme through all of my questions. This is about this agency playing the aggressive role that we need you to play.

McIntosh: Yes, ma'am, and thank you for that question. I wish to address it. When we have a staffing shortage and we cannot open enough positions, we put in traffic management initiatives to slow the aircraft down. That's exactly what we did that night at Philadelphia Area C. We put in a ground delay program to keep traffic manageable. We do the same thing at DCA when we have too much volume—we put in a ground delay program. We do this on a daily basis.

Cantwell: Did you think you only had three people in that in that in that tower, controlling that airspace?

McIntosh: In that TRACON, for one hour, we did go down to that number, and we put in the appropriate traffic management initiative to keep things safe.

Cantwell: Okay, why did we go from seven, which is a requirement, down to three? I'm for safety first, for sure, but then at the same time, I'm trying to understand, why is it that we're now down from seven, which is basically what you think you need, down to three?

McIntosh: It comes down to a staffing shortage, ma'am. We did lose some controllers in that area due to either some sick leave that was unscheduled or some other leave that was not scheduled. When those things happen, ma'am, we have to essentially keep things safe, and we'll put in the appropriate traffic management initiatives to keep the flying public safe and make sure that we put controllers in the position to be successful.

Cantwell: Well, I definitely would not have been firing the safety oversight team... These are people who help us at a very big picture level. And I certainly wouldn't have cut back on staffing in general at the FAA. I think it's a time when we need people to be doing their job.

I need to turn to the ODA. So I sent you [Acting FAA Administrator] a letter. I finally got a response last night. I don't really think it's satisfactory, but what is it that.... This process of the FAA and the manufacturer working together. What is the criteria that you are going to look for in an ODA agreement related to aviation manufacturing?

Baker: Thank you for the question and thank you for your patience in the response. We are looking for criteria that the ODA is performing its functions. So, how is it performing? Is it meeting the requirements that we would hold... ODA unit members are performing work that the FAA would perform, so we want to make sure that they're performing to that same high standard. And we want to ensure that incidents of undue influence or undue pressure are minimized, and when they do occur, that they are properly researched and corrective actions are put in place. We're also looking for Boeing to continue their implementation of the safety management system.

Cantwell: A mandatory...

Baker: It is mandatory for them, but...

Cantwell: No, a mandatory safety management system, not, it's mandatory – you get one – and then you decide to make it voluntary. There's a difference.

Baker: Correct. They will meet the standards.

Cantwell: I'm a little concerned your general counsel is confused by this, because he was confused before and let them off the hook. And now... I want to make sure we're not confused. It is a mandatory...

Baker: A Part 5 SMS.

Cantwell: Okay, so what is it on the employee input? What are you looking for? Because part of the issue here was intimidation [of] employees speaking up and the FAA not backing them up. And so what are you recommending? What is it you want to see in the ODA that would say, "Yes, I understand now that the company is listening to the input from the employees." When we asked former administrator Whittaker if, in fact, the FAA should have some foresight into that, he said, yes. So we want to see an employee feedback system that the FAA has some access to.

Baker: Administrator Whitaker did invite the Boeing employees to leverage the FAA hotline. And so we did see an uptick in that. We did have employees directly communicating with the FAA. In addition, we have inspectors on the floor every day in the factories, having direct interaction with the workforce and inviting the workforce to interact with them, as well as what I mentioned, with the undue pressure and the ODAs, we have assigned direct advisors, so the ODA members have someone within FAA that they can reach out to directly. And again, we monitor any reports of undue pressure in the associated investigations.

Cantwell: I would like it if you could address this in a written response: What is it that you think the FAA believes makes for the right ODA agreement related to the employee feedback? This committee receives lots of whistleblower testimony. This committee receives lots of input about how the employees were bringing up issues and the FAA wasn't supporting them. So we want a clear process with the FAA that the FAA is knowledgeable – not after the fact, or not hoodwinked. Basically when it comes to, like the MCAS system we want, there were people raising the questions about MCAS all the way along. I mean, very senior people. And I think it would have been an interesting point if somehow that had surfaced to the FAA at that point in time. At least an alarm bell would have gone on at the FAA: “Oh. MCAS, better pay attention to this. This is a bigger sea change than we think.” Correct?

Baker: Part of the bill itself talked about how we're going to improve communication during the certification process, not just during the production process. And some of those provisions that we're putting in place are going to facilitate that as well.

Cantwell: Please provide to me...what is it you're going to expect in a process for certifying a new ODA. What is it you're looking for to make sure that [there is] employee input when, you know, they're identifying problems that they're concerned about? How the FAA knows about that and basically gets it on your radar screen that this is something the engineering staff believes you should pay attention to. Thank you, Mr. Chairman.