

MEMORANDUM FOR THE RECORD

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Event: James Padgett, former Manager of the Global Issues Division, Office of Civil Aviation Security Intelligence at FAA (on 9-11)

Type of Event: Interview

Date: Part I: October 7, 2003; Part II: (DATE?)

Special Access Issues: None

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Location: Commission office at GSA

Team: 7

Participants (non-Commission): James Padgett, TSA International Operations Liaison to State Department; and Brandon Strauss, TSA Counsel

Participants (Commission): John Raidt, Sam Brinkley, and Lisa Sullivan

Background

[U] James Padgett had a background as an intelligence case officer for the Department of Defense prior to coming to FAA in 1990 as the Acting Manager of the Strategy Division until May 1991 (replaced by Stephanie Stouffer). After the Pan Am 103 recommendations were issued, the FAA proceeded with many organizational changes, including reprogramming the intelligence office with 4 divisions. He served as Stouffer's unofficial deputy in the intelligence division overseeing this process. From August of 1994 to December of 1999, Padgett was technical advisor/special assistant to the Director of Intelligence, Pat McDonnell. He was reassigned to the Office of Global Issues within Intelligence, where he took on supervisory responsibilities. He was in that position through the spring of 2002 before being assigned by TSA to the Office of Foreign Missions at the State Department (OFM) through the interagency liaison group.

FAA Intelligence Division

(U) In early 1990, the Intelligence division at FAA was just starting up. Each Intelligence agency that the FAA relied on for information had different reporting requirements.

~~(SSI)~~ CIA received a "reading requirements" list of FAA intelligence needs, whereas NSA, DOD, and FBI were given "statements of intelligence interests." The subjects addressed were broad. FAA Intelligence continuously "banged the drum" for more intelligence from the intelligence community. The assumption made on the part of the

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intelligence community was that FAA was only interested in terrorists targeting planes or specific mentions of aviation.

(~~SSI~~) Padgett said he was "always at pains to underscore the intentions of terrorist groups" It is always possible that groups could ultimately turn attention to terrorist tactics at a later point." By this, Padgett meant he wanted information on groups the agencies were tracking in addition to the specific threat indications they were receiving. He reported that he said at a briefing at NSA: "FAA wants to know what the groups are doing regardless of whether information pertains strictly to aviation." He elaborated that the FAA was looking for more encyclopedic, specific reports on things such as [REDACTED]

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[REDACTED] or anything else that terrorists might want to acquire.

(~~SSI~~) Intelligence requirements were updated periodically. It was an ongoing process. When a report was received that was time sensitive, Padgett would issue a special emphasis." He also participated in interagency seminars. For example, Padgett reported to have attended a HUMINT (Human Intelligence) seminar, to tell the intelligence community what the FAA had identified it was interested in reading about; and furthermore, to make sure that the subjects were accorded a priority (such as, for example, information on terrorists gaining employment at airports) for the intelligence collectors. The Executive Committee showed concern regarding Beirut.

Intelligence Process and Intelligence Community Reporting

(U) The process for FAA intelligence included:

- 1) Making sure the national collection priorities included what FAA was interested in, and
- 2) Making sure that the FAA reading requirements were on file with the collectors.

(~~SSI~~) Padgett felt that the process worked extremely well for the CIA, and that NSA, DOD and State were well aware on several occasions. However, FAA intelligence heads were continually concerned about what they were and were not receiving from the FBI. There was the issue of protecting aspects of ongoing criminal investigations that prohibited the Bureau from sharing information with the FAA. "On a number of occasions, the FAA found out information well after the fact involving a possible plot to attack an airport or the surveillance of an airport," Padgett reported. When pressed further, he said he could not be more specific on the information, other than that one may have involved Los Angeles Airport (LAX) in the late 1990s (he was very vague on this point). He said the indications arose during Pat McDonnell's tenure as director. "Possibly," someone with affiliations to terrorists was surveiling, or wanted to talk to someone working at LAX.

(~~SSI~~) At another point (Padgett was vague on this recollection); [REDACTED] from the Bureau mentioned that "something had come to light regarding terrorism at LAX."

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When McDonnell expressed that the FAA had not been made aware of the situation, [redacted] response, according to Padgett, was to say "oh, we didn't tell you guys about that at the time?"

(~~SSI~~) Interagency seminars were forums for discussion of intelligence collection objectives. On forums that focused on activity in the United States, Padgett said that the FBI did not want to take the lead in information collection in such cases. Normally, one agency takes the lead on particular cases, and because the focus was domestic, Padgett naturally assumed the FBI would have the lead. He expressed his concern at the time that no other agency was ever given the official lead on collecting information on domestic threats.

(U) Padgett also said that there was "always the problem of turnover" from person-to-person with accounts. Someone sitting at a particular desk working a particular account would have an enlightened or certainly broader understanding of what FAA needed. When that person is replaced, the new officer may be a victim of "tunnel vision" on what information should go to the FAA.

(U) The only continual problem he was aware of was the reporting from the FBI.

July 2001 Rulemaking

(U) At the end of his tenure before 9-11, they were getting ready to publish the Federal Register Rule on certification of screening companies and the change of FAR 107/108. At that time, the FAA described the domestic threat as the "Bojinka" scenario and applied it to a domestic situation. Padgett indicated he was probably a part of that rulemaking process.

(U) In thinking about the rule, Padgett recalled that the "economists" at FAA were wondering how much mileage they could get out of the Pan Am 103 incident. He suggested that those attacks which the U.S. was spared (when Bojinka was thwarted) should be factored into the cost benefit analysis of future rulemaking. Should something like Bojinka occur, the outcome would be devastating, Padgett observed.

(U) Padgett reported that there was a massive effort to get procedures in place here that were already in effect abroad to guard against the possibility of a bomb in checked baggage here. The FAA had begun "sounding the trumpet" for greater aviation security after the "National Intelligence Estimate (NIE)" came out in 1995 (which the FAA participated in). This estimate greatly strengthened the FAA's hand to institute such changes. The airlines fought them every step of the way. Prior to the release of the estimates, they had claimed the FAA was overstating the threat. The air carriers wanted to know where the FAA could point to these "things" taking place in the domestic arena.

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TWA 800, the Gore Commission and CAPPS

(U) Padgett recalled that in 1996 initially it was thought that TWA 800 was a terrorist attack. That perception gave rise to the White House Commission on Aviation Security (also known as the Gore Commission). At that time, they were only just beginning CAPPS. They had seen the possibility of the United States being in a state of war after the Gulf War. FAA had identified the need for an automated passenger profiling system. The FAA went about pursuing the program using the various air carrier reservation systems utilizing a series of grants.

(U) By September 1996, everything changed. The Commission came along and endorsed the automated pre-screening concept in its final report in early 1997. This was supposed to be done for all the airlines, simultaneously. The FAA had to write all the program inputs and outputs to get CAPPS up and running that year. It was an extremely busy time. Through it all, they were trying to brief on the Hill to line up support for a stronger baseline security in this country even before they had instituted the CAPPS system. FAA knew that FAA would be fought "tooth and nail" by the stakeholders once they incurred the pre-screening/baseline expenses who would say that FAA was exaggerating the threat.

(U) It was a matter of taking the baseline (which was fairly low at the time), combined with several contingency measures that were enacted during the Gulf War (that had been discontinued), and effectively "moving the baseline up" permanently.

The Hijacking Threat

(U) A big question was how the hijacking threat was viewed post-Pan Am 103, post-TWA 800, in the absence of such events. Was hijacking still a viable threat? Where was it in relationship to other threats? Padgett indicated there was a greater concern to prevent bombs because a) they were believed to be more likely because it was a highly publicized vulnerability, and b) there were more measures in effect to prevent hijackings than bombings (so it was believed), specifically the screening checkpoint.

~~(SSI)~~ Checked bags were not screened and there was no passenger bag match. It was a glaring vulnerability. Given the 1995 National Intelligence Estimate (NIE), the FAA needed to sell this program to the lobbyists. Padgett stated that vulnerabilities are not the same as threats. Risk is a product of threat and vulnerability. Vulnerability can exist irrespective of a threat.

~~(SSI)~~ According to Padgett, "Terrorists were more likely to exploit a well advertised vulnerability." The threat that accompanied the 2001 rulemaking was done for cost-benefit analysis. We knew terrorists were here. We knew about Bojinka.

(U) Padgett never thought that he and the FAA Intelligence Division were coming up with something to satisfy some artificial need, such as congressional support for the rulemaking process. ACI always resisted attempts to quantify the threat. "We recognize

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that the economists have to do it, but the intelligence office was very, very concerned that terrorists would attack within the United States." That said, he thought that the greatest domestic threat would be a bomb in the checked bag or a carry-on. That was not exaggerated on their part, according to Padgett.

(U) ACI was always given the opportunity to review language of the rulemaking process before it went to the Federal Register and into the public domain.

Suicidal Terrorism

~~(SSI)~~ The FAA Intelligence Division had looked at the idea of "suicide attackers." Padgett set up a conference call with the analysts in his division to talk to a leading authority on suicidal terrorism, Dr. Ariel Murari, sometime before September 11th. He had given a talk on that subject at the international conference hosted by the Gore Commission in late January of 1997. In the conference call, he said that throughout all of his research, he had not found a single instance of a suicide attack carried out on aviation. He thought it was unlikely for psychological reasons related to the extended time between the "point of no return" and the execution. He certainly did not raise the possibility of multiple hijackers willing to kill themselves.

CAPPS

~~(SSI)~~ Padgett indicated that some people knew we always wanted to get a good pre-screening system for all passengers, and others say the idea of CAPPS was spawned in recognition of the need for an intensive method of profiling which required interaction between the profiler and the passenger. The latter was the "Rolls Royce version of this." It is what the United States requires in locations where we have extraordinary security in place.

~~(SSI)~~ Padgett further reported that since 1995, they have been telling the trained agents how to prioritize the signs, what to look for, etc. What the U.S. put in place overseas is largely an outgrowth of the Israeli method. It was the air carriers that came to the FAA in the late 1980s asking for permission to create a system that would generate far fewer selectees than what FAA's system was generating at its international locations. He described that system as fairly crude;

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~~(SSI)~~ The airlines working with ICTS (WHAT IS THIS?), which consisted primarily of former El Al employees, came up with something. In 1995, FAA stepped in and announced they would take the project over. FAA realized it was impossible to replicate the system used internationally at home, given the high volume of passengers that passed through domestic airports (he used O'Hare as an example) in comparison to the relatively low volume of passengers to screen at terminals overseas. Intensive interaction between the profiler and the passenger had to be ruled out, and the number of selectees had to be minimized.

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(At this point, Padgett reiterated that the FAA was not looking for the suicidal hijacker.) The primary concern was the "witting non-suicidal terrorist" because that was a threat vector that had been exploited in the past.

~~(SSI)~~ CAPPs had started independently of the effort to deploy Explosive Detection Systems (EDS). The original thought was that CAPPs would be applied to all passengers, regardless of checked bags, and a selectee would have additional security scrutiny of their person, of their carry-on, and if they had checked bags. However, the greater concern was about the carry-on bomb that would be left behind at an intermediate stop by a non-suicidal hijacker, and that had been successfully carried out against U.S. air carrier in the past.

~~(SSI)~~ ACI always believed that selectees' carry-ons and person should be subjected to additional security measures. This was changed to checked baggage only. Padgett's understanding of the reason behind ACI's position was that there needed to be a "premium placed on improving performance at the screening checkpoint for all passengers, not just selectees." Padgett said the ACI policy-makers thought that by instituting a procedure whereby selectees got a thorough going-over, non-selectees would be essentially ignored. Thus [redacted] percent of all passengers would walk right on through. That would introduce the possibility of letting people that were not necessarily terrorists but were nonetheless dangerous out of carelessness or ignorance (gun carriers) get on board. Coupled with ongoing instances of air rage, a volatile situation could arise.

~~(SSI)~~ Padgett reported that there were operational concerns about how one conducts a selectee search without a checked bag. If CAPPs is run at the gate and a passenger comes up as a selectee, there was the problem of taking additional security measures that close to boarding the plane vs. escorting the passenger back to the screening checkpoint.

~~(SSI)~~ Padgett affirmed that the purpose of CAPPs was to identify a population of passengers most likely to contain a terrorist. Although it was not intelligence's role to determine what the countermeasure was, it was understood that the population would be subjected to security measures over and above the rest of the population.

~~(SSI)~~ Padgett indicated that the purpose of CAPPs obviously morphed. Sometime between May of 1997 and the end of that summer (possibly July) the first addendum that is contrary to the original CAPPs document came out that said CAPPs would only be applied to checked bags. He does not recall that ACI was invited to argue against the policy change. Interestingly, at overseas locations, where CAPPs was introduced (such as at London Heathrow), there was still the requirement for the selectees to have additional measures applied to their persons and carry-ons in addition to the checked bags.

~~(SSI)~~ Padgett developed the CAPPs product in response to Bruce Butterworth wanting to get from intelligence the likeliest form of attack on aviation domestically. There was

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limited enthusiasm for this on the part of the Director of Intelligence because it pushed FAA towards quantifying threats.

~~(SSI)~~ Padgett and the Intelligence division offered scenarios that were the likeliest. Butterworth wanted to determine where it would make most sense to do testing on the system. He identified 26 different threat scenarios that were based on other methods used in previous attacks, or on adaptations of other attack methods too obvious to ignore. This was a fairly easy list to generate. [REDACTED]

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~~(SSI)~~ Padgett felt uncomfortable quantifying threats because a number of distortions came into play. [REDACTED]

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[REDACTED] Basically, the CAPPs assignments were subjective from the start.

Issues Associated with Risk Management

(U) Padgett did not recall some earlier product that quantified or placed emphasis on certain threats over others.

(U) During the summer of 2001, there was a focus on the increase in "chatter." He was not involved in the Indications and Warnings side of things. He remembers that the intelligence community was very concerned with the reports about Al Qaeda; they were beyond the planning stages for a big event. He created a time line plotting the different terrorist plots, showing them from initiation through all stages of maturity. There were any number of plots at different stages of maturity at any given time. They were overlapping considerably.

(U) Padgett reported that flight training was not a skill set for terrorists that was followed by FAA Intelligence.

(U) Padgett reported that there were reports pertaining to suicide missions: Algerians over Paris; a report of crashing an airplane over CIA; and there might have been something like Bojinka about exploding an aircraft over a populous us city. However, he did not specifically recall anything other than suggestions.

(U) On September 11, 2001, he was at FAA Headquarters. He was sitting in a staff meeting at ACI. He stayed downstairs. He did not go to the Command Center or the Watch.

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PART II: The Interview with James Padgett was continued at a later date. The session was attended by John Raidt (9-11 Commission); James Padgett; and Brandon Straus

9-11—The Day and immediate aftermath

[U] Padgett was located on the 3rd floor of the FAA Headquarters building when the event occurred. Everyone in the division was sent to the ACI watch to answer telephone calls. Padgett remembers taking calls from a couple of people from his division who witnessed the attack on the Pentagon—

[U] ACI drew up schedules to bolster personnel coverage of the watch. Padgett drew up the rosters, but had to leave by 4:15 pm to pick up his car which was getting repaired.

~~[SSI]~~ Padgett spent his time examining Passenger Name Records, and making adjustments

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~~[SSI]~~ Padgett is not sure when it started but we were getting lots of tasking from the NSC for information going way back on pilot training. This tasking included checking the CACTIS database inquiries as per Padgett also drew up information on the Method of Operation used by the hijackers for the federal air marshals. Padgett noted that FAA asked DoD for manpower to help sustain the intelligence effort. He said only the USMC came through with assistance.

CAPPS

~~[SSI]~~ Commission staff asked Padgett to provide additional information on the development of the CAPPS program before 9-11. He said that there's no question that the original intent of the program was to identify terrorists.

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~~[SSI]~~ Padgett said he was personally disappointed that CAPPS consequences were narrowed in the guidance documents. He said that there was concern on the part of policy makers that screeners would have to pay particular attention to selectees, which they believed would mean giving non-selectees a pass.

~~[SSI]~~ Padgett said that there was no way to fold the "no fly" list into CAPPS. There wasn't a field for such inputting. The Justice Department had done a civil rights review of the program and FAA was not allowed to have fields outside of what was in the PNR.

Current Concerns

[U] Padgett is concerned what will happen if his unit has to start focusing on other modes of transportation, because "we're still a small staff." He said that ACI felt that they probably should not dedicate analysts only to pipelines, trucking, rail, and merchant

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marine because we didn't see that we'd be able to hire enough analysts to cover everything, including domestic and transnational. He doesn't believe that the manpower increase was commensurate with the expanded portfolio of ACI.

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