

NTSB 12

APPENDIX: V

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DESCRIPTION OF DOCUMENT: E-mail message chain between and among staff of the NTSB and The Boeing Company concerning TWA flight 800

This document contains the record of a series of e-mail communications between staff of the NTSB and employees of The Boeing Company involving discussion of data provided to the NTSB by Boeing. The data was used to develop the NTSB's Main Wreckage Flight Path Study. The Boeing employees involved in this e-mail exchange were from the Air Safety Investigation Team, which is part of the Boeing Commercial Air Group (CAG/ASI). This Main Wreckage Flight Path Study, a publicly available document, has been accessible as a part of the TWA 800 public docket through the NTSB's web site at www.nts.gov since August of 2000. The Study is Exhibit 22C of the public docket for TWA 800. Related materials in the public docket include Exhibit 22D (Errata

from the study); Exhibit 22E (Addendum I to the study); and Exhibit 22F (Addendum II to the study). These documents are also found in this Vaughn index as Exhibits VII, VIII, IX, and X to the Declaration of Dennis Crider. Material was withheld from this document pursuant to the operation of exemptions (b)(4), (b)(5) and (b)(6) to the Freedom of Information Act (FOIA).

The names and e-mail addresses of the Boeing employees were redacted pursuant to exemption (b)(4) from all three pages of this document. Any Boeing e-mail address, if disclosed, would identify a particular Boeing employee by name. The redacted information, voluntarily submitted by Boeing, is considered by Boeing to be commercial in nature and to reveal commercial operations, which from Boeing's perspective, makes the withheld information confidential in nature.

Boeing's employees, including the engineers and technical staff in CAG/ASI, are vital to the design, manufacture, sale and support of commercial aircraft, which are a primary product of the company. Boeing invests a great deal of time, money and other resources educating and training its personnel in order to develop their skills and usefulness to Boeing's commercial operations. Boeing

engineers and technical staff in their daily work routinely create, have access to, and use Boeing proprietary information that is commercially valuable to Boeing. Further, they routinely access and use the proprietary information of Boeing's suppliers and customers, which information was provided to Boeing by its suppliers and customers with the expectation that it would be held confidential. Use and disclosure of proprietary information, whether that of Boeing, a supplier or customer, is restricted by agreements between Boeing and its employees, suppliers, and customers. Boeing has policies and procedures to prevent disclosure of proprietary information, which is not customarily made available to the public.

Disclosure of the withheld information concerning Boeing's employees would identify the professional staff of Boeing that are involved in the technical and professional activities of CAG/ASI, which would link particular employees with particularized commercial operations of Boeing. Additionally, it would identify and disclose the names of those employees of Boeing that are in possession of and familiar with the proprietary information of Boeing and its suppliers and customers. Boeing therefore has a commercial interest in withholding from disclosure the

identifying information concerning its employees and the proprietary information they have created, accessed, or used in the course of their employment.

As a normal business practice to prevent burdensome or improper contact between Boeing's employees and third parties who might have an adverse interest in Boeing's business, Boeing generally does not release direct contact information for its employees. If the withheld information were released, names and contact information for employees who have access to or knowledge of Boeing's commercially valuable proprietary data would be available to the public in general and to Boeing's competitors in particular. Armed with the basic knowledge of the employees' knowledge, skills, and responsibilities, Boeing's competitors could attempt to hire these individuals away from Boeing or otherwise seek to gain information from them. In short, public disclosure of the withheld information, to the extent that it may cause substantial harm to Boeing's competitive position, would also be likely to impair the NTSB's ability to have direct access and information concerning the professional and technical staff of Boeing. If, as a result of disclosure of identifying information concerning its employees, the employees were subject to burdensome or improper contact, it would be more difficult

and expensive for Boeing to offer its most experienced and knowledgeable employees to support NTSB investigations. Loss of the investigative asset that the Boeing employees represent would significantly impair the NTSB's ability to complete its accident investigation work. For Boeing, loss of members of its highly skilled workforce would have a detrimental effect on Boeing's ability to compete in a very demanding global marketplace.

The names and e-mail addresses of the employees of Boeing were also withheld from all three pages of this document pursuant to exemption (b)(6). These individuals are not government employees; rather, they are employees of a private corporation. Given the commercial value of the information that is in the possession of these individuals and the curiosity that has arisen surrounding the accident investigation of the crash of TWA Flight 800, release of the names, telephone and facsimile numbers of these Boeing employees would permit the invasion of the employees' personal privacy and would make them subject to unwanted and possibly unmanageable contact from a host of individuals unknown to them. It is clear, therefore, that the employees of Boeing have a privacy interest in their names and other identifying information and in the non-

disclosure of their names and other identifying information.

Taking into consideration the public interest in the disclosure of the material withheld under (b)(6), as public interest is defined in the FOIA, it does not appear that the withheld information is of the type in which there is a public interest or, if an interest exists, it is minimal. That is, the names and identifying information of Boeing employees do not shed light on the agency's performance of its statutory duties. Thus, it appears that there is little to no public interest in the disclosure of this information and that the Boeing employees' right to privacy outweighs any such interest. The disclosure of the information, without revealing information concerning how the NTSB performs its statutory duties, would constitute a clearly unwarranted invasion of the personal privacy of the Boeing employees.

The data provided by Boeing and employed to develop the study of the main wreckage flight path is considered by Boeing to be commercial information, the release of which would disclose to the public, including the competitors of Boeing, operational information regarding the Boeing fleet of 747 aircraft. The data contained in this document were

derived and used by Boeing in other contexts to optimize the performance of its aircraft, which, as a fundamental activity of any aircraft manufacturer, requires innumerable staff-hours and other resources. It is the understanding of the NTSB that the information contained in this document is not of the type that is customarily released by Boeing to the public. According to previous input from Boeing, the release under the FOIA of Boeing performance data such as that found in this document would permit a competitor to acquire valuable and highly sensitive engineering data without requiring the competitor to expend the time and money that Boeing invested in developing the data. Given the voluntary provision of these commercial and confidential data in this document to the NTSB by Boeing, the fact that the data are not customarily released to the public by Boeing, and the fact that the data were not identified by the NTSB as commercial information that, for the protection of public safety, was required to be published in a report or the public docket of the NTSB, the data contained in this record were found to be confidential and exempt from release under the FOIA and were withheld pursuant to exemption (b) (4).

As a further consideration, public disclosure of the withheld technical data, to the extent that such release may cause substantial harm to Boeing's competitive position, would also be likely to make Boeing reluctant to share its commercial and proprietary technical data with the NTSB in the future, which, in turn, would impair the NTSB's ability to have direct access to the technical data that is required for proper analysis and investigation in aviation accidents. Restriction of access to these data would significantly impair the NTSB's ability to complete its accident investigation work.

The NTSB staff communications found in the e-mails contained in this document, as a part of the process of completing the investigation of the TWA 800 accident, seek review and confirmation of the confidential, commercial data provided by Boeing and, in certain instances, engage in discussion of the progress of the NTSB's Main Wreckage Path Study. This discussion, conducted with a party participant of the investigation, is intended to determine if the NTSB study should be amended prior to its presentation to the Members of the Safety Board. The five-member Safety Board is the ultimate decision-maker as to the probable cause(s) of an accident, and the safety

recommendations that follow from that cause. The discussions in this document were predecisional, since they occurred well in advance of the completion and publication of the study. The discussions are deliberational, as well, in that they embrace the completion of the study that will be presented to the Board subsequent to the time of the discussion in the document. The Safety Board was anticipated to use the study and its recommendations to make decisions that would alter maintenance of systems, training of personnel, or construction of systems so as to prevent future accidents. Taking into consideration the predecisional and deliberative nature of certain portions of the document, two sections of the first page of this document and one section on the third page were withheld pursuant to the operation of exemption (b)(5) of the FOIA.

The e-mail addresses of the employees of the NTSB that participated in the evaluation and study of these data were also withheld pursuant to exemption (b)(6). Although these individuals are government employees performing their assigned duties, given the commercial value of the Boeing information that is in their possession and the curiosity that has arisen and continues to exist regarding the accident investigation of the crash of TWA Flight 800,

release of the e-mail addresses of these government employees would permit the invasion of the employees' personal privacy. This disclosure would make these employees subject to unwanted and possibly unmanageable contact from a host of individuals unknown to them. It is clear, therefore, that these government employees have a privacy interest the employees of Boeing have a privacy interest in their e-mail addresses and in the non-disclosure of their e-mail addresses.

Taking into consideration the public interest in the disclosure of the material withheld under (b)(6), as public interest is defined in the FOIA, it does not appear that the withheld information concerning the government employees is of the type in which there is a public interest or, if an interest exists, it is minimal. That is, the disclosure of the e-mail addresses of the NTSB employees would not shed light on the agency's performance of its statutory duties. Thus, it appears that there is little to no public interest in the disclosure of this information and, as a result, the government employees' right to privacy outweighs any such public interest. The disclosure of this information concerning the NTSB employees, without revealing information concerning how the NTSB performs its statutory duties, would constitute a

clearly unwarranted invasion of the personal privacy of these employees.

This document was released to the plaintiff in response to a previous FOIA request. When released earlier, a number of the redactions/withholdings were accomplished by "whiting out" the exempt information. In the document redacted accompanying this narrative (as well as previously in the Vaughn index in CV 02-8708-AHM), the exemptions have been "blacked out" in order to clearly indicate where the exempt material is located within the document. Additionally, inadvertently, the name of an NTSB employee was redacted where it should not have been. It was originally released in the Vaughn index filed in CV 02-8708-AHM and continues to be released.

Crider Dennis

From: [redacted]
Sent: Tuesday, January 18, 2000 7:15 PM
To: 'Crider Dennis'
Cc: [redacted]
Subject: RE: TWA 800

(b)(4)
(b)(6)

b(4)
b(5)

Dennis
Here are the numbers in response to item 3.

[redacted]

We will get you the complete response as soon as possible.

[redacted] (b)(4)/(b)(6)

(b)(6)

> From: Crider Dennis[SMT] [redacted]@ntsb.gov
> Sent: Tuesday, January 18, 2000 3:49 AM
> To: [redacted]
> Subject: RE: TWA 800

(b)(4)/(b)(6)

> Try 2.

> -----Original Message-----

> From: Crider Dennis
> Sent: Saturday, January 15, 2000 1:36 PM
> To: [redacted] Crider Dennis
> Cc: [redacted] Ritter James
> Subject: RE: TWA 800

(b)(4)
(b)(6)

[redacted]

Thanks
Dennis

-----Original Message-----

From: [redacted]
Sent: Thursday, January 13, 2000 6:55 PM
To: 'Crider Dennis'
Cc: [redacted]
Subject: RE: TWA 800

(b)(4)
(b)(6)

Dennis
Sorry I had not gotten back to you earlier.

non-responsive

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[redacted] estimates that he can be finished by the
> end of Thurs next week. Hope that doesn't create any problems for you.

> [REDACTED]
> > -----
> > From: Crider Dennis [SMTP: [REDACTED]@ntsب.gov]
> <mailto:[SMTP:criderd@ntsب.gov]>
> > Sent: Thursday, January 13, 2000 10:14 AM
> > To: [REDACTED]
> > Cc: [REDACTED]
> > Subject: RE: TWA 800
> >
> > How is this progressing? Do you have a revised estimate
> of when you will be
> able to respond?
> >
> >
> Dennis

(b)(4)
(b)(6)

> > -----Original Message-----
> > From: [REDACTED]@boeing.com <mailto:[REDACTED]@boeing.com>
> <mailto:[REDACTED]@boeing.com>
> > Sent: Friday, December 17, 1999 6:22 PM
> > To: 'Crider Dennis'
> > Cc: [REDACTED]
> > Subject: RE: TWA 800

> > Dennis
> > [REDACTED] started working on this and is
> not yet finished.
> > Unfortunately, [REDACTED]
> [REDACTED], and
> > Boeing closes down for the rest of the year starting Dec
> 24. We will not be
> > returning until Tue Jan 4, 2000. When [REDACTED] returns on Jan
> 4, he will continue
> > working on this. We will try to respond by Jan 7.

←
(b)(4)
(b)(6)
← (b)(6)
← (b)(4)
(b)(6)

> > -----
> > From: Crider
> Dennis [SMTP:criderd@ntsب.gov] <mailto:[SMTP:[REDACTED]@ntsب.gov]>
> > Sent: Friday, December 10, 1999
> 4:47 AM
> > To: [REDACTED]@boeing.com'
> > Cc: Dickinson Al; Ritter James
> > Subject: TWA 800

(b)(6)

> > Dennis
> > We had a work planning meeting this week
> on TWA 800 and
> > one thing that came
> > up is the aerodynamic data used in the TWA
> 800
> > simulations. [REDACTED]
> > sent this data to [REDACTED] with a copy
> to me in a fax
> > of 25 March 97.
> > This was followed by a fax of engine data
> March 31st and
> > proceeded by a fax
> > of mass properties data March 24th.
> Additional

(b)(4)
(b)(6)

