

APPENDIX: V

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DESCRIPTION OF DOCUMENT: Handwritten notes concerning TWA flight 800 "Post nose break trajectory"

This document consists of the handwritten notes of an employee of the NTSB staff. In the notes the employee lists and highlights preliminary issues and matters to review for the NTSB Trajectory Study and the Main Wreckage Flight Path Study. Contained within the notes is the personally identifying information concerning the employees of the Air Safety Investigation team of the Boeing Commercial Air Group (CAG/ASI), as well as personally identifying information of other government employees. Pursuant to exemptions (b)(4), (b)(5) and (b)(6) of the Freedom of Information Act (FOIA), this document was withheld in its entirety.

This document contains preliminary information that an NTSB employee gathered from a number of sources, all of

which summarizes initial impressions potentially relevant to the NTSB Trajectory and NTSB Main Wreckage Flight Path Studies. The information is gathered from a number of investigative sources, including witness reports, and contains the personal opinions and unconfirmed speculations of the author as a number of other sources.

The information is predecisional in that it was gathered well in advance of the completion of either study mentioned above. The notes are also deliberative in nature in that they contain the unconfirmed impressions of the author and other named investigators and personnel involved in the investigation. Disclosure of the initial speculations and unconfirmed speculations contained in these notes would expose the NTSB's decision-making process in such a way as to discourage candid discussion within the agency and thereby undermine the agency's ability to perform its functions. Disclosure would also have a chilling effect on the author and those participating in the investigation by making them wary of engaging in frank and open discussion for fear of the preliminary and speculative information shared in these discussions being disclosed. Protecting frank and open discussion such as that depicted in this document would enhance the quality of agency decisions among those who make the decisions within the government.

Consequently, predecisional and deliberative information contained in this document was withheld pursuant to the (b)(5) exemption to the FOIA.

The names and e-mail addresses for the Boeing employees were redacted pursuant to exemption (b)(4). Release of the e-mail addresses alone, would, in effect, disclose the name of the employees. The redacted information involving the identity of its professional employees, 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 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 link to 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 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 and e-mail addresses 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 names and other identifying information, including telephone numbers and e-mail addresses, of employees of the NTSB and other government personnel that participated in the evaluation and study of these data were also withheld pursuant to exemption (b)(6). Disclosure of the e-mail addresses would, in effect, constitute the release of the names of the employees. 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 names, telephone and 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 these government employees 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 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 names and e-mail addresses of the government 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 the names and e-mail addresses concerning the government 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.