

ORDER

DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION GREAT LAKES REGION

GL 8020.24

9/19/78

SUBJ: EMPLOYEE ACCESS TO FAA AND PERSONAL ATTORNEYS REGARDING AIRCRAFT
ACCIDENTS AND INCIDENTS

1. PURPOSE. This Order states the policy and practice of the Great Lakes Region in providing FAA legal assistance to FAA employees implicated in accidents and incidents. It also outlines the role personally-engaged or association attorneys may assume in the area of accidents and incidents.

2. DISTRIBUTION. This Order is distributed to the branch level in Air Traffic, Airway Facilities, Flight Standards, Regional Counsel and Airports Division, and to all Air Traffic, Airway Facilities, Flight Standards, and Airports Field Facilities.

3. CANCELLATION. Order GL8020.20 dated 7/18/73, Employee Access to FAA and Personal Attorneys Regarding Aircraft Accidents and Incidents is cancelled.

4. BACKGROUND.

a. It is the policy of the FAA to cooperate fully with the National Transportation Safety Board in its investigation of accidents and/or incidents. In order to do so, it is necessary to follow an established system of obtaining and disseminating factual and accurate information. The system followed protects the U.S. Government, the FAA, and the employee, who by virtue of his work assignment often becomes a key figure in aircraft accidents.

b. The FAA provides personnel concerned in aircraft accidents with expert counsel and guidance in the preparation of personnel statements through the services of both the program division representative and an FAA attorney.

c. Some employees have obtained technical or legal assistance in addition to that provided by FAA. Attorneys representing employee or professional organizations have appeared at facilities during the investigations and have indicated a desire to participate.

5. RELATED DOCUMENT. Agency Handbook 8020.11, Aircraft Accident Incident Notification, Investigation and Reporting.

6. PRACTICES AND PROCEDURES

a. The FAA has agreed to designate an accident coordinator as its principal representative in a joint FAA/NTSB investigation to insure the procurement and orderly participation of all necessary personnel and records.

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b. FAA Chief Counsel Office representative and/or FAA Regional Counsel Office representative will work closely with all FAA personnel required to prepare personnel statements or appear as witnesses at a National Transportation Safety Board hearing.

c. If an employee elects to obtain legal or technical assistance in addition to that provided by the FAA, he shall obtain such assistance in a manner that will not delay or hinder the process of investigation. Use of such additional assistance by the employee will in no way affect the employee's responsibility to make a complete and timely disclosure to the FAA and NTSB of all pertinent information known to him.

d. When an employee elects to obtain legal or technical assistance over and beyond that afforded by the FAA, such assistance will be directed toward only the employee(s) specifically engaging such representation. Any counsel so engaged shall not be considered to represent any employee who has not specifically requested such assistance.

e. When an attorney appears at an FAA office, the individual in charge of the office shall determine which employee requested such assistance. The attorney will be allowed to assist the employee in preparing his personnel statement. To this end, it is permissive for the attorney to listen to the recording and counsel the employee. Notify the FAA Accident Coordinator and the FAA legal representative of the presence of this attorney.

f. In the event an attorney appears at an FAA office and no employee requested his assistance, the individual in charge of the FAA office will advise the attorney that he may not participate in the investigation or have access to individuals involved. If the attorney attempts to disrupt the investigation he should be asked to leave. Noncompliance with this request will be promptly reported by Air Traffic personnel to the Evaluation Branch, AGL-520, Air Traffic Division, by Flight Standards personnel to Flight Standards Division, AGL-200, by Airway Facilities personnel to the Airway Facilities Division, AGL-400, and by Airports personnel to the Airports Division, AGL-600. Notify the FAA Accident Coordinator and the FAA legal representative of the presence of this attorney.

g. In the event an attorney advises that he desires to participate in the investigation as a representative of an organization (association or union), such representation is not appropriate and he will not be allowed to participate in segments of the FAA investigation.

h. Insofar as representation in the NTSB investigation (or those investigations conducted by the FAA at the request of the NTSB), individuals, attorneys, and association members desiring to participate should be referred to the NTSB investigator or the FAA Accident Coordinator who will make the determination as to whether participation will be permitted.

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i. During the accident investigation, the specialists requested by the NTSB and management representation will be made available by the FAA.

j. In the event an FAA employee elects to represent a union or association at the hearing, employees so engaged shall be in a non-pay status.

A handwritten signature in black ink, appearing to read 'W. Barlow', with a stylized, cursive script.

WAYNE J. BARLOW
Acting Director