

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
NATIONAL TRANSPORTATION SAFETY BOARD
AND THE
FEDERAL BUREAU OF INVESTIGATION**

BACKGROUND AND PURPOSE

The National Transportation Safety Board (NTSB) and the Federal Bureau of Investigation (FBI) have established a good working relationship, as exhibited during the recent NTSB investigations of the Alaska Airlines Flight 261 accident and the American Airlines Flight 587 accident. The purpose of this MOU is to formally implement and perpetuate the current NTSB and FBI practices and procedures, in order to facilitate each agency's performance of its respective responsibilities whenever there is overlapping NTSB and FBI interest.

The NTSB's statutory mandate is to "investigate ... and establish the facts, circumstances, and cause or probable cause of" all civil aircraft accidents and most non-military public aircraft accidents. 49 U.S.C. § 1131(a)(1)(A). The NTSB also has jurisdiction over certain highway, pipeline and railroad accidents, accidents involving hazardous materials, and major marine casualties, 49 U.S.C. § 1131(a)(1)(B)-(E), as well as "any other accident related to the transportation of individuals or property when the Board decides - (i) the accident is catastrophic; (ii) the accident involves problems of a recurring character; or (iii) the investigation of the accident would carry out this chapter." 49 U.S.C. § 1131(a)(1)(F). The "term 'accident' includes damage to or destruction of vehicles in surface or air transportation or pipelines, regardless of whether the initiating event is accidental or otherwise." 49 U.S.C. § 1101.

The FBI is responsible for investigating criminal violations of federal law and has been designated as the lead agency for domestic and international terrorism matters. The federal authorities designating the FBI's investigative authority include 6 U.S.C. § 111, 28 USC § § 533 and 538, 18 USC § 2332b, 28 CFR § 0.85, Presidential Decision Directive 39, and Homeland Security Presidential Directive numbers 5, 7, and 8.

NTSB investigations have "priority over any investigation by another department, agency, or instrumentality of the United States Government." 49 U.S.C. § 1131(a)(2)(A). Congress has defined the circumstances and method by which the NTSB's investigative priority shall be transferred:

If the Attorney General, in consultation with the Chairman of the Board, determines and notifies the Board that circumstances reasonably indicate that the accident may have been caused by an intentional criminal act, the Board shall relinquish investigative priority to the Federal Bureau of Investigation. The relinquishment of investigative priority by the Board shall not otherwise affect the authority of the Board to continue its investigation under this section.

49 U.S.C. § 1131(a)(2)(B).