

STATEMENT OF RAYMOND J. VAN VUREN, DIRECTOR OF AIR TRAFFIC,
FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE POST OFFICE
AND CIVIL SERVICE COMMITTEE, SUBCOMMITTEE ON INVESTIGATIONS,
CONCERNING AIR TRAFFIC CONTROL. SEPTEMBER 30, 1980.

Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to appear before the Subcommittee today to discuss, in response to your letter of invitation, the potential air traffic controllers strike and planned FAA actions to respond to the strike; staffing requirements for controllers; and budgetary planning to ensure air safety. I am accompanied by Clark Onstad, Chief Counsel of the FAA.

Let me first touch on the subject of a strike by the FAA's air traffic control workforce, which we anticipate will occur next March around the time when the present FAA/PATCO labor agreement expires. While we fully intend to negotiate in good faith, I would like to describe for you why we believe there will be a strike; what the controllers apparently will be striking for; the symptoms we have already seen of labor unrest; and what the FAA has done and intends to do in response to illegal job actions by PATCO, our controllers' union.

The evidence of a planned nationwide strike by PATCO is convincing to us. The Subcommittee has been provided a copy of the PATCO strike plan. Of itself, that document provides substantial insight into the union's likely plans. Among other

things, the strike plan establishes an organizational framework to aid the union during a "conflict"; establishes special communication procedures to be used during a conflict; sets up a "Good and Welfare Committee" to "minimize the financial hardships suffered by the membership during a conflict"; and describes the "National Controllers Subsistence Fund" which is available to a union controller who is "suspended and/or dismissed as a direct result of his/her participation in a nationally sanctioned job action."

The Controllers Subsistence Fund, created in May 1978 by the passage of a PATCO resolution, is another term for what, in the private sector, would be called a "strike fund." Though the union has claimed that its existence is in contemplation of the enactment of legislation giving controllers the right to strike, other union-initiated documents lead me to a contrary conclusion. For example, a questionnaire sent to PATCO members by PATCO national headquarters asks the membership whether "After you have reviewed PATCO's 1980 contract proposal, would you vote to strike in order to obtain the contract benefits you consider important?" It then goes on to ask "If you vote not to strike, but the majority votes otherwise, will you join the strike?"; "What would your spouse's reaction be if you joined a PATCO strike?"; and "If a strike is authorized, will you serve on one of the strike committees?" I believe it's important to

bear in mind that these are activities of the union at the national level, not merely the activities of an isolated local chapter.

We also have copies of newsletters put out by numerous PATCO local chapters, expressing clearly the intent to engage in a future, illegal job action and citing March 1981 as the timeframe. Many of the newsletters contain stories on strikes undertaken by other public service employees. Nearly all make reference to "81", "Be One in 81" being a frequently cited slogan. Let me offer a few quotes from PATCO newsletters to provide you with some added perspective. From the Jacksonville Center newsletter: "All legal questions about the upcoming events of 1981 will be answered long before the contract is negotiated."; "If we are to have strength as a unit in '81 we must first be strong individually. When the time comes for the inevitable confrontation I hope that we will not have our individual hands tied by financial indebtedness to the point that our families will not be able to sustain us in our cause during a period of hardship (if it comes to that)." The cover of the April edition of the Brownsville newsletter headlines: "PATCO STRIKE a blow for unity IN '81." That same issue, labelled as a "special" issue, includes, for example, an article entitled "Let's Get Ready" providing financial clues: "First of all, try and start saving here and there. Put off

the new car and put off buying anything that will really set you back. . . . You must prepare for the worst. Even though I don't think it will take months, what if it does? Just remember, the starving stomach is their greatest weapon." From the local vice president's message contained in the April Salt Lake Center newsletter: "Each member must determine how much she/he wants a real contract and the improvements contained in it. Then we can look at the controller next to us and wonder where she/he will be when unified action is justified. Participants in an action don't lose it, non-participants do!" These are just a sampling of the quotes which have been appearing in PATCO newsletters. The message varies from subtle to direct, but that message however conveyed is nevertheless a clear one.

We have already seen some symptoms of what may well be in store for our air transportation system. The Subcommittee no doubt recalls the sporadic slowdowns experienced throughout the system in May and June 1978 as a result of some carriers refusal to provide free familiarization trips overseas to controllers. In that instance, a Federal court confirmed its injunction and, after PATCO lost an appeal to the Supreme Court, PATCO paid the Air Transport Association \$100,000. More recently, on August 15, we experienced a PATCO slowdown at O'Hare. That slowdown caused 616 delays of 30 minutes or more

from midnight to 9:00 p.m., creating inconvenience for literally thousands of passengers, and wasting over one million dollars of fuel. That slowdown was styled by the union local as a "withdrawal of enthusiasm" by union members. The reason: the FAA's refusal to grant a tax-free bonus of \$7,500 annually to O'Hare controllers. Apart from the fact that the FAA disagreed with the merits of providing O'Hare controllers a special bonus, it is worth noting that granting that bonus was outside the FAA's authority, the authority resting solely with the Congress.

What are the controllers seeking to gain by a strike? Our best assessment is that the primary goal is money. The union has consistently advanced the argument that controllers should be paid the same as airline pilots. As you know, a senior airline pilot makes upwards of \$100,000 a year. An important means of achieving that goal is by ultimately getting out from under the civil service system and working in a quasi-governmental corporation, with the legal right to strike. The power, of course, to grant those requests to controllers resides with the Congress, not the FAA. To further develop that point, let me cite from a recent Seattle Center PATCO newsletter: "Spend the \$500.00 and get into PATCO. Do not try to take on the U.S. Congress alone. You will lose." That same article also pointed out that "Our power stems from one, and only one,

source. That is our ability to with-hold our services, enmass; thereby halting the air transportation system of this country. Carter, Bond, the FAA, and Congress cannot move airplanes without Controllers. Therefore, they will have no real effect on whether we have, or do not have, the power to win in '81."

I would like to spend a few moments now describing the actions we have taken in response to actual or threatened illegal job actions. During the 1978 slowdown in New York, the Air Transport Association sought to enforce permanent injunctions obtained in 1970 and 1972 against PATCO and individual controllers. PATCO stipulated to four days of slowdown and agreed to pay \$25,000 per day if the injunctions were upheld. They were upheld, and the fines were paid. Following that, Mr. Onstad met with Assistant Attorney General Heymann to discuss possible prosecution under 18 USC 1918, which makes it a crime for Federal employees to strike. Though prosecution was denied in that case, Assistant Attorney General Heymann wrote us advising that future cases of illegal job actions would be considered for prosecution by the Justice Department. Administrator Bond sent a copy of that letter to all FAA employees.

In 1978, after PATCO passed the resolution forming the Controller Subsistence Fund, the FAA filed an Unfair Labor

Practice (ULP) complaint. The ULP was dismissed by the Federal Labor Relations Authority because the fund had not been utilized. This year, we filed a ULP with the FLRA against PATCO National for preparing for a March 1981 strike. That matter is still being investigated by the FLRA. On August 17, working with the U.S. Attorney in Chicago, we obtained a temporary restraining order against PATCO for the August 15 slowdown at O'Hare. The following day we filed a ULP, which is under investigation by the FLRA.

In contemplation of further job actions by PATCO, we have prepared contingency plans to enable us to keep the air traffic system operating. I will briefly describe the contingency plans, copies of which have been made available to the Subcommittee. In the event of a nationwide strike, our plan calls for transporting as many people as possible, thus giving preference to air carrier and air taxi flights. Moreover, long-range flights will be given top priority as alternate travel methods are least acceptable and available for long distances.

Permanent daily schedules will be provided which will be established to limit traffic to the capacities that will be available at the facilities servicing these flights. Routes from point to point are predetermined and specific altitudes

are assigned to each airway, providing, to the extent possible, built-in altitude separation, a smooth flow of traffic, and no airborne delays. We expect that all but a limited number of flights over 500 miles will be accommodated.

Airlines will be required to accept routes and altitudes which are far less than desirable. In addition, the predetermined schedules must be adhered to by the airlines. Other air carrier and air taxi flights will be accommodated, as feasible, but will be restricted to the extent necessary to avoid impact on the long-range flight schedules and services. The military will be asked to terminate some training and other noncritical flights, while military necessity or emergency activities will continue to receive top priority to the extent possible with our limited resources. All other types of air traffic will be impacted to the extent required to maintain essential air traffic services. For example, we anticipate the need to establish special restrictions on general aviation activities and to curtail or suspend services at specified tower controlled airports.

We also have established administrative procedures to deal with the persons engaging in the strike. These plans include early notification of employees and responsible union officials of their legal obligations to refrain from further engaging in an

illegal job action; developing the evidence necessary to prove that an illegal job action is taking place; and timely requests for appropriate judicial relief.

In short, we have worked to put into place the mechanism necessary to keep the system operating as best we can. It is clear, though, that despite our best efforts there will be an impact on air travellers from a strike. Moreover, there will be economic burdens on the nation's airlines. These are foreseeable yet inevitable consequences of a controllers' strike, and are the consequences intended by those engaging in such a strike.

I would like to turn briefly to the subject of controller staffing. This has been a subject raised frequently by our controllers' union; in fact, staffing is a major focus of virtually all unions, whether in the private or public sector. As for the union charge that controller staffing should be increased, we disagree. The claim is made that the number of controllers employed by the FAA has not increased at the same pace that air traffic has increased over the past ten years. That claim is true, but it fails to recognize that substantial automation features have been introduced into our air traffic control system over the past ten years. Indeed, a major purpose of developing and introducing a high level of system

automation was to improve the efficiency of the system, thus precluding the need for major staffing increases.

In support of the argument that controller staffing is inadequate, PATCO has pointed to overtime requirements. Let me address that issue. Overtime is an issue to which the FAA pays close attention. In fact, in March of this year, Administrator Bond wrote all FAA regional directors asking them to identify any facilities experiencing problems with the use or administration of overtime and to consider carefully measures necessary to reduce the amount of overtime. System-wide, overtime for controllers is at a reasonable, acceptable level. In Fiscal Year 1979, for example, on an annualized basis the average overtime worked by center controllers was 17 hours; for terminal controllers, it was 36 hours. In the first two quarters of Fiscal Year 1980, the average overtime for center controllers was 8.6 hours, which projects out to 17.2 hours for the year; for terminal controllers it averaged 15.5, which projects out to 31 hours for the year.

The problem we have with overtime is not on an overall system basis; rather, it is in isolated situations at some facilities which results in higher overtime than we would like to see. For example, at some facilities, we have trouble encouraging employees to accept reassignment there because of the high cost

of living. We may also experience periods of time at some facilities in which an excessive and unanticipated amount of sick leave is used, leading to the need for overtime services.

In brief, we don't see controller overtime as being a system-wide problem that reflects inadequate staffing. Instead, the problem presents itself at certain facilities that experience a greater need for overtime than we would like, and we are dealing with that issue.

I would also say in response to the claim of inadequate staffing that, if this were the case, problems should be manifesting themselves in the operation of the system. They are not. We have experienced neither problems with safety nor efficiency that can be attributable to any shortfall in staffing. In fact, on the subject of workload, I would point out that many of the system errors committed by controllers are during the less busy control periods, suggesting that there may well be a positive correlation between higher workload and greater attention to duty.

You have also asked about budgetary planning to meet safety needs. I can assure you of our commitment to seeking adequate funding from the Congress to meet the safety needs of our air

transportation system. Let me elaborate on this point by citing what we have spent in the past, and the authorizing levels we have asked the Congress to enact for the next five years. Since 1970 the FAA has obligated nearly \$2.4 billion for Facilities and Equipment and over \$4 billion in airport development grants. The cost of our present automated air traffic control system was nearly \$1 billion, and we are now engaged in a comprehensive effort to replace the current computers in our air traffic control centers. We have proposed for Fiscal Years 1981-1985 an authorization level for our Facilities and Equipment capital investment program that is nearly twice the expenditure which was authorized for the five years, 1976 through 1980. The airport development grant program levels we have proposed to the Congress for Fiscal Years 1980-1985 are about one and a half times the level of the 1976-1980 authorizations. And, these proposed increases are at a time of severe budget constraint when many other Federal programs have been cut.

In closing, Mr. Chairman, I want to express again my appreciation for the opportunity to appear before the Subcommittee today. We believe that an important way to help avert the threat of a PATCO strike next March is for there to be a clear signal from the Congress that a strike would not

only be illegal and uncalled for, but that it would be counterproductive to the interests of our controller workforce. Your hearing today provides the clear opportunity for that signal to be sent.

That completes my prepared statement. We would be pleased to respond to questions you may have at this time.