United States General Accounting Office

GAO

Report to Congressional Committees

September 2000

AVIATION SECURITY

Additional Controls Needed to Address Weaknesses in Carriage of Weapons Regulations

GAO

Accountability * Integrity * Reliability

GAO/RCED-00-181

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Abbreviations

ASRS	Aviation Safety Reporting System
C.F.R.	Code of Federal Regulations
DOT	Department of Transportation
FAA	Federal Aviation Administration
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
ITS	International Total Services

United States General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-285597

September 29, 2000

Congressional Committees

Federal aviation security regulations prohibit passengers from carrying firearms and other dangerous items, such as explosives and flammable liquids, on board commercial aircraft. The prohibition against these items is intended to protect the traveling public from terrorism and other acts of violence as well as from safety threats posed by substances that could ignite or explode in the pressurized environment of an aircraft. However, in some cases, law enforcement officers may have a mission-related need requiring them to travel with dangerous weapons, such as firearms. As a result, regulations permit federal, state, and local law enforcement officers to carry firearms and other normally prohibited items with them on commercial airlines.

The Federal Aviation Administration (FAA) recognizes that when firearms are on board aircraft, even when in the possession of trained law enforcement officers, there is the potential for the firearms to be misused. The agency's guidance on the carriage of weapons notes that a misplaced bullet could result in fire, damage to an aircraft's hydraulics system or engine, or injury to an innocent person. During the past 8 years, FAA's carriage of weapons task force has been discussing how to make weapons carriage by law enforcement officers safer, and, in 1997, FAA proposed changes to the weapons carriage regulation intended to reduce the number of weapons carried on board by law enforcement officers and to clarify the requirements in the existing regulation.

In anticipation of FAA's proposed weapons carriage regulations and in light of our recent work on aviation security, we are providing this information because of your jurisdiction over aviation security and law enforcement matters.[1] Our objectives in this report were to determine the frequency with which law enforcement officers carry weapons on board commercial aircraft and to determine if the weapons carriage regulations—both current and proposed—are sufficient to ensure the safety of passengers and the security of aircraft. To achieve these objectives, we interviewed representatives from FAA, the 10 major airlines, and 3 law enforcement officer associations.[2] We also reviewed FAA's current and proposed weapons carriage regulations and the comments that FAA received in response to the proposed changes to the regulation. Finally, we searched a National Aeronautics and Space Administration (NASA) database that contains voluntary reports of incidents related to aviation safety to find problems associated with weapons carried by law enforcement officers on board aircraft.

Results in Brief

The number of law enforcement officers who fly while armed is unknown because neither FAA nor the airlines systematically collect this information. However, we obtained anecdotal information that provides some perspective on the number of officers who fly while armed. For example, one U.S. carrier reported to us that it carried over 3,000 armed law enforcement officers each month during a 3-month period. Another U.S. carrier reported to us that it carried about 100 officers each month during an 8-month period. We are recommending that FAA work with the airlines to collect and assess information on how frequently law enforcement officers carry firearms on board aircraft. At a minimum, this information will enable FAA to assess the extent to which the agency is achieving its goal of reducing weapons carried by law enforcement officers on commercial aircraft.

[1]See *Aviation Security: Vulnerabilities Still Exist in the Aviation Security System* (GAO/T-RCED/AIMD-00-142, Apr. 6, 2000) and (GAO/T-RCED-00-125, Mar. 16, 2000).

[2]We interviewed officials from the following airlines: Alaska, America West, American, Continental, Delta, Northwest, Southwest, TWA, United, and US Airways. We also interviewed officials from the National Sheriffs Association, the Fraternal Order of Police, and the Federal Law Enforcement Officers Association.

Recognizing that weapons legally carried onto aircraft by law enforcement officers may present a threat to safety, FAA has proposed changes to strengthen the regulation governing weapons carriage and to minimize the number of officers carrying weapons on board commercial aircraft. When finalized, these changes should result in safety improvements in certain aspects of weapons carriage. However, we believe that neither the current nor the proposed regulation addresses several remaining problems, some of which may arise due to simple human error. Specifically, we identified the following weaknesses: (1) There are no safeguards to help ensure that firearms are removed from an aircraft when law enforcement officers deplane, raising the potential for these weapons to be used by unauthorized persons if they are left behind and thereby creating safety and security concerns. Our query of one aviation safety database and our interviews with FAA officials identified three incidents in which law enforcement officers left behind or misplaced their weapons on board aircraft or in secure areas of an airport. (2) Federal law enforcement officers are not required to document their need to fly while armed, despite some airline representatives' concerns that federal law enforcement officers are flying with their firearms without having a legitimate mission-related need. (3) Law enforcement officers who have notified an airline that they will be flying with firearms are not required to have their carry-on luggage screened, enabling them to carry items that may be inimical to the safety of the flight, such as oxygen bottles, lighter fluid, or tear gas. Almost all other passengers, including the pilots of the aircraft, must be screened. (4) There is no procedure for verifying the credentials of law enforcement officers flying while armed; a recent GAO investigation found that falsified law enforcement credentials could be used to receive authorization from airlines to fly while armed.[3]

FAA is working with the law enforcement community and with airlines to implement a secure memory card system to better verify law enforcement officers' identity. This technology, which is currently in use by other establishments, may provide a means to address several of the gaps we have identified. Information stored in the cards' memory, which would be accessed through a specialized reader, could include the law enforcement officers' name, employing agency, and firearms training status. This system would also enable FAA to document the extent to which firearms are carried on board aircraft. We are recommending that FAA work with airlines and the law enforcement community to implement a secure

[3]See *Security: Breaches at Federal Agencies and Airports* (GAO/T-OSI-00-10, May 25, 2000).

memory card system. We are also recommending that FAA take proactive steps to help ensure that law enforcement officers do not leave their weapons behind on aircraft and that their carry-on baggage is screened for items that may threaten flight safety.

We provided the Department of Transportation with a draft of this report for its review and comment. The Department agreed with the draft report's recommendation that FAA work with law enforcement agencies and the airlines to implement a system to better verify law enforcement officers' identity. However, the Department did not agree with the recommendations to develop procedures to (1) help ensure that officers do not leave weapons on aircraft because, as DOT stated, current disciplinary action taken against officers who misplace their firearms is sufficient to discourage such behavior. The Department also did not agree with the recommendation to screen law enforcement officers' carry-on baggage because, among other reasons, once law enforcement officers have declared that they are bringing firearms on board an aircraft, all of their other carry-on items are logically accepted as well. We continue to believe that these recommendations are appropriate because of the potential that safety and security can be compromised if officers leave their firearms behind on aircraft or if they inadvertently carry hazardous materials on board. Therefore, we did not revise these recommendations. The Department also provided some clarifying information on its efforts to create more explicit criteria for what constitutes the need to fly while armed, the rationale for not requiring written authorization for federal officers, and airline personnel's role in allowing officers to fly while armed. We incorporated this information into the report as appropriate. Finally, the Department provided additional technical clarifications, which we also incorporated into the report as appropriate. The Department's comments and our responses are in appendix I.

We also provided the Federal Law Enforcement Officers Association and the Fraternal Order of Police with portions of the draft report for their review and comment. Both associations stated that law enforcement officers' ability to carry firearms on board commercial airline flights is important to carrying out their official duties and that the decision concerning when officers need to fly while armed is best made by law enforcement agencies. These associations also provided us with additional views on the weapons carriage regulations, which are reflected in the report. The Federal Law Enforcement Officers Association's comments and the Fraternal Order of Police's comments are in appendixes II and III, respectively.

Background

Although federal regulations do not permit the general public to carry weapons aboard aircraft, under certain conditions, law enforcement officers have a mission-related need to fly with firearms. Such conditions can occur when officers escort prisoners or evidence, conduct hazardous surveillance or undercover operations, provide protective escort for individuals, or need to report to another location armed and immediately prepared for duty. The number of law enforcement officers who could travel while armed is high. At the federal level, traditional law enforcement agencies, such as the Federal Bureau of Investigation; Drug Enforcement Administration; and Bureau of Alcohol, Tobacco, and Firearms employ law enforcement officers. Other agencies, such as the Departments of Education, Health and Human Services, and Housing and Urban Development; the Food and Drug Administration; and the General Services Administration, also employ law enforcement officers. In addition, there are more than 18,000 state and local law enforcement agencies. According to the most recent Department of Justice statistics (1996-98), there are more than 775,000 law enforcement officers in the United States.

FAA has developed regulations and guidance that specify the criteria that law enforcement officers must meet to fly while armed.[4] However, it is the airlines' responsibility to implement these procedures. The 10 airlines we contacted have similar procedures for implementing the carriage of weapons regulation.

- At the ticket counter, law enforcement officers must notify the airline ticket agent that they will be flying while armed and present a photo identification card from their employing agency. Additionally, state and local officers should provide the agent with a letter from their employing agency attesting to their need to fly while armed and specifying their itinerary.
- All law enforcement officers must complete and sign the airlines' authorization form, which requires the officers' name, employing agency, and flight itinerary. Some airlines' authorization forms specify the rules that armed officers must follow when on board aircraft. For instance, they may not consume alcoholic beverages or interfere in passenger disturbances unless directed by the flight crew.

[4]FAA's regulations governing the carriage of weapons by law enforcement officers are contained in 14 C.F.R. 108.11. FAA's guidance on implementing these regulations is contained in FAA Advisory Circular No. 108-2 (Oct. 16, 1981).

- At the security checkpoint, the law enforcement officer must present the authorization form and photo identification card to the security-screening supervisor or airport police officer. Armed law enforcement officers are not required to walk through metal detectors or pass their luggage though X-ray machines.
- At the aircraft gate, the law enforcement officer must present the authorization form to the gate agent; the gate agent and/or officer must notify the flight crew that weapons will be carried on board and indicate the officer's seat location.

In 1992, FAA established a carriage of weapons task force to identify safety and security improvements that could be made to the regulation. The task force, consisting of representatives from FAA, airlines, aviation and law enforcement associations, and other federal agencies, recommended changes to the carriage of weapons regulation. For instance, the task force recommended that all law enforcement officers who fly while armed must first receive training on guidelines for such travel and what constitutes the need to have a firearm on board an aircraft. Subsequently, in 1997, FAA proposed changes to existing regulation intended to minimize the number of law enforcement officers carrying weapons on board aircraft and to strengthen and clarify existing requirements for weapons carriage. FAA expects to issue the final regulation by the end of 2000. A comparison of key requirements in the current and proposed regulations is provided in table 1.

The proposed regulation will take a number of steps aimed at increasing the safety of weapons carriage, including (1) establishing more explicit criteria for determining the need to fly while armed, (2) requiring state and local law enforcement officers to present a letter from their employing agency stating their need to fly while armed on a particular flight, (3) requiring all law enforcement officers to complete a standard training program on flying while armed, (4) requiring law enforcement officers to keep their weapons on their person or within their immediate reach at all times while on the aircraft, and (5) extending the prohibition on the consumption of alcohol to an 8-hour period prior to the flight.

Table 1: Comparison of Key Provisions of the Existing and Proposed Regulations Governing Carriage of Weapons Aboard Aircraft

Subject	Existing regulation	Proposed regulation
Requirements detailing who may fly while armed	Law enforcement officers flying while armed must either (1) be an employee of the United States, a state, or a municipality who is authorized by his or her agency to carry firearms or (2) be authorized to carry firearms by the airline and FAA and have completed a training course in the use of firearms.	Law enforcement officers flying while armed must meet the following criteria: (1) be a federal law enforcement officer or a full-time, paid state, municipal, or county law enforcement officer; (2) be sworn and commissioned to enforce criminal statutes; (3) be currently trained and certified as a law enforcement officer; (4) be authorized by the employing agency to carry firearms in connection with assigned duties; and (5) have completed the FAA-required training.
Criteria for allowing law enforcement officers to fly while armed	Law enforcement officers must need to have firearms accessible in connection with the performance of official duties; the regulation does not specify how this need is to be demonstrated.	The law enforcement officer must be acting in one of the following capacities: (1) providing a protective escort, (2) conducting a hazardous surveillance operation, (3) escorting a prisoner, (4) be employed as an FBI special agent, (5) be an FAA Federal Air Marshal on duty status, or (6) be on official travel and required to report to another location armed and immediately prepared for duty.
Additional requirements for state, county, and municipal law enforcement officers	None.	The law enforcement officer must present an original letter of authority from his or her employing agency confirming the need to travel while armed, detailing the itinerary, and stating that the law enforcement officer has completed a training program on flying while armed.
Training requirements for flying while armed	Law enforcement officers must be familiar with the airline's procedures for carrying firearms on board.	Law enforcement officers must complete a standard training program on flying with firearms, which would cover the basic procedures for flying while armed and the concerns associated with carrying firearms aboard an aircraft.
Identification of armed passenger to flight crew	The airline notifies the pilot in command and appropriate crew members that there is an armed person on board.	The officer must identify him/herself and present a copy of the form required by the air carrier to a crew member prior to departure.
Location of firearms during flight	Not specified.	Law enforcement officers, while on board, must keep firearms concealed and out of view either on their person or within immediate reach if they are carried in a case, pouch, or container. Firearms may not be placed in overhead storage bins.
Limitations on consumption of alcohol by armed law enforcement officers	Law enforcement officers carrying firearms may not drink alcoholic beverages while aboard the airplane.	On-board consumption of alcohol would continue to be forbidden; additionally, armed law enforcement officers would not be allowed to consume alcohol within an 8-hour period prior to a flight.

Legend

FBI = Federal Bureau of Investigation

Source: GAO's analysis of FAA's current and proposed regulations.

FAA and the Airlines Do Not Systematically Track the Frequency of Weapons Carried On Board Aircraft by Law Enforcement Officers

The total number of weapons carried on board the nation's airlines each year by law enforcement officers is unknown because FAA's regulations do not require airlines to maintain this information or report it to the agency. However, we were able to obtain the following anecdotal information that provides some perspective on the number of officers who fly while armed.

We contacted 10 major commercial airlines to determine whether they have information on the number of law enforcement officers who fly while armed. Although the airlines maintain copies of the authorization forms turned in by officers carrying weapons, none of them routinely tally the forms. Nevertheless, two of the airlines we contacted reviewed the authorization forms they had on file and were able to provide us with a count of the officers who flew while armed during a given time period. US Airways found that during the 3-month period from March through May 2000, nearly 10,000 law enforcement officers flew while armed on US Airways flights.[5] Continental Airlines reported that during an 8-month period in 1999 and 2000, the airline carried approximately 100 armed law enforcement officers aboard its aircraft each month.

Data maintained by security-screening companies also show that many law enforcement officers carry weapons past security checkpoints. According to FAA and industry officials, most screening companies maintain logbooks of law enforcement officers who pass through checkpoints into secure areas. These logbooks include information on law enforcement officers who are ticketed passengers as well as others who need to enter the gate area for reasons other than boarding a flight. The logbooks may contain information such as the officer's name, employing agency, and flight number. At our request, International Total Services (ITS), the largest security-screening company in the United States, provided us with examples of the number of law enforcement officers passing through security checkpoints at several U.S. airports. At the Fort Lauderdale/Hollywood International Airport, ITS reported that about 300 armed law enforcement officers passed through security checkpoints staffed by ITS personnel each month from January through April 2000. At the New Orleans International Airport, the monthly average for ITS security checkpoints was about 200 armed officers during the same time period. In addition, a logbook from Globe Security, another screening

[5]US Airways transported 3,176 armed law enforcement officers in March, 3,281 in April, and 3,252 in May.

company, showed that a 1997 American Airlines flight out of Jacksonville, Florida, carried 30 armed agents from the U.S. Border Patrol. The agents had just completed training at the nearby Federal Law Enforcement Training Center in Glynco, Georgia.

FAA aviation security officials assert that, in the absence of past security problems resulting from the presence of weapons on airplanes, they have not required airlines to report data on the number of law enforcement officers carrying weapons onto aircraft. For the same reason, FAA officials said that they do not see any future benefit in requiring airlines to report data on the number of law enforcement officers who fly while armed.

Current Regulation and Procedures Pertaining to Weapons Carriage Have Gaps That Will Not Be Solved by FAA's Proposed Changes

FAA has proposed changes to its security regulations intended to improve controls over the carriage of weapons; however, we believe that neither the current regulation nor the proposed changes address several remaining problems. Specifically, the regulation does not sufficiently ensure that (1) officers do not leave firearms behind when they deplane, (2) federal law enforcement officers have valid justification for flying while armed, (3) the hand luggage of law enforcement officers flying while armed is screened for dangerous items, and (4) law enforcement officers' credentials are verified.

FAA's Regulations Do Not Require Procedures to Ensure That Firearms Are Removed When Law Enforcement Officers Deplane

FAA's proposed carriage of weapons regulation will emphasize that firearms must remain in direct, personal control of a law enforcement officer. However, neither the current nor the proposed regulation details procedures for ensuring that firearms brought onto aircraft by law enforcement officers are removed when the officers depart. Accordingly, firearms legally carried on board could be inadvertently left behind, thereby creating potential safety and security hazards. Our query of a nationwide aviation safety database found reports of law enforcement officers who left behind or misplaced weapons on board aircraft. The extent of this problem is unknown because FAA does not systematically collect and analyze data on problems that have resulted from weapons carried on board aircraft by law enforcement officers.

The Aviation Safety Reporting System (ASRS) is a nationwide database that compiles safety and security incidents reported voluntarily by aviation personnel. Our query of this database found two cases in which airline personnel had reported that law enforcement officers left behind or misplaced a firearm while on board a commercial flight.[6]

In the first incident, a special agent with a government agency left his firearm behind on the airplane. The pilot provided the following account:

"Location: Gate at [Miami]. We got the paperwork at the gate in [San Juan] for an armed individual traveling alone . . . . He explained he was a special agent with the gov[ernment] agency and was transporting evidence. He was assigned seat XX[7] as I recall. After leaving the [aircraft] in [Miami], I was [approached] by several [flight] attendants who explained they had found a gun in a seatback pocket. It was the gov[ernment] agency guy's piece—still in its little black waist pouch. The agent was busy paging this guy to come back to the gate. I do not know if he ever came back for it."

The pilot further stated that "an auth[orized] weapons carrier could intentionally leave [a weapon] hidden on a plane for a co-conspirator to use on a later [flight] and we would never know." An incident such as this is dangerous not only because of possible criminal activities. It could also create a potentially ruinous situation if an innocent passenger, particularly a child, were to happen on the firearm.

In another case, a crew member reported that a law enforcement officer had left behind a firearm in an aircraft lavatory. The crew member reported that the officer was "obviously a nervous flier and was sweating excessively" and was "mortified by the fact that he had left his gun behind while freshening up." The crew member further stated that

"This could have been quite serious. Law enforcement officers are entrusted with the responsibility of carrying weapons on board [aircraft] and that responsibility is very serious. If a person is nervous about flying, that feeling might cloud his/her judgement should his [services] become needed. I have long been a proponent of everyone's right to own and

[6]ASRS was established under a memorandum of agreement between FAA and NASA. NASA operates the program; FAA provides most of the funding and assists NASA's administering of the program. The ASRS database consists of reports submitted by aviation personnel, such as pilots, air traffic controllers, flight attendants, mechanics, ground personnel, and others responsible for aviation operations. The identity of those who submit reports to ASRS is not available to users of the ASRS database. ASRS' data are used to support FAA's and the National Transportation Safety Board's rule making, accident investigations, and other activities.

[7]The passenger's seat number was not included in ASRS' report.

carry a firearm, but I am very much against the carriage of loaded weapons on [aircraft] and this incident only underscores that feeling."

An FAA official said that while the agency is aware of incidents in which law enforcement officers left behind their firearms, FAA does not believe that these incidents represent a growing problem. However, the agency does not have centralized or systematically maintained information on security incidents such as these. FAA receives reports from its regional offices on security violations, but it does not maintain all of these reports in a systematic fashion, nor is there any guarantee that these reports reflect all security incidents. For example, while FAA said that it did not receive reports on the two cases found in ASRS' database, FAA did receive a report on a law enforcement officer who left a firearm in an airport restroom beyond the security checkpoint. Such an incident could pose a threat to aviation security because the firearm could have been found by another passenger and carried illegally onto an aircraft.

FAA officials stated that proposed changes to the carriage of weapons regulation attempt to address the issue of officers' misplacing their firearms by providing additional requirements for the control of weapons. First, the revised regulation will require that state and local law enforcement officers include a statement in their written authorization that they have completed an FAA-designed training program covering the basic procedures for flying while armed. Second, the revised regulation will require law enforcement officers to keep firearms on their person or within immediate reach and not store firearms in overhead compartments. FAA officials stated that a more proactive procedure—such as the use of lock boxes to store firearms during flight—would produce logistical problems, such as finding a secure location for the lock boxes.

Additionally, FAA and law enforcement association officials stated that there are strong disincentives for officers to misplace their firearms. These officials told us that officers who lose their service weapons are subject to severe disciplinary action by their employing agencies. FAA may also levy civil penalties against parties who violate security regulations, including law enforcement officers, although an FAA official said that the agency is unlikely to take such steps because sanctions imposed by law enforcement agencies against their officers would be more severe.

FAA's Regulations Do Not Require Federal Law Enforcement Officers to Document Their Need to Fly While Armed

The current FAA regulation on weapons carriage states that, in order to fly while armed, law enforcement officers must have a need for their firearms in connection with their duties during the time when the firearm would be inaccessible in checked baggage. Under FAA's proposed regulation, the method used to verify officers' need to fly while armed will differ for federal and nonfederal officers. The proposed regulation will require state and local law enforcement officers to present an original letter of authority from their employing agency confirming their need to travel while armed on a particular flight,[8] but it will not require federal officers to do so.

According to FAA, the different requirements exist because state and local officers have limited jurisdiction and need to fly while armed only for mission-specific reasons, such as transporting a prisoner. Consequently, the proposed regulation requires that the employing agency make a specific determination of need and provide written authorization whenever its officers fly while armed. FAA officials said that, in contrast, federal law enforcement officers have national jurisdiction and broader mission requirements, which often require them to fly between cities with little advance notice. As a result, FAA officials stated, it would be impractical for federal law enforcement officers to obtain a written statement from their employing agency of their need to fly while armed. FAA officials, however, told us that the agency is urging law enforcement agencies to ensure that their agents fly while armed only when absolutely necessary.

However, several representatives from the airlines and the Air Line Pilots Association stated that many law enforcement officers—including federal officers—carry firearms on board aircraft without having a legitimate need. Representatives from several airlines cited instances where law enforcement officers appeared not to be on duty but asserted that they needed to have their firearms with them. According to airline representatives, armed officers have flown with their families to vacation destinations or have used free "buddy" tickets available to friends of airline employees. Other airline representatives cited cases in which law enforcement officers used intimidating behavior to assert their right to fly while armed despite their questionable need. According to representatives of the pilots association, ticket agents are under pressure to process passengers quickly and may relent to insistent law enforcement officers.

[8]This requirement is currently included in FAA's guidance, "Security Rules—Carriage of Weapons and Escorted Persons" (FAA Advisory Circular No. 108-2, Oct. 16, 1981), to airlines for implementing the existing regulations.

FAA's Regulations Do Not Require Standard Security Screening of Law Enforcement Officers Who Are Flying While Armed

According to FAA and airline representatives, under both current and proposed regulations, law enforcement officers who have notified the airline that they are flying while armed are not subject to the routine screening procedures that almost all other passengers—including airline flight crews—must comply with before entering secure areas of airports. Routine screening procedures include walking through a metal detector and passing carry-on luggage through an X-ray machine. FAA's standard security program for air carriers states that law enforcement officers who have met the requirements of the weapons carriage regulation and have notified the airline that they will be flying while armed are exempt from this screening.[9]

FAA maintains that the routine screening process is not appropriate for law enforcement officers because they have already declared that they are carrying a weapon and that screening these officers for additional weapons would provide no added security benefit. However, the screening of passengers is important not only to identify weapons that could be used to carry out acts of violence. It is also an essential step to identify hazardous materials that could threaten the safety of the flight. FAA has directed airlines not to permit passengers to carry on board certain items, including paints, lighter fluid, fireworks, tear gas, oxygen bottles, and radio-pharmaceuticals.[10] In flight, variations in temperature and pressure can cause items such as these to leak, generate toxic fumes, or start a fire. Accordingly, security checkpoint personnel are instructed not to allow such items to be carried beyond the security checkpoint. Because armed law enforcement officers are not subject to routine screening of their carry-on baggage, they may inadvertently carry items into the aircraft cabin that could be hazardous to the welfare of their fellow passengers or to the safety of the flight.

FAA provided additional arguments against using the standard procedures to screen law enforcement officers, stating that these officers should not pass through metal detectors because their firearms would cause the alarm to sound, potentially distressing passengers and inappropriately revealing

[9]This standard security program states how air carriers are to implement the security requirements in the federal aviation regulations. The program has been adopted by all major U.S. carriers.

[10] There is an exemption for certain smoking materials and small quantities of medicinal items, toilet articles, and self-defense sprays (i.e., tear gas, pepper spray, and Mace). (See 49 C.F.R. 175.10.)

the officers' identity. Furthermore, these officials noted that law enforcement officers have expressed concern about putting their carry-on luggage through X-ray machines because their luggage may contain important items, such as evidence, and they do not want to risk theft or loss of the items.

FAA's Regulations Do Not Provide for Adequate Verification of Law Enforcement Officers' Credentials

Neither the current nor the proposed regulation provides a means for airline personnel to verify the credentials of passengers declaring their need to fly while armed. The regulations require law enforcement officers to present a photo identification card from their employing agency to the airline when checking in for a flight but do not require airlines to verify whether the identification is valid. A recent GAO investigation demonstrated the ease with which falsified credentials can be used to gain access to secure airports and federal office buildings. In May 2000, we reported the results of our investigation of the potential security risk posed by the use of counterfeit law enforcement badges and credentials. GAO special agents posing as New York police officers used counterfeit credentials generated with information downloaded from the Internet to successfully penetrate secure areas at Reagan National and Orlando International airports. The GAO agents presented themselves as armed law enforcement officers to airline representatives at the ticket counter, displayed their spurious badges and identification, and were issued authorization forms permitting them to carry weapons on their flight. Although the agents told airline employees they were armed, they were not actually carrying firearms. At the security checkpoints, the agents were allowed to go around metal detectors and did not pass their hand luggage through X-ray screening devices.

In response to the GAO investigation, FAA issued an interim security directive to airlines and airports in June 2000. This directive requires a uniformed airport police officer to check the credentials of all law enforcement officers who pass through security checkpoints, including those who are ticketed passengers as well as those who need to enter the gate area for other reasons, such as meeting arriving passengers. FAA states that airport police officers are more likely to recognize fake credentials and that the officers' presence may deter passengers from attempting to use fake credentials. However, the airport security officials we contacted expressed concern about their ability to identify false credentials. They noted that it will be difficult for them to validate all credentials because there are thousands of law enforcement agencies in the country, and each has unique credentials.

As a longer-term solution, FAA officials stated that they are considering the implementation of a secure memory card system for airlines to use to verify the identity of law enforcement officers. These cards contain an embedded microchip that could store a photo of the law enforcement officer as well as the officer's name, telephone number, employing agency, and firearms training status. Additional information could be maintained within the system's memory, such as a travel log indicating when and at which airports officers receive authorization to fly while armed and how often officers carry weapons on board aircraft. According to FAA, law enforcement agencies would be responsible for providing cards for all of their officers who might be called upon to fly while armed, and airlines would be responsible for maintaining the card readers at airport ticket counters or security checkpoints. FAA officials said that law enforcement officers and airlines support the use of this system and they are currently working with FAA to determine a funding source.

Conclusions

A goal of aviation security is to keep dangerous items such as firearms and explosives off aircraft in order to prevent terrorism and protect passengers from other acts of violence. Similarly, a goal of the law enforcement community is the prevention of crime and the protection of citizens. However, when law enforcement officers are called upon to carry their firearms on board an aircraft, these two important public safety goals may come into conflict. Consequently, the need for law enforcement officers to fly while armed must be balanced with the equally important need to protect the passengers who unknowingly travel with them.

FAA's proposed carriage of weapons regulation seeks to further protect passengers while preserving the rights of law enforcement officers. However, while these changes are steps in the right direction, they are not enough, as they fail to fully address several important safety and security issues. The secure memory card system that FAA has proposed would address two of the deficiencies that we have identified. It would provide airlines with a means to verify the identity of law enforcement officers, thus reducing the possibility that passengers could use fake law enforcement credentials to board aircraft while armed. The system also could provide FAA with data on how frequently law enforcement officers fly while armed by recording when and at which airports law enforcement officers check in to fly with their weapons. These data would enable FAA to assess the extent to which the agency is reaching its goal of reducing weapons legally carried onto commercial aircraft.

Additionally, FAA needs to take steps to forestall certain unwanted situations that may arise due to simple human error. Even the best-trained law enforcement officers might inadvertently forget their weapons when they deplane or mistakenly carry items on board that could present a safety concern in-flight. FAA's current actions on these two situations are not sufficient. First, neither the current nor the proposed regulation provides a method to help ensure that weapons will not be left behind on aircraft. FAA has proposed requiring that officers keep their weapons on their person or within reach at all times, and although this is a good, common-sense step that all law enforcement agencies should promote, it is a predominately passive answer to the problem. A proactive step—one that is minimally intrusive yet still effective—is needed to ensure that firearms are not left behind on aircraft. While we acknowledge the challenges that FAA would encounter in trying to develop an appropriate procedure, we encourage FAA to explore proactive means to ensure that weapons remain in the officers' control, including the time when they exit the aircraft.

Second, law enforcement officers who have declared that they are flying while armed are not subject to normal screening procedures, as are almost all other passengers, including the flight crew. One purpose of screening is to prevent passengers from carrying hazardous materials—such as lighter fluid, fireworks, and tear gas—on board. In flight, items such as these may leak, generate toxic fumes, or start a fire, causing injury to passengers or damage to the aircraft. Because law enforcement officers' carry-on baggage is not screened, officers could inadvertently carry potentially dangerous items on board. Screening law enforcement officers' carry-on baggage would ensure that dangerous items are not carried into the aircraft cabin. If law enforcement officers have important items, such as evidence, in their baggage and wish not to be separated from it, they may choose to have a security screener perform a hand search of the baggage rather than send it through an X-ray machine.

Recommendations

As a means to collect data on how frequently officers carry firearms on board the nation's commercial airlines, to provide positive means for verifying the identity of armed law enforcement officers entering secure areas of airports, and to better ensure the safety of passengers, we recommend that the Secretary of Transportation direct the Administrator, FAA, to do the following:

- Work with the airlines and law enforcement agencies to implement a secure memory card system and publish a timetable for its implementation.
- Require airlines to screen the carry-on baggage of law enforcement officers in order to detect items that could present a threat to flight safety.
- Develop procedures to help ensure that officers do not leave weapons on aircraft.

Agency Comments

We provided the Department of Transportation with a draft of this report for review and comment. The Department agreed with the draft report's recommendation to work with law enforcement agencies and the airlines to implement a system to better verify the identity of law enforcement officers flying while armed. However, the Department did not agree with the recommendations to develop procedures to screen law enforcement officers' carry-on baggage and to help ensure that law enforcement officers do not leave weapons on aircraft. Concerning our recommendation regarding carry-on baggage, the Department stated that because the intent of these officers to carry weapons is already known, additional screening serves little security benefit and could potentially endanger the mission and safety of the officers. We disagree. We recognize that a properly authorized law enforcement officer bringing a firearm onto an aircraft does not represent a direct threat to aviation security. However, the Department's comments ignore the potential that a law enforcement officer could, as could any other passenger, inadvertently carry hazardous materials objects—such as tear gas, flammable liquids, or explosives—that are inimical to flight safety. We note that even airline pilots, whose greatest interest lies in protecting the safety and security of their passengers, are subject to the same screening requirements as are all other passengers. We therefore see little justification for treating law enforcement officers' carry-on baggage differently and did not revise our recommendation.

With respect to our recommendation that FAA ensure that law enforcement officers do not leave weapons on aircraft, the Department commented that instances in which law enforcement officers leave weapons on aircraft are rare because officers are trained in the care and handling of their weapons and are subject to severe disciplinary action by their parent organization in the event that a weapon is misplaced. Consequently, the Department stated that additional actions to prevent officers from leaving weapons aboard commercial aircraft are not needed. We disagree. Weapons left on planes, even in rare circumstances, are a clear threat to aviation safety and

security. Despite the training that officers receive and the potential for severe disciplinary action, human error can occur, as is evidenced by the three cases we cited in which law enforcement officers lost their weapons on commercial flights or in secure areas of airports. If not for the diligence of the flight crew, the weapons could have been found by dangerous individuals or children. We continue to believe that procedures to verify that weapons have been safely removed will provide additional security benefits for the aviation community and the flying public, and we therefore did not modify our recommendation.

The Department of Transportation also made a number of additional comments relating to the report. The Department interpreted our report as recommending that law enforcement officers be required to walk through metal detectors. We are recommending that only carry-on baggage—*not the officers' person*—be subject to screening. The Department also commented that airline personnel are not in a position to question the need for officers to fly while armed. We agree; however, if airline personnel observe situations in which regulations are not being complied with or safety and security are being compromised—such as if a passenger is displaying disruptive or dangerous behavior—we believe it is well within their position to intervene. Finally, the Department provided its perspective on its actions to improve controls over the carriage of weapons on aircraft by law enforcement officers.

The Department also provided us with other technical clarifications, which were incorporated as appropriate. The Department's comments and our detailed response are in appendix I.

We also provided the Federal Law Enforcement Officers Association and the Fraternal Order of Police with portions of the draft report. The Federal Law Enforcement Officers Association provided us with its views on FAA's current and proposed regulations on weapons carriage. The association stated that all federal law enforcement officers should be allowed to carry their firearms on their person at all times, as long as they have successfully completed a training course on flying with a weapon and adhere to the rules regarding weapons carriage on board aircraft. The association also stated that it is the responsibility of the law enforcement agencies to decide who is authorized to carry weapons. Additionally, the association described problems associated with placing firearms into checked baggage. The association's comments are in appendix II.

The Fraternal Order of Police supports FAA's efforts to work with the airlines and the law enforcement community toward a method to better verify law enforcement officers' credentials. The organization agrees with our statement that little data are available on (1) how often weapons are carried on board aircraft by law enforcement officers and (2) the problems that arise as a result of this practice. The organization further stated that the issue of greater importance is verifying officers' identity before permitting them to fly while armed. The organization also stated that being permitted to fly while armed is important to law enforcement officers' ability to carry out their sworn duties and that the determination of whether an officer has a need to fly while armed is most appropriately made by the officer's employing agency. The Fraternal Order of Police's comments are in appendix III.

Scope and Methodology

To determine how frequently law enforcement officers carry firearms aboard airline flights, we interviewed FAA officials, representatives of the 10 largest commercial airlines, and representatives of a security-screening company and a company that provides training for security-screening companies. To determine the extent to which FAA's proposed regulation addresses important issues surrounding the carriage of weapons on aircraft, we interviewed FAA officials and representatives of three law enforcement officer associations. We reviewed FAA's current and proposed regulations on weapons carriage, as well as its published guidance on this issue, and interviewed airline representatives to determine how they implement the FAA's regulations and guidance. To determine if there have been any reported safety or security incidents associated with the carriage of weapons by law enforcement officers, we interviewed FAA officials and representatives from the airlines and the Air Line Pilots Association. We also searched the Aviation Safety Reporting System's database for incidents pertaining to weapons carriage. Our work was performed from May through August 2000 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the Honorable Rodney E. Slater, Secretary of Transportation; Jane F. Garvey, the Administrator, FAA; the Honorable Jacob J. Lew, Director, Office of Management and Budget; appropriate congressional committees; and other interested parties. We will make copies available to others on request.

If you have any further questions about this report, please contact me at (202) 512-2834. Major contributors to this report were Heather Halliwell, Jack Schulze, and Richard Scott.

Gerald L. Dillingham, Ph.D.
Associate Director,
Transportation Issues

List of Congressional Committees

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science,
and Transportation
United States Senate

The Honorable Slade Gordon
Chairman
The Honorable John D. Rockefeller IV
Ranking Minority Member
Subcommittee on Aviation
Committee on Commerce, Science,
and Transportation
United States Senate

The Honorable Orrin G. Hatch
Chairman
The Honorable Patrick J. Leahy
Ranking Minority Member
Committee on the Judiciary
United States Senate

The Honorable Jon Kyl
Chairman
The Honorable Dianne Feinstein
Ranking Minority Member
Subcommittee on Technology, Terrorism,
and Government Information
Committee on the Judiciary
United States Senate

The Honorable Bud Shuster
Chairman
The Honorable James L. Oberstar
Ranking Democratic Member
Committee on Transportation
and Infrastructure
House of Representatives

The Honorable John J. Duncan
Chairman
The Honorable William O. Lipinski
Ranking Democratic Member
Subcommittee on Aviation
Committee on Transportation and
Infrastructure
House of Representatives

The Honorable Henry J. Hyde
Chairman
The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
House of Representatives

The Honorable Bill McCollum
Chairman
The Honorable Robert C. (Bobby) Scott
Ranking Minority Member
Subcommittee on Crime
Committee on the Judiciary
House of Representatives

Comments From the Department of Transportation

Note: GAO's comments supplementing those in the report's text appear at the end of this appendix.

U.S. Department of Transportation

Assistant Secretary
for Administration

400 Seventh St., S.W.
Washington, D.C. 20590

September 1, 2000

Dr. Gerald Dillingham
Associate Director, Transportation Issues
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Dr. Dillingham:

The Department of Transportation's comments on the GAO draft report, "Aviation Security: Additional Controls Needed to Address Weaknesses in Weapons Carriage Regulation," RCED-00-181, are enclosed.

We appreciate this opportunity to review and comment on the draft report. Please contact Martin Gertel on (202) 366-5145 with any questions concerning our comments.

Sincerely,

Melissa J. Allen

Melissa J. Allen

Department of Transportation Comments
On the General Accounting Office Draft Report,
"Aviation Security: Additional Controls Needed to
Address Weaknesses in Weapons
Carriage Regulation," RCED-00-181

OVERVIEW

See comment 1.

Representatives of the nation's law enforcement community, including Federal agents as well as state and local police, may for a number of valid reasons have a mission critical need to fly with their firearm on a commercial airline flight. While 14 CFR part 108 clearly prohibits carrying weapons on aircraft, it permits some exceptions for law enforcement officers who need to travel armed. It is well understood by the law enforcement community that officers' weapons must remain in their immediate possession, and cannot be used aboard the aircraft. There have in fact been no incidents of law enforcement officers discharging their firearms in flight. Nonetheless, FAA recognized some years ago that aviation safety is best served by creating more explicit criteria for law enforcement officers to fly armed and ensuring that they receive appropriate training. FAA will issue a revised rule to address these issues and create strict criteria for personal control of the weapons and personal behavior prior to and while flying armed. In addition, FAA has been working with the law enforcement community to urge them to ensure that their officers and agents fly armed only when absolutely necessary.

See comment 2.

We strongly agree with GAO's recommendation to work with the law enforcement and aviation community to implement a system to better verify law enforcement officers' credential validity. FAA has implemented interim measures to better verify the identity of law enforcement officers flying armed. FAA is also working with the law enforcement and aviation communities to quickly implement longer-term actions that will use more technologically sophisticated credentials to better ensure their validity.

See comment 3.

We do not agree that additional procedures must be developed for screening law enforcement officers and their carry on baggage. As further explained in the sections that follow, we already know that these officers possess a weapon, therefore additional screening offers no further aviation security benefit, and could potentially endanger the mission and safety of the law enforcement officer. FAA also does not agree that actions beyond those in the revised rule are needed to address the issue of law enforcement officers leaving weapons on aircraft. Such occurrences are exceedingly rare for good reasons. Law enforcement officers are highly trained in the care and handling of their weapons. In addition, they are subject to severe disciplinary action by their parent organization in the event that a weapon is misplaced. FAA will continue to take effective action to address any documented instances of inappropriate actions by law enforcement officers aboard commercial aircraft.

Regulations Require That Law Enforcement Officers Fly Armed Only When Necessary

FAA is about to issue revised regulations, which further tighten requirements for law enforcement officers to fly armed and to ensure that their air travel is completed safely. Before the end of calendar year 2000, FAA will implement more stringent criteria for law enforcement officers to fly armed. For example, while state and local law enforcement officers are presently required to provide written authorization from their employing agency stating the need to travel with their firearms, the revised regulation will tighten the requirements. The revised regulation will require the written authorization to be on original letterhead, with the original signature, signed at the command level.

See comment 4.

Similar written authorization from Federal officials is not practical. While state and local officials have limited jurisdiction and will fly armed for mission-specific reasons such as transporting a prisoner, Federal law enforcement officers have national jurisdiction and broader mission requirements, which often require them to fly between cities with little advance notice. This is not a regulatory gap, as indicated in the GAO draft report, but rather a recognition of Federal law enforcement agencies' mission needs. As previously stated, FAA is working with law enforcement agencies to urge them to ensure that Federal law enforcement officials fly armed only when absolutely necessary.

See comment 5.

Airline personnel are not in a position to challenge the need for law enforcement officers, with appropriate documentation, to fly armed, nor should law enforcement officers be placed in the potentially mission-compromising position of being required to explain their mission to airline personnel. While the GAO draft report includes statements from pilots questioning the legitimacy of many law enforcement officers' need to fly armed, it is important to recognize that appropriate documentation of need for state and local police, or valid Federal law enforcement credentials, is all that is required. The report should also make clear that some Federal law enforcement officials are considered to be either always on duty or on call. As a result, even though it may not be obvious to airline personnel, the casually dressed Federal law enforcement official, or one apparently accompanied by family members, may nonetheless have a legitimate mission need for flying armed. Finally, the draft report identifies instances of airline employees who felt pressured to allow law enforcement officers to fly armed. The report should make clear that FAA in no way pressures airline employees to take actions that they believe could endanger aviation safety. It should also state that airline employees could address such concerns by working with their airline's management or contacting appropriate FAA personnel.

See comment 6.

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Safety Requirements for Law Enforcement Officers Flying Armed are Well Established

The safety implications of discharging a firearm in flight are well known by the law enforcement community, as are the restrictions against using a firearm in flight. Law enforcement officers are instructed not to intervene in situations that may arise in a commercial aircraft cabin, except under specific request from the pilot in command. FAA created and disseminated a training program covering these issues for law enforcement officers more than 5 years ago, and it has been widely used. We are aware that Federal agencies are providing this training to their law enforcement personnel. FAA has also worked directly with a number of states in providing this training. The revised regulation will require that state and local law enforcement officers include a statement in their written authorization from their employing agency that they have completed the FAA designed training. In addition, the revised regulation will spell out specific criteria for the placement and handling of firearms aboard aircraft, emphasizing that the firearm must remain in direct, personal control of the officer at all times.

FAA Is Addressing Law Enforcement Officer Credential Verification

FAA has taken interim measures to better verify law enforcement officer credentials, and is working to quickly implement longer-term solutions, in response to previous GAO efforts to use false credentials to enter secured airport areas. These measures are intended to use existing resources as effectively as possible to detect falsified credentials. For the longer term, FAA recognizes that better systems are needed. FAA established a work group that includes representatives from the law enforcement community and the airline industry to identify alternatives for fast and accurate law enforcement officer credential verification. Recent efforts have focused on the use of a smart card system, which uses identification cards with implanted microchips to provide electronic identity verification. There appear to be off the shelf systems that could be implemented; however, such implementation will require a concerted effort on the part of not only FAA, but also the law enforcement community, as well as airports and airlines. While progress has been achieved, continued efforts are underway to address key implementation and funding issues.

Additional Screening for Law Enforcement Officers Already Cleared to Fly Armed Is Inappropriate

See comment 7.

If a law enforcement officer has declared the need to fly armed, and maintains appropriate verification, it is neither necessary nor desirable to have that person pass through the screening system, as the airline already knows that the law enforcement officer is carrying a weapon. It is not desirable to have them pass through the screen for a number of reasons, including the fact that it could alarm passengers and inappropriately reveal the identity of a law enforcement officer. Further, these are law

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enforcement officers, trusted with protecting the lives of citizens and public officials, and are not seen as a threat to civil aviation security. Having the law enforcement officer pass through the screening gate will either require the officers to give up custody of their firearm, which is an inappropriate and potentially dangerous action, or the metal detectors will go off, creating delays and alarm. Finally, physical search and/or private screening are neither practical nor desirable. Screeners are trained to summon airport law enforcement officers when a firearm is found during the normal screening process. The physical search approach increases the response to the checkpoint by airport law enforcement officers when the firearm has already been declared and accepted by the air carrier. FAA could not justify such an added cost given the low level of concern for a threat posed by US law enforcement officers.

To the extent that the GAO draft report's concern regarding screening law enforcement officers is founded on the potential use of falsified credentials by dangerous persons, we consider the more prudent and effective approach to be based on better assuring credential validity through systems such as the smart card. FAA is aggressively pursuing that approach and is working closely with the law enforcement and aviation communities to address this issue.

SPECIFIC AND TECHNICAL ISSUES

The following are offered to clarify the GAO draft report, correct factual errors or misinterpretations.

Draft report, page one; third paragraph: "To accomplish these objectives, we interviewed FAA officials and representatives of 10 major airlines and 3 law enforcement associations."

See comment 8.

Comment: The report should identify the three law enforcement officer associations that were contacted. Also, since the report deals extensively with law enforcement agencies' need to fly armed, and the measures they take to ensure their agents and officers fly armed only when necessary, we presume that numerous Federal, state, and local agencies were contacted during the conduct of data gathering. The report should also more fully indicate actions taken by law enforcement agencies in this regard, and specifically identify all the law enforcement agencies that were contacted during the course of the review.

Draft report, page 2; second paragraph – line five: "…despite airline representatives' concerns that Federal law enforcement officials are abusing their right to fly armed …"

See comment 9.

Comment: This clause should be stricken from the sentence. First not all airline representatives share this belief. Also, as long as the law enforcement official has fulfilled the regulatory requirements, airline personnel are not in the position to challenge the need, nor should law enforcement officers be placed in the potentially

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mission-compromising position of being required to explain their mission to airline personnel. If concerns remain by airline representatives, they should be addressed by working with their management or by contacting appropriate FAA representatives.

Draft report, page 2; second paragraph – line 14: "FAA's effort to develop smart card technology…"

See comment 10.

Comment: The technology is not a FAA effort. It is existing technology proposed by the United States Secret Service. The text should be revised to state that FAA is working with the law enforcement and aviation community to implement smart card technology.

Draft report, page 3; paragraph cont'd from page 2: "We are recommending that FAA implement smart card technology and take additional steps to reduce the gaps we have identified in its proposed carriage of weapons regulation."

See comment 11.

Comment: This does not address law enforcement officers in the sterile area that are not ticketed passengers. We suggest recommending that FAA require smart card technology as a means to positively identify all armed law enforcement officers proceeding beyond the screening checkpoint, except officers who are issued an airport access badge.

Draft report, page 3; paragraph 2: "However, it is the airlines responsibility to implement these regulations."

See comment 12.

Comment: Delete the word "However" since it is always the regulated entities' responsibility to implement regulations. The report should also note that it is the airlines responsibility to check the identification of law enforcement officers but it is also the responsibility of the law enforcement agencies to comply with the requirements in the regulations.

Draft report, page 4; last paragraph (title): "FAA and the Airlines Do Not Systematically Track the Frequency of Weapons Carried On Board Aircraft"

See comment 13.

Comment: The title of this section should be changed to include the additional words "…**by Law Enforcement Officers**" in the side caption. FAA and the airlines do track attempts to carry weapons onboard by non-law enforcement officers.

Draft report, page 5; paragraph 2: "For example, Globe Security, another screening company, reported that a 1997 American Airlines flight out of Jacksonville, Florida, carried 30 armed agents from the U.S. Border Patrol. The agents had just completed training at the nearby Federal Law Enforcement Training Center in Glynco, Georgia."

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See comment 14.

Comment: The report should be clarified to indicate whether this was a one-time occurrence or a frequent situation. Additionally, the report should identify the actions taken by FAA in response to this issue. FAA, in coordination with Federal Law Enforcement Training Center, has taken steps to ensure that newly graduated students will travel to their post of duty with the firearm in checked baggage.

Draft report, page 6; paragraph 1: "FAA is determining a source of funds to expedite implementation of a smart card system"

See comment 15.

Comment: The FAA has reviewed the issue of whether Airport Improvement Program funds may be used to purchase card readers for use at the airports but FAA is not attempting to find funding for the entire verification card system. Card writers and supplies will be the responsibility of law enforcement agencies using the system. These funding issues are being addressed through the carriage of weapons working group.

Draft report, page 9; paragraph 3: "Airline representatives stated that as a matter of professional courtesy they do not require law enforcement officers who fly armed to pass through the metal detectors or put their hand luggage through the X-ray machines before entering the sterile area."

See comment 16.

Comment: This is not a matter of professional courtesy; it is a matter of a practical approach to screening. Law enforcement officers are screened by an approved alternate method and if the air carrier accepts the armed officer as a ticketed passenger on the flight, there is no concern from the FAA that the carry-on bag presents a problem. If we accept a passenger carrying a loaded firearm into the cabin of the aircraft, we logically accept their carry-on items.

Draft report, page 10; paragraph 2: The entire paragraph as written.

Comment: Suggest revising the paragraph along the lines described in the section of these comments called Additional Screening for Law Enforcement Officers Already Cleared to Fly Armed Is Inappropriate. The paragraph as constructed in the draft report does not adequately address the issue. The basic principle that needs to be understood is that the proposed screening is neither practical nor productive. Screening the carry-on bags of persons who have been authorized to carry a firearm onboard provides no increase in security as the purpose of screening is to identify a threat, such as a firearm, that has not already been declared.

Draft report, page 11; paragraph 3: The narrative report from the ASRA regarding an incident alleged to have happened in Miami (no specifics given).

See comment 17.

Comment: This is an incident reported to have happened but it is not known whether this was reported to FAA or the airline involved. The Aviation Safety Reporting System

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is not a FAA system and reports are not verified. The GAO report does not provide information as to any follow up conducted by GAO to obtain additional information or verify the occurrence of the incident.

Draft report, page 12; "Conclusions" paragraph: "One goal of aviation security is to keep dangerous items such as firearms and explosives off aircraft in order to prevent hijackings and to protect passengers from other acts of violence."

See comment 18.

Comments: The sentence should be changed to read: "One goal of aviation security is to keep dangerous items such as firearms and explosives, *in the possession of dangerous persons,* off aircraft in order to prevent hijackings and protect passengers from other acts of violence."

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The following are GAO's comments on the Department of Transportation's (DOT) letter dated September 1, 2000.

GAO's Comments

1. DOT states that there have been no incidents in which law enforcement officers discharged their firearms in flight. However, officers discharging their firearms is only one concern raised by the presence of weapons on board aircraft. As we state in our report, there have in fact been reported incidents in which law enforcement officers have left their weapons unattended on aircraft where they could have been found and used by other passengers. Moreover, the Federal Aviation Administration (FAA) has expressed concern about the number of law enforcement officers flying while armed because of the potential threat this poses to safety and security.

2. DOT agrees with our recommendation that FAA work with the law enforcement and aviation community to implement a system to better verify law enforcement officers' credentials; therefore, no change was made to the report.

3. DOT disagrees with our recommendation that law enforcement officers' carry-on baggage be screened. We believe that it is important for FAA to take steps to ensure that all passengers—including law enforcement officers—are not carrying hazardous items that could pose a threat to flight safety. Many items, while not weapons per se, have been deemed by FAA to be potentially dangerous and therefore are not allowed to be carried onto aircraft. Therefore, we continue to recommend that FAA require airlines to screen law enforcement officers' carry-on luggage.

4. DOT states that written authorization from federal law enforcement officers is not practical and that not requiring this authorization does not constitute a regulatory gap. We disagree. We believe that FAA's failure to obtain some assurance from federal law enforcement agencies that their agents fly while armed only when absolutely necessary does represent a regulatory gap. We revised the report to state that FAA says it is urging federal law enforcement agencies to ensure that their agents fly while armed only when absolutely necessary.

5. DOT states that airline personnel are not in a position to challenge the need for law enforcement officers with appropriate documentation to fly while armed. We agree. However, airline personnel are the first line of defense for aviation safety. Being aware of the weapons carriage regulation

and noting that armed officers may not be in compliance with one of the regulatory criteria for permitting weapons aboard flights is well within their responsibility. Moreover, airlines may impose additional requirements or criteria on law enforcement officers' seeking authorization to fly while armed. For instance, airline pilots have the right to refuse to carry passengers if, among other reasons, they believe a passenger's presence might be disruptive or dangerous. One of the airline officials whom we interviewed cited instances in which pilots refused to allow law enforcement officers to fly while armed because it appeared that they had been drinking or demonstrated other unusual behavior. FAA's current regulation does not state that officers who have been drinking prior to a flight are not allowed to fly while armed, but airlines may take it upon themselves to implement such a requirement. It is therefore prudent—from a safety perspective—and appropriate—from a compliance perspective—for airline personnel to question if it is appropriate for law enforcement officers to carry firearms on board.

6. DOT states that the report should make clear that FAA does not pressure airline employees to take actions that they believe could endanger aviation safety. The report in no way makes this suggestion and therefore we believe no clarification is required. DOT also states that the report should state that airline employees can work with airline management or FAA if they have concerns about law enforcement officers who appear to be flying while armed without sufficient need. Our report does not attempt to address the mechanisms that airline personnel could employ in this situation. Therefore, we did not revise the report.

7. DOT interpreted our draft report as recommending that law enforcement officers should be screened by walking through metal detectors. We agree with DOT that law enforcement officers authorized to carry weapons through checkpoints should not be subject to the screening of their person, such as walking through a metal detector. We are recommending that screening be performed on law enforcement officers' *carry-on baggage only*. DOT also commented that a physical search or the private screening of baggage is not practical because it would increase the number of times that airport law enforcement officers would be called to checkpoints. However, we note that FAA now requires airport law enforcement officers to be at the checkpoints to verify the credentials of all law enforcement officers authorized to fly while armed. Additionally, security-screening employees may also perform searches of passengers' carry-on baggage. Consequently, we disagree with DOT that a bag search is not practical.

8. The three law enforcement associations that we contacted—the National Sheriffs Association, the Fraternal Order of Police, and the Federal Law Enforcement Officers Association—are identified on page 4 of the report. (See fn. 1.) We contacted these associations as a courtesy to the law enforcement community to discuss their opinions on the regulation and FAA's proposed changes. We did not contact individual law enforcement agencies during the course of our review because these agencies were not the focus of our work. Rather, our work focused on FAA and the extent to which its current and proposed regulations address certain important issues surrounding law enforcement officers' carriage of weapons aboard aircraft. It was not an objective of our review to determine the actions taken by individual law enforcement agencies.

9. We revised the report to clarify that some of the airlines we contacted believe that federal law enforcement officers abuse their privilege to fly while armed.

10. We revised the report to indicate that secure memory card technology is currently available and that FAA is working with the law enforcement and aviation communities to implement this system.

11. We revised the report to include FAA's comment that the identity of all armed law enforcement officers passing through security checkpoints should be verified—not only those officers who are boarding flights.

12. We did not make this editorial change because DOT's comment is not material to the substance of the report.

13. We revised the report to clarify that FAA and the airlines do not track the frequency of onboard weapons carriage by law enforcement officers.

14. We disagree that additional clarifications are needed. The purpose of the example was to show that a significant number of armed officers could be on a single flight. We make no assertions of how often this occurs, nor can we because FAA does not require that such data be kept or reported.

15. We revised the report to indicate that FAA is working with the carriage of weapons task force to determine funding sources for a secure memory card system.

16. We disagree. DOT's comments fail to acknowledge that items that could be a concern to the safe operation of commercial aircraft might be included

in carry-on baggage. Numerous items exist that may not be a security threat—that is, items used for the purposeful hijacking or destruction of an aircraft—but are nevertheless explosive, combustible, or otherwise inimical to the safety of an aircraft in flight, such as flammable liquids, tear gas, pepper spray, and flare pistols. Such items could be inadvertently included in carry-on baggage by law enforcement officers, as is sometimes the case with the general public. We believe that the X-ray screening of law enforcement officers' carry-on luggage—or hand screening if the officer does not wish to be separated from the contents of the luggage—would be a simple and effective way to ensure that officers do not inadvertently carry dangerous items onto aircraft.

We note that DOT states in its comments that law enforcement officers are trusted with protecting lives and are not seen as a threat to security. However, airline pilots are similarly entrusted with protecting passengers' life and are not seen as a security threat, yet pilots must walk through metal detectors and pass their hand luggage through X-ray machines. We see little positive, and potentially significant negative, benefit in exempting law enforcement officers from the required screening of carry-on baggage to ensure that no dangerous items other than the declared ones are permitted past the checkpoints. We therefore did not revise the report.

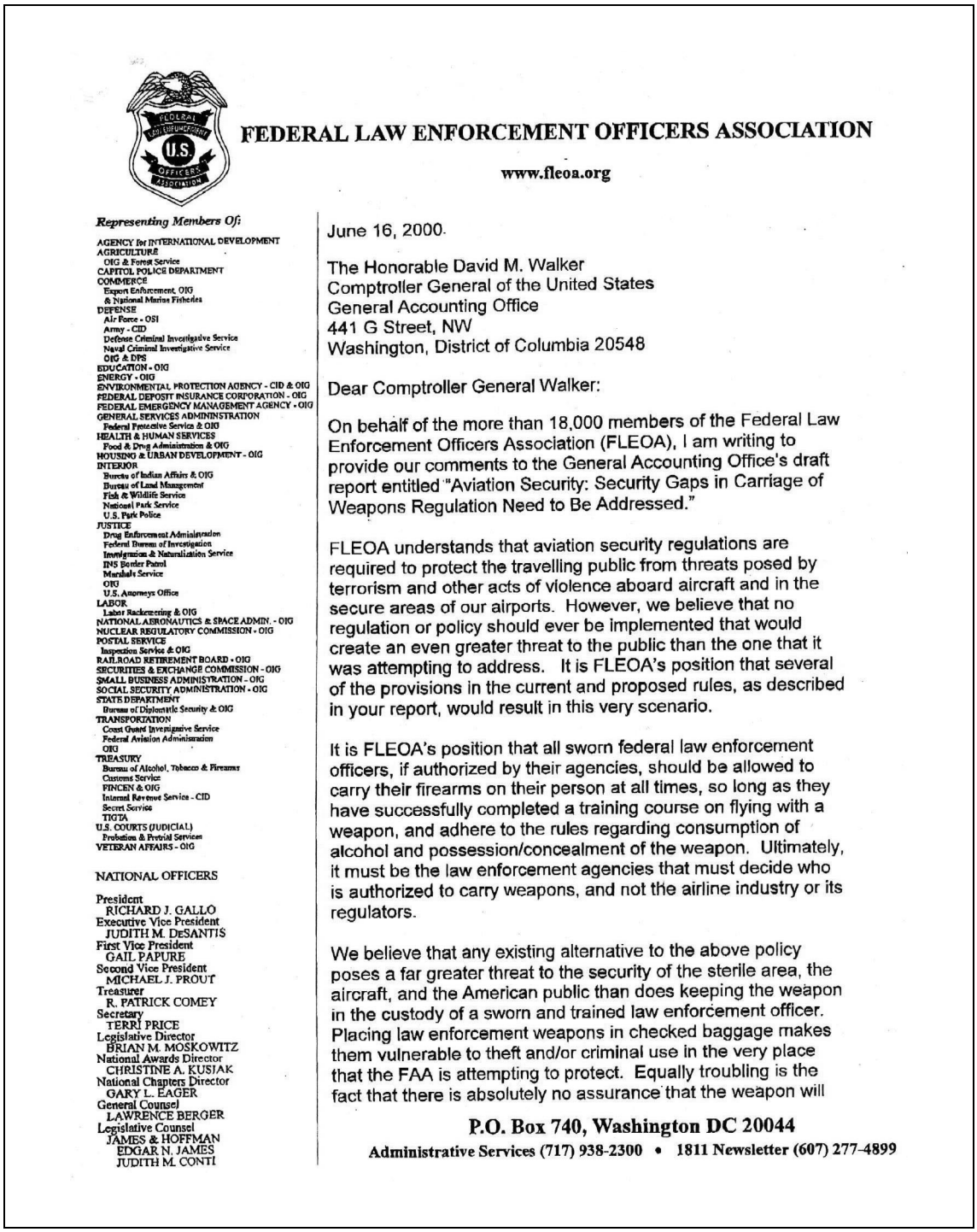
17. Because the Aviation Safety Reporting System (ASRS) ensures anonymity to those who submit reports, we were not able to verify the accounts regarding firearms found on board aircraft by contacting the reporters. However, ASRS personnel did contact the pilot who reported the incident in Miami in order to obtain additional information and found that the pilot also reported the incident to the pilot's union and to the security department of his airline. The ASRS report did not indicate whether the pilot alerted FAA of this incident.

Furthermore, DOT states that ASRS is not an FAA system and that these accounts are not verified, yet we note that FAA commissioned the National Aeronautics and Space Administration to operate and maintain ASRS' database and that FAA uses ASRS' data to support regulatory actions and other activities.

18. DOT states that our report should note that one goal of aviation security is to keep dangerous items in the possession of dangerous persons off aircraft. We believe that this statement diminishes the agency's overall mission to protect passengers from any type of dangerous material and further contradicts FAA's proposed weapons carriage regulation, which

states that its goal is to reduce the number of firearms carried on board by law enforcement officers. We therefore did not revise the report.

Comments From the Federal Law Enforcement Officers Association



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Fish & Wildlife Service
National Park Service
U.S. Park Police
JUSTICE
Drug Enforcement Administration
Federal Bureau of Investigation
Immigration & Naturalization Service
INS Border Patrol
Marshals Service
OIG
U.S. Attorneys Office
LABOR
Labor Racketeering & OIG
NATIONAL AERONAUTICS & SPACE ADMIN. - OIG
NUCLEAR REGULATORY COMMISSION - OIG
POSTAL SERVICE
Inspection Service & OIG
RAILROAD RETIREMENT BOARD - OIG
SECURITIES & EXCHANGE COMMISSION - OIG
SMALL BUSINESS ADMINISTRATION - OIG
SOCIAL SECURITY ADMINISTRATION - OIG
STATE DEPARTMENT
Bureau of Diplomatic Security & OIG
TRANSPORTATION
Coast Guard Investigative Service
Federal Aviation Administration
OIG
TREASURY
Bureau of Alcohol, Tobacco & Firearms
Customs Service
FINCEN & OIG
Internal Revenue Service - CID
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June 16, 2000

The Honorable David M. Walker
Comptroller General of the United States
General Accounting Office
441 G Street, NW
Washington, District of Columbia 20548

Dear Comptroller General Walker:

On behalf of the more than 18,000 members of the Federal Law Enforcement Officers Association (FLEOA), I am writing to provide our comments to the General Accounting Office's draft report entitled "Aviation Security: Security Gaps in Carriage of Weapons Regulation Need to Be Addressed."

FLEOA understands that aviation security regulations are required to protect the travelling public from threats posed by terrorism and other acts of violence aboard aircraft and in the secure areas of our airports. However, we believe that no regulation or policy should ever be implemented that would create an even greater threat to the public than the one that it was attempting to address. It is FLEOA's position that several of the provisions in the current and proposed rules, as described in your report, would result in this very scenario.

It is FLEOA's position that all sworn federal law enforcement officers, if authorized by their agencies, should be allowed to carry their firearms on their person at all times, so long as they have successfully completed a training course on flying with a weapon, and adhere to the rules regarding consumption of alcohol and possession/concealment of the weapon. Ultimately, it must be the law enforcement agencies that must decide who is authorized to carry weapons, and not the airline industry or its regulators.

We believe that any existing alternative to the above policy poses a far greater threat to the security of the sterile area, the aircraft, and the American public than does keeping the weapon in the custody of a sworn and trained law enforcement officer. Placing law enforcement weapons in checked baggage makes them vulnerable to theft and/or criminal use in the very place that the FAA is attempting to protect. Equally troubling is the fact that there is absolutely no assurance that the weapon will

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be available to the agent when he goes to retrieve his baggage so that he can continue and successfully complete his mission and/or be available to exercise his statutory authority.

This is not merely a blind hypothesis. Rather it is based on data and statistics compiled by the Department of Transportation on lost baggage and flight delays; the weakness in the regulations regarding background investigations on airport and airline workers; and publicized examples of law enforcement investigations on airline and airport industry personnel. It is also based on the lack of any significant evidence and/or data showing that the carriage of a weapon on an aircraft by authorized federal officers has caused any harm to the safe operation of an aircraft.

Further supporting our position are documented instances in which the safety of the aircraft and its passengers were directly aided by the onboard presence of an armed law enforcement officer (see attached for an example). This is an indisputable fact that cannot be overlooked in the analysis of this matter.

Some have stated that the placing of weapons into checked baggage is analogous to agents checking their weapons upon entering into prisons or Federal District Court. The two scenarios are completely different and the comparison is not valid. First and foremost, when an agent checks his firearm into a prison or a courthouse, it is placed in a locked gun box under the control of the Bureau of Prisons or the U.S. Marshals Service, and the agent maintains custody of the key to the box. There is absolutely no doubt that the weapon will be in the lock box when the agent leaves the facility. The same cannot be said for a weapon placed into checked baggage. Secondly, access to weapons is limited in prisons and courthouses to minimize the very real possibility of a dangerous and motivated prisoner from attempting to obtain a gun from a visiting agent. This same threat is generally not present onboard commercial aircraft because the flight is not comprised of individuals seeking to escape custody. Furthermore, unlike prisoners in a jail or court setting, airline passengers do not readily know the identities of travelling law enforcement officers or even of their presence on the flight.

Lastly, FLEOA believes that the proposed regulation would create two classes of federal law enforcement officers. This would imply that some federal criminal laws or agency missions are more important than others are. This is not acceptable to our members and we do not believe that it was ever the intent of Congress or the American people to create such a system.

FLEOA respectfully requests that our comments and concerns be addressed in your report to Congress and that we be allowed to comment and provide additional information, as necessary. Please do not hesitate to contact me if you have any questions. I can be reached at (202) 258-7884.

Respectfully,

Brian M. Moskowitz
National Legislative Director
Executive Board Member

Attachment

Comments From the Fraternal Order of Police

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GILBERT G. GALLEGOS
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

19 July 2000

Mr. Gerald Dillingham
Associate Director, Transportation Issues
Resources, Community, and Economic
Development Division
U.S. General Accounting Office
Washington, DC 20548

RE: Comments on Draft Report GAO/RCED-00-181

Dear Mr. Dillingham:

In response to your letter of 13 July, I am writing to offer the comments of the Fraternal Order of Police on the draft report *Aviation Security: Additional Controls Needed to Address Weaknesses in Weapons Carriage Regulation.*

The impetus for this report is no doubt the ability of undercover GAO investigators to bypass security at two airports using fake law enforcement credentials. This has led several agencies and congressional committees to examine and strengthen security at Federal facilities and airports.

The draft report analyzes the proposed changes to the Federal Aviation Administration's regulations regarding the carriage of firearms on board commercial aircraft by Federal, State and local law enforcement officers, and attempts to offer recommendations to further restrict the practice. However, the frequency and number of law enforcement officers carrying their service weapons aboard aircraft is unknown, and most airlines do not maintain the data provided on the carry-on authorization form. And as the General Accounting Office seems to acknowledge, the FAA lacks the information necessary to make a determination as to whether the current policy on the carriage of firearms has presented problems for aircraft or passenger safety.

With this absence of necessary information, the Fraternal Order of Police believes that this report, and the response of the FAA to date, does not adequately address the issues raised by the earlier GAO study. As should be readily apparent, the real issue is not the number or frequency of law enforcement officers who fly armed in a given year. Rather, it is the inability of the airlines and the FAA to adequately verify that an officer's credentials, and their need to fly armed, is valid.

Because of the importance of ensuring that only trained and sworn law enforcement officers fly armed, the F.O.P. supports the development of identification which would include information about the officer and contact information for his or her agency. Such a system could ensure the validity of an officer's credentials, and provide a point of contact for airline personnel to verify the need of that officer to fly armed.

In addition, the determination of whether or not a law enforcement officer has a need to fly armed is surely one which cannot be made by airline or FAA personnel with no law enforcement experience whatsoever. State and local officers who need to fly armed receive prior authorization from an agency official, which under current regulations is included in a letter to airline personnel.

In the end, there seems to be no overwhelming factual or anecdotal evidence of incidents involving law enforcement officers which would support a massive restructuring of current FAA carriage regulations. Rather than restricting law enforcement's ability to fly armed, the stakeholders involved should instead work towards finding a method to ensure that an officer's credentials are valid, and that his need to fly armed can be verified with appropriate law enforcement personnel. It would be truly unfortunate if the proposed rule changes infringed upon a law enforcement officer's ability to carry out his sworn duty.

On behalf of the membership of the Fraternal Order of Police, I would like to thank you for the opportunity to present our views on this report. Please do not hesitate to contact me, or Executive Director Jim Pasco, if we may be of any further assistance.

Respectfully,

Gilbert G. Gallegos
National President

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