



February 2020

AVIATION SECURITY

Federal Air Marshal Service Has Taken Steps to Address Workforce Issues, but Additional Actions Needed

GAO Highlights

Highlights of [GAO-20-125](#), a report to congressional requesters

Why GAO Did This Study

In the wake of 9/11, terrorists continue to target aircraft and airports, underscoring the ongoing threat to civil aviation and the need for effective security measures. FAMS deploys air marshals on selected flights to address such threats and is a key component of TSA's approach to aviation security. However, longstanding challenges faced by FAMS's workforce could impact its ability to carry out its mission.

GAO was asked to review FAMS workforce issues. This report addresses (1) the extent to which FAMS has taken steps to address air marshals' health concerns, (2) the extent to which FAMS has taken steps to address air marshals' concerns about their work schedules, and (3) the number of discrimination complaints FAMS employees have reported and the extent to which FAMS has taken steps to prevent discrimination.

GAO analyzed TSA and FAMS policies; documentation of efforts to address air marshals' quality of life issues; and FAMS data on missions, schedules, and discrimination complaints. GAO also interviewed TSA and FAMS officials, including FAMS management and air marshals in a non-generalizable sample of six FAMS field offices selected to capture a breadth of perspectives.

What GAO Recommends

GAO is making six recommendations to FAMS, including that it implement a plan to assess the health of the FAMS workforce, monitor the extent that air marshals' shifts are consistent with guidelines, and strengthen efforts to prevent discrimination. DHS concurred with all six recommendations.

View [GAO-20-125](#). For more information, contact William Russell at (202) 512-8777 or russellw@gao.gov.

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What GAO Found

Air marshals continue to express concerns about their health, but the Federal Air Marshal Service (FAMS) has not comprehensively assessed the health of its workforce. Air marshals in all six field offices we visited noted health issues, such as sleep deprivation, as a key quality of life concern. FAMS has taken steps to assess air marshals' individual health, such as requiring medical exams, but has not comprehensively assessed the overall health of its workforce and has not developed a plan to do so. FAMS officials stated that it would be difficult to analyze air marshals' medical records because they are not stored electronically, though they are researching options to do so. FAMS could develop and implement a plan to analyze the employee health data it already collects to identify workforce trends, and use this information to better promote employee welfare consistent with Transportation Security Administration (TSA) leadership principles.



Source: GAO. | GAO-20-125

FAMS has taken some steps to address air marshals' concerns about their work schedules. In March 2018, FAMS revised its deployment strategy to expand coverage of certain high risk missions that it typically learns of 72 hours in advance. Following this, changes to air marshals' schedules to accommodate these missions more than doubled. In response, FAMS altered how it staffs these missions and reports that these modifications have reduced schedule changes. FAMS also maintains shift length and rest period guidelines intended to balance mission needs with air marshals' quality of life. However, FAMS does not monitor the extent to which air marshals' actual work hours are consistent with guidelines because it has not identified a need to do so. As a result, it cannot determine how frequently air marshals work beyond guidelines and is not well-positioned to manage risks associated with long work hours.

From fiscal years 2016 through 2018, FAMS employees filed 230 discrimination complaints with TSA's Civil Rights Division, though employees may have reported additional discrimination complaints through other means. In 2012, FAMS adopted an action plan to address discrimination and has taken some steps called for in the plan, such as sustaining a FAMS Ombudsman position. However, due to a loss of management focus on the plan, FAMS has not fully implemented other planned efforts, such as holding diversity focus groups. Taking steps to reaffirm its efforts to prevent discrimination would demonstrate leadership commitment to reducing concerns of discrimination within FAMS.

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Abbreviations

CRD	Civil Rights Division
DHS	Department of Homeland Security
OIG	Office of Inspector General
EEO	Equal Employment Opportunity
FAMIS	Federal Air Marshal Information System
FAMS	Federal Air Marshal Service
FEVS	Federal Employee Viewpoint Survey
No FEAR Act	Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002
OPM	Office of Personnel Management
SAC	Supervisory Air Marshal in Charge
SFAM	Supervisory Federal Air Marshal
SMC	Special Mission Coverage
TSA	Transportation Security Administration

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February 12, 2020

The Honorable Gary C. Peters
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Cory A. Booker
United States Senate

Since the September 11, 2001, hijackings of four U.S. airliners, individuals with terrorist ties have continued to target the nation's civil aviation system. Attacks involving aircraft and airports in Egypt, Somalia, Belgium, and Turkey underscore the continued threat to aviation and the need for effective aviation security measures. To help address such threats, the Federal Air Marshal Service (FAMS), an office within the Transportation Security Administration (TSA), is tasked with promoting confidence in the nation's civil aviation system through the deployment of air marshals to protect U.S. air carriers, airports, passengers, and crews.¹ To accomplish this mission, FAMS deploys armed federal law enforcement officers—air marshals—to provide an onboard security presence on selected flights of United States air carriers travelling within the United States and around the world.² TSA, within the Department of Homeland Security (DHS), considers FAMS to be an integral component of its risk-based security strategy.

FAMS has faced longstanding challenges addressing the impacts of air marshals' heavy travel requirements and often unpredictable schedules on their quality of life. For example, in 2003, we reported that FAMS lacked sufficiently detailed information to effectively monitor actual hours worked by air marshals, which had implications for air marshals' quality of

¹The formal name of this office is Law Enforcement / Federal Air Marshal Service, but we refer to it as the Federal Air Marshal Service throughout this report.

²See 49 U.S.C. § 44917.

life.³ In 2009, we reported that air marshals' quality of life issues included long work hours, inconsistent start times, health issues such as musculoskeletal injuries, and challenges obtaining adequate sleep.⁴ In 2013, a FAMS review of air marshal fitness noted that air marshals were experiencing high injury rates during physical fitness assessments and declining overall health and wellness, which they attributed in part to the increasing age of air marshals.⁵

Air marshals have also raised concerns about age, gender, and racial discrimination within FAMS.⁶ The DHS Office of Inspector General (DHS OIG) reviewed allegations of discrimination and retaliation within FAMS from 2010 through 2012.⁷ The DHS OIG's review did not support a finding of widespread discrimination and retaliation within FAMS but found that employees' perceptions of discrimination and retaliation were extensive.

³GAO, *Aviation Security: Federal Air Marshal Service Is Addressing Challenges of Its Expanded Mission and Workforce, but Additional Actions Needed*, [GAO-04-242](#) (Washington, D.C.: Nov. 19, 2003). We recommended that DHS develop an automated method to compare actual hours worked with scheduled hours so that FAMS could monitor the effectiveness of its scheduling controls and support its planned long-term study of the effects of flying on air marshals and their aviation security mission. FAMS implemented this recommendation by developing the automated capability to upload flight data, calculate actual and scheduled working hours, and provide computer-generated reports for managers and analysts on demand. These reports provide detailed (by individual air marshal or by office) and organization-wide statistics on air marshals' work schedules. However, according to FAMS officials, FAMS does not produce reports that provide detail on the extent to which air marshals' work hours are consistent with scheduling guidelines, as discussed later in this report.

⁴GAO, *Aviation Security: Federal Air Marshal Service Has Taken Actions to Fulfill Its Core Mission and Address Workforce Issues, but Additional Actions Are Needed to Improve Workforce Survey*, [GAO-09-273](#) (Washington, D.C.: Jan. 14, 2009). In this report, we recommended that FAMS continue to improve its ability to identify and address quality of life issues by increasing the usefulness of its workforce satisfaction surveys. FAMS implemented this recommendation by taking actions to improve the survey instrument and its response rate in 2010. According to FAMS officials, the agency has discontinued use of these workforce surveys and now relies on results from the Federal Employee Viewpoint Survey.

⁵TSA, Office of Law Enforcement Federal Air Marshal Service, *2012-2013 OLE/FAMS Integrated Project Team Physical Fitness Working Group Final Report and Recommendations* (Arlington, Virginia: Mar. 2013).

⁶Federal law and policy protects employees from discrimination on the basis of race/ethnicity, color, religion, gender/sex, national origin, age, disability, gender identify, sexual orientation, genetic information, and reprisal.

⁷Department of Homeland Security, Office of Inspector General, *Allegations of Misconduct and Illegal Discrimination and Retaliation in the Federal Air Marshal Service*, OIG-12-28 (Washington, D.C.: Jan. 2012).

As a result, in 2012, FAMS created an action plan to prevent discrimination.

You requested that we evaluate FAMS's workforce issues, including air marshals' quality of life, schedules, and discrimination complaints. This report (1) assesses the extent to which FAMS has taken steps to address air marshals' health concerns; (2) assesses the extent to which FAMS has taken steps to address air marshal concerns about their work schedules; and (3) examines the number of discrimination complaints FAMS employees have reported to TSA and FAMS and assesses the extent to which FAMS has taken steps to prevent discrimination.

To address each question, we visited a non-generalizable sample of six FAMS field offices in Atlanta, Georgia; Dallas, Texas; Los Angeles, California; Newark, New Jersey; New York City, New York; and Seattle, Washington. We chose these field offices to capture variation in: types of missions, numbers of schedule changes, rates of discrimination complaints, and field office size, among other things. In each field office we held separate discussion sessions with air marshals and supervisory federal air marshals (SFAMs) to obtain their perspectives on air marshals' quality of life, schedules, and issues related to discrimination within FAMS. We also interviewed field office operations staff to learn about their role in scheduling and field office management to get their perspectives on all of these issues. Findings from our site visits cannot be generalized to all FAMS field office locations but provide insight into air marshals' quality of life, schedules, and discrimination issues within FAMS. We also interviewed a TSA employee group (Women Executives at FAMS), a professional association representing federal law enforcement officers including air marshals (the Federal Law Enforcement Officers Association), and the FAMS Ombudsman to learn their perspectives.

To address the first objective about the extent to which FAMS has taken steps to address air marshals' health concerns, we reviewed our past work as well as relevant studies and data on FAMS employees' health. For example, we analyzed the results of the Office of Personnel Management's (OPM) Federal Employee Viewpoint Survey (FEVS) for FAMS, TSA, and DHS employees in 2018, the most recent year available

as of October 2019.⁸ We also analyzed FAMS's workers' compensation claim data for fiscal years 2013 (when FAMS reviewed air marshals' physical fitness) through 2018 (the most recent full fiscal year of data available). To identify steps FAMS has taken to address air marshals' health concerns, we asked FAMS management officials, SFAMs, and air marshals we met with in headquarters and field offices to identify any such efforts.⁹ We then analyzed documentation related to FAMS medical and fitness programs. This documentation included standards and policies for medical examinations and health and fitness assessments. We also interviewed senior FAMS officials and staff from the FAMS Medical Programs Section about their efforts to understand the health and wellness of the FAMS workforce and to address its health concerns. We compared FAMS's efforts to address air marshals' health concerns to OPM strategies for human capital management and TSA's strategic planning documents.¹⁰

Regarding the second objective about the extent to which FAMS has taken steps to address air marshals' concerns about their work schedules, we reviewed FAMS's internal reports on air marshals' scheduled and actual work hours as well as standard operating procedures that include scheduling guidelines and protocols for adjusting air marshals' schedules. We met with FAMS Flight Operation Division officials to learn about their efforts to reduce schedule unpredictability, to monitor air marshals' shift lengths and rest periods and compare them to scheduling guidelines, and to make scheduling guidelines and protocols available to field offices. We analyzed data on the volume of changes to air marshals' schedules from November 2016 to June 2019.¹¹ We also analyzed the length of air marshals' actual shifts using time and attendance data for a stratified random sample of air marshals across

⁸FEVS is a tool offered by OPM that measures employees' perceptions of whether, and to what extent, conditions characterizing successful organizations are present in their agencies.

⁹For the purpose of this report, FAMS management officials include Assistant Administrators of Flight Operations, Field Operations, and Operations Management; Supervisory Air Marshals in Charge and Assistant Supervisory Air Marshals in Charge of field offices, among others. FAMS management officials do not include SFAMs.

¹⁰United States Office of Personnel Management, *2018 Federal Workforce Priorities Report* (Feb. 2018) and TSA Strategy 2018-2026.

¹¹According to FAMS management officials, FAMS updated its concept of operations in March 2018. We selected the 32-month period from November 2016 to June 2019 to include 16 months before and 16 months after this operational change.

four different roster periods—two in fiscal year 2018 and two in fiscal year 2019.¹² We compared FAMS’s efforts to monitor air marshals’ work hours and rest periods and to share scheduling protocols to two principles in Standards for Internal Control in the Federal Government related to the need to implement control activities and use quality information to achieve the entity’s objectives.¹³

To address the third objective about the number of discrimination complaints within FAMS, we analyzed record-level complaint data from TSA’s Civil Rights Division (CRD) and FAMS Incident Activity Coordination and Trends Unit for fiscal years 2016 through 2018, record-level complaint data from TSA’s National Resolution Center for fiscal year 2018 (the only year for which data were available), as well as information on complaints brought to the DHS OIG by air marshals in fiscal years 2016 through 2018.¹⁴ We reviewed FAMS’s 2012 action plan to prevent discrimination and evidence of actions taken to address the steps in that plan. For example, we reviewed DHS and TSA training materials from 2018, as well as Field Office Focus Group meeting minutes from all 20 FAMS field offices from fiscal years 2016 through 2018. We interviewed officials from the TSA and FAMS offices that receive discrimination complaints such as TSA’s CRD, Investigations and Professional Responsibility offices, and National Resolution Center, as well as FAMS management in headquarters and in the six field offices we visited. We compared FAMS’s efforts to prevent discrimination in the workplace to the Equal Employment Opportunity Commission’s essential elements for a model EEO program and the objectives in DHS’s Strategic Plan.¹⁵

¹²Air marshals’ schedules are based on 28-day cycles known as roster periods. We selected these roster periods in order to examine data on air marshals’ shifts both before and after FAMS revised its concept of operations in March 2018. We also selected these time periods to capture typical operations and verified with FAMS officials that mission operations were not anomalous during the selected roster periods.

¹³GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 2014).

¹⁴We reviewed complaint data for the period fiscal year 2016 through fiscal year 2018 to capture the most recent 3 full years of data available at the time of our review. The National Resolution Center, within TSA Human Capital, administers dispute resolution programs, such as mediation, facilitation, and conflict management coaching.

¹⁵EEOC, *Equal Employment Opportunity, Management Directive 715* (Oct. 1, 2003) and Department of Homeland Security, *Strategic Plan for Fiscal Years 2020-2024* (Washington, D.C., Jul. 2019).

We utilized data from multiple sources and took steps to assess the reliability of data that we analyzed, including interviewing knowledgeable FAMS officials, manually reviewing data for errors, and reviewing related documentation. We determined that the data were sufficiently reliable for use in the analyses presented in this report. Additional details on our scope and methodology are contained in appendix I.

We conducted this performance audit from July 2018 to February 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

FAMS's Mission and Organization

The organization that is now FAMS was created in 1961 to counter hijackers. The Aviation and Transportation Security Act, enacted in November 2001, established TSA as the agency responsible for civil aviation security and transferred FAMS along with other aviation security-related responsibilities from the Federal Aviation Administration to TSA.¹⁶ Among other things, the Act expanded FAMS's mission and workforce in response to the September 11, 2001, terrorist attacks. Specifically, the Act authorizes TSA to deploy air marshals on every passenger flight of a U.S. air carrier and requires TSA to deploy air marshals on every such flight determined by the TSA Administrator to present high security risks—with nonstop, long-distance flights, such as those targeted on September 11, 2001, considered a priority.¹⁷

¹⁶See Pub. L. No. 107-71, §§ 101(a), (g), 105, 115 Stat. 597, 606-08 (2001), as amended; 49 U.S.C. §§ 114, 44917. FAMS has undergone various organizational transfers since 2001. Pursuant to the Aviation and Transportation Security Act, FAMS transferred within the Department of Transportation from the Federal Aviation Administration to the newly created TSA. In March 2003, TSA (including FAMS) transferred from the Department of Transportation into the newly created DHS. In November 2003, FAMS transferred within DHS from TSA to U.S. Immigration and Customs Enforcement. In October 2005, it transferred back to TSA.

¹⁷See 49 U.S.C. § 44917(a)(1)-(2).

As of August 2019, FAMS had thousands of employees and 20 field offices across the United States.¹⁸ FAMS's Field Operations Division consists, in part, of these field offices, which are divided into regions overseen by Regional Directors. A Supervisory Air Marshal in Charge (SAC) manages each field office, assisted by a Deputy Supervisory Air Marshal in Charge or Assistant Supervisory Air Marshals in Charge, depending on the size of the field office. SFAMs typically oversee squads of air marshals in the field offices. FAMS's Flight Operation Division consists of the Systems Operation Control Section, among other groups. The Systems Operation Control Section is responsible for planning and preparing air marshals' schedules, which are based on 28-day cycles known as roster periods. It is also responsible for monitoring all FAMS missions. For example, its Mission Operations Center is responsible for providing real-time support to air marshals performing missions by resolving mission-related issues, including last-minute scheduling changes.¹⁹ The senior leader of FAMS is the Executive Assistant Administrator / Director of FAMS.

FAMS's Concept of Operations

Given that there are many more U.S. air carrier flights each day than can be covered by air marshals, FAMS uses a concept of operations to set forth its methodology for deploying air marshals.²⁰ FAMS's concept of operations prioritizes flights that it considers higher risk, such as those for which a known or suspected terrorist is ticketed. FAMS refers to these flights as Special Mission Coverage (SMC) and, according to FAMS Flight Operation Division officials, FAMS typically learns of them no more than

¹⁸FAMS employees include both law enforcement (e.g. air marshals) and those in non-law enforcement positions (e.g. operations and administrative staff).

¹⁹The Mission Operations Center begins providing mission support the day before missions are scheduled to begin. FAMS's Systems Operation Control Section also includes the following units: the Domestic Planning Unit, which prepares domestic flight schedules for air marshals; the International Planning Unit, which plans, schedules, and coordinates the deployment of air marshals internationally; the Flight Tracking Unit, which is responsible for resolving conflicts to air marshals' schedules until the Mission Operations Center assumes responsibility; and the Reservations Unit.

²⁰FAMS may deploy air marshals on U.S. air carriers operating either within the United States or operating internationally if an agreement is in place with a destination country allowing for the arrival and departure of armed U.S. air marshals. In accordance with its statutory authorities, however, FAMS may not deploy air marshals on foreign flagged carriers.

72 hours in advance of flight departure and sometimes less than an hour before departure time.²¹

According to Flight Operations Division officials, in March 2018 FAMS adopted a new concept of operations that expanded the number of SMCs.²² To cover SMCs, FAMS uses air marshals scheduled to standby status, who report to their home airport and fly upon notification. If no air marshals in standby status are available, FAMS may reassign air marshals from regularly scheduled missions or air marshals who were not scheduled to fly at that time.

FAMS Scheduling Guidelines

FAMS has established scheduling guidelines intended to balance mission needs with air marshals' quality of life. Specifically, Systems Operation Control Section officials maintain guidelines detailing parameters for shift

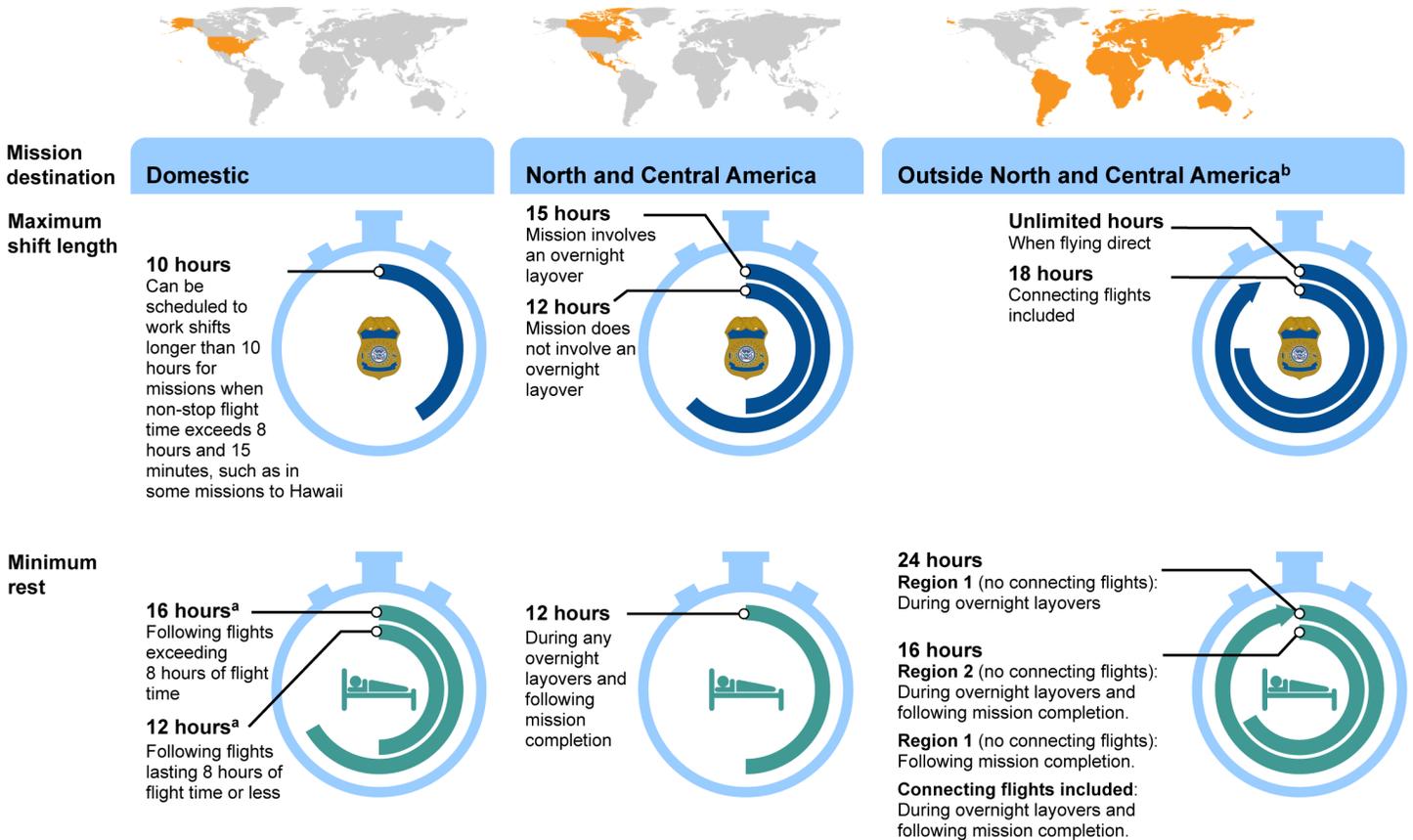
²¹Through Secure Flight—a TSA passenger prescreening program—TSA screens passenger data against federal government watch lists, including the No Fly and Selectee subsets of the Terrorist Screening Database—the federal government's consolidated list of known and suspected terrorists. See GAO, *Secure Flight: TSA Should Take Additional Steps to Determine Program Effectiveness*, [GAO-14-531](#) (Washington, D.C.: Sept. 2014). Secure Flight does not begin to vet ticketed passengers until 72 hours in advance of their flight's scheduled departure. See 49 C.F.R. § 1560.101. FAMS also deploys air marshals on non-SMC international and domestic flights. After selecting these flights for coverage, it schedules individual air marshals to cover them based on considerations including air marshals' availability, scheduling guidelines, and international travel requirements.

²²In 2010, TSA began using risk-based factors to create screening rules to identify potentially higher-risk passengers and designate them for enhanced screening at the airport checkpoint. For example, relying on current threat intelligence, TSA may create a rule that targets passengers in a specific age range, traveling on a flight originating from a particular country. TSA implements these rules through two programs—the Silent Partner program and the Quiet Skies program. According to senior FAMS officials, in March 2018 the agency expanded the pool of potential SMCs by also prioritizing the deployment of air marshals on flights with Quiet Skies List matches. See GAO, *Aviation Security: TSA Coordinates with Stakeholders on Changes to Screening Rules but Could Clarify Its Review Processes and Better Measure Effectiveness*, [GAO-20-72](#) (Washington, D.C.: Nov. 20, 2019).

length and rest periods when scheduling air marshals to fly missions.²³ Exceptions to these guidelines are permitted to meet mission needs and the Mission Operations Center is not restricted by the guidelines when addressing mission scheduling issues, such as flight delays. For an overview of FAMS's scheduling guidelines for shift length and rest, see figure 1.

²³Scheduling guidelines are found in the guidance documents for the Domestic Planning Unit, International Planning Unit, and the Mission Operations Center: Department of Homeland Security, Transportation Security Administration, *Federal Air Marshal Service Systems Operation Control Section: Domestic Planning Unit Standard Operating Procedure*; Department of Homeland Security, Transportation Security Administration, *Federal Air Marshal Service Systems Operation Control Section: International Planning Unit International Reference Manual*; and Department of Homeland Security, Transportation Security Administration, *Federal Air Marshal Service Systems Operation Control Section: Mission Operations Center Standard Operating Procedure*. According to agency officials, time spent performing mission-related activities as well as non-mission related activities—such as training and administrative tasks—count towards thresholds established by scheduling guidelines for shift length.

Figure 1: Federal Air Marshal Service (FAMS) Scheduling Guidelines



Source: GAO analysis of Federal Air Marshal Service information; Map Resources (map). | GAO-20-125

Note: Figure depicts guidelines used for planning missions; actual times may not align with guidelines when performing missions. Scheduling guidelines are subject to change based on FAMS's operational needs. Air marshals are also scheduled to receive a minimum of 12 hours rest prior to any domestic flight, as well as before and after any standby shift. Additionally, guidelines state that air marshals are to be scheduled 60 hours minimum rest around 2 consecutive regular days off each week. Air marshals may not receive 2 regular days off as a result of international missions lasting 6 or more days, SMCs, and travel to and from training programs lasting 6 or more days.

^aAir marshals are also to receive 16 hours' rest during any overnight layover following a flight exceeding 8 hours of flight time.

^bTSA has deemed the specific locations associated with Region 1 and Region 2 as sensitive security information.

Air marshals are expected to be available to work as needed, 24 hours a day. To compensate air marshals for the demands of their position, air marshals receive law enforcement availability pay, which provides eligible TSA law enforcement officers, including air marshals, a 25 percent increase in their base pay for working or being available to work an

annual average of 2 hours or more of unscheduled overtime per regular workday.²⁴ In addition to law enforcement availability pay, certain air marshals are eligible to receive overtime pay after working more than 85.5 hours in a single 14-day pay period.²⁵

Demographics of FAMS's Workforce

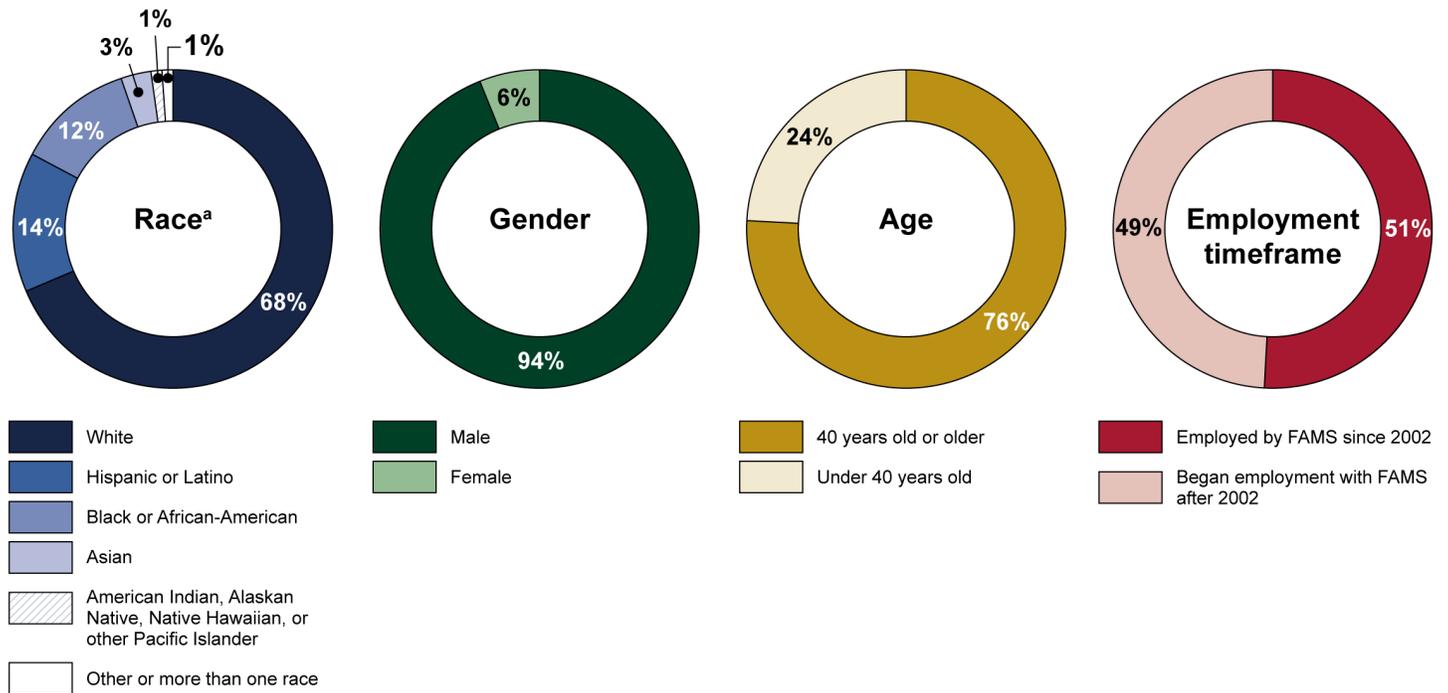
Based on FAMS 2019 human capital data, approximately 85 percent of FAMS employees are law enforcement officers (e.g., air marshals). FAMS's law enforcement workforce is largely White, male, and 40 years of age or older. As of August 2019, 68 percent of FAMS law enforcement employees identified as White, followed by 14 percent Hispanic or Latino, 12 percent Black or African American, 3 percent Asian, 1 percent American Indian or Alaskan Native, and 1 percent identified as Other or more than one race.²⁶ Also as of August 2019, approximately 94 percent of FAMS law enforcement employees were male, approximately 76 percent were aged 40 or older, and approximately 51 percent have been with the agency since 2002. See figure 2.

²⁴See, e.g., TSA Management Directive No. 1100.88-1, Law Enforcement Position Standards and Hiring Requirements (May 7, 2007). Air marshals are included in the GS-1801 federal law enforcement officer job series, as defined by OPM. Law enforcement personnel with this series designation engage in general inspection and compliance activities. See GAO, *Federal Law Enforcement: Survey of Federal Civilian Law Enforcement Functions and Authorities*, [GAO-07-121](#) (Washington, D.C.: Dec. 19, 2006).

²⁵After 85.5 hours worked within a pay period, non-exempt air marshals are eligible under the Fair Labor Standards Act to receive pro-rated overtime—referred to as the TSA Law Enforcement Availability Pay Offset Rate. After 100 hours, their overtime pay is no longer pro-rated.

²⁶Less than 1 percent of air marshals identified as Native Hawaiian or Other Pacific Islander.

Figure 2: Federal Air Marshal Service (FAMS) Law Enforcement Employee Demographics



Source: GAO analysis of Federal Air Marshal Service data. | GAO-20-125

^aOne percent of FAMS law enforcement employees identified as American Indian or Alaskan Native, while 0.2 percent of FAMS law enforcement employees identified as Native Hawaiian or Other Pacific Islander. Percentages do not sum to 100 due to rounding.

FAMS Has Assessed Individuals' Health, but Has Not Comprehensively Assessed Overall Workforce Health

Air Marshals Continue to Express Long-Standing Health Concerns

Air marshals report being concerned about their health. Air marshals in all six offices we visited stated that health issues are a key quality of life concern.²⁷ The most common health issues air marshals raised in discussion sessions with us were extreme fatigue, mental health issues, difficulty maintaining a healthy diet, and increased frequency of illness. In addition, OPM's FEVS survey asked FAMS employees whether they "believe they are protected from health and safety hazards."²⁸ DHS estimates that in fiscal year 2018—the most recent year for which complete FEVS results are available—less than half (44 percent) of FAMS employees believed they were protected from health and safety hazards.²⁹

Moreover, during the 6-year period from fiscal year 2013 through 2018—a period during which the number of FAMS employees decreased by 17 percent—the number of workers' compensation claims filed by FAMS

²⁷We conducted a total of 10 discussion sessions with non-supervisory air marshals in six FAMS field offices. In four field offices we conducted two discussion sessions each and in two field offices we conducted one discussion session each. The number of participants in each discussion session ranged from about ten to about thirty.

²⁸We analyzed FEVS question number 35, which asks survey participants if "Employees are protected from health and safety hazards on the job." Answering positively includes the responses "Strongly agree" and "Agree."

²⁹The 95 percent confidence interval for this estimate is (42.4, 46.1). FAMS employees' positive responses to this question were lower than for both TSA and DHS employees overall. In 2018, DHS estimates that 56 percent of all TSA employees and 61 percent of all DHS employees reported that they believed they were protected from health and safety hazards. The 95 percent confidence intervals for these estimates are (55.6, 56.7) and (61.2, 61.8), respectively.

employees nearly quadrupled, from 71 claims to 269 claims.³⁰ From fiscal year 2013 through 2019, thirteen air marshals died while employed with FAMS, one of whom died while on duty covering a flight.³¹ According to FAMS officials, five of the thirteen deaths were caused by suicide; and FAMS officials did not know the cause of death for the other eight.³²

Concerns about air marshals' health are long-standing. For example:

- In 2008, a FAMS Medical Issues Working Group reported that air marshals had experienced various types of health issues—poor physical fitness as well as musculoskeletal injuries and upper respiratory infections. The Working Group also noted that air marshals' disrupted sleep patterns often resulted in fatigue and long hours and made it difficult for air marshals to work out and maintain healthy eating habits.
- In 2012, the FAMS-commissioned Harvard sleep and fatigue study—which included a literature review, an analysis of air marshals' work schedules, and a survey of air marshals—reported that shift work schedules, like air marshals' flight schedules, can cause significant acute and chronic sleep deprivation which in turn can adversely affect their personal health, such as increasing the risk of heart disease. The study also reported that sleep deprivation degrades air marshals' ability to think quickly, make good decisions, and to recognize when fatigue impairs performance and safety.

³⁰The Office of Workers' Compensation Program administers four major disability compensation programs, including the Federal Employees' Compensation Program, which provide wage replacement benefits and other benefits to federal employees or their dependents who experience work-related injury or occupational disease. We analyzed workers' compensation claim data for fiscal years 2013 (when FAMS reviewed air marshals' physical fitness) through 2018 (the most recent full fiscal year of data available). FAMS officials noted that any number of factors could have contributed, such as normal health changes associated with ageing.

³¹We requested information about deaths for fiscal years 2013 (when FAMS reviewed air marshals' physical fitness) through 2019 (the most recent full fiscal year of data available). FAMS officials reported that five deaths occurred in fiscal year 2013, two deaths occurred in fiscal year 2014, one death occurred in fiscal year 2015, no deaths occurred in fiscal year 2016, one death occurred in fiscal year 2017, no deaths occurred in fiscal year 2018, and four deaths occurred in fiscal year 2019.

³²According to FAMS officials, FAMS is not always made aware of the circumstances of the death of its employees. The FAMS Medical Programs Section does not receive official correspondence as to the cause of death and family members of deceased air marshals do not always release this information.

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- In 2013, a FAMS review of air marshals' fitness noted that air marshals were experiencing high injury rates when taking their physical fitness assessments and declining overall health and wellness. FAMS officials attributed air marshals' declining overall health and wellness in part to the increasing age of air marshals.

FAMS Assesses Air Marshals' Individual Health, But Maintains Limited Health Information in a Data System

FAMS has had initiatives in place to assess air marshals' health. For example, since 2004 FAMS has required that individual air marshals obtain a medical examination at least every 2 years. In addition, FAMS has operated a Health, Fitness, and Wellness Program since 2015 and a Hearing Conservation Program since 2017. However, FAMS maintains limited health information in a data system.

Medical Examinations

Since 2004, FAMS has gathered information on individual air marshals' health to help ensure employees meet its medical standards.³³ Specifically, FAMS has required that air marshals obtain a medical examination from private, FAMS-approved clinics at least every 2 years.³⁴ According to FAMS policy, these exams are to assess air marshals' cognitive, physical, psychomotor, and psychological abilities and include certain cardiac, pulmonary, audiometric, and visual tests. FAMS's Medical Programs Section—an office staffed with one part-time physician, five nurses, and three administrative staff—is responsible for helping ensure that air marshals obtain their required medical examinations. The office also follows up if an exam indicates an air marshal may have a health issue that may affect their ability to perform their duties, such as a sleep disorder or high blood pressure. Clinicians who conduct the periodic medical examinations provide the Medical Programs Section a medical report, which they use to determine if an air marshal is medically qualified to perform the essential functions of the position in a safe and efficient manner.³⁵ Air marshals deemed unqualified to perform one or more essential functions of the position, with or without reasonable

³³According to FAMS policy, FAMS established these medical standards to ensure air marshals possess abilities to perform the tasks of the air marshal position. Further, the standards ensure a level of health status and physical and emotional fitness for a public safety position which requires a high degree of responsibility.

³⁴Air marshals who are 45 or older are required to obtain a medical exam annually. Physicians are required to submit documentation to FAMS regarding their medical assessment of air marshals, including a medical review report and medical record.

³⁵FAMS Medical Standards include four potential outcomes: (1) Medically Qualified (2) Medical Determination Deferred Pending Further Documentation (3) Temporarily Medically Disqualified, and (4) Medically Disqualified.

accommodation, are subject to administrative actions, such as being placed on light or limited duty status and possibly non-disciplinary removal based on medical inability to perform the essential function of the position.³⁶

FAMS officials report, however, that they have not entered air marshals' medical information, including their medical qualification status, into a data system because medical information is protected by law and their existing data system—the Federal Air Marshal Information System (FAMIS) is not suitable to maintain medical information.³⁷ Instead, the Medical Programs Section maintains the results of air marshals' medical exams—including their qualification status—in paper files.³⁸ Medical Programs Section officials explained that because medical information about air marshals are not in a data system, reviewing and compiling information to obtain a comprehensive assessment—such as the number of air marshals who are medically qualified—would be resource-intensive. Medical Programs Section officials noted that it would be helpful to be able to analyze air marshals' health records to identify any trends across the workforce. FAMS officials report that by the end of September 2020 the Medical Programs Section plans to review and evaluate software platforms that would be suitable for medical data. However, these same officials reported that, as of September 2019, the work on this initiative had been verbal and informal so they were not able to provide documentation of this effort.

OPM's 2018 report on human capital management highlights the importance of using data to conduct workforce analyses to help identify

³⁶FAMS established a list of 145 essential functions of the position that include tasks such as: physically restraining a combative subject after running, firing a handgun during a mission, and making instantaneous decisions whether to use physical or deadly force in aircraft or ground situations. Generally, TSA defines light and limited duty as temporary work restrictions—limiting essential job functions that the employee should not perform—that may be offered to TSA employees who have temporary injuries or medical conditions. TSA officials note that the Rehabilitation Act of 1973 requires federal employers to reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability unless doing so would impose an undue hardship on agency operations. See 29 U.S.C. § 791, 29; C.F.R. § 1630.9. See also 42 U.S.C. § 12112(b)(5). TSA officials stated that an example of a reasonable accommodation for an air marshal would be assignment to light duty.

³⁷FAMIS is an automated personnel identification system to manage FAMS administrative and operational requirements.

³⁸FAMS officials report that the paper files are stored in a locked room and access is restricted to authorized individuals.

and properly address human capital challenges.³⁹ Without information about the number and proportion of the FAMS workforce who are medically qualified, FAMS management has a limited understanding of its workforce's ability to fly missions and fulfill their duties. Further, FAMS management cannot readily identify trends among its workforce and therefore is also limited in their ability to identify any problems and make better-informed workforce planning decisions.

Health, Fitness, and Wellness Program

In May 2015, FAMS initiated a Health, Fitness, and Wellness Program intended to address concerns with air marshals' fitness and injury rates and improve air marshals' overall health and wellness. According to FAMS policy, the program is intended to provide opportunity, resources, and education necessary to enhance mission readiness and promote workplace wellness. For example, FAMS requires air marshals to participate in a health and fitness assessment twice a year to measure their fitness including cardio-respiratory endurance, muscular strength, muscular endurance, and flexibility.⁴⁰ FAMS physical fitness instructors administer the assessment and record the results in FAMIS, such as the number of pushups an air marshal can complete in one minute.⁴¹ Since February 2016, FAMS has used these data to track air marshals' mandatory participation in the assessments and to identify individual air marshals who do not maintain their fitness levels or show improvement. However, it has not used these data to analyze trends in the fitness of the workforce as a whole. FAMS officials noted that analyzing these data could provide some indication of the state of the workforce, but they have not done so because these data provide a limited snapshot and other information would need to be considered to provide a full understanding of the workforce's well-being.

Two other aspects of the program are the establishment of Health Fitness and Wellness Coordinators and an optional Health Risk Assessment.

³⁹United States Office of Personnel Management, *2018 Federal Workforce Priorities Report* (Feb. 2018).

⁴⁰The Health and Fitness Assessment does not include any minimum standards, but, according to FAMS officials, air marshals strive to maintain or show improvement in their fitness level over time. Air marshals who are unable to complete the assessment must submit a request for a temporary waiver from the assessment to the Medical Programs Section. Prior to the Health and Fitness Assessment, FAMS used performance goals to assess air marshals' fitness.

⁴¹According to FAMS, this information is not considered to be medical information and therefore can be stored in FAMIS. FAMS physical training instructors are part of FAMS' Office of Training and Development and are not part of FAMS Medical Programs Section.

FAMS Health, Fitness, and Wellness Program coordinators are responsible for engaging with air marshals to promote a culture of wellness, build an inclusive fitness community at each location, and provide health, fitness, and wellness recommendations. The national coordinator of the Health, Fitness, and Wellness Program is also responsible for providing oversight of the program, ensuring program effectiveness, and providing FAMS leadership with program reports and assessments when requested.

According to FAMS documents, the optional Health Risk Assessment is intended to help air marshals identify modifiable health risk factors. The assessments are completed by air marshals and reviewed by a certified occupational health nurse. Air marshals then meet with FAMS Medical Programs Section staff to discuss their health and recommendations to promote health and wellness, and prevent disease. FAMS officials report that in 2015, they completed eight Health Risk Assessments; however, since then no additional air marshals have requested this assessment. Medical Programs Section officials stated that few air marshals took advantage of this option because air marshals prefer to obtain health services outside of the agency (i.e. with private providers) to maintain their privacy.

Hearing Conservation Program

In August 2017, FAMS established a Hearing Conservation Program to provide a coordinated approach to prevent hearing loss due to noise exposure in the work environment and to be compliant with federal regulations.⁴² According to FAMS documentation, air marshals are regularly or intermittently exposed to gunshot noise such as during training activities. Through this program FAMS has provided training about the adverse effects of noise and administered baseline audiograms and annual testing of air marshals. FAMS physicians are to evaluate data from the hearing screenings and conduct follow-up with individual air marshals when there is a change in the test results. FAMS officials report that they maintain these test records in the Medical Programs Section's paper files for individual air marshals. As of July 2019, FAMS estimated that about two-thirds of air marshals had obtained baseline audiograms. FAMS officials report that they do not have plans to analyze air marshals' audiogram results in the aggregate. Instead, FAMS officials plan to review

⁴²In 2015, the FAMS Medical Guidelines Working Group noted FAMS should implement a hearing conservation program to comply with an Occupational Safety and Health Administration requirement. See 29 C.F.R. § 1910.95.

the program at least annually to identify any enhancements that could improve program efficiency and effectiveness.

FAMS Has Reviewed Some Workforce-Wide Data, But Has Not Comprehensively Assessed the Health of Its Workforce

FAMS began more closely monitoring certain workforce-wide data in response to management concerns that arose in 2016 about the rising costs associated with workers' compensation claims.⁴³ In 2016, it began to more closely monitor the number and costs of workers' compensation claims.⁴⁴ In February 2019, FAMS hired a safety specialist to begin analyzing available information on air marshals' on-the-job injuries in an effort to identify ways to prevent them from occurring, according to FAMS officials.⁴⁵

Although FAMS monitors certain information on workers' compensation claims and has plans to further monitor workplace injuries, it has not used or planned to use other information it collects to assess the health of its workforce in a comprehensive manner that would enable it to look for broader health trends and risks. As previously discussed, FAMS collects and reviews in-depth health information on each air marshal at least every 2 years. However, it has not analyzed this information to distill trends across the workforce because, according to FAMS officials, it would be difficult given that FAMS maintains individual air marshals' medical information in paper files. Similarly, FAMS routinely collects data from air marshals' health and fitness assessments but has not used these data to identify any workforce-wide trends because, as discussed above, FAMS officials state that these data would provide a limited snapshot of air marshals' fitness. Further, although FAMS began collecting data from hearing screenings in 2018, officials indicated that they do not have any plans to analyze these data for the workforce as a whole. Furthermore, since 2015, the National Coordinator for the Health, Fitness, and Wellness Program is responsible for providing program assessments when requested but, as of July 2019, FAMS leadership has not requested any such reports.

⁴³According to TSA Management Directive No. 2400.1 (March 12, 2015), employees are responsible for reporting on the job injuries to their immediate supervisor, manager, or the appropriate safety and health official.

⁴⁴FAMS officials told us that as a result of their increased focus on reducing the costs of workers' compensation claims, the costs associated with these claims decreased in fiscal year 2019.

⁴⁵In May 2019, the safety specialist produced a report about air marshal's on-the-job injuries from calendar years 2016 through 2018.

There is evidence of interest within FAMS in information about the overall health of the workforce. In 2017, the FAMS Advisory Council asked the Medical Programs Section to report on the health and wellness of the workforce.⁴⁶ According to documents we reviewed, in March 2017, Medical Programs Section officials reported to the advisory council that air marshals' most common medical restrictions were due to mental health and cardiac conditions and the most common work-related medical issues were orthopedic issues resulting from training-related injuries.⁴⁷ However, Medical Programs Section officials told us their assessment was not derived from an analysis of air marshals' medical data but rather relied on anecdotal information gathered from on-call nurses fielding calls from sick air marshals and providing routine occupational health case management.

OPM's 2018 report on human capital management highlights the importance of using data to conduct workforce analyses to help identify and properly address human capital challenges.⁴⁸ The FAMS Medical Programs Section and other offices regularly collect information about individual air marshals' illnesses and injuries as well as health and fitness information but FAMS management is not analyzing it to inform decisions and address any potential health risks. If FAMS management analyzed this information in a manner consistent with relevant policies and requirements, they would be better positioned to identify medical, health, and fitness issues among the entire workforce, make informed workforce planning decisions, and take steps they deemed warranted, such as providing targeted education or revising its policies. Further, in February 2018, OPM identified "enhancing productivity through a focus on employee health" as a key priority within human capital management for the federal workforce.⁴⁹ Four months later, in June 2018, TSA identified

⁴⁶The FAMS Advisory Council is comprised of air marshal and mission support representatives from all field offices, training facilities and headquarters. By charter, this council is structured to enhance communication and outreach efforts, promote greater job satisfaction, and improve organizational effectiveness through cooperative problem solving and replication of best practices across the organization. The council meets quarterly to consider workforce-related issues and offer proposals to senior leadership for consideration.

⁴⁷Medical Programs Section officials did not specify the time-frame for these statements.

⁴⁸United States Office of Personnel Management, *2018 Federal Workforce Priorities Report* (Feb. 2018).

⁴⁹United States Office of Personnel Management, *2018 Federal Workforce Priorities Report* (Feb. 2018).

“care for our people” as a leadership principle and directed leaders to prioritize employee welfare.⁵⁰

In November 2019, FAMS management officials provided us with a statement that said, in part, that “understanding the overall health and wellness of our air marshals is paramount.” They further stated that they now plan to create a working group to identify options to monitor the health of the workforce as a whole. They did not provide any timeframes or documentation of this effort. However, if implemented, this could be a good first step toward assessment of the overall health of the FAMS workforce. Without information on the overall health and fitness of the FAMS workforce, FAMS management is not well positioned to prioritize employee health and welfare or ensure that it deploys a workforce capable of fulfilling its national security mission.

FAMS Has Taken Steps to Address Schedule Unpredictability, but Has Not Monitored Work Hours against Guidelines or Made Them Available to Employees

FAMS Has Taken Steps to Reduce Schedule Unpredictability Resulting from Its New Concept of Operations

Air marshals in each of the six field offices we visited stated that schedule unpredictability—short-notice changes to their start times, missions, and at-home days—was a key quality of life issue.⁵¹ Air marshals explained that they have experienced changes to their scheduled mission days and non-mission days—such as in-office training and scheduled days off—so they could cover mission needs that came up on short notice. In addition,

⁵⁰TSA, *Administrator’s Intent* (June 1, 2018).

⁵¹We conducted a total of 10 discussion sessions with air marshals in six FAMS field offices.

air marshals in four of the six field offices we visited explained that they have been taken off of their scheduled missions on short notice so they could cover higher-risk missions.

Air marshals in all six field offices stated that schedule unpredictability has made it difficult to manage their personal commitments. For example, air marshals described some challenges planning and attending family events, maintaining personal relationships, obtaining childcare, and scheduling doctor's visits for themselves and their children. Air marshals in one office also described anxiety about the possibility of missing a phone call asking them to report for a mission and about their ability to arrive to work on time when given short notice.

Air marshals, supervisors, and FAMS management we met with explained that changes to FAMS's deployment strategy in March 2018 that increased the number of SMCs have increased schedule unpredictability.⁵² According to Flight Operations Division officials, FAMS typically does not learn of these missions more than 72 hours in advance. Our analysis of FAMS data shows that the average number of SMCs per roster period more than tripled after FAMS implemented its new concept of operations in March 2018, and air marshals' SMC-related schedule changes more than doubled during the same period.⁵³

FAMS has taken some steps to mitigate the impacts of SMCs on air marshals' schedules as follows:

Implemented a standby shift and increased the number of air marshals on standby. FAMS Flight Operations Division officials report that they implemented a standby shift to staff SMCs in June 2018.⁵⁴ According to Flight Operations Division officials, FAMS typically staffed SMCs using air marshals scheduled to domestic and international missions, recovery shifts, or ground-based duties prior to the

⁵²As noted above, according to senior FAMS officials, in March 2018 the agency expanded the pool of potential SMCs when it also began prioritizing the deployment of air marshals on flights with Quiet Skies List matches.

⁵³FAMS schedules air marshals in 28-day cycles referred to as roster periods. We analyzed SMCs that occurred between November 27, 2016, and July 6, 2019, (roster periods 190 through 223).

⁵⁴FAMS began implementing this change in roster period 210, which began on June 10, 2018.

implementation of the standby shift.⁵⁵ Flight Operations Division officials also report that they increased the number of scheduled standby shifts in an effort to curtail schedule unpredictability. Based on our review of FAMS data, the number of scheduled standby shifts more than tripled from June 2018 to December 2018. According to these officials, scheduling air marshals on standby shifts is intended to improve schedule predictability by reducing the frequency that air marshals have their planned work schedules adjusted so they can cover SMCs.

Expanded to multiple standby shifts with staggered start times and modified standby shift start times. According to Flight Operations Division officials, field office SACs reported that FAMS frequently adjusted air marshals' scheduled start times for the single standby shift in response to SMC requests. To reduce this schedule unpredictability, Flight Operations Division officials reported that in November 2018, they began scheduling air marshals to multiple standby shifts per day with staggered start times, rather than just one shift per day.⁵⁶ These officials stated that they received positive feedback regarding this change during management's subsequent field office visits. We asked air marshals in four of the six field offices we visited for their perspectives on the effectiveness of this change during discussion sessions and received mixed feedback. Air marshals in two field offices stated that they thought this change had improved SMC scheduling by reducing the number of changes to standby shift start times. However, air marshals in each of these four field offices stated that Mission Operations Center personnel do not always observe air marshals' scheduled standby shift hours. Systems Operation Control Section officials noted that the magnitude of adjustments to air marshals' standby shift start times is not always significant. To further reduce schedule unpredictability, FAMS also began modifying standby shift start times for some of its field offices in December 2018. Flight Operations Division officials stated that they modify standby shift start times for individual field offices based on specific SMC timing trends in field offices.

⁵⁵Air marshals scheduled to recovery shifts can be used to maintain scheduled missions when a field office initiates a call out, such as a sick air marshal that cannot fly. Examples of ground-based duties include work in a field office's operations or training sections. These assignments are temporary with varying lengths of service.

⁵⁶According to FAMS officials, the original standby shift was scheduled to last from noon to 8:00 p.m.. FAMS expanded the number of standby shifts on November 25, 2018. Not all FAMS field offices schedule air marshals to three separate standby shifts with staggered start times each roster period. Additionally, the number of scheduled standby shifts for a field office may fluctuate across roster periods.

According to Flight Operations officials, they analyzed air marshals' scheduled standby shift start times and actual start times both before and after these changes and concluded that they were reducing start time variance. For example, they found that between October 28, 2018, and November 24, 2018—a period during which they report using one standby shift—approximately 46 percent of actual standby shift start times deviated from scheduled start time by 4 or more hours. Between June 9, 2019, and July 6, 2019, after FAMS Flight Operation Division officials reported having expanded to multiple standby shifts and adjusted start times for individual offices, FAMS officials found that approximately 33 percent of actual standby shift start times deviated from scheduled start times by 4 or more hours.⁵⁷

Flight Operations Division officials stated that these changes have reduced the frequency of SMCs covered by air marshals not in standby status. Our analysis of FAMS data on SMC-related schedule changes shows that FAMS reduced the need to make changes to the schedules of air marshals that were not on recovery or standby shifts in order to staff SMCs. Additionally, Flight Operations Division officials stated that they continue to monitor data on SMC start times to identify the optimal standby shift start times to reduce scheduling unpredictability.

Improved coordination with field offices. In April 2019, FAMS management issued guidance aimed at improving coordination between the Mission Operations Center and field offices to reduce schedule unpredictability. First, the guidance requires that the Mission Operations Center obtain field office approval prior to adjusting an air marshal's standby shift start time by more than 2 hours in order to staff an SMC. Second, in situations where FAMS receives a SMC request with more than 24 hours' notice and there are no available air marshals scheduled to standby, Mission Operations Center and field office personnel are to use air marshals scheduled to recovery shifts (if they are available and at the field office's discretion) before pulling air marshals from non-SMC missions to cover the request. According to FAMS management, this latter change is intended to reduce the number of non-SMC missions dropped to cover SMCs.

⁵⁷We did not review FAMS's methodology and cannot validate the results of their analyses.

FAMS Monitors Some Schedule Information, But Does Not Monitor Whether Air Marshals' Work Hours Are Consistent with Scheduling Guidelines

FAMS Monitors Some Schedule Information and Air Marshals' Shifts Were Generally Consistent with Scheduling Guidelines

FAMS management and Flight Operations Division personnel monitor some information about air marshals' planned and actual schedules. According to Flight Operations Division officials, they routinely monitor average scheduled shift length, average actual shift length, and average scheduled rest for domestic and international missions through monthly field office-specific reports. These officials stated that field office SACs and other FAMS management officials use the reports to understand characteristics like the mission tempo in each field office.⁵⁸ Our analysis of air marshals' work hours as recorded on their time sheets demonstrated that air marshals' shift lengths were generally consistent with scheduling guidelines for selected roster periods, but in each period a few shifts were not.⁵⁹ Additionally, our analysis of air marshals' regular days off showed that air marshals generally received 8 days off per roster period—consistent with FAMS scheduling guidelines—for the periods we analyzed. The details of that analysis are presented in appendix II.

Domestic missions. Generally, FAMS schedules air marshals to shifts that range between 6.5 and 10 hours on days that they fly domestic missions, but the Mission Operations Center has the authority to extend

⁵⁸According to Flight Operations Division officials, personnel in both the Flight Operations and Field Operations Divisions with permission can request Crystal Reports that include other mission statistics on an ad hoc basis. These reports include, for example, detail on the number of times air marshals were scheduled for training but ultimately flew a mission, the total number of flights flown by each field office, and the average number of flights and hours flown per air marshal. Additionally, Flight Operations Division officials stated that they have, upon the request of management in response to specific issues or complaints, examined individual air marshals' work hours and rest periods.

⁵⁹We analyzed a generalizable sample of air marshals' time sheets for four roster periods. Specifically, using a stratified random sample of air marshals' timesheets, we analyzed air marshals' actual work hours as recorded on their timesheets to determine the extent that they were consistent with scheduling guidelines for two roster periods, or 28-day cycles, in fiscal year 2018—roster periods 202 and 205—and two roster periods in fiscal year 2019—roster periods 215 and 218. We selected these time periods to capture typical FAMS operations. Estimates presented in this report are only generalizable to roster periods 202, 205, 215, and 218 and have a margin of error of plus or minus 7 percentage points or fewer. For additional details about our analysis, see appendix I.

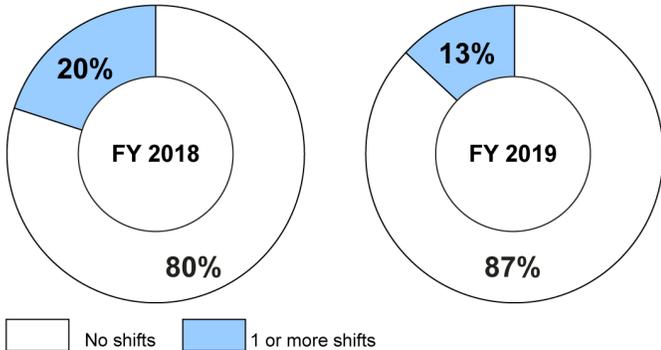
shift lengths to 12 hours.⁶⁰ During the four roster periods we reviewed, air marshals' domestic mission shifts were generally shorter than 10 hours. Specifically, during the 28-day roster periods we examined in fiscal year 2019, we estimate that air marshals exclusively worked shifts lasting 10 hours or less approximately 87 percent of the time.⁶¹ Air marshals worked one or more shifts that extended beyond the scheduling guideline of 10 hours about 13 percent of the time. For example, during the 28-day roster periods we examined in fiscal year 2019, we estimate that air marshals worked at least one shift between 10 hours and 12 hours about 10 percent of the time and worked at least one shift that was greater than 12 hours approximately 3 percent of the time. See figure 3 for the results of our analysis of domestic mission shifts.

⁶⁰Air marshals can be scheduled to work more than 10 hours for domestic missions when non-stop flight time exceeds 8 hours and 15 minutes, such as in some missions to Hawaii. When creating resolutions to operational issues, the Mission Operations Center must obtain the approval of an air marshal's SFAM before extending their shift beyond 12 hours, unless the flights are SMC or Special Event flights.

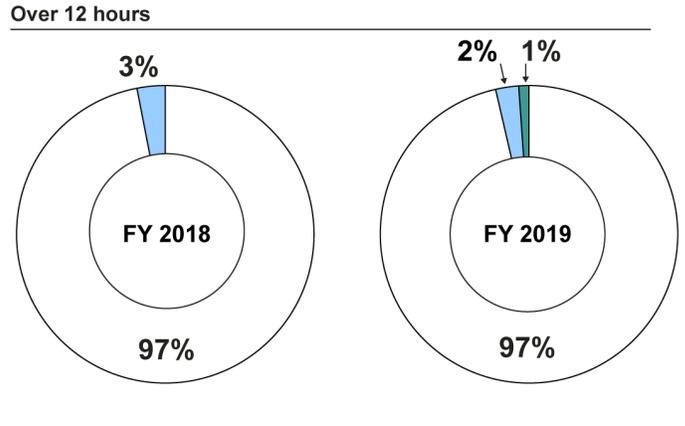
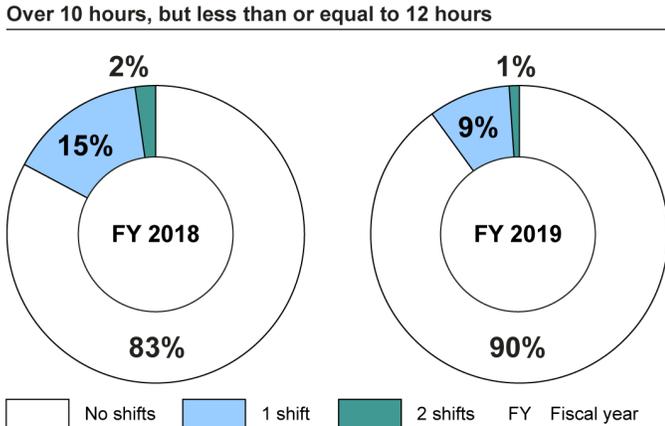
⁶¹For each of the four roster periods we selected, we examined a roster period's worth of time and attendance data for a generalizable sample of air marshals. Therefore, estimates represent the percentage of roster periods worked by air marshals in which a given condition was met.

Figure 3: Analysis of Air Marshals' Shifts When Flying Domestic Missions

Estimated percentage of roster periods that air marshals worked shifts over 10 hours



Estimated percentage of roster periods that air marshals worked shifts



Source: GAO analysis of Federal Air Marshal Service data. | GAO-20-125

Notes: Estimated percentages have a margin of error of plus or minus 7 percentage points or fewer. Differences between estimates presented in this figure may not be statistically significant at the 95 percent confidence level.

FAMS creates its mission schedules based on 28-day periods known as roster periods. We analyzed two roster periods in fiscal year 2018 that took place during FAMS's prior concept of operations—roster period 202, which occurred from October 29, 2017, to November 25, 2017, and roster period 205, which occurred from January 21, 2018, to February 17, 2018. Additionally, we analyzed two roster periods in fiscal year 2019 that took place during FAMS's new concept of operations—roster period 215, which occurred from October 28, 2018, to November 24, 2018, and roster period 218, which occurred from January 20, 2019, to February 16, 2019.

International missions. Scheduling guidelines for international missions vary based on factors like mission destination, and some missions are not subject to a maximum duration.⁶² Given the guideline variation for international missions, we examined actual international missions against the highest international mission shift length specified by the guidelines—18 hours—as well as guidance that requires the Mission Operations Center to consider scheduling alternatives when a delay causes an international mission shift to last beyond 20 hours.⁶³

Air marshals generally worked in accordance with guidelines for international missions. Specifically, we found that air marshals generally worked shifts that lasted fewer than 18 hours during the four roster periods we analyzed. During the 28-day roster periods we examined in fiscal year 2019, we estimate that air marshals exclusively worked shifts lasting 18 hours or less approximately 71 percent of the time. Air marshals worked one or more shifts lasting more than 18 hours about 29 percent of the time. For example, during the 28-day roster periods we examined in fiscal year 2019, we estimate that air marshals worked at least one shift between 18 and 20 hours approximately 24 percent of the time and worked at least one shift greater than 20 hours about 11 percent of the time.⁶⁴ See figure 4 for the results of our analysis of international mission shifts.

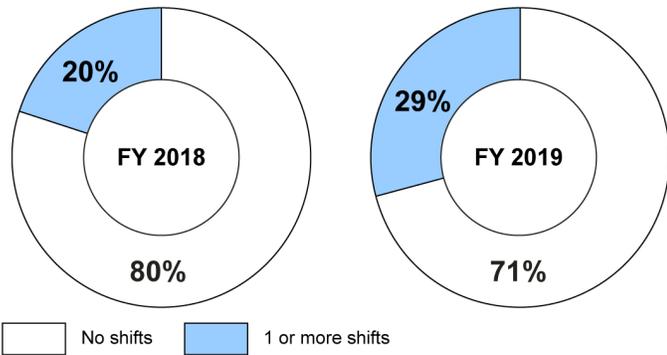
⁶²International missions to locations outside of North or Central America are not subject to a maximum shift length when air marshals fly direct.

⁶³FAMS timesheets do not capture details about missions flown, such as destination and number of flights, but this information is needed to determine the applicable scheduling guidelines. Identifying the correct scheduling guidelines for each mission in our sample would have required matching each air marshal's timesheet with their assigned flights. These data are maintained in separate systems.

⁶⁴It is possible these international missions involved direct flights and were therefore not subject to a maximum duration.

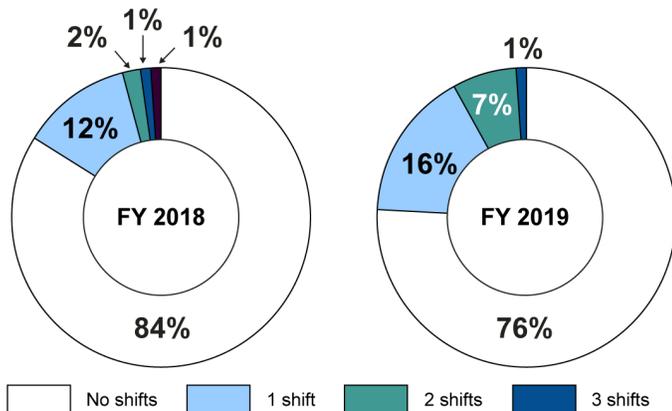
Figure 4: Analysis of Air Marshals' Shifts When Flying International Missions

Estimated percentage of roster periods that air marshals worked shifts over 18 hours

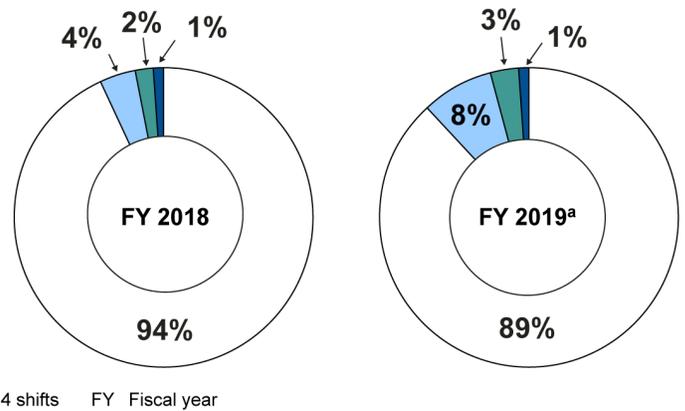


Estimated percentage of roster periods that air marshals worked shifts

Over 18 hours, but less than or equal to 20 hours



Over 20 hours



Source: GAO analysis of Federal Air Marshal Service data. | GAO-20-125

Notes: Estimated percentages have a margin of error of plus or minus 7 percentage points or fewer. Differences between estimates presented in this figure may not be statistically significant at the 95 percent confidence level.

FAMS creates its mission schedules based on 28-day periods known as roster periods. We analyzed two roster periods in fiscal year 2018 that took place during FAMS's prior concept of operations—roster period 202, which occurred from October 29, 2017, to November 25, 2017, and roster period 205, which occurred from January 21, 2018, to February 17, 2018. Additionally, we analyzed two roster periods in fiscal year 2019 that took place during FAMS's new concept of operations—roster period 215, which occurred from October 28, 2018, to November 24, 2018, and roster period 218, which occurred from January 20, 2019, to February 16, 2019.

^aSum of estimates differs from text above due to rounding.

FAMS Does Not Monitor Whether Air Marshals' Work Hours Are Consistent with Guidelines

FAMS management's monthly reports on average shift lengths do not provide insight into the extent air marshals are working hours consistent with scheduling guidelines. For example, FAMS management reports for the roster periods we analyzed for fiscal years 2018 and 2019 showed that the average domestic mission shift lasted between about 6.5 and 7.5 hours. While these average times are below the 10-hour guideline for domestic mission shifts, these data are not granular enough to determine whether any air marshals worked shifts that exceeded scheduling guidelines.

With regard to international missions, because FAMS's guidelines vary more widely depending on the specifics of the mission, a single average of all international mission durations is even less useful in determining the extent to which air marshals' work hours were consistent with applicable guidelines. For example, one FAMS management report stated that the average international mission shift length between October 29, 2017, and November 25, 2017—the first period we examined in fiscal year 2018—was 12 hours and 55 minutes. Although this average exceeds the scheduling guideline of 12 hours for international mission shifts to North and Central American destinations that do not include an overnight layover, this average is less than the guideline of 15 hours for international mission shifts to North and Central American destinations that include an overnight layover. As a result, the average shift length would not have made clear how often guidelines were being observed.

FAMS's scheduling guidelines allow for exceptions to accommodate operational needs, but more information on actual work hours could improve FAMS management's insight into how air marshals' quality of life is being balanced against mission needs. For example, FAMS management's reports could include other statistics that would provide more insight into air marshals' domestic mission shifts, such as minimum or maximum actual shift lengths or the extent of variation across actual shift lengths. Flight Operations Division officials explained that they do not monitor other statistics that could provide more insight into actual work hours because they had not identified a need to do so but stated that they could and added that more information could be helpful.

Standards for Internal Control in the Federal Government requires that management use quality information to achieve the entity's objectives by, for example, processing its data into quality information that management

uses to make informed decisions.⁶⁵ Without monitoring the extent to which air marshals' shifts and rest periods are consistent with scheduling guidelines, FAMS management is not well positioned to determine if scheduling guidelines are serving their purpose to balance air marshals' quality of life with FAMS's operational needs to execute its mission, nor can it determine the extent to which air marshals are working beyond the guidelines. As a result, the agency may not be able to successfully manage risks of potentially decreased alertness and focus when air marshals perform their duties.

FAMS's Scheduling Protocols Are Unclear to Supervisors and Staff

Air Marshals Do Not Have Access to Scheduling Guidelines

FAMS has not made its scheduling guidelines available to all air marshals. During our visits to a non-generalizable sample of field offices, many FAMS personnel—including field office management, SFAMs, and air marshals—stated that they did not have access to scheduling guidelines.⁶⁶ Rather, several air marshals stated that they learned of the scheduling guidelines through discussions with immediate supervisors and interactions with the Mission Operations Center. Air marshals in two field offices we visited stated that they had asked for a copy of the guidelines but were never provided one. Air marshals told us it would be helpful to have access to the guidelines so that they can understand how FAMS schedules its shifts.

When we asked why the guidelines were not available to employees, Systems Operation Control Section officials reported that they were previously unaware that the field office SACs did not have access to the guidelines. In response, in June 2019, they provided Field Operations Division leadership with a document outlining the guidelines for distribution to field office SACs. However, according to Systems Operation Control Section officials, they did not explicitly direct the field office SACs to further disseminate the guidelines to air marshals in their respective field offices. As of July 2019, Systems Operation Control

⁶⁵[GAO-14-704G](#).

⁶⁶Some FAMS personnel stated that the guidelines were accessible during our site visits. However, Flight Operations Division officials stated that they provided Regional Directors within the Field Operations Division with the scheduling guidelines in June 2019, which occurred after our site visits.

Section officials were not aware to what extent the document was disseminated beyond the field office SACs, if at all.

FAMS scheduling guidelines are intended to balance mission needs with air marshals' quality of life. As discussed above, these guidelines include specific parameters for shift length and rest periods when air marshals fly missions. Further, exceptions to these guidelines are permitted to meet operational needs. Standards for Internal Control in the Federal Government provides that management should implement control activities, such as FAMS scheduling guidelines, and that it is helpful for management to communicate them to personnel so they can implement them for their assigned responsibilities.⁶⁷ Furthermore, the FAMS-commissioned Harvard sleep and fatigue study states that policies concerning work hours and scheduling need to be well communicated.⁶⁸ Without access to the scheduling guidelines, air marshals and their supervisors may not be aware of management's intended balance between mission needs and air marshals' quality of life. Further, they may not feel empowered to request schedule changes that may be needed to ensure air marshals are sufficiently rested to carry out their mission.

Some Supervisors Are Unaware of Their Authority to Adjust Air Marshals' Schedules

Some field office SFAMs we spoke to in our discussion sessions were not clear about protocols that require Mission Operations Center personnel to obtain their approval before making certain adjustments to air marshals' schedules.⁶⁹ FAMS protocols state that the Mission Operations Center can extend an air marshal's domestic mission shift to 12 hours or reduce rest following a domestic shift to 10 hours. However, the Mission Operations Center must first obtain the approval of a field office SFAM before extending an air marshal's domestic mission shift beyond 12 hours or reducing rest below 10 hours.⁷⁰ SFAMs we discussed this issue with during our six site visits had varying levels of knowledge about their

⁶⁷[GAO-14-704G](#).

⁶⁸Charles A. Czeisler and Laura K. Barger, *Air Marshal Sleep and Fatigue Study*, Harvard Medical School (Boston, MA: 2012).

⁶⁹These protocols are found in the Mission Operation Center's Standard Operating Procedure. Department of Homeland Security, Transportation Security Administration, *Federal Air Marshal Service Systems Operation Control Section: Mission Operations Center and Flight Tracking Unit Standard Operating Procedure* (updated May 23, 2019).

⁷⁰According to Systems Operation Control Section officials, SFAMs in each field office take turns serving as the supervisor responsible for approving these decisions. The Mission Operations Center is not required to obtain the approval of an air marshal's SFAM when extending a shift beyond 12 hours if the flights are SMC or Special Event flights.

authority or involvement in approving such changes. For example, individual SFAMs in two field offices we visited told us they were aware of the requirements but in two other field offices, SFAMs stated that they did not have any say in adjustments to air marshals' schedules, regardless of the circumstances.

SFAMs were also unaware of field offices' authority to remove air marshals from missions on short notice. FAMS protocols authorize, and Systems Operation Control Section officials confirmed, that field office SFAMs can remove air marshals from a mission the day of or day before the mission.⁷¹ However, there were SFAMs that were unaware of this in each of the four field offices where we discussed the topic. Some SFAMs had the understanding that management officials—either field office SACs or other management officials outside of field offices—or Mission Operations Center personnel must make these decisions.

Systems Operation Control Section officials explained that field office SFAMs do not have access to the Standard Operating Procedure that sets forth these protocols, nor have they provided written guidance on the protocols. Systems Operation Control Section officials stated that they have not given supervisors access to these protocols or written guidance on them because they chose to communicate protocols through verbal briefings.⁷² Systems Operation Control Section officials explained that they follow the protocols and had not previously seen a need to share them more widely, but acknowledged that doing so would increase transparency.

It is important that SFAMs have access to protocols outlining their role and authority so that they can carry out their job. Standards for Internal Control in the Federal Government provides that management should implement control activities through policies by, for example, communicating to personnel the policies and procedures so that the personnel can implement the control activities for their assigned responsibilities.⁷³ Furthermore, the FAMS-commissioned Harvard sleep

⁷¹Field offices typically replace any air marshal that is removed from a mission with an air marshal that is scheduled to a recovery shift. Systems Operation Control Section officials stated if a field office staff cannot replace the air marshal to maintain the mission, field office management will notify FAMS leadership.

⁷² Systems Operation Control Section officials also stated that they provide introductory training to SFAMs serving in their field offices' operations staff.

⁷³[GAO-14-704G](#).

and fatigue study states that policies concerning work hours and scheduling need to be well communicated.⁷⁴ Providing SFAMs with written information on these protocols that detail their involvement and authorities in making decisions that affect air marshals' quality of life would provide clarity for SFAMS, who we found to be uncertain about their authorities in this regard.

Some FAMS Employees Filed Discrimination Complaints and TSA and FAMS Have Taken Some But Not All Planned Steps to Prevent Discrimination

FAMS Employees Filed 230 EEO Complaints Over Three Years

From fiscal years 2016 through 2018, FAMS employees filed 230 EEO complaints with TSA's Civil Rights Division (CRD), though employees may have reported additional discrimination complaints through other means.⁷⁵ CRD is responsible for receiving and handling FAMS employees' EEO complaints.⁷⁶ During this 3-year period, the number of

⁷⁴Czeisler and Barger, *Air Marshal Sleep and Fatigue Study*.

⁷⁵FAMS employees include both law enforcement employees—such as air marshals—as well as non-law enforcement employees—such as administrative staff. As of August 2019, about 85 percent of FAMS employees were law enforcement.

⁷⁶CRD is within TSA Civil Rights and Liberties, Ombudsman, and Traveler Engagement. CRD received 100 discrimination complaints in fiscal year 2016, 60 in fiscal year 2017, and 70 in fiscal year 2018. Each complaint to CRD may include multiple allegations of discriminatory behavior involving multiple individuals. For example, a complainant can allege multiple bases of discrimination, such as race and sex, and name one or more responsible individuals within the same complaint. According to the U.S. Equal Employment Opportunity Commission, the goal of an EEO remedy is to put the victim of discrimination in the same position (or nearly the same) that he or she would have been if the discrimination had never occurred. Remedies can include an award of compensatory damages for victims.

EEO complaints CRD handled regarding FAMS employees was proportional to the number of complaints handled for employees across all of TSA, relative to the size of each workforce. Specifically, in 2018 the ratio of total complaints to total number of employees was 2.8 percent for FAMS and 2.1 percent for TSA.⁷⁷

Although reporting to CRD is the only means for FAMS employees to file an EEO complaint, they may choose to report discrimination to their manager or to other entities including the DHS OIG or TSA's Anti-Harassment Program, which is overseen by the National Resolution Center. The Anti-Harassment Program can take immediate action intended to stop the discriminatory behavior by, for example, separating the employees involved in the complaint.⁷⁸ FAMS employees may also choose to report to CRD as well as one or more of the other available means. Once an employee files a complaint with any of these entities, agency officials are to follow processes to investigate the allegation to determine if the complaint is substantiated or not substantiated. See appendix III for a description of the four venues through which FAMS employees can raise discrimination complaints, including what is known about the number and nature of complaints received through each venue in fiscal years 2016 through 2018.

We found that some FAMS employees may choose not to report an allegation of discrimination to any of these venues.⁷⁹ For example, air marshals in five of the six field offices we visited indicated that they may not file a discrimination complaint because they were concerned about

⁷⁷We analyzed complaint data from TSA CRD's Quarterly EEO Reports for both FAMS and TSA as well as workforce numbers provided by FAMS that include all FAMS employees and from DHS's Budgets in Brief. In fiscal year 2016 and 2017, CRD handled complaints for 3.7 and 2.6 percent of the FAMS workforce; similarly, CRD handled complaints for 2.6 and 2.4 percent of the TSA workforce.

⁷⁸TSA policy provides that TSA employees, including FAMS employees, are responsible for reporting allegations of inappropriate conduct that they have experienced or witnessed, including harassment, to their manager or supervisor, or higher-level management official. FAMS policy requires all managers and supervisors to report instances of discrimination that come to their attention to the Incident Activity Coordination and Trends Unit. This unit coordinates the handling of suspected misconduct that involves FAMS employees.

⁷⁹The focus of our review was on air marshals, as such, we did not obtain the viewpoints of non-law enforcement FAMS employees, such as field office administrative staff.

retaliation.⁸⁰ Additionally, air marshals in three discussion sessions indicated that some FAMS employees may prefer to handle an allegation of discrimination themselves by speaking directly with the person involved. Further, representatives of a FAMS employee group and the professional association representing federal law enforcement officers we met with stated some FAMS employees may choose not to report an allegation of discrimination to any of these venues. As such, the 230 EEO complaints may underestimate the total number of incidents of alleged discrimination within FAMS.

TSA and FAMS Have Taken Some Steps to Prevent Discrimination, But FAMS Has Not Fully Implemented Various Efforts Planned in 2012

DHS, TSA, and FAMS Have Provided Training and Created Venues for Discussion to Prevent Discrimination

FAMS's 2012 action plan identified a number of existing TSA and FAMS efforts already in place at that time—such as providing certain training—and stated FAMS's commitment to continuing and improving these existing efforts with a goal to enhance organizational and cultural initiatives regarding diversity and equal employment opportunities. Consistent with FAMS's 2012 plan, DHS, TSA, and FAMS have provided EEO and diversity training to FAMS employees and offered several forums for air marshals to raise concerns about discrimination.

Training. Since 2003, DHS and TSA have required all employees—including air marshals—to complete training intended to, among other things, prevent discrimination. These include mandatory annual DHS training, TSA new-hire training, and some optional TSA training. For example since 2003, TSA has required new employees to complete a course called Introduction to Civil Rights which provides an overview of civil rights, EEO laws, and TSA's related complaint process.⁸¹ In addition,

⁸⁰Of the ten discussion sessions we held with air marshals in the six field offices, in one session two air marshals stated they experienced retaliatory discrimination for reporting a complaint, and in seven sessions one or more air marshals expressed concerns about retaliation for filing a complaint.

⁸¹We reviewed fiscal year 2018 materials for this course and found that it provides air marshals with information on employee rights related to discrimination and resources available if an employee feels he or she has been the victim of discrimination.

as of December 2006, DHS has required all employees to complete annual No FEAR Act training to inform employees of their rights and responsibilities with regard to discrimination in the workplace.⁸² FAMS management officials told us that educating the workforce about discrimination is important because education promotes and opens communication avenues within FAMS that were previously underutilized.

TSA has also provided training beyond these required courses. For example, CRD officials told us that at the start of each fiscal year they work with FAMS management to identify FAMS field offices where concerns about discriminatory behavior have been raised. CRD officials stated that they have then provided in-person tailored trainings based on the field offices' needs.⁸³ Additionally, in August 2019, TSA's Anti-Harassment Program provided FAMS leadership with an overview of the program—including defining harassment and manager and employee responsibilities. According to CRD and FAMS officials, they are in the process of developing additional courses that could be helpful to preventing discrimination, including civility courses, coaching through conflict, and crucial conversations training.⁸⁴

Venues. FAMS has venues for air marshals to raise issues, such as concerns about discrimination. Specifically, in 2002 FAMS created "Field Office Focus Groups;" in 2006 FAMS established an Ombudsman position; and in 2011 FAMS created EEO points of contact in FAMS field offices.

⁸²In accordance with the "No FEAR Act," or the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (Pub. L. No. 107-174, 115 Stat. 566 (2002), as amended), Federal agencies, including DHS, must generally provide training for Federal employees on anti-discrimination and whistleblower protections within 90 days of employment and bi-annually thereafter. See 5 C.F.R. § 724.203.

⁸³CRD officials stated that they typically include a 4-hour EEO for Managers course teaching managers how to take appropriate action in accordance with EEO laws and agency policies. CRD officials said they have also offered a Preventing and Addressing Workplace Harassment training course which defines harassment, as prohibited by DHS policy. The course overview explains that DHS's definition of harassment is broader than the legal definition of harassment. For example, in addition to the protected classes specified by federal laws, DHS policy also prohibits harassment based on marital status, parental status, and political affiliation. Additionally the training explains how and where to report harassment.

⁸⁴FAMS officials explained that by about November 2019 they plan to identify and train 10 FAMS employees to serve as conflict coaches, helping to resolve workplace conflict by increasing communication throughout the workplace. FAMS officials did not provide an estimated timeline for these other efforts.

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- **FAMS Field Office Focus Groups.** During the early ramp-up of FAMS after September 11, 2001, FAMS established an internal initiative called “Field Office Focus Groups” to provide a venue for employees to raise issues, such as concerns about discrimination, to field office management through group discussions.⁸⁵ We reviewed Field Office Focus Group meeting minutes from all 20 field offices from October 2016 through December 2018. During these meetings, discrimination-related issues were discussed in two field offices. For example, in one focus group air marshals inquired about their recourse when they believe management has retaliated against them.
 - **FAMS Ombudsman.** FAMS established a FAMS-specific Ombudsman position in 2006. The FAMS Ombudsman is responsible for answering inquiries about agency policies and helping employees identify options to resolve workplace concerns, such as concerns about discrimination. The FAMS Ombudsman we met with told us they have fielded inquiries about discrimination but they do not keep records on the number of inquiries. The Ombudsman estimated that between May 2018, when assuming the Ombudsman position, and July 2019 the office received, on average, eight calls per month from air marshals on various topics, some of which involved inquiries about discrimination. In these cases the Ombudsman explained that they had informed individuals of the resources available to them as well as the 45-day time frame to file an EEO complaint with CRD if they chose to do so. Air marshals in five of the six field offices we visited reported being aware of the Ombudsman position.
 - **EEO Points of Contact in all FAMS field offices.** According to FAMS officials, in 2011, FAMS began to establish EEO points of contact in FAMS’s 20 field offices. FAMS officials report that these points of contact are intended to provide ready, onsite referrals to CRD staff and facilitate access to information about EEO and diversity training opportunities. As of August 2019, FAMS officials told us that

⁸⁵According to FAMS officials, Field Office Focus Groups have been conducted in most field offices since the post-9/11 ramp up of the organization. However, the policy officially implementing and establishing Field Office Focus Groups was signed August 22, 2012. FAMS officials stated that they established Field Office Focus Groups to provide the workforce with direct access to field office leadership to discuss issues specific to the field office as well as issues national in scope. Generally, field offices convene focus group meetings quarterly and are comprised of air marshals as well as staff from training and operations sections within the field office. Generally, each squad in a field office selects a representative to represent them during focus group meetings. Further, representatives elicit questions and issues from their colleagues and raise them during focus group meetings.

FAMS Planned Additional Steps to Prevent Discrimination, But Has Not Fully Implemented Them

all FAMS field offices have at least one EEO point of contact and several field offices have more than one.⁸⁶

The FAMS 2012 action plan highlighted additional efforts to prevent discrimination but FAMS has not fully implemented or maintained these efforts. According to FAMS leadership, they have not fully implemented or continued the efforts they set forth in the 2012 action plan because the changeover in FAMS leadership since 2012 resulted in a loss of focus on implementing the plan. For example, the plan called for each FAMS field office to develop an EEO/diversity action plan to strengthen the current workplace environment. Each plan was to emphasize four principles: leadership commitment, recruitment and resourcing, career development and enhancement, and employee engagement/workplace culture. As of July 2019, none of the field offices had a diversity action plan in place.

In addition, the 2012 action plan called for FAMS to continue to convene diversity focus groups. In 2010 and 2011, FAMS conducted 10 diversity focus groups to solicit input from the workforce related to recruitment, retention, discrimination, harassment, and retaliation, according to FAMS officials. However, FAMS has not held these diversity focus groups since 2011. Further, in 2007, TSA established what is now the Diversity and Inclusion Change Agents Council, which serves as a venue where TSA employees, including air marshals, can promote diversity.⁸⁷ In the 2012 action plan, FAMS planned to have all levels of FAMS employees, including senior leadership, such as SACs and Assistant Supervisory Air Marshals in Charge, represented on the council. However as of 2019, two air marshals are the FAMS representatives on this council.

Concerns with discrimination persist among air marshals. For example, FAMS employees' fiscal year 2018 FEVS survey responses related to issues of discrimination were consistently less positive than those of DHS and TSA employees overall, although the proportion of EEO complaints among FAMS's workforce is similar to TSA's as a whole. Specifically, DHS estimates that less than half (44 percent) of FAMS employees feel

⁸⁶New EEO representatives were added in 14 of the 20 FAMS field offices in July 2019.

⁸⁷The TSA Diversity and Inclusion Change Agents Council was previously called the Diversity Advisory Council. The name change took effect in 2019.

they can disclose a suspected violation without fear of reprisal.⁸⁸ Further, FAMS employees' positive responses were lower than TSA and DHS employees'.⁸⁹ Similarly, a smaller estimated percent of FAMS employees believe that prohibited personnel practices are not tolerated (FAMS 54 percent, TSA 60 percent, and DHS 62 percent).⁹⁰ Further, as described earlier, air marshals in five of the six field offices we visited raised concerns about potential retaliation for reporting discrimination. For example, one air marshal expressed concern that they might be given undesirable travel schedules as retaliation if they filed a complaint. Finally, according to employee exit surveys conducted by TSA in fiscal years 2012 through 2018, of the 342 FAMS respondents who completed a survey, 26 (about 8 percent) cited that a reason for leaving was diversity or inclusion barriers in the workplace.⁹¹

Given these indications of concerns about discrimination in the FAMS work environment, it is important that FAMS management reaffirm and strengthen its efforts to prevent discrimination. The Equal Employment Opportunity Commission's Management Directive 715 requires agencies to take appropriate steps to establish a model EEO program and identifies six essential elements for a model EEO program, including demonstrated commitment from agency leadership and proactive

⁸⁸We analyzed FEVS question number 17, which asks survey participants if employees "Can disclose a suspected violation of any law, rule, or regulation without fear of reprisal." Answering positively includes responses "Strongly agree" and "Agree." The 95 percent confidence intervals for this estimate is (41.6, 45.4). FAMS officials stated that air marshals' fiscal year 2019 responses to these FEVS questions improved, but as of October 2019, complete data for fiscal year 2019 were not yet available for our review.

⁸⁹DHS estimates 52 percent of TSA and 58 percent of DHS employees feel they can disclose a suspected violation without fear of reprisal. The 95 percent confidence intervals for these estimates are (51.6, 52.6) and (57.6, 58.2), respectively.

⁹⁰We analyzed FEVS question number 38, which asks survey participants if "*Prohibited Personnel Practices (for example illegally discriminating for or against any employee/applicant, obstructing a person's right to compete for employment, knowingly violating veterans' preference requirements) are not tolerated.*" Answering positively includes responses "Strongly agree" and "Agree." The 95 percent confidence intervals for these estimates are (51.9, 56.0), (59.8, 60.9), and (61.9, 62.5), respectively. FAMS officials stated that air marshals' fiscal year 2019 responses to these FEVS questions improved, but as of October 2019, complete data for fiscal year 2019 were not yet available for our review.

⁹¹We analyzed exit survey data for fiscal years 2012 (when the DHS OIG issued their review of discrimination within FAMS) through 2018 (the most recent full fiscal year of data available). During this 7-year period, the number of respondents who cited diversity or inclusion barriers in the workplace as a reason for leaving varied. Specifically, two in 2012, four in 2013, seven in 2014, two in 2015, five in 2016, three in 2017, and three in 2018.

prevention of unlawful discrimination.⁹² Further, it is DHS's stated objective to develop and maintain a high performing workforce in part by promoting a culture of transparency, fairness, and equal employment opportunity throughout the DHS workforce.⁹³ By taking steps to renew its commitment to the goals and initiatives in its 2012 action plan, such as updating and following through on its 2012 action plan, FAMS management can demonstrate leadership commitment to the prevention of discrimination. Doing so could better ensure it proactively addresses and reduces concerns of discrimination among its workforce.

Conclusions

Federal air marshals are deployed worldwide to protect civil aviation against the risk of terrorist violence. Although FAMS has taken some steps to address air marshals' quality of life issues, FAMS management does not have information about the number and proportion of the workforce who are medically qualified, which limits their understanding of the workforce's ability to fulfill its duties. Further, FAMS has not assessed the overall health of its workforce by analyzing available data, which would allow it to identify any health and fitness trends or risks among its workforce, take steps to mitigate these risks, make informed workforce planning decisions, and prioritize employee welfare to ensure that it deploys a workforce capable of fulfilling its national security mission.

FAMS does not monitor the extent to which air marshals' actual work hours are consistent with scheduling guidelines, limiting its ability to determine if air marshals' quality of life is being balanced with the agency's operational needs. FAMS also has not shared these scheduling guidelines with air marshals or provided guidance outlining authorities and procedures for changing air marshals' schedules with field offices. Sharing these guidelines would improve the ability of air marshals and their supervisors to address quality of life issues related to long shifts and inadequate rest.

⁹²EEOC, Equal Employment Opportunity, Management Directive 715 (Oct. 1, 2003). The MD-715 identifies six essential elements for a model EEO program: (1) demonstrated commitment from agency leadership, (2) integration of EEO into the agency's strategic mission, (3) management and program accountability, (4) proactive prevention of unlawful discrimination, (5) efficiency, and (6) responsiveness and legal compliance.

⁹³Department of Homeland Security, *Strategic Plan for Fiscal Years 2020-2024* (Washington, D.C., July, 2019).

Finally, although FAMS has taken steps to prevent discrimination, FAMS employees have continued to file discrimination complaints indicating that at least the perception of discrimination persists. By taking steps to reaffirm and strengthen its efforts to prevent discrimination, such as updating and following through on its 2012 action plan, FAMS management could better ensure it proactively addresses and reduces concerns of discrimination consistent with DHS's objective of developing and maintaining a high performing workforce through fairness and equal employment opportunity.

Recommendations for Executive Action

We are making the following six recommendations to FAMS:

The Executive Assistant Administrator / Director of FAMS should identify and utilize a suitable system that provides information about air marshals' medical qualification status. (Recommendation 1)

The Executive Assistant Administrator / Director of FAMS should develop and implement a plan to assess the health and fitness of the FAMS workforce as a whole, including trends over time. (Recommendation 2)

The Executive Assistant Administrator / Director of FAMS should identify and implement a means to monitor the extent to which air marshals' actual shifts and rest hours are consistent with scheduling guidelines. (Recommendation 3)

The Executive Assistant Administrator / Director of FAMS should provide all air marshals access to scheduling guidelines, including workday length and rest periods. (Recommendation 4)

The Executive Assistant Administrator / Director of FAMS should disseminate or otherwise provide supervisory air marshals access to guidance that outlines authorities and procedures for changing an air marshal's work schedule. (Recommendation 5)

The Executive Assistant Administrator / Director of FAMS should take steps to reaffirm and strengthen efforts to prevent discrimination by, for example, updating and following through on its 2012 action plan and renewing leadership commitment to the plan's goals. (Recommendation 6)

Agency Comments and Our Evaluation

We provided a draft of our report to DHS for comment. In written comments, which are included in appendix IV, DHS concurred with our six recommendations and described steps they plan to take to address them, including estimated timeframes for completion.

With regard to our first recommendation that FAMS identify and utilize a suitable system that provides information about air marshals' medical qualification status, DHS officials stated that FAMS is evaluating case management software to track this information and plans to pursue funding for this effort in fiscal year 2021. This action, if fully implemented, should address the intent of this recommendation.

With regard to our second recommendation that FAMS develop and implement a plan to assess the health and fitness of the FAMS workforce as a whole, DHS officials stated that FAMS recently established a team to develop a plan for assessing workforce health and wellness issues. Adopting and implementing a plan that assesses the health and fitness of the FAMS workforce as a whole should address the intent of this recommendation.

With regard to our third recommendation that FAMS identify and implement a means to monitor the extent to which air marshals' actual shifts and rest hours are consistent with scheduling guidelines, DHS officials stated that FAMS will begin tracking air marshals' actual hours and examine the extent to which air marshals' actual and scheduled hours vary. This information could be helpful, for example, in assessing air marshals' schedule predictability. However, to address the intent of this recommendation, FAMS would need to monitor the extent that air marshals' actual work and rest hours are consistent with FAMS's scheduling guidelines.

With regard to our fourth recommendation to provide all air marshals access to scheduling guidelines, according to DHS officials, FAMS will provide air marshals ongoing access to the guidelines. Similarly, with regard to our fifth recommendation to provide supervisory air marshals access to guidance that outlines authorities and procedures for changing an air marshal's work schedule, according to DHS officials, FAMS will provide supervisors ongoing access to scheduling authorities and procedures. These actions, if fully implemented, should address the intent of these recommendations.

With regard to our sixth recommendation that FAMS reaffirm and strengthen efforts to prevent discrimination, DHS officials stated that

FAMS plans to review the goals of its 2012 action plan and develop steps to strengthen efforts to prevent discrimination. If fully implemented, these actions should address the intent of this recommendation.

We are sending copies of this report to the appropriate congressional committees and to the Acting Secretary of Homeland Security, Administrator of TSA, Executive Assistant Administrator / Director of FAMS, and other interested parties. In addition, this report is available at no charge on the GAO website at <http://gao.gov>.

If you or your staff have any questions concerning this report, please contact me at (202) 512-8777 or russellw@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.



W. William Russell
Director, Homeland Security and Justice

Appendix I: Objectives, Scope, and Methodology

The objectives of this report are to (1) assess the extent to which the Federal Air Marshal Service (FAMS) has taken steps to address air marshals' health concerns; (2) assess the extent to which FAMS has taken steps to address air marshals' concerns about their work schedules; and (3) describe what is known about the number of discrimination complaints FAMS employees have reported to the Transportation Security Administration (TSA) and FAMS and assess the extent to which TSA and FAMS have taken steps to prevent discrimination in the workplace.¹

To address all three objectives, we visited a non-generalizable sample of six FAMS field offices in: Atlanta, Georgia; Dallas, Texas; Los Angeles, California; Newark, New Jersey; New York, New York; and Seattle, Washington.² We chose these field offices to capture variation in the following factors: the number of special mission coverage trips (SMCs) in fiscal year 2018; the rate of schedule changes by field office in fiscal year 2018; the rate of equal employment opportunity complaints by field office for fiscal years 2015 through 2018; the number of employees in each field office as of September 2018; field office location; and results from the Office of Personnel Management's (OPM) 2018 Federal Employee Viewpoint Survey (FEVS).³ To obtain a range of perspectives on quality of life issues, work schedules, and discrimination within FAMS, we conducted discussion sessions with air marshals as well as separate discussion sessions with supervisory federal air marshals (SFAMs) in each field office.

We conducted a total of ten discussion sessions with air marshals. We initially conducted one discussion session with air marshals in the Seattle field office—where we spoke with approximately 15 air marshals—and one discussion session with air marshals in the Dallas field office—where we spoke with approximately 30 air marshals. Following these discussion sessions, we developed a standardized list of questions used to facilitate two discussion sessions with approximately 10 air marshals each, in each of the remaining four field offices (Atlanta, Los Angeles, Newark, and New York). We also conducted a total of six discussion sessions exclusively

¹The formal name of this office is Law Enforcement / Federal Air Marshal Service, but we refer to it as the Federal Air Marshal Service throughout this report.

²As of August 2019, FAMS had 20 field offices.

³FEVS is a tool offered by OPM that measures employees' perceptions of whether, and to what extent, conditions characterizing successful organizations are present in their agencies.

with SFAMs—one session in each field office that we visited. The discussion session in the Seattle field office consisted of two SFAMs, while all others consisted of approximately 10 SFAMs. Following discussion sessions with SFAMs in the Seattle and Dallas field offices, the team developed a standardized list of questions that was used by a moderator in meetings with SFAMS in the remaining four field offices. For discussion sessions with air marshals and SFAMs, we requested that each field office make available a diverse group of participants, to include women and minorities.

These were semi-structured discussions, led by a moderator who followed a standardized list of questions and allowed for unstructured follow-up questions. The results from these group discussions are not generalizable to air marshals or SFAMs who did not participate in them, but they provided a range of perspectives from about 125 air marshals and about 50 SFAMs spanning the six FAMS field offices we visited. In each field office we visited we also interviewed field office management officials about these same topics. Finally, we interviewed field office operations staff in four of the six field offices about their role in scheduling air marshals. To obtain additional perspectives on these topics, we interviewed a TSA employee group (Women Executives at FAMS); a professional association representing federal law enforcement officers, including air marshals (the Federal Law Enforcement Officers Association); and the FAMS Ombudsman.

To address the first objective about air marshals' health concerns, we reviewed prior research on FAMS workforce issues including our past reports on challenges associated with FAMS's workforce; a 2012 FAMS-commissioned Harvard Medical School study on air marshal sleep and

fatigue; and reports from FAMS working groups that examined medical issues and physical fitness.⁴

To identify air marshals' current concerns about health issues, we asked air marshals about any quality of life issues they face during discussion sessions. We then performed a content analysis of the results and identified key issues relating to health that were raised during the discussion sessions. One of our analysts conducted this analysis, tallying the number of discussion sessions in which certain health issues were discussed by air marshals. A different analyst then checked the information for accuracy, and any initial disagreements were discussed and reconciled by the analysts.

We also analyzed results of OPM's FEVS for FAMS, TSA, and DHS employees in 2018—the most recent data available at the time of our review. We analyzed FEVS question number 35, which asks survey participants if “Employees are protected from health and safety hazards on the job.” We assessed the reliability of the FEVS data by reviewing OPM's 2018 FEVS Technical Report and reviewing confidence intervals for the data points we included in this report. We determined that the data we used were sufficiently reliable for use in the analysis presented in this report.

We also analyzed FAMS's workers' compensation claim data for FAMS employees for fiscal years 2013 (when FAMS reviewed air marshals' physical fitness) through 2018 (the most recent full fiscal year of data available). We assessed the reliability of the claim data by interviewing cognizant FAMS officials, obtaining information about the data systems that maintain these data, and conducting checks for missing and out of

⁴GAO, *Aviation Security: Federal Air Marshal Service Is Addressing Challenges of Its Expanded Mission and Workforce, but Additional Actions Needed*, [GAO-04-242](#) (Washington, D.C.: Nov. 19, 2003); GAO, *Aviation Security: Federal Air Marshal Service Has Taken Actions to Fulfill Its Core Mission and Address Workforce Issues, but Additional Actions Are Needed to Improve Workforce Survey*, [GAO-09-273](#) (Washington, D.C.: Jan. 14, 2009); GAO, *Federal Air Marshal Service: Additional Actions Needed to Ensure Air Marshals' Mission Readiness*, [GAO-16-764](#) (Washington, D.C.: Sept. 14, 2016); Charles A. Czeisler and Laura K. Barger, *Air Marshal Sleep and Fatigue Study*, Harvard Medical School (Boston, MA: 2012); TSA, Office of Law Enforcement Federal Air Marshal Service; *Federal Air Marshal Service Medical Guidelines Integrated Project Team, Final Report and Recommendations* (Arlington, Virginia: Jan. 2015); and TSA, Office of Law Enforcement Federal Air Marshal Service; *2012-2013 OLE/FAMS Integrated Project Team Physical Fitness Working Group Final Report and Recommendations* (Arlington, Virginia: Mar. 2013).

range values. We determined that the data we used were sufficiently reliable for use in the analysis presented in this report.

To identify steps FAMS has taken to address air marshals' health concerns, we asked FAMS management, SFAMs, and air marshals we met with in headquarters and field offices to identify efforts to assess and promote air marshals' health—such as programs, policies, and practices.⁵ We reviewed documentation related to these efforts including FAMS's policies outlining medical standards for air marshals and its Health, Fitness, and Wellness program, as well as FAMS analyses of health issues among air marshals, workers' compensation claims, and on-the-job injuries. For example, we examined (a) minutes from two FAMS meetings when FAMS Medical Programs Section officials reported on medical and health issues among air marshals; (b) summary information from TSA's Occupational Safety, Health, and Environment Division describing air marshals' worker compensation claims from fiscal years 2015 through 2018; (c) an analysis of injuries and illnesses reported by air marshals from calendar years 2016 through 2018.

We also reviewed information about FAMS practices for maintaining medical and health information about air marshals.⁶ We compared FAMS's efforts to address air marshals' health concerns to OPM strategies for human capital management and a TSA strategic planning document from June 2018.⁷

To address the second objective to examine the extent to which FAMS has taken steps to address air marshals' concerns about their work schedules, we reviewed FAMS documents outlining scheduling guidelines for shift length and rest periods, protocols for adjusting air marshals' schedules, and FAMS management reports with statistics on air marshals' planned and actual schedules. We analyzed data from FAMS's

⁵FAMS management included officials from FAMS Field Operations, FAMS Operations Management—including its Medical Program Section and Workers' Compensation Program, as well as Supervisory Air Marshals in Charge in the six FAMS field offices we visited.

⁶For example, FAMS maintains information from air marshals' medical exams in paper files and information for health and fitness assessments in its Federal Air Marshal Information System (FAMIS)—which is an automated personnel identification system to manage FAMS administrative and operational requirements.

⁷United States Office of Personnel Management, *2018 Federal Workforce Priorities Report* (Feb 2018) and TSA, *Administrator's Intent* (June 1, 2018).

Aircrews data system on the number of SMC missions and the number of changes made to air marshals' schedules in order to cover SMCs between November 2016 and June 2019.⁸ We also analyzed data from FAMS's Aircrews data system on the number of scheduled standby shifts between June 2018—when FAMS began scheduling air marshals to standby shifts to staff SMCs—and August 2019. We assessed the reliability of these data by reviewing documentation regarding the source of this data and by obtaining information from knowledgeable agency officials about its accuracy and completeness. We found these data to be sufficiently reliable for use in our analysis.

To identify the lengths of air marshals' shifts when they flew missions, we analyzed 808 air marshal time sheets.⁹ We first selected four separate 28-day periods, known as roster periods, during which air marshals flew missions.¹⁰ Our analysis included air marshals scheduled to fly or on recovery shifts on 11 or more days during the selected roster periods. This resulted in a total of 7,981 roster periods worked by air marshals as our population of interest. To help ensure the sample included air marshals from field offices that had high rates of SMCs for each roster period, we stratified our population into eight mutually exclusive strata based on the roster period and the percentage of each field office's missions that were SMCs in each roster period. We then randomly selected a stratified sample of 101 air marshals from each roster period proportionally allocated across the SMC percentage strata within each roster period.

⁸According to FAMS officials, FAMS updated its concept of operations in March 2018. The 32-month period from November 2016 to June 2019 includes 16 months before FAMS updated its concept of operations and 16 months after FAMS updated its concept of operations.

⁹Each time and attendance sheet includes data on the lengths of air marshals' shifts as well as the types of activities performed by air marshals, including domestic and international missions. We reviewed training materials on completing time and attendance to understand how air marshals record their time.

¹⁰These roster periods included: roster period 202, which spanned October 29, 2017, to November 25, 2017; roster period 205, which spanned January 21, 2018, to February 17, 2018; roster period 215, which spanned October 28, 2018, to November 24, 2018; and roster period 218, which spanned January 20, 2019, to February 16, 2019. We selected these roster periods in order to examine data on air marshals' shifts both before and after FAMS revised its concept of operations in March 2018. We also selected these roster periods to capture typical FAMS operations and verified with FAMS officials that mission operations were not anomalous during the selected roster periods.

Using these data for these air marshals, we analyzed the length of air marshals' shifts when they flew domestic and international missions to identify shifts that were (1) consistent with or (2) exceeded scheduling guidelines.¹¹ For example, we analyzed time sheets to estimate the percentage of roster periods worked by air marshals that included one or more shifts longer than 10 hours. We also analyzed time sheets to estimate the percentage of roster periods worked by air marshals that included one or more shifts between 10 and 12 hours and to estimate the percentage of roster periods worked by air marshals that included one or more shifts longer than 12 hours.

We also examined the number of air marshals' regular days off. Specifically, we analyzed air marshals' time sheets to estimate the percentage of roster periods worked by air marshals that included less than 8 regular days off. In performing this analysis, we did not count days as regular days off when air marshals reported receiving a regular day off but also reported time worked for the same day, unless the time worked was carryover from a prior workday.

In conducting these time sheet analyses, we took steps to minimize issues that might affect data reliability. Specifically, we identified time and attendance sheets that included errors that would impact our analysis—such as those with missing values—and either excluded them or obtained corrected information from FAMS.¹² We excluded a total of 44 of the 404 roster periods initially selected in our sample. We also performed an analysis to ensure that by excluding these timesheets we did not introduce bias into our sample. We found no evidence of bias and concluded the sample data was sufficiently reliable for the purposes of producing population estimates. The results of our analysis are generalizable to the roster periods analyzed.

¹¹We were not able to directly compare international shifts against scheduling guidelines because time sheets do not include information on international mission destinations, which is critical for determining applicable scheduling guidelines for international missions. Therefore, we analyzed time sheets to estimate the percentage of roster periods worked by air marshals that included one or more shifts that was longer than 18 hours—the longest threshold specified by FAMS's international scheduling guidelines—and longer than 20 hours. FAMS considers alternative scheduling options when a delay extends a shift past 20 hours. We also estimated the percentage of roster periods worked by air marshals that included one or more shifts lasting between 18 and 20 hours.

¹²For example, we removed time sheets of an air marshal that was on light duty and did not fly for the entire roster period.

To identify steps FAMS has taken to address air marshals' concerns about their schedules, we interviewed management officials from FAMS's Flight Operations Division about their efforts to (1) monitor air marshals' shifts and rest against scheduling guidelines and (2) make scheduling protocols available to staff. We compared FAMS's actions to address air marshals' scheduling concerns to two principles in Standards for Internal Control in the Federal Government related to the need to implement control activities and use quality information to achieve an entity's objectives.¹³

To address the third objective about discrimination, we reviewed FAMS, TSA, and DHS policies related to discrimination and interviewed FAMS, TSA, and DHS officials to understand how FAMS employees report discrimination complaints.¹⁴ Specifically, we met with officials in TSA's Civil Rights Division (CRD), TSA's Anti-Harassment Program, FAMS Incident Activity Coordination and Trends Unit, and DHS OIG.¹⁵

We also examined the number and characteristics of discrimination complaints reported by FAMS employees from fiscal year 2016 through fiscal year 2018—the most recent 3 full years of data available at the time of our review.¹⁶ Specifically, we analyzed record-level data on discrimination complaints filed or reported by FAMS employees to TSA's CRD, TSA's Anti-Harassment Program, and FAMS's Incident Activity Coordination and Trends Unit.¹⁷ We also obtained information from the DHS OIG on individual complaints they received that involved FAMS employees and included complaints of discrimination. Generally, we analyzed the date of the complaint, type of allegation, basis of the

¹³GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 2014).

¹⁴TSA, Office of Human Capital, TSA Management Directive No. 1100.73-5, Employee Responsibilities and Conduct, May 21, 2009

¹⁵We also met with TSA Investigations and TSA Professional Responsibility, but determined that FAMS employees do not routinely report discrimination complaints to these offices. Instead, these offices have specific roles when handling discrimination complaints.

¹⁶FAMS employees include air marshals, SFAMs, FAMS managers, as well as non-law enforcement staff—such as administrative staff.

¹⁷TSA's CRD data was from its iComplaints data system. National Resolution Center's Anti-Harassment Program began in August 2017. As such, there was no data for the program in fiscal year 2016 and only partial data for fiscal year 2017. As a result, we limited our analysis of Anti-Harassment Program complaints to those reported in fiscal year 2018.

discrimination, and outcomes. We assessed the reliability of the data from TSA's CRD, TSA's Anti-Harassment Program, and FAMS's Incident Activity Coordination and Trends Unit by interviewing cognizant TSA and FAMS officials, obtaining information about the data systems that maintain these data, and conducting checks for missing and out of range values. We determined that the data we used was sufficiently reliable for use in the analysis presented in this report.

To examine the proportion of the FAMS and TSA workforces who alleged discrimination relative to the size of these workforces, we compared the number of complaints handled by TSA's CRD for fiscal years 2016, 2017 and 2018 to the total number of employees during the same fiscal years.¹⁸ We assessed the reliability of the TSA's CRD data by interviewing cognizant TSA officials and obtaining information about the data system that maintains these data. We determined that the data we used was sufficiently reliable for use in the analysis presented in this report.

To identify steps TSA and FAMS have taken to prevent discrimination in the workplace, we interviewed TSA and FAMS management, SFAMs, and air marshals we met with during our site visits.¹⁹ We then analyzed documentation related to the identified efforts such as minutes from all 20 FAMS Field Office Focus Group meetings between October 2016 and December 2018 as well as DHS and TSA training materials related to preventing discrimination.²⁰

¹⁸Specifically, we identified summary-level data on the number of discrimination complaints handled by TSA's CRD for both FAMS and TSA in their MD 715 Quarterly reports. Further, to identify the number of FAMS employees for fiscal years 2016, 2017 and 2018, we used workforce numbers provided by FAMS that include all FAMS employees. To identify the number of TSA employees we reviewed DHS's Budget in Brief reports, which include workforce numbers for TSA (inclusive of FAMS) for the corresponding 3 years.

¹⁹TSA management includes officials from TSA's CRD and TSA's Anti-Harassment Program. FAMS management includes officials from FAMS Field Operations, FAMS Operations Management—including its internal Incident Activity Coordination and Trends Unit, and Supervisory Air Marshals in Charge in the six FAMS field offices we visited.

²⁰According to FAMS officials, FAMS established Field Office Focus Groups to provide the workforce with direct access to field office leadership to discuss issues specific to the field office as well as issues national in scope. Generally, field offices convene focus group meetings quarterly and are comprised of air marshals as well as staff from training and operations sections within the field office.

To identify air marshals' current perspectives about discrimination, we asked air marshals in our discussion sessions about the processes for reporting discriminatory behavior as well as their perspectives on discriminatory behavior within FAMS.²¹ We then performed a content analysis of the results and identified key issues that were raised during the discussion sessions, including air marshals' comments regarding their experiences related to retaliation for reporting discrimination. One of our analysts conducted this analysis, tallying the number of discussion sessions in which certain issues were discussed by air marshals. A different analyst then checked the information for accuracy. We then determined the extent to which certain key issues were raised among the sessions.

In addition, we analyzed results of OPM's FEVS for FAMS, TSA, and DHS employees in 2018.²² Specifically, we analyzed FEVS question number 17, which asks survey participants if employees "Can disclose suspected violation without fear of reprisal." We also analyzed FEVS question number 38, which asks survey participants if "Prohibited personnel practices are not tolerated." As noted above, we assessed the reliability of the FEVS data and determined that the data we used was sufficiently reliable for use in the analysis presented in this report.

We also analyzed data from TSA's employee exit survey results for FAMS employees from fiscal years 2012 through 2018—the period for which full year data were available since the DHS OIG review.²³ Specifically, we examined the extent to which employees' reasons for leaving included diversity or inclusion barriers in the workplace. We assessed the reliability of the exit survey data by obtaining information about how the data are collected from TSA officials. We determined that

²¹As noted above, the results from these group discussions are not generalizable to air marshals who did not participate in them. However, they provided a range of perspectives from about 125 air marshals and about 50 SFAMs spanning the six FAMS field offices we visited.

²²Specifically, we analyzed FEVS question number 17, which asks survey participants if employees "Can disclose a suspected violation of any law, rule or regulation without fear of reprisal." We also analyzed FEVS question number 38, which asks survey participants if "Prohibited Personnel Practices (for example illegally discriminating for or against any employee/applicant, obstructing a person's right to compete for employment, knowingly violating veterans' preference requirements) are not tolerated." We also reviewed OPM's technical documentation for FEVS.

²³DHS OIG-12-28.

the data we used were sufficiently reliable for use in the analysis presented in this report.

We compared TSA's and FAMS's efforts to prevent discrimination in the workplace to the Equal Employment Opportunity Commission's Management Directive 715.²⁴ This policy requires agencies to take appropriate steps to establish a model equal employment opportunity (EEO) program and identifies six essential elements for a model EEO program. In addition, we compared TSA's and FAMS's efforts to DHS's and TSA's strategic planning documents which both include an objective to develop and maintain a high-performing workforce.²⁵

We conducted this performance audit from July 2018 to January 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

²⁴EEOC, Equal Employment Opportunity, Management Directive 715 (Oct. 1, 2003)

²⁵DHS, *The DHS Strategic Plan, Fiscal Years 2020-2024* (Washington, D.C.); TSA, *TSA Strategy 2018-2026* (Arlington, Virginia); and TSA, *Administrator's Intent* (June 1, 2018).

Appendix II: Analysis of Air Marshals' Regular Days Off

The Federal Air Marshal Service's (FAMS) scheduling guidelines state that each air marshal is scheduled to receive a minimum of 60 hours of rest around 2 consecutive regular days off each week, or a total of 8 regular days off each 28-day roster period.¹ FAMS Flight Operations officials stated that there are exceptions that may prevent an air marshal from being scheduled to receive 2 regular days off each week, such as international deployments that last 6 or more days and travel to and from training programs that last 6 or more days. Additionally, FAMS management officials and air marshals that we interviewed stated that air marshals may be asked to cover flights for which a potentially high-risk passenger has been ticketed—known as Special Mission Coverage deployments—on their scheduled regular days off if no other air marshals are available. Furthermore, FAMS Flight Operations officials stated that FAMS may ask air marshals to receive non-consecutive regular days off due to operational needs.

We analyzed air marshals' regular days off as recorded on their timesheets to determine the extent that they were consistent with these scheduling guidelines. Specifically, we analyzed a generalizable sample of air marshals' timesheets for two roster periods in fiscal year 2018 and two roster periods in fiscal year 2019. We found that air marshals

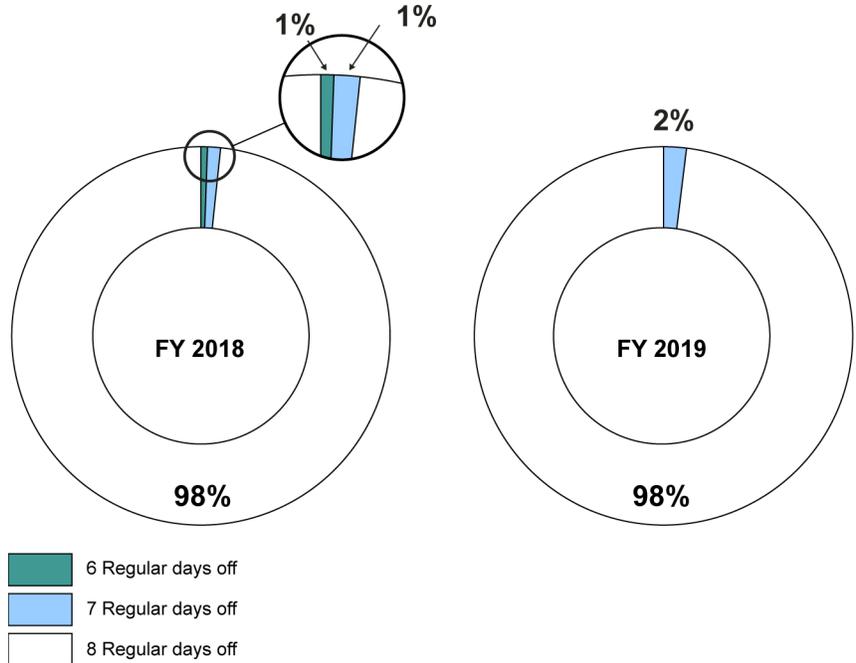
¹The formal name of this office is Law Enforcement / Federal Air Marshal Service, but we refer to it as the Federal Air Marshal Service throughout this report. A "regular day off" refers to each of the 2 days during the 7-day week when an air marshal will not be reporting to work. For example, if an air marshal worked a Monday to Friday schedule, the regular days off would be Saturday and Sunday.

generally received 8 regular days off in the roster periods we analyzed.² Specifically, during the 28-day roster periods we examined in fiscal year 2019, we estimate that air marshals received 8 regular days off approximately 98 percent of the time. However, some air marshals did not receive all 8 regular days off. Specifically, during the 28-day roster periods we analyzed in fiscal year 2019, we estimate that air marshals received 7 regular days off approximately 2 percent of the time. See figure 5 for results of our analysis.

²To perform the analysis, we selected a stratified random sample of air marshals from four separate roster periods, or 28-day cycles. These roster periods included: roster period 202, which spanned October 29, 2017, to November 25, 2017; roster period 205, which spanned January 21, 2018, to February 17, 2018; roster period 215, which spanned October 28, 2018, to November 24, 2018; and roster period 218, which spanned January 20, 2019, to February 16, 2019. We selected these time periods to capture typical FAMS operations and verified with FAMS officials that mission operations were not anomalous during these roster periods. To generate the sample for each roster period, we identified all air marshals that were scheduled to fly 11 or more days within each roster period, including days when air marshals were scheduled to a recovery shift. We then selected a stratified random sample from this list and obtained corresponding time and attendance data. We did not count days as regular days off when air marshals reported receiving a regular day off but also reported time worked for the same day, unless the time worked was carryover from a prior workday. We were not able to determine if each air marshal received at least 60 hours off during their regular days off due to potential inconsistencies in the time zones of reported data. We also did not examine the data to determine if air marshals received regular days off on consecutive days. Estimates presented in this report are only generalizable to the roster periods examined and have a margin of error of plus or minus 7 percentage points or fewer. For additional details about our analysis, please see appendix I.

Figure 5: Analysis of Air Marshals' Regular Days Off

Estimated percentage of roster periods where air marshals did not receive all 8 regular days off



Source: GAO analysis of Federal Air Marshal Service data. | GAO-20-125

Notes: Percentages have a margin of error of plus or minus 3 percentage points or fewer. Differences between estimates presented in this figure may not be statistically significant at the 95 percent confidence level.

The Federal Air Marshal Service (FAMS) creates its mission schedules based on 28-day periods known as roster periods. We analyzed two roster periods in fiscal year 2018 that took place during FAMS' prior concept of operations—roster period 202, which occurred from October 29, 2017, to November 25, 2017, and roster period 205, which occurred from January 21, 2018, to February 17, 2018. Additionally, we analyzed two roster periods in fiscal year 2019 that took place during FAMS' new concept of operations—roster period 215, which occurred from October 28, 2018, to November 24, 2018, and roster period 218, which occurred from January 20, 2019, to February 16, 2019.

Appendix III: Description of Federal Air Marshal Service Employee Discrimination Complaints Received, by Office

There are four venues through which Federal Air Marshal Service (FAMS) employees can raise discrimination complaints.¹ One of these venues is the Transportation Security Administration's (TSA) Civil Rights Division (CRD) which is responsible for receiving and handling FAMS employees' equal employment opportunity (EEO) complaints.² Although reporting to CRD is the only means for FAMS employees to file an EEO complaint, they may choose to report discrimination in other venues. Specifically, they may report discrimination to their manager, TSA's Anti-Harassment Program—which is overseen by TSA's National Resolution Center, or the Department of Homeland Security's (DHS) Office of Inspector General (OIG).³ FAMS employees may also choose to report to CRD as well as to one or more of the other available entities. Table 1 describes what is known about the number and nature of complaints received through each venue in fiscal years 2016 through 2018.

¹The formal name of this office is Law Enforcement / Federal Air Marshal Service, but we refer to it as the Federal Air Marshal Service throughout this report.

²CRD is within TSA Civil Rights and Liberties, Ombudsman, and Traveler Engagement. CRD received 100 discrimination complaints in fiscal year 2016, 60 in fiscal year 2017, and 70 in fiscal year 2018. Each complaint to CRD may include multiple allegations of discriminatory behavior involving multiple individuals. For example, a complainant can allege multiple bases of discrimination, such as race and sex, and name one or more responsible individuals within the same complaint. According to the U.S. Equal Employment Opportunity Commission, the goal of an EEO remedy is to put the victim of discrimination in the same position (or nearly the same) that he or she would have been if the discrimination had never occurred. Remedies can include an award of compensatory damages for victims.

³TSA policy provides that TSA employees, including FAMS employees, are responsible for reporting known or suspected violations of law as well as allegations of inappropriate conduct that they have experienced or witnessed, to include harassment, to the attention of management, such as their manager or supervisor and higher-level management officials. FAMS policy requires all managers and supervisors to report instances of discrimination that come to their attention to the Incident Activity Coordination and Trends Unit. This unit coordinates the handling of suspected misconduct that involves FAMS employees.

**Appendix III: Description of Federal Air
Marshal Service Employee Discrimination
Complaints Received, by Office**

Table 1: Description of Federal Air Marshal Service (FAMS) Employee Discrimination Complaints Received, by Office

Office or official receiving discrimination complaint	Role in addressing discrimination complaints	Number of complaints received	Nature and outcome of the complaints
<p>Civil Rights Division (CRD) (CRD is a unit within Transportation Security Administration (TSA) Civil Rights and Liberties, Ombudsman, and Traveler Engagement)</p>	<p>Handles complaints from TSA employees, including FAMS employees, related to Equal Employment Opportunity (EEO) issues, which include discrimination cases involving federally protected bases.^a</p>	<p>From fiscal years 2016 through 2018, FAMS employees filed 230 EEO complaints with the Civil Rights Division. Each complaint may include multiple allegations of discriminatory behavior as well as multiple responsible individuals.^b</p>	<p>The three most frequent bases alleged included reprisal (53 percent), race (36 percent), and age (35 percent).^c The three most frequent types of discriminatory action alleged included harassment (42 percent), disciplinary action (27 percent), and promotion / non-selection (16 percent).^d As of July 2019, 40 of the 230 complaints were withdrawn and 72 remained open. The remaining 118 complaints were closed. According to CRD officials, none of the closed complaints resulted in a finding of discrimination. However, 22 (19 percent) of the 118 closed complaints resulted in at least one corrective action, such as training or a lump sum payment.^e A settlement was reached in 20 of the 22 complaints that resulted in corrective action.</p>
<p>Anti-Harassment Program (within TSA Human Capital's National Resolution Center)</p>	<p>Handles harassment complaints from TSA employees, including FAMS employees, alleging harassing behavior involving federally-protected bases.^f Program staff stated that they advise the complainant that they must file a separate complaint with TSA's Civil Rights Division if they want to pursue an EEO complaint.</p>	<p>In fiscal year 2018—the only full year for which data were available—FAMS employees filed 19 harassment complaints that included allegations of discrimination.^g</p>	<p>The three most frequent bases alleged in these 19 complaints included race, reprisal, and sex.^h The three most frequent types of alleged harassment involved unwelcome or inappropriate conduct, retaliation, and hostile work environment.ⁱ As of May 2019, about 10 complaints had been substantiated either wholly or in part and resulted in final outcomes including letters of counseling or reprimand, verbal counseling, and removals.</p>

**Appendix III: Description of Federal Air
Marshal Service Employee Discrimination
Complaints Received, by Office**

Office or official receiving discrimination complaint	Role in addressing discrimination complaints	Number of complaints received	Nature and outcome of the complaints
Department of Homeland Security (DHS) Office of the Inspector General (OIG)	FAMS employees may bring complaints, including discrimination complaints, directly to the DHS OIG. ^j	From fiscal years 2016 through 2018, DHS OIG officials reported that the DHS OIG received eight complaints from air marshals that included an allegation of discrimination. ^k	<p>According to DHS OIG officials, the DHS OIG elected to investigate one complaint that included an allegation of discrimination and other misconduct. The DHS OIG forwarded its investigative report to TSA Investigations for further action. TSA Investigations reviewed the report and forwarded it to TSA Professional Responsibility for adjudication.^l This complaint resulted in a letter of closure and no corrective action.</p> <p>Of the remaining seven, DHS OIG officials reported that the DHS OIG administratively closed three because it was not going to investigate; in two of these cases the complainant did not want to be identified. The DHS OIG referred four to TSA Investigations. For two of these complaints, TSA Investigations referred the case to TSA CRD and/or FAMS. For the remaining two complaints, TSA Investigations conducted an investigation and subsequently referred the case to TSA Professional Responsibility. None of these four cases resulted in a corrective action.</p>
FAMS Managers and Supervisors	FAMS employees may report discrimination incidents to their supervisor or manager. A supervisor or manager is required to report any discrimination incidents to the FAMS Incident Activity Coordination and Trends Unit. This unit coordinates the handling of suspected misconduct and refers all discrimination cases to TSA Investigations.	From fiscal years 2016 through 2018, FAMS supervisors and managers reported 12 incidents to Incident Activity Coordination and Trends Unit that were related specifically to discrimination / employee rights allegations. ^m	<p>As of August 2019, 10 incidents (83 percent) involving discrimination / employee rights allegations had been closed.ⁿ</p> <p>Among the 10 closed cases, a letter of closure was issued in seven cases (70 percent), no further action was taken in three cases (30 percent).</p>

Source: GAO analysis of agency policies, organizational charts, documents, and data as well as discussions with DHS, TSA, and FAMS officials. | GAO-20-125

^gAccording to Civil Rights Division documents, TSA employees alleging discrimination first enter TSA's informal EEO complainant process which can include counseling provided by an EEO specialist and alternative dispute resolution facilitated by a neutral mediator. If the complaint is not resolved through this initial, informal process, complainants have the right to file a formal EEO complaint of discrimination. If CRD determines that a formal EEO complaint meets procedural legal requirements, the complaint is investigated by a neutral EEO investigator who provides the complainant a Report of Investigation and a letter explaining the complainants options, such as requesting a Final Agency Decision by DHS and requesting an EEOC hearing.

**Appendix III: Description of Federal Air
Marshal Service Employee Discrimination
Complaints Received, by Office**

^bFor example, a single complaint of discrimination could allege multiple types of discrimination, such as racial and gender discrimination. In addition, a single complaint could also allege discriminatory behavior by multiple individuals.

^cOther federally-protected bases alleged in complaints included disability (28 percent), sex (22 percent), national origin (10 percent), color (8 percent), religion (2 percent), and genetics (1 percent). Total of percentages is greater than 100 because individual complaints can allege multiple bases. The Equal Employment Opportunity Commission provides that reprisal (retaliation) occurs when an employer takes a materially adverse action because an applicant or employee asserts rights protected by the EEO laws. Materially adverse actions include employment actions or other actions that might deter a reasonable person from engaging in protected activity.

^dOther types of discrimination alleged included, but were not limited to, reassignment (6 percent) and performance evaluation/appraisal (9 percent). Individual complaints can include multiple allegations of discriminatory behavior.

^eSeventy-two complaints remain open, one of which has resulted in a corrective action.

^fTSA established the Anti-Harassment Program in 2017. Prior to this, TSA had a program to specifically address sexual harassment and misconduct called the Prevention and Elimination of Sexual Harassment Program. When Anti-Harassment Program officials receive a complaint, they are able to provide relief such as arranging for two employees to be separated from one another at work. According to Anti-Harassment Program officials, they may undertake the investigation of less egregious cases, but more serious cases, such as those involving senior management officials, are referred to TSA Investigations.

^gComparable data are not available prior to October 2017 because the program did not exist until August 2017 and Prevention and Elimination of Sexual Harassment Program exclusively tracked sexual harassment complaints.

^hOther bases alleged in these complaints include disability, genetic information, and national origin. Agency data were accurate enough to report the order, but we were unable to provide specific numbers and percentages due to data limitations.

ⁱThe remaining complaints involved sexual harassment. Agency data were accurate enough to report the order, but we were unable to provide specific numbers and percentages due to data limitations.

^jThe DHS OIG also has "right of first refusal" for all FAMS misconduct issues referred to TSA Investigations. DHS OIG officials told us they had not opted to investigate any of the FAMS employee discrimination complaints referred by TSA Investigations from fiscal years 2016 through 2018.

^kAll eight complaints included allegations of discrimination, some of which included additional allegations of misconduct.

^lTSA Professional Responsibility recommends corrective action to address employee misconduct, including discrimination.

^mFAMS's Incident Activity Coordination and Trends Unit allegation categories are based on TSA's Table of Offenses and Penalties and include a range of misconduct, such as discrimination / employee rights, offensive remarks, abusive language, alcohol consumption, and other.

ⁿAs of August 2019, two incidents remained open. One was pending a response from TSA Professional Responsibility and the other was pending a Record of Investigation from the field office. A Record of Investigation documents the details of investigative action and other pertinent information for formal investigations.

Appendix IV: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

January 15, 2020

Mr. W. William Russell
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

RE: Management Response to Draft Report GAO-20-125, "AVIATION SECURITY: Federal Air Marshal Service Has Taken Steps to Address Workforce Issues but Additional Actions Needed"

Dear Mr. Russell:

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's positive recognition of the steps taken by the Transportation Security Administration's (TSA) Federal Air Marshal Service (FAMS) to (1) assess air marshals' individual health, and (2) address air marshals' concerns about their work schedules. FAMS provides a critical layer of security to transportation, specifically commercial aviation. Deploying on hundreds of flights and logging more than 2 million miles each day places unique demands on air marshals.

TSA is committed to meeting operational needs, while also providing enhanced quality of life for the FAMS workforce. The Department supports TSA's efforts to overcome operational challenges and ensure the workforce can maintain its ability to carry out its mission.

The draft report contained six recommendations, with which the Department concurs. Attached find our detailed response to each recommendation. DHS previously submitted technical comments under a separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,



JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Attachment

**Attachment: Management Response to Recommendations
Contained in GAO-20-125**

GAO recommended that the Executive Assistant Administrator/Director of FAMS:

Recommendation 1: Identify and utilize a suitable system that provides information about air marshals' medical qualification status.

Response: Concur. FAMS is evaluating case management software to determine both case management capability and compatibility with TSA's information technology systems. If a software solution is selected, availability of funding will determine the schedule of implementation. FAMS will work through TSA's Planning, Programming, Budgeting, and Execution process to obtain fiscal year (FY) 2021 funding.

Estimated Completion Date (ECD): December 31, 2021.

Recommendation 2: Develop and implement a plan to assess the health and fitness of the FAMS workforce as a whole, including trends over time.

Response: Concur. FAMS recently established an integrated project team to develop a plan and identify methods to assess the health and wellness issues of the FAMS workforce as a whole, develop a plan, and submit it to the Executive Assistant Administrator for review and approval. Any method implemented will include a trend analysis capability (e.g. workman's compensation claims, etc.).

ECD: June 30, 2020.

Recommendation 3: Identify and implement a means to monitor the extent to which air marshals' actual shifts and rest hours are consistent with scheduling guidelines.

Response: Concur. Although air marshals' schedules are planned and implemented within applicable guidelines, the actual number of work and rest hours could vary due to numerous factors. FAMS will conduct data analysis requiring that individual air marshals log actual hours in the system, which FAMS will use to track the difference between scheduled hours and actual hours. FAMS will also explore fielding an information technology solution, however, that effort is currently unfunded and dependent on the availability of funds to be obtained through the FY 2021 Planning, Programming, Budgeting, and Execution process, if available.

ECD: December 31, 2021.

Recommendation 4: Provide all air marshals access to scheduling guidelines, including workday length and rest periods.

Response: Concur. In addition to regular briefings on scheduling guidelines already provided to air marshals, FAMS will ensure air marshals are provided with ongoing access to scheduling guidelines, including information on workday length and rest periods. ECD: March 31, 2020.

Recommendation 5: Disseminate or otherwise provide supervisory air marshals access to guidance that outlines authorities and procedures for changing an air marshal's work schedule.

Response: Concur. Although all supervisory air marshals already have access to scheduling authorities and procedures, FAMS recognizes that the understanding of scheduling guidelines is neither universal or consistent among supervisors. FAMS will ensure that all supervisors are informed of the guidance related to changing work schedules, and receive ongoing access to any necessary reference material, once the best method of distributing this information is determined. ECD: March 31, 2020.

Recommendation 6: Take steps to reaffirm and strengthen efforts to prevent discrimination by, for example, updating and following through on its 2012 action plan and renewing leadership commitment to the plan's goals.

Response: Concur. FAMS will review the goals of the 2012 action plan and develop steps to strengthen efforts to prevent discrimination in alignment with leadership commitment to the plan's goals. This will include updating the plan, as appropriate.

ECD: June 30, 2020.

Appendix V: GAO Contacts and Staff Acknowledgements

GAO Contact

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Staff Acknowledgments

In addition to the contact named above, Claudia Becker (Assistant Director), Anne Akin (Analyst-in-Charge), Enyinnaya Aja, James Ashley, Carl Barden, Taiyshawna Battle, Edda Emmanuelli-Perez, Eric Hauswirth, Yvonne Jones, Jesse Jordan, Ellie Klein, Thomas Lombardi, Diona Martyn, Sam Portnow, Minette Richardson, Forrest Rule, Raymond Sendejas, Michael Silver, and Adam Vogt also made key contributions to this report.

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