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Law Enforcement Officers Flying Armed: Past, Present, and Future

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Commercial aviation is one of the most common modes of transportation used to move law enforcement officers across the country. Law enforcement officers are frequently called upon to perform dignitary, witness, or prisoner escorts, as well as surveillance aboard commercial flights. For many years there was a general consensus that there were circumstances that would dictate these officers be armed with firearms while performing these duties. The problem was a lack of consistency among the airlines and its employees. Some, particularly airline captains, had preconceived notions about the subject and forbade officers to board while armed. Others actually took control of the officer's firearm on the flight deck for the duration of the flight. An effort to gain consistency and level the playing field for officers had a major impact on this subject in the mid 1990s. The present and future of law enforcement officers flying armed was further shaped in the aftermath of the terrorist attacks of September 11, 2001.

Prior to 1994, there was little consistency among the airlines and their employees on the matter. The issue was related to aviation security and under the jurisdiction of the Federal Aviation Administration (FAA). The Aviation Security Advisory Committee convened the Carriage of Weapons Task Force to address the problem. The goal was to see if a consensus could be reached among the various stakeholders. Groups from the aviation industry, law enforcement, and government sent representatives to the task force. A consensus was reached and a regulation was proposed that provided for law enforcement officers, performing specific functions, to specific standards be allowed to carry firearms during the flight. The proposal was adopted by the FAA in 1994 and governed armed law enforcement officers for the next few years. During this period, the regulation was found in Title 14 of the Code of Federal Regulations, Part 108. Accompanying the regulation was a training program for "Law Enforcement Officers Flying Armed." The regulation recommended the training, but did not require it. Lesson plans were fielded by the FAA to every police academy in the nation. Some used it and offered training to officers, others did not.

By 2000, it was time to revisit the program and the Carriage of Weapons Task Force was reconvened. Certain changes were recommended by the task force and became regulation. The most notable was the change on the training program "Law Enforcement Officers Flying

Armed.” Heretofore recommended, the revised regulation, published in July 2001, made the training mandatory effective November 14, 2001. No law enforcement officer who had not had the training would be able to fly armed after that date. The tragic terrorist attacks of September 11, 2001, involved commercial airliners as weapons of mass destruction. The commercial aviation industry would never be the same. The FAA, still responsible for the law enforcement officers flying armed program, was also responsible for all other aspects of aviation security. Mass hiring of FAA security personnel, including Federal Air Marshals, shifted most of FAA's training internally.

As the issue of armed passenger travel tightened up, the FAA was barely able to provide some external train-the-trainer schools. The FAA guidance to law enforcement was that any agency or academy firearms, or general subjects instructor, could teach these classes so long as it was to the government's standards. Academies and agencies that had implemented this training program as early as 1994 and those able to get instructors into FAA classes fared well. Some states were generally ill prepared to meet the training requirement. On November 13, 2001, one day before the revised regulation took effect, many agencies, particularly sheriff's departments needing to transport prisoners, were without answers. For the next several months officers scrambled to find the necessary training, while others, still oblivious to the rule change, took advantage of the confusion at airports and slipped through the system.

Also in November 2001, the Transportation and Aviation Security Act of 2001, created the Transportation Security Administration (TSA). By February 17, 2002, the FAA got out of the security and law enforcement business, including the Federal Air Marshal program which was transferred to TSA. Also on that date, regulation of the law enforcement officers flying armed issue became a TSA responsibility. The regulations were recodified in Title 49 of the Code of Federal Regulations, Part 1544. By late 2003 Federal Security Directors and their passenger and baggage screeners were in place in airports across America. The days of untrained officers slipping through the system were numbered.

The regulation, and its accompanying training program, deals with subjects ranging from the role of the officer in both hijackings and disturbances, the type of identification required, the role of Federal Air Marshals, and the limitations on officers to very specific situations. Stressed in the training program is that law enforcement officers should not surrender their firearm to any member of the crew, including the captain. So long as the law enforcement officer is in compliance with the TSA regulations he or she will be allowed to fly armed. Captains may now only deny individual officers if he or she can cite a bona fide security reason for the denial.

On March 1, 2003, TSA was transferred to the newly created Department of Homeland Security. Since that time government officials have determined that the Federal Air Marshal program would be more effective if part of a law enforcement bureau rather than TSA. Although TSA will continue to regulate law enforcement officers flying armed, the Federal Air Marshal Service will be transferred within the Department of Homeland Security to the Bureau of Immigration and Customs Enforcement on November 1, 2003. This move is anticipated to provide ready backup and broader career opportunities for existing Air Marshals.

Over the past two years gaps in the training program have closed and many new instructors have been trained. Aviation security continues to be a prime concern in the world. As in 2000, the regulation will be revisited from time to time. It is the responsibility of each law enforcement officer flying armed to be aware of the rules and comply with them. This is a regulated industry and our ability to carry firearms aboard commercial flights is subject to change. Each officer must carry himself or herself with such professional demeanor as to not jeopardize our collective ability to carry firearms on flights, as circumstances require. The future of law enforcement officers flying armed depends on it.

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