



U.S. Immigration and Customs Enforcement

April 2, 2004

MEMORANDUM FOR: Michael J. Garcia
Assistant Secretary, Immigration and Customs Enforcement

FROM: Thomas D. Quinn
Director, Federal Air Marshal Service (FAMS)

SUBJECT: Proposed Legislation introduced by Senator James Bunning (R-Ky)

Senator James Bunning (R-Ky) has introduced proposed legislation that would give commercial airline pilots authority that extends far beyond the original intent and spirit of the Federal Flight Deck Officer Program (FFDO).

Attached is a copy of the proposed draft legislation from the Airline Pilots Security Alliance that is not the actual Bill that Senator Bunning introduced. While the actual proposed legislation may be very similar, the Government Printing Office has not made available a hard copy or an electronic copy of Senator Bunning's Bill at the time of the creation of this memo.

The Federal Air Marshal Service (FAMS) strongly objects to any legislation that would exceed the scope and authority of the FFDO, included in the Homeland Security Act, H.R. 5005, Section 1402, that states:

"The Under Secretary of Transportation for Security shall establish a program to deputize volunteer pilots of air carriers providing passenger air transportation or intrastate passenger air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy."

The FAMS firmly believes that this proposed legislation is inherently flawed for many reasons, among them:

- The firearms training requirements to become a FFDO does not in any way meet the requirements to be a federal law enforcement officer, just as the FAMS minimal cockpit training in a simulator does not meet the requirements to be a pilot;
- The pilot is not tactically trained;
- The pilot receives no training in arrest procedures as outlined in the Department of Justice's use of force guidelines;
- The pilot receives no training in interview techniques;
- The pilot receives no training in the laws of search and seizure;

- The pilot receives no training in courtroom preparation or courtroom demeanor; and
- The pilot receives no FAMS training which is arguably the most robust federal law enforcement training given the FAMS mission, tactics, and vulnerabilities.

To receive such training would require seven (7) weeks of training at the Federal Law Enforcement Training Center and four (4) additional weeks of FAMS training, and as significantly, these pilots would also not receive the years of practical experience as federal law enforcement officers that occurs in the field. To receive this level of required training and experience to be a federal law enforcement officer they would essentially have to cease being a pilot. We believe this is precisely why Congress created the Federal Air Marshal Service in the Homeland Security Act, and limited the pilots to FFDO's as described in the language.

We have also attached a summary of the draft-proposed legislation, and the Homeland Security Act, Section 1402, Federal Flight Deck Officer Program.

We believe that to defeat this Bill will require a strong, coordinated effort on behalf of ICE, TSA, BTS, and the Department of Homeland Security.

cc: Michael Dougherty
Director of Operations, Immigration and Customs Enforcement