

Melissa Hill  
711 58<sup>th</sup> Ave NE  
Fridley, MN 55432  
612-572-2277

DEPT. OF TRANSPORTATION  
DOCKETS

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April 24, 1999

U.S. Department of Transportation Dockets  
Docket No. FAA-1999-5336  
400 Seventh St., SW  
Rm. Plaza 401  
Washington, D.C. 20590

FAA 99-5536-226

Re: Docket No. FAA-1999-5336, Security of Checked Baggage on Flights within the United States

Dear Sir or Madam:

The newest FAA proposal raises some serious concerns and questions relating to the terrorist threat, civil liberties, privacy, competition, and the costs that would be imposed on the airline industry. The proposal goes into great details showing how the CAPS, EDS, and other security measures could be initiated by the airline industry. I seriously question the effectiveness of these security measures. Are they really worth the costs? Is terrorism against the airline industry really as great a threat as the proposal makes of it? I was disappointed that the proposal did not include any specific evidence supporting the need to have greater security against these perceived threats. Though I do not deny that terrorism is a problem, I find that many people are overestimating the possibility of terrorist attacks. What makes terrorism against the airline industry more likely than 10 years ago? Does the proposed rule really prevent any terrorist attacks? The proposal only regards traditional terrorist tactics like explosive devices without recognizing the newer threats of biological and chemical weapons. A motivated terrorist may decide not to use explosives or bomb materials but instead switch to biological or chemical weapons. Therefore, the proposed rule would only change the tactics of terrorists and not stop them.

It was even mentioned <sup>that</sup> the proposed rule would have not prevent<sup>ed</sup> the plot by Ramzi Yousef and accomplices. Why should the airline industry and consumers be forced to pay the extra costs for a proposed rule that admits it could not prevent the terrorist attack that it gives as an example? These "costs" are not going to be justified as preventive measures because they could not possibly prevent all terrorist attacks. Higher ticket prices, financially-burdened airlines, and the loss of liberty are the costs that will be paid for the meager benefits of the proposal. A better policy would be to get the Clinton administration to stop his military campaigns against any country he deems "evil". If foreign terrorism is increasing, it is due in part to bad foreign policy decisions. Why not instead issue a statement to the president that the FAA and airline industries would like the U.S. to stop attacking other countries? A change in the foreign policy of this country would decrease the risk of terrorism. Isn't that a better mitigation strategy?

Furthermore, these "security" measures have not been shown to be effective against terrorism. I would also argue that there has been more security measures enacted across the country in the past 10 years but they have been futile in stopping ~~all~~ terrorist attacks. Since there has been an increase in security, and the proposal argues that terrorism is also increasing, how effective are any of these "security" measures? The logical answer would be to go back and seriously reconsider all these security systems. Are all these regulations really helping in the prevention of terrorism? Furthermore, the terrorists are winning when these types of regulations are made laws. Terrorism is a psychological

game that thrives on fear. Enacting these rules makes the **terrorists** see that they are invoking **fear** in the government and airline industry.

Another concern I have about the proposal is the cost that small companies would incur due to the newer regulations. Although they may not make the companies go out of business; they will cause the price of running an airline to go up. The FAA has little justification making the airline companies pay more money in order to enact questionable "**security**" measures. The costs on small airline **companies** will cause many financial burdens. The large companies will have an "unfair" advantage; they **will** be more likely to survive the extra costs. Northwest Airlines already has an advantage over the other airlines because of their 3.1 million-dollar grant by the FAA to develop the CAPS system. Special interest grants like this should not be the policy of the FAA or any other government agency. Airline competition is in serious danger because of the costs and favoritism of these proposed rules.

I would like to point ~~out that~~ <sup>the</sup> civil liberty concerns about the matter. The CAPS system in the **proposed** rule would select "suspicious" as well as random people for extra security measures. Though the proposal makes sure that there is "**fairness**" in the selection process, what are "suspicious" activities? Paying in cash? Wearing a funny-colored hat? There was never any discussion on how the computer chooses who is being "suspicious". Do you think terrorists are stupid enough to act "suspicious"? I doubt if a terrorist would walk into the airport with a shirt reading "Blowing-up Planes is fun" and pay in large unmarked bills. Furthermore, the CAPS system would also participate in random checks of passengers who are not being "suspicious".

As far as Constitutional arguments, I do not care if the "Justice" department or the courts say that **this** is **Constitutional**. Judging from their past actions, they have little understanding of the **true** meaning of the Constitution, so how can they be experts on the **true** Constitutionality of laws? There is no "due process" of law in randomly choosing individuals to be subjected to more searches. Sure, you may **be** protecting the "civil liberties" of groups by taking extra precautions in order not to single out any one group. What about individual rights? Is the new name of the game "equal opportunity oppression"? Equal violation of everyone's rights?

Furthermore, I would question whether the current procedures are constitutional. What exactly is a "permissible extension of constitutional administrative search procedures"? Enforcing coercive rules and regulations against the airline industry and arguing that its "employees" who conducted searches and not "government officials", does this really make it "**legal**" under the **4<sup>th</sup>** amendment? Would the airline industry submit to these rules voluntarily? What if **one** airline chose not to follow the regulations and participate in the searches? They don't exactly have a choice, do they? Are you going to send the IRS after them? Take away their license? Now, who's using coercive fear tactics, and acting like terrorists? Wasn't the intent of this proposal to prevent terrorism? Is there an exemption for the FAA's terrorist tactics against the airline industry and passengers in these regulations? What about Clinton's terrorist tactics, shouldn't he be banned from flying? He **aggressively** bombs other countries to provoke fear, isn't that considered terrorism? Furthermore, ~~what authority~~ <sup>what authority</sup> do you have **the** right to license airlines in the first place, I don't remember reading ~~about that~~ <sup>about that</sup> in the Constitution. Why not question your own constitutionality?

**Lastly, I would like** to point out that the airline industry would lose customers by implementing these **rules**. Anyone who is **concerned with** their privacy is not **exactly** going to want to **fly** airplanes **if they** may be subjected to the CAPS system. Making airports into mini-police states is not a good image for the airline industry. Why not **place large** signs reading, Welcome to **X** airport, please **check** your rights in at the door"? You are already doing that by forcing the airlines to abide by numerous other regulations. I noticed **there** was mention of making the CAPS database last for **18** months. This would bring great harm to the image of the FAA and airline industry if this database were implemented. **18** months? What are you doing, trying to compete with the National Instant Check System for guns? What possible reason could you need a database of passengers for 18 months? Do you really think that all Americans are willing **to give up** their "essential liberties" **for "safety"**? Who's going to want to

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use planes if their private information is in a database for 18 months? **Especially** since the **proposal** would not offer much "**safety**" in the first place.

In summary, these proposed rules would lose customers not only because of their negligence of basic rights, but also because they would cause an increase in airline prices as well as a decrease in true economic competition. **Would** not deregulating the industry be a better choice? Trying to **prevent** outside terrorism by putting in its place state-sponsored "**regulation**" terrorism is negligence at its best, hypocrisy at its worst.

Sincerely,

A handwritten signature in cursive script that reads "Melissa L. Hill".

**Melissa Hill**  
College Student