

January 17, 2002

Docket Management System  
U.S. Department of Transportation  
400 Seventh Street SW, Room: Plaza 401  
Washington, DC 20590

Re: Docket No. FAA-2001-10999  
Criminal History Records Checks

Dear Sir or Madam:

On behalf of the National Air Transportation Association (“NATA”), which represents over 1,800 aviation service providers, we submit the following comments regarding FAA’s Final Rule relating to Criminal History Records Checks (CHRC), 66 Fed. Reg. 637474, effective when published on December 6, 2001 (the “Rule.”) The Rule applies to all airports and aircraft operators that have adopted security programs under 14 CFR Parts 107 and 108, respectively, and has a direct impact on aviation service providers with employees who require unescorted access privileges to the Security Identification Display Area (“SIDA”).

NATA appreciates the opportunity to submit these comments. Aviation service businesses have a substantial interest in the security of the air transportation system. We agree with the basic concept of requiring criminal history record checks for all persons with access to the SIDA. This will provide an appropriate level of security in these sensitive areas.

We are concerned over the tight deadlines imposed by the Rule. The completion of CHRCs on all current and newly hired employees with SIDA access is an enormous undertaking. To meet these deadlines with the resources currently available will be a challenge to airports, airlines, aviation service businesses, and the FAA itself. Delays in the processing of CHRCs will prevent the deployment of personnel, adding costs to our businesses. We strongly urge the FAA and the Under Secretary to create additional mechanisms for processing CHRCs consistent with the Aviation and Transportation Security Act Conference Report, which specifically encourages the Under Secretary to provide channeling authority to professional organizations representing industry to FBI AFIS fingerprint databases to perform criminal history verification of aviation business employees. NATA stands ready to work with the appropriate government entities to develop such services.

National Air Transportation Association  
Docket No. FAA-2001-10999  
Criminal History Records Checks  
January 17, 2002  
Page Two

Moreover, the backlog and delays currently experienced at many locations throughout the country are creating unacceptable obstacles for aviation businesses to provide important services that benefit the traveling public. Absent procedures to break the current logjam, the situation will only worsen as the aviation industry embarks on the massive undertaking to conduct CHRCs for hundreds of thousands of current SIDA badgeholders, before December 31, 2002. To address this situation, separate from developing direct channeling authority, NATA recommends that FAR Sections 107.209(e)(5) and 108.229(e)(5) be modified to allow greater flexibility for collecting fingerprints. Specifically, NATA proposes that third parties, as designated by the Administrator or the Under Secretary, be permitted to collect fingerprints in a manner that strictly ensures the integrity, quality control, and chain of custody of the fingerprints. Such flexibility will greatly facilitate the collection of fingerprints, which in turn will expedite processing the CHRCs and enable companies to provide important aviation services without unnecessary delays. NATA submits that the integrity of the fingerprint process will not be diminished in any way by allowing only those third-parties designated by the Administrator or Under Secretary who first demonstrate their ability to collect fingerprints in a manner that strictly safeguards the integrity, quality control and the chain of custody for handling the fingerprints.

NATA proposes that this result can be achieved by adding language to the end of FAR §§107.209(e)(5) and 108.229(e)(5), “, or as otherwise authorized by the Administrator.”

When the CHRC for Category X airports was originally implemented in December 2000, one of its benefits was the discontinuation of the need to perform ten-year employment history checks coupled with five-year verifications. The elimination of this requirement removed a substantial burden on aviation service companies. We have reports that some airports are still requiring these employment history checks in addition to CHRCs. NATA strongly urges that a consistent and uniform standard be applied and that the FAA clearly require that airports rely exclusively on the CHRC to ensure compliance with the Rule.

Finally, because many of our member companies are not directly regulated under Parts 107 or 108, these members are not permitted direct access to the CHRC results. We are concerned that third parties (airports and airlines), but not the direct employer, have access to the results of the CHRC. This raises serious concerns for our member companies with respect to their responsibilities under the Privacy Act and other

National Air Transportation Association  
Docket No. FAA-2001-10999  
Criminal History Records Checks  
January 17, 2002  
Page Three

applicable employment laws. Aviation business companies, as the direct employer, have the right and the need to know the information contained in CHRC reports conducted on their own employees. Provision should be made so that the results of the CHRC are made directly to the companies. Importantly, if the results of a CHRC reveal a disqualifying conviction, employers need access to this information in order to make appropriate determinations regarding its employment relationship with the individual.

Thank you for considering our views on this matter.

Sincerely,

Joseph E. (Jeb) Burnside  
Vice-President