

# INTERNATIONAL BROTHERHOOD OF TEAMSTERS

AFL-CIO



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## **VIA U.S. MAIL AND INTERNET FILING**

Docket Management System  
U.S. Department of Transportation  
Room Plaza 401  
400 Seventh Street, S.W.  
Washington, D.C. 20590

Re: Docket No. FAA-2001-10999

Dear Sir or Madam:

This filing is to supplement the earlier comments submitted on March 4, 2002, by the International Brotherhood of Teamsters, Airline Division, regarding Docket No. FAA-2001-10999, Criminal History Records Checks. The IBT Airline Division has learned that criminal history record checks provided to employers by the Federal Bureau of Investigation are not restricted to the ten-year period identified in the proposed rule for disqualifying offenses. The FAA has made clear that only subject offenses which occurred within ten years prior to a person's application for unescorted access authority can be considered as disqualifying offenses under the rule. See, e.g., § 107.209(d)(criminal offense "must have occurred" either ten years before the date of the person's application for unescorted access authority or while the person had unescorted access authority). Further, the ten-year period prior to application clearly applies only to applications that occur after the rule has taken effect. Otherwise, the ten-year period should run from the date of the rule for current employees. Notwithstanding this clear restriction on the appropriate timeframe for investigation of employee histories, employers have utilized offenses occurring outside the ten-year period as a basis for disciplinary action against employees, including discharge.

The IBT Airline Division believes that employer access to employee records older than ten years is an invasion of privacy and should be forbidden under the proposed rule. Employers have no need to access employee histories which cannot be the basis for disqualification under the rule. The FAA has obviously decided that investigation of offenses beyond the period identified in the Rule does not serve the security or public

safety purpose underlying the NPRM. Rather, such investigations would merely expose employees to public humiliation for mistakes long since paid for. The FAA should amend the NPRM to adopt a restriction on employer access to employee histories older than the ten-year period identified in the Rule.

Thank you for your consideration of these additional comments.

Sincerely,

A handwritten signature in black ink that reads "Ray Benning". The signature is written in a cursive style with a large, stylized "R" and "B".

Ray Benning  
Director, Airline Division