



## **Federal Air Marshal Service Next Generation Program**

### **Air Marshal Association Future Committee**

#### **Discussion and Recommendations**

This document is intended to supplement the previously submitted position papers regarding the necessity for the Federal Air Marshal Service (FAMS) to drastically change the way in which it accomplishes its mission. The perspective of the Air Marshal Association (AMA) is that the strategy historically utilized by FAMS must evolve and our mission must be redefined. The global pandemic caused by COVID-19 has illuminated the deficiencies stemming from our organization's lack of mission breadth and agility when responding to rapidly evolving circumstances. Our agency lacked any meaningful role outside of an aircraft cabin and was, essentially, sidelined from contributing to the DHS mission effectively, within our overall area of responsibility. Other law enforcement agencies were able to adapt to restrictions and shift their operations to continue their missions; in contrast, FAMS was left flat-footed once airline capacity bottomed out. A significant portion of our workforce was left idle for many months because there was no role for them to play outside of their traditional security duties. Having an increased investigatory footprint, leveraging our existing authority within the transportation domain, and collaborating more effectively with other agencies would have curtailed this inactivity throughout the pandemic.

Implementation of these proposed changes will be a difficult undertaking. However, transitioning from a purely reactive, physical security-oriented agency, into one that can continue fulfilling its primary mission while also providing substantive, actionable results in its law enforcement and intelligence gathering capacities should not be viewed as a purely intellectual exercise. It is, and always should have been, the natural evolution of our organization. The initial standup of the FAMS was a necessary response to the attacks of 9/11; the country and the world needed to know that men and women were on board commercial aviation to thwart any further acts of terrorism. That reality has not changed; but the world, and the landscape of terrorism, has. Potential terrorists have evolved and refined their strategies and tactics continuously over the years to defeat our security measures but continue to target transportation venues and conveyances. Likewise, security measures, whether forward-looking or reactive, have evolved to meet those threats. Unfortunately, the strategy of the Federal Air Marshal Service today is nearly indistinguishable from that of the early 2000's.

Previous AMA recommendations included retraining all, or portions of, our workforce into the 1811 Criminal Investigator series by utilizing currently accredited training conducted by the Federal Law Enforcement Training Center (FLETC) and the Department of the Interior (DOI).<sup>1</sup> This training is specifically designed for 1801 series Law Enforcement Officers (LEOs) that possess a limited ability to conduct full scale criminal investigations; it bridges the gap between skills learned by all basically trained LEOs and provides them with the necessary expertise to succeed as Criminal Investigators. We strongly urged the FAMS to consider a similar training program for its workforce, especially considering the significant cost savings, abbreviated training time and reduction of potential injuries to the students

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<sup>1</sup> "The Future of the Federal Air Marshal Service" Air Marshal Association briefing and position paper February 26, 2020

when compared to the full Criminal Investigator Training Program (CITP) offered by the FLETC. Implementation of this program, or one of a similar nature, would also have ancillary benefits for the workforce and have a considerable reduction in operational costs inherent with the current FAMS Concept of Operations (CONOPS).

Transitioning our workforce to one comprised primarily of Criminal Investigators may be a goal that cannot be achieved for some time. This does not preclude FAMS from course-correcting and increasing our investigatory footprint in the transportation domain. FAMS, as a law enforcement agency, has never capitalized on the opportunity to leverage our broad authority within transportation to be a proactive Counterterrorism (CT) and law enforcement (LE) force. In fact, in the modern history of FAMS the agency has shied away from, or actively avoided, any type of typical LE role in the mission space in which it operates. This scenario must change. Federal Air Marshals must naturally identify and pursue terrorists and criminals that utilize commercial aviation (and other modes of transportation) for their operations. This can be accomplished by combining resources with our law enforcement partners in a direct way, at all levels. FAMS should build relationships with its sister agencies inside airports in more than the piecemeal fashion that it currently utilizes (GBA FAMS attached to JTTF, HSI BEST, Liaison, etc.). All FAMS, as a rule, should be expected to work directly with agencies in their criminal and counterterrorism missions. This allows them to gain experience conducting criminal and counter terrorism investigations and utilize that knowledge to begin building organic investigations originating within TSA.

Under USC 49 § 114, The National Strategy for Transportation Security is required to include:

- The most appropriate, practical and cost-effective means of defending transportation assets against threats to their security. (Code 2007)

Under subsection (f), the TSA Administrator has broad authority to act unilaterally within the transportation domain, including:

- Receiving, assessing, and distributing intelligence information within the transportation domain.
- Assessing threats to transportation.
- Developing policies, strategies and plans for dealing with threats to transportation security.
- Enforcing security-related regulations and requirements.
- Carry out such other duties, and exercise such other powers, relating to transportation security as the Administrator considers appropriate, to the extent authorized by law. (Code 2007)

FAMS is uniquely positioned to effectively lead the efforts listed above; but can only do so in a coordinated and integrated manner. The FAMS workforce must be empowered, at all levels, to accomplish the stated intent of the TSA Administrator by using every available authority granted to them by law. The FAMS' current (and previous) CONOPS has been called into question repeatedly regarding its efficacy and cost. Even the Special Mission Coverage (SMC) and Quiet Skies (QS) enhanced mission exposure has a limited quantitative and qualitative value beyond coverage metrics. One AMA recommendation is to utilize existing SMC and QS coverage as an investigatory tool, rather than considering them complete programs.

## Investigatory Pathways

A growing body of evidence has indicated that terrorist organizations are increasingly enlisting the aid of, and working directly with, transnational criminal organizations (TCO).<sup>2 3 4</sup> Groups such as al Qaeda, Hezbollah, al-Shabaab and the Taliban have a history of utilizing criminal organizations in furtherance of their terror goals. This relationship allows terror groups to utilize the TCO's criminal enterprise to transport money, goods, weapons, and people around the globe, whether it be in preparation of operations, or to finance future terror campaigns. The operational convergence of these disparate groups presents a particular threat to the transportation domain inside of the United States. TCO's routinely utilize transportation systems, hubs, and conveyances, exploiting security vulnerabilities to perpetuate and expand their criminal enterprise. Terrorist groups can easily co-opt this network, and its associated vulnerabilities, to establish a means to insert weapons, explosives, operatives, or a combination of all three, into seemingly secure areas of our transportation network.<sup>5</sup>

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**Crime-Terror-Insurgency Nexus.** Terrorists and insurgents increasingly are turning to TOC to generate funding and acquire logistical support to carry out their violent acts. The Department of Justice reports that 29 of the 63 organizations on its FY 2010 Consolidated Priority Organization Targets list, which includes the most significant international drug trafficking organizations (DTOs) threatening the United States, were associated with terrorist groups. Involvement in the drug trade by the Taliban and the Revolutionary Armed Forces of Colombia (FARC) is critical to the ability of these groups to fund terrorist activity. We are concerned about Hizballah's drug and criminal activities, as well as indications of links between al-Qa`ida in the Lands of the Islamic Maghreb and the drug trade.

*Excerpt from  
"Transnational  
Organized Crime: A  
Growing Threat to  
National and  
International  
Security" National  
Security Council,  
2011*

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We must reexamine our view of both groups of actors and accept that the intermingling of their priorities justifies targeting them as equal threats to the aviation and transportation domain. Targeting of these groups aligns with and supplements the stated goals of the *TSA Insider Threat Roadmap 2020*. In doing so, we, as the law enforcement arm within TSA, will consolidate LE and CT efforts from a variety of sources and agencies to ensure decisions, tactics and, strategies are formulated and instituted in an informed manner. FAMS will need to transition from a downstream, end user of available intelligence into an organization that is far more involved in the collection, processing, analysis, and dissemination of intelligence based on independent investigations or as a collaborative effort with our LE and Intelligence Community (IC) partners.

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<sup>2</sup> <https://obamawhitehouse.archives.gov/administration/eop/nsc/transnational-crime/threat>

<sup>3</sup> [https://www.chds.us/coursefiles/hsx/modules/convergence\\_of\\_terrorism\\_and\\_transnational\\_organized\\_crime/s\\_tory\\_content/external\\_files/Convergence%20of%20Terrorism%20&%20Transnational%20Crime.pdf](https://www.chds.us/coursefiles/hsx/modules/convergence_of_terrorism_and_transnational_organized_crime/s_tory_content/external_files/Convergence%20of%20Terrorism%20&%20Transnational%20Crime.pdf)

<sup>4</sup> [https://www.tsa.gov/sites/default/files/3597\\_layout\\_insider\\_threat\\_roadmap\\_0424.pdf](https://www.tsa.gov/sites/default/files/3597_layout_insider_threat_roadmap_0424.pdf)

<sup>5</sup> [https://www.rand.org/content/dam/rand/pubs/research\\_reports/RR1400/RR1481/RAND\\_RR1481.pdf](https://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1481/RAND_RR1481.pdf)

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Insider threat can manifest as damage to TSA and the TSS through the following examples of insider behaviors:

- Terrorism, or extremist activities directed against TSA, the TSS, or other critical or populous targets using the TSS as a means to do harm
  - Sabotage
  - Subversion
  - Smuggling of persons or contraband
  - Corruption, to include participation in transnational organized crime
  - Attempted or actual espionage
  - Unauthorized access to security restricted areas and information
  - Unauthorized disclosure of information
  - Conspiracy to commit a criminal offense
  - Workplace violence
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Excerpt from “*Insider Threat Roadmap 2020*” *Transportation Security Administration*

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FAMS Field Operations should shift focus from a centralized, monolithic entity into one that can support a variety of investigations based upon input from local leadership. Control of investigatory efforts must be asserted at the field office level with minimal input (beyond coordination and implementation of national policies and directives) from the headquarters level.

Our recommendations to implement needed changes are as follows:

1. Assign overt and covert FAMs to TSA checkpoints and alongside any TSI/ TSSE operations within airports with field offices that regularly utilize them as their base(s) of operation(s). FAMs that are within commuting distance of other airports in the field office AO may be able to begin operations at a future date. Utilizing TSA’s administrative search authority, and inspectional chokepoints, will allow us to initiate investigations, confirm or dispel suspicion of wrongdoing and, when appropriate, make arrests, continue investigations and/ or transfer the findings to our LE partners. For instance, contraband in plain view resulting from an administrative search process can be elevated to a law enforcement stop by observant FAMs.
2. TSO bag searches and bag inspections should be standardized. Searches should be thorough and systematic, and follow the same process each time. Thorough bag searches will professionalize the inspection process and create opportunities to intercept contraband that may be of federal interest; thorough searches create plain view opportunities for FAMs to elevate the administrative search to a law enforcement stop. Standardized searches will also aid in testimony if officers testify in criminal proceedings.
3. The Quiet Skies program should be overhauled. Currently, the program utilizes non-curated metrics from various sources as the basis for assigning QS mission coverage; we should not be expending time or treasure toward the program in its current state. If the program is to be improved, we suggest staffing FAMs at the inbound US airports to conduct an interview of the QS subject. Interviews can be in conjunction with Customs and Border Protection upon the subject’s arrival from international locations. FAMs conducting these interviews would then clear the subjects from the QS database, or elevate the QS based upon their findings. If continued scrutiny of the subject is necessary following the FAM interview, local field offices can coordinate with HQ elements to initiate additional investigative and security actions.

4. The SMC program must be brought to a higher standard. FAMs conducting SMC missions should be in direct contact with case agents, IC elements and law enforcement partner agencies regarding the need for coverage, operational parameters, and directives to complete the mission. Currently, FAMs often cannot determine the threat posed by SMC subjects, nor the investigatory value their efforts produce. Working with partner agencies to determine whether subjects meet certain criteria, or if the mission could glean potentially useful information, is a more efficient model than what is currently used.
5. FAMS must increase its presence on task forces and begin working more collaboratively with sister agencies. Currently, our HSI BEST task force officers are hampered from conducting the full range of operations with their partners because of OCC and HQ interference. This must stop. Allow FAMs assigned to various task forces to operate as law enforcement officers and give them the logistical, legal, and administrative support to excel at their efforts. Increase and expand our collaboration and support to other agencies (ATF, DEA, USPIS) that conduct operations within airports and extend the same support to those FAMs. The agency running the task force should have direct input, if not final authority, on the FAM(s) selected for these assignments. This will negate the argument that certain individuals in field offices enjoy special relationships with their leadership. It will also put in place those FAMs that are in the best position to reflect well on other agencies.
6. Enhance Crewmember training to include post incident expectations, develop OCC briefings, and work with airlines to accommodate crewmembers for time spent on criminal proceedings. Provide additional post incident training for crewmembers on expectations and requirements for prosecuting violations of law within the Special Aircraft Jurisdiction (SAJ), especially as it relates to assaults. This program supplement would align with the TSA's renewal of the Crew Member Self Defense Program (CMSD) in response to the recent increase of violent encounters on board commercial aircraft. TSA/FAMS should collaborate with airline corporate security, unions, and operations centers to train employees and develop protocols (or SOPs) in response to these incidents. Airlines must also compensate employees for any time spent in the complaint and criminal process, even if such proceedings interfere with the regular duties of the crew member(s). Airline reimbursement can be funded through established ticket security fees.
7. Local FAM field offices must be able to more freely direct the manner in which field office employees are utilized in the listed efforts. Eventually, mission coverage will be a natural result of the information and intelligence collected during FAMS operations. The missions produced from these efforts will also be substantially more thorough and informed, driven by our efforts outside of the aircraft. In this way, we will be able to substantively answer inquiries on what factors and analysis determined our flight coverage, and offer significant and verifiable metrics to support FAMS operations.
8. TSA should establish a Transportation Hotline and call center. Ground level transportation workers, crew, and stakeholders can call to report suspicious activity. This ground level reporting will better identify insider threats and aid in the development of federal investigations. Currently, no single point of contact exists for US transportation workers to call

regarding transportation concerns; the TSA currently only provides contact information to stakeholder corporate security offices. Hotline calls can route directly to FAM Field offices for intake and investigation; alternatively, a central call center can triage incoming calls and then route preliminary information to FAM field offices for follow up. FAMS would determine the credibility of the call, ascertain if a nexus to federal crimes exists, and take appropriate action to include further investigation, transferring the information to other Federal agencies, or downgrading the response to the state/ local level. For program success and effectiveness, calls and call center data must route directly to FAMS for immediate law enforcement action, or further investigation if warranted. A hotline is a passive, organic tool to generate investigative leads, identify insider threats, and foster valuable relationships and informants within our AOR.

To initiate these changes, the TSA and FAMS will need to establish logistical and administrative support for these efforts throughout all components. The agency will need to utilize a case management system with functionality and interoperability within the organization as well as LE/ IC partners. Protocols and SOP's will need to be established on how to conduct investigations, collect and store evidence, seize and store property, interview and interrogate suspects, and interact with US Attorney's Offices and State/ Local prosecutor's offices, etc.; this list is not exhaustive, yet is indicative of the importance of developing the essential areas of a program prior to its initiation.

The impediments we may face may include:

1. The TSA/ FAMS Office of Chief Counsel (OCC) has historically viewed and defined our authority in very narrow and isolated circumstances. OCC needs to articulate to leadership and our workforce exactly what it can, and cannot do inside of the transportation domain, not what OCC BELIEVES we should be doing, especially regarding investigations and enforcement. They must clearly define the practical upper limits of our authority so senior leadership can make informed operational and strategic decisions. If OCC cannot, or will not, recommend that we initiate these changes, FAMS' next step should be directly communicating with our partner agencies and expanding or initiating Memoranda of Understanding (MOU) or similar arrangements; thus, allowing FAMS to be trained and deputized to operate under the host agency's authority. This precedent has already been established with other organizations within DHS (USSS, FPS, CBP, etc.). Senior Leadership should explain the need, and expectation for OCC's support in broadening our enforcement efforts, and the Administrator should consider acquiring new counsel, if necessary.
2. FAMS leadership, at all levels, will need to support the initiative and empower their employees to be proactive in this endeavor. The FAMS can no longer afford to be satisfied with metrics and programs in which we they cannot accurately define their success. Supervisors and Senior Management will need to approve casework, actively engage with their employees, other agencies, and stakeholders as a normal course of business. Headquarters elements will need to transition to actively supporting efforts of the field, not simply directing their movements.

3. Eventually, mission coverage will need to be predominately driven by actual investigative work, either organically within the FAMS, collaboratively with other agencies (based upon FAM input) or vetted by the FAMS based on actual risk and intelligence. Historically, assigned coverage has been based on the work of other agencies without delving into the necessity, or benefit, of said coverage. Federal Air Marshals should have a clear understanding of the reason why they are being deployed on board an aircraft. If those reasons include investigatory or CT intelligence, FAMS conducting the mission should have access, at the appropriate level, to review the source of the information and speak to the case agent regarding mission requirements, background of the subjects, etc.
  4. Senior Leadership will need to explain the necessity of this change to the Legislature and the Administration. Funding may also be required to support additional programs in the future. The Air Marshal Association can assist the agency with the introduction of favorable legislation, or the appropriation of necessary funding.
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The Air Marshal Association Future Committee is available to discuss the concepts presented herein, offer opinions about agency initiatives, and provide support and feedback through the collection of member surveys. Please contact [future@airmarshal.org](mailto:future@airmarshal.org) with any requests or questions.

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