

**Second public hearing of the National Commission on
Terrorist Attacks Upon the United States**

**Statement of Mary Schiavo
to the National Commission on Terrorist Attacks Upon the United States
May 23, 2003**

Biography

The Honorable Mary Schiavo was the Inspector General of the U.S. Department of Transportation from 1990 to 1996. She was appointed by President Bush and retained in her appointed position by President Clinton. Other government service includes Assistant Secretary of Labor (1989-90, President Bush), White House Fellow (President Reagan) and Special Assistant to the U.S. Attorney General (1987-88), Assistant U.S. Attorney and Organized Crime and Racketeering Strike Force, U.S. Department of Justice (1982-1986). She was a member of the President's Council on Integrity and Efficiency in Government (1990-96) and served as the President of the White House Fellows Association and Foundation.

Educational affiliations include serving from 1997 to 2002 as a professor at The Ohio State University, first as the Enarson Professor of Public Policy (School of Public Policy and Management), and then as the McConnell Professor of Aviation (College of Engineering, Department of Aerospace Engineering and Aviation). She completed private and commercial flight training at the Ohio State University ('73-'74) and holds degrees from Harvard University (bachelors, psychology, '76), Ohio State (masters, public administration, '77), and New York University (juris doctorate, law, '80). At N.Y.U. she was a Root-Tilden Scholar, which recognizes those students who not only excel academically but are committed to public service.

Ms. Schiavo is now a transportation disaster attorney with the national plaintiffs law firm, Baum, Hedlund, Aristei, Guilford & Schiavo, with offices in Los Angeles and Washington, D.C. Ms. Schiavo and her firm represent the families of 47 passengers who were killed on September 11, 2001, and who have elected to pursue their legal rights and remedies in private litigation rather than accept the "no-fault" payment from the federal Victims Compensation Fund. The private litigation is proceeding in the U.S. District Court for the Southern District of New York, and the cases are in the discovery process.

She is also the author of the *New York Times* bestseller, *Flying Blind, Flying Safe* (1997 and 1998 editions) in which she blew the whistle on sloppy practices and lax enforcement which put airline travelers at risk because of shoddy safety and non-existent security. She is a frequent on-air commentator for NBC, Fox, CNN and ABC news programs.

Testimony

Thank you for inviting me to appear before the Commission. I very much appreciate the opportunity to wrap up these hearings and address the next steps in reforming civil aviation security. In particular I applaud your willingness to address the issues of why the government's mind set and approach prevents any real change and lasting commitment to security; what are our most serious

threats and what can we do about them; and what can the people of the United States of America do to help keep aviation secure.

***Why the Government's Mind Set and Approach Prevents Any
Real Change and Lasting Commitment to Security***

No Accountability

Perhaps the most egregious harm to any prospect of real and lasting security improvements came in the guise of the Air Transportation Safety and System Stabilization Act and the Aviation Transportation Security Act. Those laws, and further amendments last July and August permitted those entities who failed to do their jobs on 9/11 to escape any responsibility for their horrible lapses. By law, long before 9/11/2001, it was the job of the airlines, airports and the FAA to protect air travelers from hijackings and sabotage. The law does now, and did on 9/11, place the following duty on airports:

Provide for the safety and security of persons and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence, aircraft piracy, and the introduction of an unauthorized weapon, explosive, or incendiary on an aircraft;

and airlines were required by law to do the following:

Provide for the safety of persons and property traveling on flights provided by the aircraft operator against acts of criminal violence and air piracy and the introduction of explosive incendiaries or weapons aboard an aircraft.

The new Transportation Security Administration ("TSA") is to help them do their jobs, but the law did not, and does not now, excuse the aviation industry from these responsibilities to protect persons using their facilities from hijacking, air rage, bombs, toxic terror, germ warfare or other such crimes and threats to those in the aviation system.

What Congress did after 9/11 gutted those laws and gave airlines, airports and others the freedom to act in reckless, irresponsible, dangerous, unsafe and insecure ways. That is the most dangerous thing our government did. That irresponsible action guaranteed aviation will again be attacked by terrorism because Congress held no one accountable for their failings. Here is how that happened.

American Citizens Rushed to Respond

On September 11, 2001, America suffered a terrible tragedy. Nations around the world felt the impact. The United States and our allies deployed their military forces to root out terrorists, topple terrorist regimes, and ameliorate the threat that such an attack could be replicated. Police and firefighters toiled and died. Relief agencies launched impassioned campaigns for blood and money. The President asked each American child to give a dollar to aid the Afghan children in surviving the hunger and hurt of war. My children's elementary school launched a campaign for the school children of New York schools in the area of the World Trade Center. Elementary kids dressed in red, white and blue and spelled out "We Love NYC" for pictures which accompanied the money they collected for the innocent victims. Music and movie stars pitched in with telethons. It was

unthinkable and inhuman not to do all we could to help the families of the victims, including to get justice and hold those accountable whose actions contributed to this disaster. Who on earth would ever consider taking any action to further harm people who had suffered such a terrible tragedy? We were about to find out. . . .

While People Around the World Were Concerned about Helping the Victims and Their Families, Airlines, Aviation Industry Groups, Airports and Their Government Sponsors and Even the Foreign-owned Security Companies Rushed to Capitol Hill

According to the *New York Times*, by September 12 the airlines and other aviation interests such as airports and manufacturers and the security companies (who failed so miserably), had constructed a plan — not to help the victims and improve aviation security and safety — but to seek federal payments to the airlines and aviation interests, immunity from investigations and discovery about the extent of their security lapses and a way to avoid responsibility for the role their poor management, lax oversight and abject security failures played in this horrible tragedy. They took action to very dramatically limit the ability of the families of victims and others, to discover what really happened, and to limit the accountability of those responsible.

This is What They Did

The day after the attack, the *New York Times* estimated nearly 100 lawyers and lobbyists fanned out on Capitol Hill and throughout Washington to protect airlines and aviation interests *from* the victims and their families and from investigations into their lax security. Before the care teams were in place to search for the dead and care for the living, the political machinery was put in motion to *retroactively change the law*, to cut off the ability to engage in full discovery, and to limit victims' legal rights to punish the reckless companies that made us vulnerable to the terrorists. In short, the airlines and other negligent entities, maneuvered behind the scenes of Washington, D.C. to get their protections into legislation before Congress. Their protective provisions were disguised with misleading captions and cryptic language in bills that were supposed to improve security and protect citizens. This language now gives airlines, airports and the foreign corporations to which airlines subcontracted our U.S. security, immunity from responsibility for the attack.

But the *New York Times* was wrong. I learned first hand from several Senators that they were approached on September 11 — while they were watching the towers fall on live television and with Americans burning inside.

How the Law is Supposed to Work to Expose the Shortcoming and Hold Accountable Those Who Failed to do Their Jobs, because Attacks on Aviation are Not Rare

In the past, in the aftermath of a terrorist attack on aviation, both the NTSB and victims on the plane and on the ground were able to seek discovery to determine how it was the terrorists were able to get access to the airlines, airports or other aviation facilities. The purpose is obvious: so that those gaps could be closed and that avenue to terror be forever obstructed. Terrorism against aviation is not an unknown, unforeseeable risk. Quite the contrary. The risk of airlines being subject to terrorist attack — whether by a disgruntled employee or a murderous foreign faction set on launching a jihad or making a political statement — is a risk that is well known and real. Such attacks have happened hundreds of times in the past, 823 times from 1970 to 2001 to be exact. The risk of hijacking and terrorist attack is so prevalent and such a known risk that airlines have terrorism and hijack insurance. It is also because aviation has been repeatedly attacked by terrorists and other

criminals, that we have laws, regulations and requirements for aviation security. For example look at the Federal Register from July 17, 2001. The events of 9/11 are described two months before the attack.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 108

[Docket No. FAA-2001-8725; Formerly
Docket No. 28978; Amendment No. 108-18]

RIN 2120-AD45

Aircraft Operator Security

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the existing airplane operator security rule. It revises the applicability section, definitions, and terms; reorganizes this part into subparts containing related requirements; and incorporates some requirements already implemented in the air carrier standard security program. Specifically, this final rule increases the number of aircraft operators that must have security programs, to include all that enplane from or deplane into a sterile area and certain helicopter operators. This final rule expands the training requirements for aircraft operator security personnel. Further, this final rule clarifies the procedures for carriage of prisoners under the control of armed law enforcement officers, procedures for carriage of weapons by law enforcement officers, and procedures for aircraft operators to comment on security directives issued by the FAA. This rule requires aircraft operators to participate in the airport sponsored contingency exercise or its equivalent. As part 108 applies to operators of rotorcraft as well as fixed-wing aircraft, this final rule changes the title of this part from "Airplane Operator Security" to "Aircraft Operator Security." This final rule contains changes that are intended to enhance security for the traveling public, and aircraft operators.

EFFECTIVE DATE: This rule is effective November 14, 2001. The incorporation by reference of certain publications in this rule is approved by the Director of the Federal Register as of November 14, 2001.

FOR FURTHER INFORMATION CONTACT: Linda Valencia, Office of Civil Aviation Security Policy and Planning, Civil Aviation Security Division (ACP-100), Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591; telephone 202-267-3413.

SUPPLEMENTARY INFORMATION:

Availability of Final Rule

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the final rule.

You can also get an electronic copy using the Internet through FAA's web page at <http://www.faa.gov/avr/armhome.htm> or the **Federal Register's** web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this final rule.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, <http://www.faa.gov/avr/arm/sbreffa.htm>. For more information on SBREFA, e-mail us 9-AWA-SBREFA@faa.gov.

Background

This final rule updates the overall regulatory structure for aircraft operator security. It is issued in conjunction with a companion rule revising 14 CFR part 107, Airport Security, published in today's issue of the **Federal Register**. This final rule is the result of a multi-year effort involving the FAA, airports and aircraft operators, and the Aviation Security Advisory Committee (ASAC). ASAC is a federal advisory committee sanctioned to develop recommendations for improvement of methods, equipment, and procedures to improve civil aviation security. The FAA invited ASAC to comment on the underlying

issues, and potential solutions associated with the revision of part 108.

Several measures contained in this final rule have been previously implemented via amendments to the air carrier standard security program. These revisions are considered to be consistent with several of the recommendations of the White House Commission on Aviation Safety and Security and with the security mandates of the Federal Aviation Reauthorization Act of 1996 (Pub. L. 104-264) signed on October 9, 1996.

Terrorism

The terrorist threat level in the United States over the next decade will remain at least as high as it is at present and, indeed, will probably rise. This judgement is based on consideration of a number of factors.

First, there are numerous unresolved conflicts across the globe, many of which show no sign of early resolution. While many of these do not involve the United States directly, the status of the United States as sole superpower means that parties to the conflict are prone to decry either US involvement or lack of involvement.

Second, since the United States is variously perceived as a supporter of unpopular regimes, an enemy of Islam, and an exponent of imperialism (whether political, economic, or cultural), any number of terrorist groups view the United States interests as fundamentally inimical to their own, and thus see attacks against US interests as justifiable, even meritorious.

Third, the expanding geographical range of terrorist activity is increasingly evident. Members of foreign terrorist groups, representatives from state sponsors of terrorism, and radical fundamentalist elements are present in the United States. The activities of some of these individuals and groups go beyond fund-raising to recruiting other persons (both foreign and US citizens) for terrorist-related activities that may include obtaining and training with weapons, providing safehaven for fugitives, and making bombs. A few foreign terrorist groups have supporters inside the United States who could be used to support terrorism.

Fourth, the vulnerabilities of the critical national infrastructure of the United States may prove inviting to foreign and domestic terrorists wishing to inflict damage on the US economy.

Fifth, although it remains to be seen what lessons terrorists will draw from the World Trade Center bombing in 1993 and the Oklahoma City bombing in 1995, a particularly worrisome development is the increasing

willingness on the part of various terrorists to carry out attacks intended to bring about indiscriminate casualties.

Finally, the phenomenon of ad hoc or non-traditional terrorists groups (such as the group responsible for the World Trade Center bombing) has become a primary concern to law enforcement. Difficulties exist in denying entry of such individuals (who are not members of any known terrorist group) into the United States, recognizing or identifying them as terrorists once they are here, or anticipating the timing or targets of their attacks.

With respect specifically to the threat to civil aviation in the United States, it must be seen in the context of the broader threat. The events in Asia in early 1995, showed that the terrorists persisted in planning to attack aviation even when there were other targets identifiable with the United States in the area and even when they knew that the security measures protecting aviation had been strengthened. Publicity about problems with US domestic civil aviation security measures increases the potential for attacks here. Civil aviation targets may be chosen by terrorists even if alternative, and (in their view) softer targets are available, especially since an attack on aviation seizes the public's imagination to a degree equaled by few other types of attack.

General Discussion of the Rule

On August 1, 1997 (62 FR 41730), the FAA published Notice 97-12 to revise part 108. Notice 97-12 proposed and requested comments by December 1, 1997.

Concurrent with the issuance of Notice 97-12, the FAA issued Notice 97-13 to revise part 107 on Airport Security (62 FR 41760; August 1, 1997), and held two public meetings. The first public meeting was held in Washington, DC on October 15, 1997, and the second was held on October 22, 1997, in Fort Worth, Texas.

On April 21, 1998, the FAA reopened the comment period and announced two public meetings on Notice 97-13 and Notice 97-12 (63 FR 19691, April 21, 1998). The public meetings were held on May 21, 1998, in Washington, DC, and on June 4, 1998, in Nashville, TN.

As of June 26, 1998, the closing of the second comment period, 160 comments were received addressing Notice 97-12. A majority of the comments were from law enforcement officers addressing the carriage of firearms onboard the aircraft. Comments were also received from specific aircraft operators, local airports, Transport Canada, State departments of transportation (DOT's), American

Association of Airport Executives (AAAE), Airport Council International—North America (ACI-NA), Allied Pilots Association (APA), Air Transport Association (ATA), National Air Carrier Association (NACA), Regional Airline Association (RAA), Cargo Airline Association (CAA), Air Line Pilots Association (ALPA), and Helicopter Association International (HAI). The comments mostly address clarification of terms, carriage of weapons onboard the aircraft by law enforcement officers, transporting passengers under armed escort, and security operations. Generally, commenters suggest that the cost estimates to develop a security program were underestimated, however, no cost estimates were provided. A detailed discussion of the comments appears under "Section by Section Analysis."

On Tuesday, August 10, 1999, the FAA reopened the comment period to allow the public to submit additional comments on the compliance program proposed in Notice 97-12 (§ 108.103(b)(11) and (c)(6), 64 FR 43322). After considering all the written comments on the compliance program issue, the FAA will consider the need for amending part 108.

The revision of part 108 comprehensively updates the aircraft operator security regulations to more efficiently and effectively address terrorist and other criminal threats to civil aviation. This action incorporates both procedures currently in the air carrier standard security program and new security procedures, in a manner that is intended to allow regulated entities and individuals to understand their responsibilities more readily. Lastly, the revision incorporates certain new measures that provide for security enhancements.

Airport security programs required by part 107 also have been amended extensively since 1985. The FAA is revising part 107, which governs airport security, concurrently with this part. All references to part 107 in this preamble are intended to refer to part 107 as published in today's issue of the **Federal Register**.

The revisions of part 108 and part 107 represent a comprehensive approach toward upgrading the security requirements of the civil aviation system. The intent of these revisions is to foster consistency and standardization throughout the national civil aviation security program. Where possible, the revisions of parts 107 and 108 contain nearly identical language to enhance, clarify, or require new security measures for implementation by both aircraft and airport operators.

Significant changes between the final rule include the following: (1) Increases the number of aircraft operators who must have security programs; (2) Moves some sections from current 14 CFR part 107; (3) Clarifies procedures allowing law enforcement officers to fly armed; (4) Clarifies procedures for transporting prisoners under armed escort; (5) Holds individuals accountable for certain violations; (6) Acknowledges administrative procedures for a formal comment period for security directives.

The changes are discussed in more detail in the Section-by-Section Analysis below.

Section-by-Section Analysis

Title and Organization of Revised Part 108

In this final rule, the FAA revises existing § 108.1 through § 108.33, and adds several new sections. Also, the FAA reorganized some of the material in Notice 97-12 resulting in additional sections addressing specific requirements. These changes are discussed in more detail below. The title "Airplane Operator Security" has been changed to "Aircraft Operator Security," as this part applies to operators of rotorcraft as well as fixed-wing aircraft. All references to "airplane" in this part are changed to "aircraft."

Subpart A—General

Section 108.1 Applicability

Proposal: The FAA proposed, in § 108.1(a)(1), to extend the application of part 108 to certain private charter operations, helicopter operations, and all-cargo carriers.

Comments: The FAA received comments identified as applicable to § 108.1, the comments appear to be directed toward the content of security programs. Accordingly, the FAA has chosen to place those comments and the FAA's response to them in the analysis section for § 108.101.

The ASAC Part 108 Working Group supports permitting helicopter operators to voluntarily participate in a security program. The Part 108 Working Group notes that some helicopter activities place operators in direct contact with large domestic flag carrier operations. When this occurs, helicopter passengers disembark into the secure areas of terminals. The recommendation by the Part 108 Working Group is to allow the expeditious handling of such passengers through secure areas without diminishing the security of the sterile area. In order to do so, the helicopter operators would require an FAA-approved security program.

Passengers and Our Nation had a Contract for Security

Our law provides that when passengers purchase their tickets they rely on the representations made by airlines and airports that they are U.S. certificated carriers which meet the Federal Aviation Administration standards, including security requirements (now TSA requirements). There is actually a contract associated with a ticket. Passengers don't usually see it, but that contract is on file with the federal government. It is a binding contract called the "Contract of Carriage." The carrier makes that contract with passengers when they buy their tickets.

The contract that each passenger had with his or her carrier was forged and binding when every passenger on every plane on September 11 obtained their ticket. That contract was made before the terrorist attack occurred. The contract of carriage is a very important event. The contract presumes compliance with all U.S. laws including aviation security and safety regulations. Should a horrible tragedy happen, well-established U.S. laws and courts provided a forum for victims and family members to pursue their legal rights for two very important reasons: (1) to engage in lawful discovery of facts to show who was responsible; and (2) to hold those accountable for their failures so they will have incentive to change their ways.

No NTSB Investigation

In every other aviation disaster, including those precipitated by terrorism or aviation crimes or piracy, the National Transportation Safety Board examined the tragedy and issued technical, operational and policy recommendations to our government, the airlines, airports, and others. The NTSB does this to enable us to correct the lapses that permitted the tragedy to occur. Indeed, the party most cited as causing or contributing to airline crashes is none other than our own FAA.

No such NTSB investigation occurred nor is forthcoming to examine the 9/11 crashes. Both methods of accountability and correction were lost in the government's haste to help the carriers' finances. The failure to deploy the two systems of examination and correction in aviation tragedies, were deliberately thwarted by our government and airline lobbyists and lawyers have doomed our citizens to suffer future repeated terrorist attacks. Our government has sent the official message that it is willing to protect the carriers and others and their corporate leadership from, and at the expense of, dead Americans, devastated families and a destroyed aviation system.

The government went so far as to protect the multimillion dollar salaries and pension plans of the executives of those companies who failed and refused to follow the security laws and fulfill their responsibilities. I read those companies' annual reports and press statements. Therein they bragged that they have no liability or financial obligations because of September 11, 2001. That is a disgrace and a national scandal which will someday be in our schoolbooks next to scandals like Teapot Dome and the "Spoils Conference" that originally established most of our major carriers through illegal government action.

But the true cost of that scandal will come in the future, when airline executives again choose to skimp on security, knowing he or she will not be held accountable, that the airline will not have to permit NTSB investigators on their premises; and that it can brag that it has to do nothing for those their airline killed. But, his or her airline pension and perks will be kept afloat with our federal tax dollars. This is a disgrace, but also a danger. For in rewarding reckless airlines with federal bailout and immunity from responsibility, we have given our nation's approval and financial rewards to those who will not live up to our federal aviation laws.

What were the Carriers' and Airports' Track Records?

Suppose for a moment that American's and United's security performances were so outrageously poor that they were purposely selected by the terrorists. After all, American Airlines security was so bad it was fined \$3,411,225.00 by the federal government, just in the years 1998-2000. Can United be much better — fined \$3,026,825 for lax security from 1998-2000 and in the wake of September 11, a man armed with knives, stun gun and mace got through United's security checkpoint? PanAm is gone, in part because it had several planes hijacked and bombed because of its poor security. Hundreds of people died because PanAm failed to have adequate security. That carrier deserved to be gone, and the law did not, and should not, save a bad carrier because airline lobbyists threaten us that we'll be walking. We won't. PanAm's routes were quickly assumed, and today folks under the age of 22 have never heard of PanAm, and they are flying to Vegas for \$39, not walking. Over 200 carriers have ceased to exist since deregulation. We have continued to fly.

Let's look also at Boston's Logan Airport. Here is its security track record, in its own words, from its own internal report::

- “ • BOS is located in a target rich environment.
...
 - The overall risk identified at BOS is Critical.
 - Before September 11, BOS severely lacked the majority of elements required to meet recommended minimum safety and security standards established by the FAA, the Department of Transportation, the U.S. Secret Service, the Federal Bureau of Investigation and the U.S. Department of Defense.
 - There is no security CCTV surveillance system.
...
 - Aircraft Operators are unwilling to effectively cooperate with BOS in their endeavor to increase the safety and security of BOS on behalf of the traveling public. For example:
 - The carriers are unwilling to incorporate 100% checked baggage screening and personal passenger bag matching
 - The carriers routinely fail to adhere to the provisions of recently issued FAA Security Directives, i.e., verification of passenger ID at the boarding gate and continuous passenger inspection at the boarding gate.
...
 - Even after September 11, it is clear that security is not a major concern among tenants and contractors as several large (fence level) and other smaller mobile ladders were found parked directly abutting the fence. Air carriers continuously fail to adhere to the provisions of the Security Directive.
 - Before September 11, piggybacking appeared to be a common occurrence and challenging rarely occurred.
...
 - There is blatant disregard for FAR guidelines involving the proper wear of airport media and proper escorting procedures.”

This Commission Must Hold Them Accountable

The only way to reverse this dangerous insecurity is to hold all responsible accountable for their actions. This Commission's findings and recommendations are one of the few avenues left to do so.

What are Our Most Serious Threats?

Aviation Crimes and Terrorism were Well Known and Foreseeable Risks, Including Using Planes as Part of a Jihad and Crashing into Other Structures

Many aviation industries are using the spin that this horrible terrorism was unimaginable and unforeseeable. Yet from 1970 to 2001 there were 823 hijackings. More recently, from 1993 to 1997 (more recent data are not available at this time) worldwide there were 87 hijackings, 7 commandeering, 5 bombings or shootings, 50 attacks at airports, and 16 shootings at aircraft in just 5 years. The notion that these hijackings and terrorism were an unforeseen and unforeseeable risk is an airline and FAA public relations management myth. A look at the facts dispels that corporate spin. Terrorist attacks against U.S. aircraft on U.S. soil date as early as November 1955 when United Airlines Flight 629 left Denver with the mother of Jack Graham on board. Graham was an American, a domestic terrorist threat. He had placed a bomb in his mother's suitcase to collect her insurance policy. He could not . . . she had never signed the policy. Today, 46 years later, we still have less than a 10% chance of the airline screening her luggage. Senator Hollings says it is 2-3%.

Thirty-three years after the first such attack on U.S. aviation, terrorists used the same old tried and true method . . . a bomb in a suitcase . . . to bring down PanAm 103. Not only was such a risk foreseeable, but a danger the airlines were required by law to protect against. The U.S. courts and juries ruled PanAm was wantonly negligent. The reason for their verdicts was to deter it and others from such insecure behavior in the future.

Osama Bin Laden was a copycat killer. He planned to bring down 12 U.S. airliners within 48 hours over the Pacific in 1995. He did a test run on a Philippine jetliner in 1994, and killed a passenger and injured several others, but the plane managed to land. He would have to try something different the next time around. He did, but he followed the example of several previous terrorist attacks. Documents seized in that investigation long before 9/11, revealed they intended to crash a plane into the CIA building near Washington, D.C.

Hijackings to Cuba in the 1960s and 70s brought us the metal detectors and x-ray equipment. Again, the corporate spin says metal detectors ended the U.S. hijacking problem. Far from the truth, worldwide, FBI data reveals the terrorist threat of hijackings and crimes on planes has dramatically increased and the crimes are frequently deadly, both on U.S. domestic and international flights.

In the events of September 11, while astonishing in the numbers of casualties and the enormity of the devastation, neither the modus operandi of the terrorists, nor crashing planes into buildings, was new. In fact, these types of hijackings and the crashing of planes into buildings, had been planned but thwarted on several previous occasions. Even the Columbine school shooters talked about crashing planes into buildings — before 9/11.

On May 7, 1964, a former member of a Philippine Olympic yachting team boarded a Pacific Airlines flight, shot the pilot and copilot and crashed the plane.

Consider PanAm Flight 93 from Brussels to New York City on September 6, 1970. Two passengers produced handguns and grenades and ordered the plane to Lebanon and then on to Cairo, Egypt. At a stop in Beirut, the plane was laced with explosives. The fuses were lit just before landing, giving the passengers and crew scant minutes to disembark before the plane exploded. The hijackers were traveling on Senegalese passports but were supporters of the PLO. Forty-five minutes into the flight the hijacking started. En route the hijackers calmly used the PA system to explain their opposition to the U.S. government's support of Israel. Within just a few days, 5 planes were hijacked, 4 on the same day! Besides PanAm 93, three others were hijacked including TWA 741, to Dawson's Field in Jordan on September 6, and a BOAC flight was hijacked on September 9. On September 12, 1970, the three additional planes were blown up, bringing the total to four. But there were supposed to be five. On the fifth plane, El Al 219, the air marshals thwarted the hijackers.

But where had the hijackers come from? They were bumped from another airline. Israel airline El Al had become suspicious and barred the hijackers from their flight. Their tickets were endorsed over to PanAm. PanAm was subsequently alerted and removed the two men from the plane and searched them and the area around their seats. The men very calmly complied and did not seem nervous nor did they behave oddly. Their weapons were hidden in their crotches. No one searched there.

In June 1985, TWA 847 from Athens to Rome was hijacked a half hour into the flight by two men with guns and hand grenades. Two terrorists identified as part of an Islamic jihad commandeered the U.S. plane to Beirut. When Beirut refused permission to land, the hijackers responded, "We are suicide terrorists! If you don't let us land, we will crash the plane into your control tower or fly it to Baabda and crash into the Presidential Palace!" After refueling and additional stops, passengers with Jewish names were taken off the plane, held hostage by the jihad, and later rescued by American Delta Forces. An American passenger was murdered and eventually the plane was blown up.

PanAm Flight 73 on September 5, 1986, from Bombay to New York was attacked. PanAm held forth that it had good security, but, in fact, their security was fake. They fooled the passengers but not the terrorist hijackers. They drove a vehicle through a gate onto the tarmac, boarded the aircraft and opened fire on passengers. The court found the airline was negligent.

On December 7, 1987, on Pacific Southwest Airlines, a fired USAir (now US Airways) employee used his old badge to skirt security and take a gun on the plane. He killed his ex-boss (who had fired him) in the cabin of the plane, then forced his way into the cockpit and killed the pilots and crashed the plane. The court held the airline responsible for their negligence in failing to implement proper security. The NTSB investigation which followed led to major security recommendations and charges.

On April 7, 1994, a disgruntled FedEx pilot who thought he was about to be fired, took advantage of an aviation industry perk available to fellow pilots — the jump seat. With an employee badge, he had no problem stashing hammers, a spear gun and a knife on board. He fractured the pilots' skulls and intended to crash the FedEx plane into the FedEx Memphis hub, thereby bringing down the company he felt had treated him unfairly. He had counted on the crew quickly losing consciousness. They did not, and the engineer and copilot restrained the hijacker while the pilot miraculously landed the plane.

On October 31, 1999, an EgyptAir pilot, muttering an Islamic prayer . . . or curse . . . plunged a plane, departing New York's JFK airport, into the ocean. On board were dozens of Americans as well as three dozen Egyptian military officers fresh from training in the U.S. (who have remained a carefully shielded mystery of that tragedy). Despite protests from Egypt, the NTSB investigated.

Almost 31 years after four planes were hijacked and blown up in an Islamic jihad staged in Jordan, four U.S. planes were hijacked in what Osama Bin Laden would call, in congratulatory messages, a jihad. Unnamed U.S. law enforcement authorities were reported to have said that on the same day there was yet another plane with box cutters pre-positioned, and that two men with shaved bodies (indicating preparation to die) were on the plane. They were arrested and held as material witnesses. Was it to have again been five planes, on almost exactly the same day, in 2001 as in 1970?

Astonishingly we heard, even from the FAA and the Department of Transportation that "nothing like this ever happened before." In an effort to help this nation and its leaders have a longer memory, I have prepared some charts summarizing some of my firm's recent research. Here are the facts about what exactly has happened before.

Airline Security Violations

1970 - 2001

- Hijackings
- Cockpit Intrusions
- Bombs
- Shoot-downs
- Air-rage Incidents

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Based on original research compiled from Internet aviation data and news reports.
As research is ongoing, authors reserve the right to update or correct errors.

Hijackings

1970 – 2001

- 823 Airlines hijacked worldwide
- 115 Incidents of hijackers thwarted by passengers/crew
- 109 U.S. airlines hijacked on U.S. soil
- 58 U.S. airlines on foreign soil
- 11 Foreign airlines on U.S. soil

Cockpit Intrusions Worldwide

- 30 cockpit intrusions reported worldwide in the eighteen months prior to 9-11

**Bombs on Airlines
Worldwide
1970 – 2001**

31

Airline Shoot-downs
Worldwide
1970 - 2001

59

Air-rage Incidents Worldwide

(Unreliable reporting system)

- No reliable industry-wide numbers on air-rage
- FAA only reports the number of enforcement actions it takes each year
- Airlines are not required to report air-rage incidents
- Voluntary reported incidents:

Source	1997	1998	1999	2000
FAA	320	282	310	266
UAL	531	621	454	no report
Flt. Att.	4000	4000	4000	4000

Source: www.air-rage.com

Air-rage Incidents Worldwide 1994 – 2001 (8 years)

Incidents reported in the media:

1994	1,132
1995	2,036
1996	3,512
1997	5,416
1998	6,523
1999	7,283
2000	10,000
2001	11,500
Total	47,402

Important to note is the fact that the FAA issued over a dozen warnings to the airlines in the summer months before 9/11 warning them that Middle Eastern terrorists may attempt to hijack aircraft. The National Security Adviser outlined those warnings, as did news media which gained access to the documents and reported the warnings, as follows:

(The following three articles are used with permission of Jonathan D. Salant and The Associated Press.)

“List of 15 FAA Warnings” (The Associated Press, 17 May 2002)

The Federal Aviation Administration issued 15 warnings, known as information circulars, last year before the Sept. 11 terror attacks.

Federal law prevents the Transportation Department from releasing the text of the circulars, but the agency released a summary of the warnings in response to revelations Thursday that President Bush and the airline industry were warned in advance of the threat of terrorist hijackings.

The warnings are now issued by the new Transportation Security Administration, which has taken over aviation security from the Federal Aviation Administration and the airlines.

The warnings:

January - U.S. airlines were warned of violence against American citizens and interests due to continuing Middle East violence.

March - Airlines that fly to Middle Eastern countries were warned of threats from suspected terrorists in those nations.

April - Two advisories gave airlines updates about possible threats against Americans and encouraged them to “practice a high degree of awareness.”

June - Airlines flying to Middle Eastern countries received additional information about terrorist activity.

June - Airlines were warned about increased violence in Israel.

June - Airlines were told about the case of Ahmed Ressam, convicted of explosives smuggling, lying to customs officials and planning to commit acts of international terrorism. He was trained in terrorist camps financed by Osama bin Laden and was in charge of the failed plot to detonate a suitcase bomb at the Los Angeles International Airport during the millennium celebrations, U.S. officials said.

June - Airlines were warned that extremist groups may target U.S. interests.

July - Airlines received an update of the terrorist plot directed at Los Angeles airport.

July - Airlines received information about a weapons system that terrorists could use against civil aviation.

July - Airlines and airports received two warnings of possible terrorist threats in the Middle East. One of the warnings specifically mentioned bin Laden, a government official said.

August - Airport security personnel were told about ways to disguise weapons. National security adviser Condoleezza Rice said the warning mentioned the possible use of cell phones, key chains and pens as weapons.

August - Aviation security personnel received another update on violence in Israel and threats to Israeli civil aviation. Airlines were told to review the State Department's guidance on traveling to the Middle East.

August - Airlines serving Spain were warned about recent bombings conducted by separatist groups in that country.

"Airlines warned of terrorist threats but given no specifics, memos show," (by Jonathan D. Salant, The Associated Press, 18 May 2002)

WASHINGTON (AP) - Five months before Sept. 11, the government warned airlines that Middle Eastern terrorists could try to hijack or blow up a U.S. plane and that carriers should "demonstrate a high degree of alertness."

The warning, obtained Saturday by The Associated press, came out after the April 6, 2001, conviction of Ahmed Ressaam in connection with a failed plot to blow up Los Angeles International Airport during the millennium celebrations.

The memo from the Federal Aviation Administration, dated April 18, 2001 also noted that four al-Qaida members were on trial in New York, accused of being involved in the U.S. embassy bombings in Kenya and Tanzania in 1998.

The warning, which expired July 31, was one of 15 information circulars sent last year that warned of potential terrorist threats before Sept. 11.

Bush administration officials have said the threats were so vague that they did not require tighter security. Nor did they envision a scenario similar to Sept. 11, when suicide terrorists turned four commercial airliners into missiles.

Also Saturday, Republicans defended President George W. Bush against criticism that his administration ignored warning signs about the Sept. 11 attacks.

"Americans know that President Bush, when faced with credible information about a threat, would act swiftly and strongly," Republican Party Chairman Marc Racicot wrote in an e-mail to Republican supporters.

Democrats are suggesting an expansion of inquiries into what the White House and federal law enforcement knew about possible terror attacks.

Sen. Richard Shelby, vice chairman of the Senate Intelligence Committee, charged that the FBI “was either asleep or inept, or both,” for failing to act on a July 2001 memo from the agency’s Phoenix office about Arabs seeking U.S. flight training. Democratic criticism of the president is “a bogus charge” and “he didn’t know more than we basically knew,” Shelby told CNN.

But a committee Democrat, Sen. Ron Wyden, said he thought it was a misuse of the trust that Congress and the public put in the administration after Sept. 11 “to call anybody irresponsible who asks tough questions about what sure looks like an intelligence failure.”

From New York, Democratic Sen. Hillary Rodham Clinton said of the questioning: “The point is not to point fingers or place blame but to be sure we have learned and we are better prepared.”

The airline memos obtained by the AP do not provide specific details about the threats, nor do they instruct the airlines to follow new security procedures.

The April memo, for example, cited “reports that prompt concern about the safety and security of U.S. citizens traveling through the Middle East.” The FAA said the potential for a terrorist attack was high, but there were no credible threats against U.S. airlines.

“Nevertheless, some of the currently active groups are known to plan and train for hijackings and have the capability to construct sophisticated (bombs) concealed inside luggage and consumer products,” the memo said. “The FAA encourages all U.S. carriers to demonstrate a high degree of alertness.”

On June 22, citing “unconfirmed reports that American interests may be the target of terrorist threat from extremist groups,” the FAA again alerted airlines.

The security warning, which expired Aug. 22, talked about a potential hijacking as a way to secure the release of Sheik Omar Abdel Rahman, imprisoned for plotting to blow up New York landmarks in 1993.

“Although we have no specific information that this threat is directed at civil aviation, the potential for a terrorist operation, such as an airline hijacking to free terrorists incarcerated in the United States, remains a concern,” the warning said.

On Aug. 28, in a memo that expired Nov. 30, airlines were warned that fighting between Israelis and Palestinians had led to threats against airlines flying to and from Israel.

The government said it was concerned about the increased ferocity of Palestinian suicide bombings directed against Israeli civilians, as well as an unconfirmed report in the Arab media that foreign airlines were warned to stay away from Israel.

“FAA warned airlines in 1998 that bin Laden might hijack an airplane (by Jonathan D. Salant, The Associated Press, 26 May 2002)

WASHINGTON (AP) - The Federal Aviation Administration told airlines more than three years ago to be on a “high degree of alertness” against possible hijackings by followers of Osama bin Laden, a government source said Sunday.

The FAA cited statements made by bin Laden following U.S. attacks on suspected al-Qaida facilities in Afghanistan and Sudan in August 1998, said the source, speaking on condition of anonymity.

Like the circulars issued in 2001 before the terrorist attacks of Sept. 11, the October 1998 circulars did not contain any specific credible threats and did not order the airlines to increase security.

The FAA did not receive any additional information about possible threats and the 1998 advisories expired in January 1999, the source said.

“It was intended to be a short-term thing,” the source said.

The Associated Press reported earlier this month that the FAA issued 15 advisories to airlines and airports from January 2001 to August 2001.

One of the 2001 circulars, obtained by the AP, warned airlines on April 18 that Middle Eastern terrorists could try to hijack or blow up a U.S. plane and told carriers to “demonstrate a high degree of alertness.”

The 2001 warning noted that four al-Qaida members were on trial in New York, accused of being involved in the U.S. embassy bombings in Kenya and Tanzania in 1998.

The source, confirming a report in The Boston Globe, noted that Islamic terrorists had threatened to hijack U.S. airplanes in 1998.

“While this threat remains unsubstantiated, there is information from one of the incarcerated suspects in the bombing of the U.S. Embassy in Nairobi that he received aircraft hijack training,” the Globe quoted the October 1998 advisory as saying. “The arrest and pending extradition of bin Laden cadre raises the possibility of a U.S. airliner being hijacked in an effort to demand the release of incarcerated members.”

Two other information circulars warning of terrorism were issued in December 1998, the source said. One warned that terrorists may try to hijack a plane at an airport in the Eastern United States. The other again cited bin Laden’s threats after the U.S. attacks.

Shockingly, the Executive Branch now seeks to illegally hide those warnings. You cannot put the genie back into the bottle. Those warnings were not covered by national security secrecy protections:

Civil aviation security information protected under the Federal Aviation Regulations is different from Classified National Security Information governed by Executive Order 12598 and related orders, statutes, and rules. The Executive Order provides for classifying information as Top Secret, Secret, and Confidential, and covers a wide range of information affecting the national security. All persons with access to such information must have an appropriate security clearance, and there may be a criminal penalty for misuse of the information. While there is some “classified” civil aviation security information, part 191 is not directed to the handling of classified information. Indeed, part 91 is needed because the SSI is not National Security Information and therefore is not subject to the controls that apply to such information.

....

These commenters also suggest that the FAA reconsider the necessity of designating all threat information as sensitive. According to these commenters, it would be more efficient to draw a distinction between information regarding general trends in terrorist technology and possible responses, which is largely in the public domain and should not be subjected to extensive disclosure protection, and known, specific threats.

It is not clear to which portion of the rule the commenters are objecting. New [Section] 191.7(I) (proposed as [Section 191.7(h)(1)]) makes threat information SSI only as to release by the FAA, which means that the FAA may decline to release the information. That section does not require the airport operator or air carrier to protect the information.

[Federal Register 13736, Vol 62, No. 55, 21 March 1997, “Sensitive Security Information.”]

The NTSB, the courts and victims in the past have without exception held the aviation industry responsible for their lapses in security in an effort to deter future lapses. Terrorism, hijacking and blowing up planes are exactly the crimes that security measures are supposed to protect against. It is a known danger, and a foreseeable risk, except we have a wholesale national shirking of responsibility. That is a message we will regret. The lack of accountability will cause the airlines, the government and others to repeat this horrible history . . . that is our most serious threat.

The airlines and the government implored us to get back to normal. Yet, very secretively, the law was changed to try to stop the normal post-tragedy processes that lead to improvement.

I believe that when history looks back on what happened in the wake of such a Black September to block investigation and accountability, it will shock the conscience of history and leave us in grave danger of repeating history.

The FBI statistics shouted a warning to anyone who would bother to read them. And the FBI made those warnings — that hijackings, bomb threats and other terrorist threats against aviation were on the rise, and in record numbers in some parts of the world — available to the FAA. These statistics were even published in the FAA Administrator’s Fact Book, available on the FAA website, until it was taken down after September 11, 2001.

And yes, the FAA made those warnings available to carriers. Once disseminated to the carriers, the warnings are not secret. Our government said so. This Commission is entitled to have access to that evidence.

Were There Specific Warnings and Recommended Courses of Action for the Airlines and the Government to Follow?

It's one thing to be caught in a rising crime wave, but it's another to know what to do about it. What did the airlines and the FAA know, and when did they know it? Condoleezza Rice outlined the warnings given by the FAA to carriers from June to August of 2001. Airlines were warned about terrorists trained to do hijackings.

The airlines knew they had lax security, leaving passengers and others at risk. Such warnings were frequently repeated by the FAA and others and are documented in writing. It is an undeniable fact that the airlines knew their security was inadequate.

One of the sad, bad things about working in aviation and security as long as I have, is that you see that the aviation industry personnel can be persistent recidivists. They will continue to cut corners and take risks relying on redundancies and the law of averages. Their risky reliance on the odds is best illustrated by words, repeated even on the FAA website, that you would have to fly a few thousand years before you would be involved in a plane crash. Anyone who's had a freshman course in statistics knows it doesn't work that way — the risk is as great for the first time flier, and hours of exposure, not mileage, is the better measure. The FAA went so far as to exclude the 9/11 casualties from their website statistics to perpetuate their statistical hoax. No one who died on September 11 was old enough to die in a plane crash, at least according to the statistics of the airlines and the FAA, and the flock of aviation lobbyists who spout spurious statistics in support of special interest legislation.

Why Does Aviation Take Unreasonable Risks?

In relying on sleight-of-hand statistics, the FAA and the airlines have obscured their own safety rules. I have worked on many aviation tragedies and studied even more. In studying what went wrong in the terrible Challenger tragedy, it was discovered that the day of the tragedy was not the first time the shuttle was launched against safety warnings and in dangerously low temperatures. Instead of saying "whew, we were lucky that time, we will never do that again," those responsible *discounted* the risk of blasting off in sub-optimal conditions. In other words, because they tempted the statistics before and skated by, they diminished the risk warnings and launched in even colder temperatures.

The same thing happened to U.S. aviation security. The realization that air carriers and other aviation interests must have and follow some security standards and recommended practices led to the Chicago Convention which established the International Civil Aviation Organization *in 1944*. That Convention required each country to take action to prevent persons from getting weapons and explosives on board planes. Every ICAO Convention thereafter addressed security concerns. Following the hijacking of TWA 847 in 1985, and the bombing of PanAm 103 in 1988, a Presidential Commission was appointed to make recommendations on improving security to prevent such attacks. In 1989, the Secretary of Transportation addressed ICAO stating: "People around the world are calling for leadership and decisive action to eliminate the gruesome, common threat of terrorism in the skies." Years ago, the first President Bush's Commission on Aviation Security and Terrorism concluded: "The U.S. civil aviation security system is seriously flawed and has failed to provide the proper level of protection for the traveling public." But those recommendations and warnings following TWA 847 and PanAm 103 were largely ignored. By 1997, we had another Presidential Commission to study what to do about security. That commission stated as follows:

The Federal Bureau of Investigation, the Central Intelligence Agency and other intelligence agencies have been warning that the threat of terrorism is changing in two important ways. First it is no longer just an overseas threat from foreign terrorists. People and places in the United States have joined the list of targets.

The second way that it was changing was that it was becoming more deadly.

Murderous Hijackers Crashed the Planes on September 11, but the Negligence of Airlines, Corporate Security Companies and Our Own Government Presented Terrorists With the Opportunity and Means to Carry out Their Crimes

Make no mistake, I also blame the murderous criminals killing people on airliners, hijacking planes and crashing them into buildings to kill as many people as possible. And I blame the people, organizations and governments who sponsor terrorism. But a business inviting the public to come and purchase goods and services like airplane tickets, carries with it the legal obligation to provide safety and security, and at a minimum to follow the federal regulations and laws so passengers and others are not slaughtered.

WHAT DO WE KNOW? WHAT DO WE DO?

1. Federal aviation security regulations were violated, neither box cutters nor pepper spray were allowed past security on 9/11, and those violations must have serious consequences. Forget the idiotic statements that the box cutters were legal. They were not. Neither was pepper spray. I attach the list from the Checkpoint Operations Guide in effect on 9/11. The law says “no weapons.” It does not say weapons under four inches are okay. It does not say box cutters under 4 inches are okay. No box cutters. No pepper spray. No weapons.

HAND-CARRIED ITEMS - 5

Items NOT allowed to enter the sterile area:

ITEM	NOTIFY:
Acids	
Ammunition	
Automatic weapons	
Axes	
BB guns	
Batteries (wet cell)	
Billy clubs	
Blackjacks	
Blasting caps	
Bows & arrows	
Box cutters	
Brass knuckles	
Bull whips	
Butane gas	
Caustic materials	
CO ₂ cartridges	
Cattle prods	
Compressed air guns	
Dry ice (4.4 lbs.)	
Dynamite	
Fire extinguishers	
Fireworks	
Flammable liquids	
Flare pistols	
Gasoline	
Gun lighters	

HAND-CARRIED ITEMS - 5

Items NOT allowed to enter the sterile area:

ITEM	NOTIFY:
Gun powder	
Hammers	
Hand grenades	
Hatchets	
Hunting knives	
Ice axe / Ice pick	
Insecticides	
Kerosene	
Knives (blades over 4" or menacing)	
Kubatons	
Lighter fluid	
Mace	
Martial arts devices	
Matches (large quantity)	
Meat cleavers	
Numchucks	
Oxygen tanks	
Paint	
Paint thinner	
Pellet guns	
Pepper spray	
Pistols	
Plastic explosives	
Portable power drills	
Portable power saws	
Radioactive materials	

The FBI has suggested at least some of the weapons were pre-positioned on planes. The FBI also held others who were reported to be on a potential targeted fifth plane. And according to information credited to FBI sources, the hijackers had ramp passes, security badges, pilot credentials and even managed to occupy the jump seats on one or more of the doomed jetliners — clearly the regulations pertaining to credentials and SIDA (Security Identification Display Areas) were violated. There is no point having laws and regulations if they are ignored with impunity. If our government will not enforce these laws even in the wake of the worst aviation disaster in history, then it is false and misleading even to have them on the books. The laws only give passengers a false sense of security. Their violation was meaningless after 9/11. You might as well repeal them and tell passengers they're on their own and they better fight like hell if attacked. My research said they might have had a chance; over 100 times passengers beat the hijackers.

2. Airline doors were flimsy and could be opened with the same key and before 9/11 pilots warned this was dangerous. They should listen to them. This was not reasonable, when in the months preceding September 11, 2001, there were 16 cases of people breaking into the cockpit, most in the U.S., and U.S. aviation had suffered several terrorist attacks on jets by breaking into the cockpit and killing or injuring the pilots. Before 9/11 pilot associations and unions begged for better doors and to have the cockpit door keys taken away from flight attendants. There is no point in having intelligent, well educated caring pilots if we ignore their insight and leave them vulnerable. If they are going to be ignored in the future, aviation is almost the equivalent of pilotless planes, fully automated cockpits, passengers sealed in the cabin. (By the way, that technology already exists. It's called Global Hawk and the new Eclipse personal aviation jet has voice recognition commands.) Our government must seek leadership from persons outside the FAA and airline lobbying organizations.

3. Airlines relied on a “profiling system” based on what passengers told them to decide who was a threat and who was not. It does not work and we must not rely on profiling. There was no scientific evidence before September 11 to show profiling worked. The airlines and the FAA adopted this system to avoid the tougher security called for by the 1997 Presidential Commission. The dangerous myth prevails that we can figure out who's a terrorist based on psychological magic bullets. You can't. I have a psychology degree from Harvard. I worked in B.F. Skinner's lab. I put those rats and pigeons in the Skinner boxes, and we used to joke about the Harvard Rule of Human Behavior – that even under closely controlled conditions, an organism will do just what it wants to, and find a way to blow your theory and experimental paradigm. Psychological profiles and behavioral predictors are highly subjective and culturally biased, meaning you can assume some religions prohibit killing and suicide, but not all. Worse yet, our new “magic bullet” of aviation security is a combination of credit information, established address, a driver's license, and a flight history. Under that theory, the 9/11 hijackers, the U.S. Air employee who shot the pilots on the PSA flight and Enron pirates are equally “trusted travelers.” I even heard some people in the aviation industry say “I can tell by looking at them.” Middle Eastern, male, young, nervous. Really? Did you know one of the attempted hijackers in the 1970 hijacking jihad was a woman? Look at the pictures from Wal-Mart, cash stations and Portland Airport. Do they look nervous? And by the way, were the security personnel even looking? No. It turns out no one really looks at the photos and names and there was no closed circuit surveillance at Boston Logan anyway. Wal-Marts and cash stations, yes; Boston Logan, even after 823 hijackings, no.

4. Flight schools allowed criminals to obtain training to fly wide-bodied jets . . . without learning to land or take off. We must do more than a check-ride to license pilots. At

least one alleged potential terrorist was thwarted when a flight school was suspicious about such a highly improper training regimen. The school reported it, and the “flight student” was arrested. Authorities theorize he was to have been the 20th hijacker. He says he was training for the next wave of attacks. Was complying with such a training request unreasonably negligent? Non-citizens are actively recruited for U.S. flight training. It’s just another cost benefit analysis where the risk to Americans isn’t in the equation. Consider the testimony from the U.S.A. vs. Osama Bin Laden trial on February 14, 2001. Yes, that’s just six months before 9/11:

Q. Now at the time you came back to the States what was the status of your aviation license?

A. It was expired.

Q. And what were the prospects of your renewing the license while in Pakistan?

A. Almost impossible.

Q. And why was that?

A. Well, first of all, I can’t fly in Pakistan. I can’t fly anywhere else. I have to come to the States since it’s an FAA license....

....

Q. And when you came back to the United States where did you move?

A. I moved back to Arlington, Texas.

Q. In what year was this?

A. 1985.

Q. And what did you do for work when you came back to the United States?

A. Work as a flight instructor again.

THE COURT: What was that?

THE WITNESS: Flight instructor.

....

Q. And what did he tell you about the airplane that he wished you to purchase for Usama Bin Laden?

A. The price range within 350,000 US, and that is a range of about a little bit over two thousand miles.

....

Q. What happened at the dinner?

A. Nothing actually. We just had dinner and chatted and just had a customary thing. I gave the keys of the airplane to Usama Bin Laden.

Q. And you gave him to the keys to what?

A. The keys to the airplane.

It is important to note that the witness, who worked for Osama Bin Laden, applied for and got U.S. citizenship in 1994.

We fingerprint and do background checks on every lawyer in America, and there are a lot more lawyers than pilots. Every pilot trained in or by U.S. personnel or schools anywhere in the world, needs to submit to digital fingerprinting and positive photo and other physical identification, a background check and close training supervision. Any foreign plane or pilot landing in this country must also submit positive identification documentation in advance of arrival. There is no violation of any constitutional right to such a process.

5. Airport screening contractors were abominably incompetent; the TSA must not repeat the failures. Congress provided these foreign corporations with protection from responsibility for their roles in 9/11. According to news reports this week, unfortunately the TSA is starting to replicate old problems. Admiral Loy should have remained in the U.S. Coast Guard and it should have been home to the TSA. That made perfect sense. The government made a deadly mistake. Institutional flaws, like computer viruses, infect all who sign on. The FAA problems are creeping into the TSA. Admiral Loy needs to assert Coast Guard values and discipline. Otherwise, just re-privatize this mess and tell passengers it's what pilots call "YO-YO", i.e., You're On Your Own.

6. Airport employees and airport contractors must be suspect and screened. The hijackers obtained ramp passes and security badges, in obvious violation of security procedures. There is only one solution: no exceptions for airport workers — everyone gets screened.

7. Airline employees must be screened because airline privileges were exploited and misused for years. Jump seat privileges have even been abused by the FAA. I ordered a government investigation of this in the early 1990s which showed widespread known abuse. The key is not the jump seat though, it's doing favors for fellow airline workers. Screen them all.

8. Our government needs to admit that aviation is the target of choice of terrorists. It has happened to hundreds of planes in the past, including several U.S. passenger jetliners, and on U.S. soil. These attacks were known, foreseeable risks for which airlines have been held responsible by U.S. and international courts until now. For the government to say otherwise is an intentional lie and endangers us.

9. Passenger jetliners are known to be vulnerable to onboard attacks and yet they have left those on the ground, like air traffic control, law enforcement and the airlines' home base, unable to know what was occurring on the aircraft. Onboard video with continuous video link to their operations base is long overdue. In the year 2000, the National Transportation Safety Board found that airliners were more vulnerable to criminal attacks because there was no onboard video. The NTSB implored the FAA to require onboard video cameras. The airlines balked, and the FAA did nothing. That recommendation, if implemented, would have saved the World Trade Centers and probably all four planes.

10. It was well known long before September 11, 2000, that the entire aviation security system could be skirted or breached at will. Yet astoundingly, the airlines and other aviation providers refused to implement better security. Force them to do so by requiring re-certification on security. As Inspector General of the U.S. Department of Transportation, I completed two major nationwide investigations of airline and airport security. We could breach security at will and were able to get guns, knives, mock bombs and explosives into the secure areas at every airport we tested. My employees were able to circumvent the security, get security codes within seconds of being unleashed at airports, and get on planes, into cargo holds, into the cockpits, and into every area of every airport tested — even after airlines and airports were alerted by the FAA that we were coming. I published official government reports in 1993 and 1996. I testified at Congressional hearings. I wrote a book, *Flying Blind, Flying Safe*, which discussed such shocking security lapses. It became a *New York Times* best seller. But that is not all, my successor at the Office of Inspector General repeated the investigations, publishing several scathing reports in the three years before 9/11. The General Accounting Office, which audits and investigates for Congress, found the same thing. Even the FAA’s own internal “Red Teams” found and reported on horrible security and for his efforts Bogdan Dzakovic, instead of being a national hero, was hounded by the FAA in an effort to ruin him and drive him from the government. The airlines were repeatedly warned; and again in the months and days preceding 9/11 as stated by Condoleezza Rice. The only force that works is grounding and re-certification for security violations.

What can We, the People, Do?

The Commission has asked me to address what private American citizens can do to keep the aviation system secure. There is another question that must first be asked and answered: Who are the American citizens?

Frankly, we don’t know. And you, the government, doesn’t know either and that leaves our nation vulnerable to terrorists, criminals, molesters, thugs, coyotes, intellectual property pirates, scam artists, illegal drug dealers and every other criminal of the world who wishes to prey on kind, decent, trusting Americans.

The raw fact is this: our government does very little to keep criminals, terrorists, drug dealers, and smugglers or illegal aliens out of our nation. I drive into the U.S. after a weekend in Mexico or Canada along with millions of others. Not much checking occurs other than a bored guy in a booth scowls at you. And if that makes you nervous, drive a few miles from the checkpoint and wade across the shallow river, or go to a wheat field in Canada, and stroll south. It’s time to stop wasting billions of dollars on the INS, Customs, Border Patrol, and others because it is clear we aren’t really serious about those laws, except when some poor over-worked single mom tries to hire a babysitter from Juarez. Then the government throws the book at her and makes sure she’ll never be a federal judge or a political appointee. Tell Americans that they need to defend this nation by watching for suspicious behavior at Safeway, as opposed to at the borders, seaports, airports and consulates around the world. The U.S. consulate in Saudi Arabia and other such terrorism incubators freely handed out visas to persons clearly not entitled to have them and they became the hijackers. Although the technology exists to positively identify who is, and who is not, an American or a lawful resident alien and we have the largest and most technologically advanced digital fingerprint system in the world, we continue to rely on drivers licenses, false birth certificates and sham marriage licenses. Other nations require passports at all airports because they realize any travel is potentially international and has national security ramifications. We need to identify who is and who is not an American. And until we identify who belongs here and who doesn’t, we are forcing all of us lawful

immigrants (yes, my ancestors immigrated to the U.S. as indentured servants) to be endangered by those who seek to abuse our generous and caring nature. Then the airports can readily separate citizens and non-citizens at security checkpoints and screen accordingly.

Until then, Americans who act do so at their peril. Identifying who is and who is not lawfully within our borders is not discriminatory, it is not racial; it is not unkind. It is imperative and long overdue not only to save our aviation system, but to save public assistance, health care, food programs, drivers license integrity, our income tax system, and public health.

Expecting Americans to strong-arm terrorists, when our own government gave them visas at our own consulates and left them free to roam in our nation is absurd. Our government has effectively bound and gagged the American citizenry. In case you haven't read the polls, Americans feel insecure about everything from the economy to their security, and they saw our government in times of crisis issue antibiotics, anti-radiation supplies, private jets for the Attorney General and others before 9/11, security warnings given only to government employees, no-bid government contracts to political friends, and just about everything else to government employees — first. American citizens got duct tape. Washington sent a message to rank-and-file America, “YO-YO, you're on your own. We can't help you.”

Conclusion

On September 11, 2001, the government, airlines, the airports, the security companies and others had actual knowledge of how bad aviation security was. The law placed upon them the responsibility to protect against hijackers. All must be held accountable, or no one will improve or comply with our security laws. What they don't want anyone to find out is the extent of their negligence and complacency.

But accountability is painful, as is facing up to mistakes and responsibilities, and that is why they raced to Congress to get immunity, stop the investigation, stop discovery, stop the NTSB, and even try to stop you.

You are now the only defense against such lawlessness. I bid you Godspeed, a strong will, great faith, and support from our mighty Constitution in making your recommendations. You will need stamina, belief in your cause, and the belief that you can change the deplorable state of affairs. Do so in loving memory of Americans killed, and so that they will not have died in vain. I humbly offer assistance in whatever way I may be helpful. A few people can change the world. And at this juncture in history, those few people are you.

By Mary Schiavo

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