

**Federal Aviation Administration
Report of Investigation
To the Secretary of Transportation**

In response to:

U.S. Office of Special Counsel

File DI-18-5205

Associate Administrator, Aviation Safety (AVS-1)

**Federal Aviation Administration
Washington, D.C.**

November 14, 2023

Executive Summary

On July 29, 2022, Special Counsel Henry J. Kerner referred to the Secretary of Transportation a U.S. Office of Special Counsel (OSC) whistleblower disclosure for investigation (OSC File No. DI-18-5205).

On October 14, 2022, the Office of the Secretary delegated the required investigation to the Federal Aviation Administration (FAA), Office of Aviation Safety (AVS).¹ AVS has oversight responsibility for the certification, production approval, and continued airworthiness of aircraft; the certification of pilots, mechanics, and others in safety-related positions; and other matters related to the FAA's work on aviation safety, including oversight of civil flight operations and developing regulations.

The whistleblower contends that opioid drugs are a growing threat because terrorists may weaponize opioids by using them in a powder or spray form, making the drugs airborne. The whistleblower further asserts that the FAA should be taking measures to address the public health risks associated with such an attack.

At the time of OSC's referral letter, the FAA was engaged in a rulemaking project to satisfy Section 336 of the FAA Reauthorization Act of 2018 (the Act). Section 336 requires that the FAA issue an order mandating installation of secondary flightdeck barriers on newly manufactured transport category airplanes intended for operation under 14 CFR Part 121. In addition to the whistleblower's allegations in this matter, the whistleblower commented on the notice of proposed rulemaking, and suggested that secondary flightdeck barriers should have the ability to resist an attack using vaporized opioids. In the referral here from OSC, the whistleblower suggests another example of a potential FAA action to respond to his concerns, namely that the FAA could mandate opioid antidotes in emergency medical kits onboard commercial flights.

For this investigation, AVS consulted with a variety of subject matter experts within the FAA, including personnel from the Office of Security and Hazardous Materials (ASH), the Office of Aerospace Medicine (OAM), and the Office of the Chief Counsel. The FAA also worked through the intelligence community to confirm the FAA's understanding of the current assessment regarding the threat of an opioid dispersal attack.

The investigation did not substantiate the allegations. While an opioid attack is a conceivable scenario, the current threat assessment has not identified any credible reporting about testing or planning for this type of attack on civil aviation operations. However, the FAA continually assesses requirements for on board emergency medical kit contents, and as part of that process will consider evolving intelligence reporting received from the intelligence community.

The methodology for the FAA's investigation is included in the Addendum.

¹ OSC initially referred the disclosure to the U.S. Department of Homeland Security.

Findings and Details

Allegation:

FAA has failed to take reasonable steps to protect flight crews and the public from potential opioid attacks and related medical emergencies.

Finding: *Not substantiated.*

The FAA regularly reviews intelligence community reporting and remains engaged with interagency partners regarding threats to civil aviation operations around the globe, in an effort to safeguard the traveling public. The intelligence community continues to monitor extremist plotting to support interagency risk mitigation planning and priorities.

Using a risk-based approach, the FAA relies on those assessments, and the FAA's own expertise in air travel, to determine whether a vulnerability to aviation exists and whether such a vulnerability should be addressed through transport category aircraft design/operational measures over which the FAA has regulatory authority. The FAA is unaware of any current credible reporting indicating extremist groups are testing or planning to use opioids as a threat vector to conduct attacks on civil aviation operations at this time. Rather, the risk is from civil aviation being exploited by drug trafficking organizations for narcotics trafficking for financial gains. Therefore, this report does not substantiate the whistleblower's allegations.

Section 1961 of the Act also required the Transportation Security Administration (TSA), in conjunction with the FAA, to review and assess threats to flight deck security and safety related to unauthorized access to the flightdeck. Although much of the review and assessment is classified, it did not identify the concern raised by the whistleblower as an active threat to aviation. Nonetheless, the FAA works closely with interagency partners to continually monitor and assess potential security threats to aircraft operations. At the time of this report, the findings in the assessment have not changed.

As part of this investigation, the FAA also reviewed the ongoing actions that have been taken and are underway regarding flightdeck and airplane security measures. Following the September 11, 2001 terrorist attacks on the United States, the FAA implemented requirements for reinforced flightdeck doors (as well as other measures for flightdeck security), to be retrofit on the existing fleet.² The retrofitted doors are intended to prevent forcible intrusion into the flightdeck or an attack on the flightdeck using ballistic weapons. Since that time, procedures for ensuring a secure flightdeck have been further refined and implemented into the Part 121 fleet of aircraft.

To address potential security vulnerabilities when the flightdeck door is opened during operation, 14 CFR Section 121.584 requires certain security precautions be taken before the flightdeck door can be opened. Specifically, that regulation requires that an authorized person on the flightdeck utilize an audio and visual procedure to confirm that the area outside the flightdeck door is secure, and, if someone outside the flightdeck is seeking to have the flightdeck door opened, that the person is not

² 67 Fed. Reg. 2118 (January 15, 2002), *Security Considerations in the Design of the Flightdeck on Transport Category Airplanes*.

under duress prior to opening the door. Operators use a variety of methods to satisfy this requirement. One method currently in limited use is an installed, physical secondary flightdeck barrier (IPSB).

Section 336 of the Act also required the FAA to issue an order mandating IPSBs on newly manufactured, transport category, passenger-carrying airplanes intended for use on 14 CFR 121 flights. On August 1, 2022,³ the FAA published a Notice of Proposed Rulemaking (NPRM) to address the requirement of the Act. The performance standards proposed for the IPSB were generated following recommendations from an Aviation Rulemaking Advisory Committee working group. The working group included representatives from airplane and equipment manufacturers, operators, pilot unions, flight attendant unions, and TSA Federal Air Marshals. The working group did not identify the characteristics requested by the whistleblower in his comments on the NPRM as essential for an installed physical secondary barrier. *See*

https://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information?documentID=4342 (March 20, 2020 *Flightdeck Secondary Barriers Working Group Recommendation Report*). The FAA finalized the rule on June 14, 2023, moving forward with the proposal in the NPRM. 88 *Fed. Reg.* 41295 (June 26, 2023). It is also worth note that implementing aircraft design measures to address the concerns of the whistleblower would be extremely costly and complex, and would very likely not provide complete protection above the current levels of security protections. The FAA's reasons for its Final Rule on IPSBs can be found online at <https://drs.faa.gov/browse/excelExternalWindow/FR-CFRFRSFAR-2023-13071-00000000.0001>.

The FAA also considered the whistleblower's concerns in terms of the cabin area. The FAA continues to work with interagency partners regarding matters related to cabin air safety, including receiving intelligence assessments from interagency partners. While at this time the FAA is unaware of credible reporting supporting the whistleblower's concerns, if the intelligence community identifies a credible threat to operational or cabin safety from an opioid dispersal attack in the future, the FAA will work with our interagency partners and industry to address the threat. The FAA's helpful interview with the whistleblower included discussions of potential scenarios and an inadvertent dispersal incident involving the Russian military in 2002, but it did not contradict the current assessment.

In addition, provisioning antidotes in sufficient quantity for each crew member and passenger on board would prove costly and have questionable effectiveness, according to OAM personnel interviewed for this investigation. Flight crews would have to be trained to recognize or distinguish symptoms from a vaporized opioid attack from other medical conditions or emergencies, and then quickly administer antidotes to passengers without endangering themselves. Whether this is possible under tight time constraints and consistent with current aircraft ventilation systems is a key question, along with other factors the FAA would need to consider. If the threat assessment changes in the future, the FAA would at that time determine the appropriate measures and required administrative process necessary to address that threat.

Conclusion

Because this report does not substantiate the whistleblower's allegation, it does not recommend corrective actions for the FAA. As noted above, however, the FAA plans to continue reviewing intelligence reporting related to an opioid dispersal attack on board an aircraft, and to take appropriate action if the current threat assessment changes.

³ 87 *Fed. Reg.* 46892 (August 1, 2022).

Addendum

Methodology

The investigation was delegated to the FAA by the U.S. Department of Transportation. It was further delegated to the FAA's Office of Aviation Safety (AVS).

Investigative Team:

██████████ (Lead): ██, Advanced Safety Cabin

██████████ (Assistant): ██████████, National Security Programs and Incident Response (now retired)

██████████ (Assistant): Senior Intelligence Officer, Intelligence and Threat Analysis Division, Security & Hazardous Materials Safety Division, National Security Programs and Incident Response

The investigative team consulted internally regarding the design of airplane ventilation systems, emergency medical kit provisioning and rulemaking. The team also arranged for the FAA's Office of Investigations and Professional Responsibility to interview the whistleblower. The team also confirmed its understanding of the current threat assessment with members of the intelligence community. The team interviewed and consulted with the Federal Air Surgeon. And as mentioned above, the team consulted with personnel from ASH, OAM, and FAA's Office of the Chief Counsel. The team reviewed documentation, including the Aviation Rulemaking Advisory Committee's recommendations on the FAA's rulemaking on IPSBs, threat assessments, and other materials.