



**National Security Assessment:  
Criminal Exploitation of the  
Federal Aviation Administration Registry**

**Minority Report of Senator Charles E. Grassley, Co-Chair  
United States Senate  
Caucus on International Narcotics Control**

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## TABLE OF CONTENTS

<b>I. Introduction</b> .....	2
<b>II. The Problem: Critical Information Gaps in the FAA Registry</b> .....	4
<b>III. The Use of Shell Companies to Register Planes: The Ed Nuñez Example</b> .....	5
<b>IV. The Use of Noncitizen Trusts To Register Planes: The AGC Example</b> .....	8
<b>V. Conclusion</b> .....	11

## ANALYSIS

### **I. Introduction**

Transnational Criminal Organizations (TCOs) often use opaque corporate structures to conceal their drug transportation activities. Air transportation is a favored method for the cartels and a burgeoning industry of illicit aircraft brokers has grown up around it.<sup>1</sup> These brokers exploit vulnerabilities and loopholes in the Federal Aviation Administration’s (FAA) aircraft registry process to place U.S.-registered planes in the hands of TCOs. U.S. planes are desirable because they receive less scrutiny from foreign governments and are better at concealing criminal activity.<sup>2</sup> The FAA registry is supposed to serve as a source of information for agencies responsible for homeland security, but blind spots in the FAA registration process create serious security risks.<sup>3</sup>

The FAA has known about vulnerabilities in its registry for years. In fact, a 2020 Government Accountability Office (GAO) report highlighted how failings within the FAA system created security risks and made fifteen recommendations for corrections.<sup>4</sup> In the past four years, the FAA has only fully implemented three recommendations.<sup>5</sup> Even the simple task of creating the GAO’s recommended memorandum of understanding for information sharing with

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<sup>1</sup> See, e.g., Trial Transcript at Vol. 7, 18:6-11, *United States v. Mercer-Erwin*, 4:20-cr-00212 (E.D. Tex. 2023) [hereinafter *Mercer-Erwin Tr.*] (DEA Agent Direct) (“It’s very difficult to get the cocaine out of the jungle by vehicle or by carrying in backpacks, so they prefer to use airplanes. And airplanes are used to load up large amounts of cocaine and to fly out. It’s the preferred method. We call them narco planes that fly out of Colombia.”).

<sup>2</sup> U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-20-164, *FAA NEEDS TO BETTER PREVENT, DETECT, AND RESPOND TO FRAUD AND ABUSE RISKS IN AIRCRAFT REGISTRATION*, at 51 (Mar. 25, 2020) [hereinafter GAO-20-164]; See also, Detention Hearing Transcript at 10:21-11:1, *United States v. Villaurrutia*, 4:20-cr-002 (E.D. Tex. Jan. 14, 2021) [hereinafter *Villaurrutia Detention Hr’g Tr.*] (Testimony of Homeland Security and Investigations (HSI) Special Agent).

<sup>3</sup> U.S. Dep’t of Transportation Off. of Inspector Gen., Report No. FI-2013-10, *Department of Transportation Office of Inspector General Audit Report, FAA’s Civil Aviation Registry Lacks Information Needed For Aviation Safety and Security Measures*, 1 (June 27, 2013) [hereinafter FI-2013-10].

<sup>4</sup> GAO-20-164 at 51.

<sup>5</sup> GAO-20-164 at 66; U.S. Government Accountability Office, Recommendation Status (accessed Apr. 3, 2024), [Aviation: FAA Needs to Better Prevent, Detect, and Respond to Fraud and Abuse Risks in Aircraft Registration | U.S. GAO.](#)

law enforcement has taken the FAA a staggering two years to draft.<sup>6</sup> To this day, the FAA still has not finalized the agreement.

Instead of taking preventative measures to ensure criminals do not register their drug planes with the United States, the FAA largely relies on reactive law enforcement measures to apprehend criminals after the FAA system has been abused.<sup>7</sup> During a 2023 criminal trial involving a company registering drug planes with the FAA, law enforcement described the burden created by FAA's beleaguered registry system and the risks of vetting plane ownership after the fact:<sup>8</sup>

Q: And did you attempt to conduct an examination to see if the aircraft that were in trust with [Aircraft Guaranty Corporation for registration with the FAA] had any derogatory information, [information that is criminal in nature]?

A: Yes, sir.

...

Q: And how many of those came back with derogatory information that you have to follow up on and do in-person interviews?

[Objection omitted]

A: It was over 100.

The costs of FAA's overindulgent registration practices are even greater for foreign law enforcement. At that same trial, the Director of Intelligence of the Guatemalan Army testified that the Guatemalan military had identified roughly 500 illegal airstrips in Guatemala.<sup>9</sup> He described how his soldiers arrived on the scene of a narcotics air-event involving a U.S.-registered plane and took gunfire from 150 people:<sup>10</sup>

There are only two access routes to this area. In the first route, the military units were blocked by human barriers. In the second, the criminals threw spikes, damaging the tires and wheels of the vehicles. This allowed the criminals to unload the illegal content, or the drugs, and to evacuate the pilots... The officer informs us that he's receiving gunfire by approximately 150 people, and he only had under his command 10 soldiers, and that is why I was order[ed] to go support him accompanied by two helicopters. Upon arrival to the area of the incident, the individuals shot at the aircrafts that we were on... We found 54 sacks ... contain[ing] 30 packets of possible cocaine. The criminals, in order to hide the illegal content, had placed a dead alligator on top of the cave.

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<sup>6</sup> *Id.*

<sup>7</sup> GAO-20-164 at 47 ("According to FAA officials, the registry focuses on recording information, while it is currently the responsibility of other FAA organizations, such as ASH, LEAP, and SEIT, to detect fraud.")

<sup>8</sup> Mercer-Erwin Tr. at Vol. 1, 230-232 (Direct of HSI Special Agent).

<sup>9</sup> Mercer-Erwin Tr. at Vol 6, 198:22-199:17 (Direct of Guatemalan Colonel).

<sup>10</sup> *Id.* at Vol. 6, 207-09 (Direct of Guatemalan Colonel).

The FAA’s lax registration practices have been a boon for violent criminal organizations. This memorandum relies on federal court records to explain how these criminals have used shell companies and noncitizen trusts to exploit the FAA’s registry system.

## II. The Problem: Critical Information Gaps in the FAA Registry

The FAA registry system suffers from critical information gaps that criminal actors actively exploit. This problem spans decades. For example, at a 1988 U.S. House of Representatives Subcommittee on Aviation hearing in the Committee on Public Works and Transportation, lawmakers asked the FAA why it failed to revoke certifications for known drug traffickers.<sup>11</sup> Then, in 2013, the Department of Transportation Office of Inspector General (DOT OIG) found incomplete registration for 54% of aircraft placed in trusts by non-U.S. citizens.<sup>12</sup> It further concluded the “FAA has been unable to provide information on these aircraft to foreign authorities upon request when U.S. registered aircraft are involved in accidents or incidents in foreign countries....”<sup>13</sup> The 2013 report found the FAA did not require sufficient documents identifying the plane owners who established the trusts.<sup>14</sup> In response, the FAA clarified its regulations and required beneficial ownership information for planes held in noncitizen trusts upon request.<sup>15</sup> DOT OIG objected that this action was insufficient and urged the FAA to collect beneficial ownership information as part of the registration process.<sup>16</sup>

As expected, the FAA’s remedial measures did little to correct its information gaps and deficiencies. A 2020 GAO report examined registration data from 2018 and found 2,300 aircraft registered to “likely shell companies” and 3,300 “registered as noncitizen trusts.”<sup>17</sup> The same study found at least the following issues with FAA records:

- The FAA “generally accepts certification by applicants of their eligibility and aircraft ownership and performs limited review of applicant information to identify potential fraud or abuse.”<sup>18</sup>
- Despite requiring a physical address as part of registration, the FAA accepted a mail drop location or registered agent address<sup>19</sup> as a mailing address without a physical address over 2,000 times (about 1% of all addresses).<sup>20</sup> The GAO’s analysis of 2018

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<sup>11</sup> Kelly Carr and Jaimi Dowdell, *Secrets In The Sky*, Boston Globe, <https://apps.bostonglobe.com/spotlight/secrets-in-the-sky/series/part-one/> [hereinafter *Secrets In the Sky*]; *Hearing Before the Subcommittee on Aviation of the Committee on Public Works and Transportation House of Representatives*, 102<sup>nd</sup> Cong. (Nov. 19, 1991).

<sup>12</sup> FI-2013-10 at 3.

<sup>13</sup> *Id.* at 2.

<sup>14</sup> FI-2013-10 at 5.

<sup>15</sup> FI-2013-10 at 12.

<sup>16</sup> *Id.*

<sup>17</sup> GAO-20-164 at 29.

<sup>18</sup> *Id.* at 26.

<sup>19</sup> A registered agent is a person or entity authorize to accept service of process or other legal and tax documents on behalf of a business.

<sup>20</sup> GAO-20-164 at 30.

physical and mailing address data found that about 25,000 (9%) of all registrant addresses did not match a valid address in the USPS postal verification data.<sup>21</sup>

- The “FAA does not require applicants to submit information on beneficial owners of aircraft. . . .”<sup>22</sup>
- The “FAA relies on the Office of Foreign Assets Control (OFAC) to share information on sanctions and does not check whether applicants and aircraft are subject to U.S. sanctions or blocking at registration, at renewal, or on a periodic basis.”<sup>23</sup> “According to FAA officials, FAA does not have the authority to deny or revoke a registration solely because the registration is associated with an individual subject to OFAC sanctions.”<sup>24</sup>

These gaps allowed criminal actors to exploit the FAA registry using shell companies and noncitizen trusts. Many of these problems remain uncorrected to this day.

### III. The Use of Shell Companies to Register Planes: The Ed Nuñez Example

Criminal actors often create shell companies to circumvent the FAA’s corporate citizenship requirements for registering planes. A company can register a plane with the FAA if (1) it is organized under the laws of the United States; (2) its president and at least two-thirds of the managing officers are U.S. citizens; (3) it is under the actual control of U.S. citizens; and (4) at least 75% of the voting interest is controlled by U.S. citizens.<sup>25</sup> The sudden death of pop-icon Jenni Rivera brought to light a high profile example of how criminal actors use shell companies to defraud the FAA into registering their planes.<sup>26</sup>

In December 2012, Jenni Rivera died in a plane crash near Monterrey, Mexico.<sup>27</sup> At the time of her death, Rivera had sold more records in the U.S. than Beyoncé, had crossed into the American reality-TV market, and had begun starring in movies alongside rising actors.<sup>28</sup> A charter aircraft company —Starwood Management, LLC—owned the plane Rivera died in, and had registered it with the FAA. Christian Esquino “Ed” Nuñez, a Mexican national convicted in

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<sup>21</sup> GAO-20-164 at 37.

<sup>22</sup> *Id.* at 42.

<sup>23</sup> *Id.* at 48.

<sup>24</sup> *Id.*

<sup>25</sup> GAO-20-164 at 15.

<sup>26</sup> Sean Daly, *Jenni Rivera’s Death Gets Full-Scale ‘Selena’ Treatment*, The New York Post (Apr. 8, 2013), <https://nypost.com/2013/04/08/jenni-riveras-death-gets-full-scale-selena-treatment/>; *Opinion: Why Jenni Rivera’s Death Will Be Bigger Than Selena’s*, ABC News (Dec. 10, 2012), [https://abcnews.go.com/ABC\\_Univision/Opinion/jenni-rivera-selena-quintanilla-mexican-american-singers/story?id=17924316](https://abcnews.go.com/ABC_Univision/Opinion/jenni-rivera-selena-quintanilla-mexican-american-singers/story?id=17924316).

<sup>27</sup> *Id.*

<sup>28</sup> *Jenni Rivera Dies in Plane Crash*, ABC News (Dec. 10, 2012), [Jenni Rivera Dies in Plane Crash \(youtube.com\)](https://www.youtube.com/watch?v=JenniRiveraDies); Filly Brown Official Trailer #1 (2013 release), [https://www.google.com/search?q=Jenni+rivera+biopic&sca\\_esv=b9d6d2bbf88385f9&source=lnms&sa=X&ved=2ahUKewiOvpSZ8pmFAxWcElkFHZLgCo4Q0pQJegQIBhAC&biw=1920&bih=947&dpr=1#fpstate=ive&vld=cid:05ae4cca,vid:Sw\\_wy1mAyhI,st:0](https://www.google.com/search?q=Jenni+rivera+biopic&sca_esv=b9d6d2bbf88385f9&source=lnms&sa=X&ved=2ahUKewiOvpSZ8pmFAxWcElkFHZLgCo4Q0pQJegQIBhAC&biw=1920&bih=947&dpr=1#fpstate=ive&vld=cid:05ae4cca,vid:Sw_wy1mAyhI,st:0).

the U.S. of falsifying aircraft logbooks and cocaine distribution, had obscure ownership-ties to Starwood, and signed FAA documents as the company's manager.<sup>29</sup> News reports indicate the plane was old and not safe to fly.<sup>30</sup> That same year, the Drug Enforcement Administration (DEA) seized two other Starwood planes.<sup>31</sup> At the time, Nuñez was nearly untouchable in Mexico, where, he continued his drug trafficking activities until at least 2021, according to U.S. law enforcement.<sup>32</sup>

Five years after Rivera's death, Homeland Security Investigations (HSI), began investigating an aircraft-registration fraud scheme involving Nuñez's nephew, Carlos Villarrutia.<sup>33</sup> Villarrutia created more than twelve shell companies, which he used to register planes with the FAA.<sup>34</sup> Shell companies are registered with the state to do business but generally use a registered agent to handle all of the administrative functions without any real brick-and-mortar location or legitimate business purpose.<sup>35</sup> Eight planes registered to Villarrutia's shell companies were involved in narcotic events.<sup>36</sup> One shell company, Ford Electric Company, had a bank account showing multiple plane purchases and a \$250,000 check deposit to Ed Nuñez.<sup>37</sup> Federal law enforcement believed Nuñez was involved with his nephew's activities.<sup>38</sup> At Villarrutia's detention hearing, one federal agent described how the investigation identified collusion between the two.<sup>39</sup>

Q: Now, returning to Ed Nuñez, ... based on your investigation, was he involved in the same type of activity and was he involved with the Defendant?

A: Yes.

Q: And how was he involved with the Defendant?

A: Through the banking records that we've—that we've observed and investigated. Also through some of the text messages, through the WhatsApp messages that we've seen, through those communications.

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<sup>29</sup> *Starwood Mgmt., LLC v. Swain*, 2018 Tex. App. LEXIS 1985, at \*6 (Tex. App. 5<sup>th</sup> Mar. 20, 2018); *Businessman Linked To Plane Carrying Jenni Rivera: 'It Was In Perfect Condition'*, ABC News (Dec. 17, 2012), [https://abcnews.go.com/ABC\\_Univision/Entertainment/businessman-linked-plane-carrying-jenni-rivera-perfect-condition/story?id=18001539](https://abcnews.go.com/ABC_Univision/Entertainment/businessman-linked-plane-carrying-jenni-rivera-perfect-condition/story?id=18001539)

<sup>30</sup> Gabrielle Levy, *Jenni Rivera Plane Crash Probe Reveals Problems With Pilot, Plane*, UPI (Dec. 9, 2013), <https://www.upi.com/blog/2013/12/09/Jenni-Rivera-plane-crash-probe-reveals-problems-with-pilot-plane/8371386600008/>.

<sup>31</sup> Mariano Castillo, *Owner Of Plane In Jenni Rivera Crash Under DEA Investigation*, CNN (Dec. 14, 2012), <https://www.cnn.com/2012/12/14/us/mexico-singer-plane/index.html>.

<sup>32</sup> Villarrutia Detention Hr'g Tr. at 14:3-25; 39:20-22.

<sup>33</sup> Villarrutia Detention Hr'g Tr. at 6:13-19.

<sup>34</sup> Villarrutia Detention Hr'g Tr. at 21-22; Mercer-Erwin Tr. at Vol 9, 215:20-24.

<sup>35</sup> Mercer-Erwin Tr. at Vol. 8, 213:10-18.

<sup>36</sup> Villarrutia Detention Hr'g Tr. at 19.

<sup>37</sup> *Id.* at 16-17.

<sup>38</sup> *Id.* at 38:21-39:4.

<sup>39</sup> *Id.*

On April 14, 2020—roughly seven years after Rivera’s death—the DEA identified another Villarrutia shell company, TWA International Incorporated.<sup>40</sup> The DEA investigation found multiple suspicious wire transfers into TWA International’s business account, and uncovered that it was a “supplier of aircraft purchased in the U.S. and subsequently found in South and Central America with drugs on board[.]”<sup>41</sup> According to a DEA affidavit, Villarrutia conducted business on behalf of Ed Nuñez, who had been caught-up in roughly 75 DEA investigations since 1984.<sup>42</sup>

On April 20, 2020, the DEA telephonically interviewed Nuñez, who “admitted receiving drug proceeds in cash in Mexico from the Cartel Jalisco New Generation [CJNG] ... for the sale of aircrafts that were utilized to transport drugs for the organization.”<sup>43</sup> Once the drugs were sold, the proceeds were “given to a money launderer in Mexico City that utilized the Parallel Black Marked Peso Exchange<sup>44</sup> to launder the drug proceeds into TWA International account[s] in the United States.”<sup>45</sup> Nuñez used most of the proceeds to buy more planes “for future sales to Mexican Cartel Members.”<sup>46</sup>

At a related trial, law enforcement explained how drug traffickers select and use planes to further their illegal activities:<sup>47</sup>

[A]ll of these aircraft are effectively purchased because they’re at the end of their life span. ... They’ll spend anywhere from \$500,000 to --- or \$350,000 or just a little bit less up to \$900,000 for these aircraft that have reached their limit. We call them one-time-use aircraft. The specific purpose of purchasing aircraft in this condition and these type of aircraft is to make narcotics runs. These aircraft are purchased in the United States. They go to Mexico. They will sit for anywhere from a month to six months, sometimes a year, sometimes a bit longer. Sometimes they’re purchased in a lot better condition and then they are used, but at the end of their life this is what happens to them... they fly to Venezuela. They pick up anywhere from 200 [kilograms] to 2 tons of cocaine. They fly back to Central America, and that cocaine makes its way back to the United States.

The plane, which was destroyed upon landing, is just a cost of doing business. For example, in Dallas, Texas, one kilogram of cocaine is worth roughly \$25,000.<sup>48</sup> Its value

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<sup>40</sup> Agent Declaration, *U.S. v. 1978 Model Cessna 421C Airplane*, 3:21cv680 at 10 (N.D. Fla. Apr. 30, 2021).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> The black market currency exchange is a complex form of trade-based money laundering, typically associated with narcotics trafficking. The scheme is designed to turn the illicit proceeds in the United States from U.S. dollars into foreign currency. The scheme relies on complicit merchants engaged in regular trade, and the contents, prices, and quantities of goods exported and imported can be correctly reported to customs agencies, with no use of fraudulent trade documents. U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-20-314R, *COUNTERING ILLICIT FINANCE AND TRADE: U.S. EFFORTS TO COMBAT TRADE-BASED MONEY LAUNDERING* (Dec. 30, 2019).

<sup>45</sup> Agent Declaration, *U.S. v. 1978 Model Cessna 421C Airplane*, 3:221cv680 at 11 (N.D. Fla. Apr. 30, 2021).

<sup>46</sup> *Id.*

<sup>47</sup> Mercer-Erwin Tr. at Vol. 1, 114:23-115:17 (Direct of HSI Agent).

<sup>48</sup> *Id.* at Vol. 1, 106:6-9 (Direct of HSI Agent).

increases as it is broken into grams and sold for individual consumption. One gram in Dallas goes for \$80 to \$100.<sup>49</sup> The value of the cocaine also increases the further north into United States it travels.<sup>50</sup> In Chicago, Illinois, a kilogram of cocaine is worth roughly \$35,000.<sup>51</sup> Applying these drug market principles, a 200 kilogram load—the lowest quantity these planes transport—is worth anywhere from \$5 million to \$20 million in Dallas, Texas. In comparison, a “one-time-use” plane only costs \$900,000 on the high-end.<sup>52</sup>

This supply chain functions as a “hub and spokes” model. At a recent trial, the DEA explained how the model operates for the Sinaloa Cartel.<sup>53</sup>

[T]he cocaine going from South America to the centralized location for distribution, which was the Sinaloa Cartel, Sinaloa Cartel being located in Sinaloa, Mexico and also Durango, Mexico. And from there you have the spokes that come off the hub. And those individual spokes are transportation, bookkeeping, distribution, assembly line supply—supply chain matters where they get the drugs from Sinaloa, Mexico to the United States.

After the cocaine arrives in Mexico, the cartel transports it to the “cell heads” the cartel has placed in various U.S. cities for further distribution.<sup>54</sup> Transportation is a critical component of the drug trade. At trial, one Sinaloa Cartel member remarked, “[transportation is] the main thing. Without good transportation, the business would not exist.”<sup>55</sup>

#### **IV. The Use of Noncitizen Trusts To Register Planes: The AGC Example**

A drug trafficker can also register his plane with the FAA using a noncitizen trust. Typically, only U.S. citizens, permanent residents, and U.S. companies with sufficient U.S. ownership can register planes with the FAA.<sup>56</sup> However, 14 C.F.R. § 47.7 creates a loophole allowing a foreign national to register his plane so long as he first transfers the plane’s title to a U.S. trustee. The trustee, which may be an individual or an organization, will then register the plane under the trustee’s name.<sup>57</sup>

Federal regulations are clear that “once the FAA completes the registration process the registered owner is the owner for all purposes under the regulations.”<sup>58</sup> “There is nothing inherent in the status of a trustee owner of a U.S.-registered aircraft that would affect or limit its

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<sup>49</sup> *Id.* at Vol. 1, 107:11-15 (Direct of HSI Agent).

<sup>50</sup> *Id.* at Vol. 7, 8:14-16 (Direct of DEA Agent).

<sup>51</sup> *Id.* at Vol. 7, 8:24-9:2 (Direct of DEA Agent).

<sup>52</sup> *Id.* at Vol. 1, 114:23-115:17 (Direct of HSI Agent).

<sup>53</sup> *Id.* at Vol. 7, 11:13-12:8 (Direct of DEA Agent).

<sup>54</sup> *Id.* at 13:20-14:2 (Direct of DEA Agent).

<sup>55</sup> *Id.* at 111:23-112:2 (Direct of Sinaloa Cartel Member).

<sup>56</sup> 49 U.S.C. § 44102; *See also*, Agent Declaration, *U.S. v. 1978 Model Cessna 421C Airplane*, 3:221cv680 at 9 (N.D. Fla. Apr. 30, 2021).

<sup>57</sup> 14 C.F.R. § 47.7; FI-2013-101 at 3.

<sup>58</sup> Notice of Policy Clarification for the Registration of Aircraft to U.S. Citizen Trustees in Situations Involving Non-U.S. Citizen Trustors and Beneficiaries, 78 FR 36417, at 36414 (effective Sept. 16, 2013).



responsibilities for ensuring compliance with applicable laws and regulations.”<sup>59</sup> Once registered, the plane gets an “N” tail number, noting that the plane is U.S. registered. This “N” number is valuable because foreign countries are less likely to inspect a U.S.-registered plane for airworthiness or force down an American plane.<sup>60</sup>

The advantages of noncitizen trusts are common knowledge in the drug trade. Even criminal pilots understand how to exploit the FAA’s noncitizen trust registration, as one pilot explained at trial:<sup>61</sup>

Q: What do you know about [the process of registering planes in the U.S.]?

A: That the planes have to be under a trust because the Mexican owners cannot be 100 percent owners because they are not citizens.

...

Q: Do people in Mexico prefer to use or have U.S. registered planes?

A: Yes.

Q: And why?

A: Aside from evading taxes in Mexico, it’s easier to get documentation than it is in my country. It takes way too long to get documentation for a Mexican aircraft.

...

Q: And when individuals in Mexico are looking to register a plane, do they look for certain trust companies?

A: Yes.

Q: What type of trust companies do they look for?

A: The ones that don’t require too many documentation or identifications or that ask for much vetting.

Q: Why do individuals in Mexico look for that type of trust company?

A: When they do this kind of thing, it’s because their motivation is that they are going to have that plane disappear.

Q: And what do you mean by “plane disappear”?

A: They are going to use that plane for something illegal.

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<sup>59</sup> *Id.*

<sup>60</sup> *See*, GAO-20-164 at 51 (Mar. 2020); *See also*, Villarrutia Detention Hr’g Tr. at 10-11 (“A:...if it travels outside the U.S., there’s less scrutiny by foreign governments because it carries the sovereignty of the U.S. with that November tail number. Q: So would it be less likely to be shot down if it’s encountered by a foreign military? A: That’s correct.”).

<sup>61</sup> Mercer-Erwin Tr. at Vol. 6, 173-76 (Direct of Drug Pilot).

Aircraft Guaranty Corporation (AGC) specialized in registering foreign-owned planes with the FAA using noncitizen trusts.<sup>62</sup> In fact, the company had registered over 1,000 planes at a single address in a Texas town of 2,500.<sup>63</sup> Using this process, AGC secured tail number N311BD for a plane owned by Heriberto Calderon Gastelum.<sup>64</sup> At the time, Gastelum was a convicted drug trafficker who had been deported from the United States. A simple Google search returns results on Gastelum’s criminal history.<sup>65</sup>

On February 27, 2020, law enforcement in Belize seized N311BD with 2,310 kilograms of cocaine, and recovered cocaine bricks stamped with the Apple logo from the plane.<sup>66</sup> Traffickers stamp the cocaine bricks as a way of identifying which lab and criminal organization produced the drugs.<sup>67</sup> Law enforcement track these stamps for the same purposes. They traced the Apple stamp to the Sinaloa Cartel.<sup>68</sup>

Cocaine bricks with the Apple logo made their way to California, Florida, and Texas.<sup>69</sup> They were smuggled into Texas and hidden in false floors of semi-trucks.<sup>70</sup> These loads went to an organization that used the proceeds from their cocaine sales (\$5.5 million per year) to buy more drugs, including fentanyl.<sup>71</sup> Law enforcement physically seized millions of fentanyl pills, 60 kilograms of cocaine, 40 kilograms of heroin, and 35 kilograms of methamphetamine from this single organization.<sup>72</sup> Its fentanyl reached into 49 of the 50 states.<sup>73</sup>

Texas-based DEA agents were able to attribute “an overwhelming amount of overdoses, primarily in high school kids in the area” to the organization.<sup>74</sup> The drugs came with an increase in violence.<sup>75</sup> As one agent testified, “[T]hey were murdering people that owed money, people that stole drugs from them. They were murdering customers of theirs of people that were found to be witnesses... against them in federal investigations.”<sup>76</sup>

N311BD—the plane caught in the middle of this far-reaching drug conspiracy—was just one of the AGC planes traced to narcotics air events. The company reportedly had been long associated with criminal figures, like indicted Guatemalan Vice President Roxanna Baldetti.<sup>77</sup> The U.S. Joint Interagency Task Force South (JITF South) felt the impact of the AGC

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<sup>62</sup> WFAA Original: *Foreign Ownership Of Thousands Of U.S. Aircraft Cloaked in Secrecy*, WFAA (Feb. 14, 2019), <https://www.youtube.com/watch?v=rEoWnyzJBT8>

<sup>63</sup> *Secrets In The Sky*, *supra* note 9.

<sup>64</sup> Mercer-Erwin Tr. at Vol. 9, 259.

<sup>65</sup> *Id.* at 262:1-4.

<sup>66</sup> *Id.* at 262-63 (Direct of HSI Agent).

<sup>67</sup> *Id.* at Vol. 1 119:15-120:13 (Direct of DEA Agent).

<sup>68</sup> *Id.* at Vol. 7 48:14-25 (Direct of DEA Agent).

<sup>69</sup> *Id.* at Vol. 9 263:2-7 (Direct of HSI Agent).

<sup>70</sup> *Id.* at Vol. 6 266-68 (Direct of DEA Agent).

<sup>71</sup> *Id.* at Vol. 6 229-235; 244:16-25 (Direct of DEA Agent).

<sup>72</sup> *Id.* at 234:23-235:4 (Direct of DEA Agent).

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 233 (Direct of DEA Agent).

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* at 245:12-16 (Direct of DEA Agent).

<sup>77</sup> *Secrets In The Sky*, *supra* note 9.

indictment<sup>78</sup> on drug interdiction efforts.<sup>79</sup> JITF South is a multiagency initiative developed to detect, monitor, and interdict drug loads.<sup>80</sup> At trial, the commander of JITF South in Guatemala testified to a marked reduction in narcotics air events following the AGC indictment.<sup>81</sup>

Starting from the moment that I arrived into [Guatemala], to the moment that the Indictment was made public there was a ramp-up of air activity that, at its highest peak, was over 120 aircraft. After the Indictment, we saw a decrease of aircraft, especially jets, being utilized, especially November-registered aircraft ... It was a—at the beginning it was not very noticeable, but within 90 to 120 days, it was obvious that something major had happened to the flow of aircraft that were being used.

A Colombian Air Force Colonel confirmed a drop in narcotics flights. He attributed a 64.84% reduction in narcotics air events due to enhanced international coordination and the indictment of AGC.<sup>82</sup> If anything, these figures demonstrate the value of U.S. registered aircraft to the drug trade.

## V. Conclusion

The FAA's lax registration practices have created a criminal and national security threat with realized consequences for the American public. However, despite possessing ample evidence of mounting security concerns, the FAA has not adequately implemented twelve of the fifteen recommended corrections provided by the GAO four years ago, even though the FAA agrees with each outstanding recommendation.<sup>83</sup> These GAO recommendations include:<sup>84</sup>

1. Collect information on individual registrants initially including name, address, date of birth, and driver's license or pilot's license, or both.
2. Collect information on each individual or entity that owns more than 25% of the plane.
3. Verify aircraft registration applicants' and dealers' eligibility and information. (priority recommendation).

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<sup>78</sup> The U.S. government did not indict Aircraft Guaranty Corporation. This is a shorthand reference to the indictment of AGC's Owner, Debra Mercer-Erwin.

<sup>79</sup> Mercer-Erwin Tr. at Vol. 6, 88:20-89:11 (Direct of JITF South Guatemala Commander).

<sup>80</sup> Id. at Vol. 6, 52:10-17 (Direct of JITF South Guatemala Commander).

<sup>81</sup> Id. at Vol. 6, 88:20-89:11 (Direct of JITF South Guatemala Commander).

<sup>82</sup> Id. at Vol. 7, 235-37 (Direct of Colombian Air Force Colonel).

<sup>83</sup> U.S. Government Accountability Office, Recommendation Status (accessed Apr. 3, 2024), [Aviation: FAA Needs to Better Prevent, Detect, and Respond to Fraud and Abuse Risks in Aircraft Registration | U.S. GAO.](#)

<sup>84</sup> Id.

4. Increase registration fees to cover the costs of FAA efforts to collect and verify application information while keeping pace with inflation. Currently, the FAA charges \$5 to register an imported plane.<sup>85</sup> (priority recommendation).
5. Record collected information in an electronic format that facilitates data analytics by FAA and its stakeholders.
6. Link information on owners and related individuals and entities with significant responsibilities for aircraft ownership through a common identifier.
7. Develop an approach to check OFAC sanctions data on owners and related individuals and entities with potential significant responsibilities for aircraft ownership.
8. Use current data sources to identify and analyze patterns of activity indicative of fraud or abuse.
9. Implement risk-based mitigation actions to address potential fraud and abuse identified through data analyses.
10. Develop mechanisms, including regulations if necessary, for dealer suspension and revocation.
11. Coordinate with law enforcement through written agreements and liaison positions.
12. Develop a mechanism to provide declarations of international operations for law-enforcement purposes.

As the Boston Globe explained, “the FAA still operates more like a file clerk than a reliable tool for law enforcement, enabling secrecy in the skies here and abroad.”<sup>86</sup> This practice has continued “years after aircraft were used as weapons in the worst terrorist attack in US history[.]”<sup>87</sup> These alarming security gaps in the FAA registry require immediate action before more drugs flood into our communities and additional threats are posed to the American public.

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<sup>85</sup> Federal Aviation Administration, Aircraft Registration, (accessed Apr. 2, 2023), [https://www.faa.gov/licenses\\_certificates/aircraft\\_certification/aircraft\\_registry/import\\_aircraft#:~:text=a%20completed%20Aircraft%20Registration%20Application.amount%20of%20%245%20\(U.S.%20funds\)](https://www.faa.gov/licenses_certificates/aircraft_certification/aircraft_registry/import_aircraft#:~:text=a%20completed%20Aircraft%20Registration%20Application.amount%20of%20%245%20(U.S.%20funds))

<sup>86</sup> Secrets In The Sky, *supra* note 9.

<sup>87</sup> *Id.*