



# Airport Compliance with the Gerardo Hernandez Security Act of 2015

*March 4, 2020*

Fiscal Year 2019 Report to Congress



Homeland  
Security

*Transportation Security Administration*

# Message from the Administrator

March 4, 2020

I am pleased to present the following report, “Airport Compliance with the Gerardo Hernandez Security Act of 2015,” prepared by the Transportation Security Administration (TSA).

This report was compiled pursuant to legislative language in the Joint Explanatory Statement accompanying the Fiscal Year 2019 Department of Homeland Security Appropriations Act (P.L. 116-6) and further detailed in House Report 115-948. House Report 115-948 directs TSA to “provide a report on the compliance of airports with subsection (a) of section 3 of the Gerardo Hernandez Airport Security Act (Public Law 114-50) related to security plans, including a description of the extent to which the individualized security plans required under that section address the plan elements listed in subsection (b).”



Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Lucille Roybal-Allard  
Chairwoman, House Appropriations Subcommittee on Homeland Security

The Honorable Chuck Fleischmann  
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Shelley Moore Capito  
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jon Tester  
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries relating to this report may be directed to me at (571) 227-2801 or to TSA’s Legislative Affairs office at (571) 227-2717.

Sincerely,

A handwritten signature in black ink that reads "David P. Pekoske". The signature is written in a cursive, slightly slanted style.

David P. Pekoske  
Administrator



# Airport Compliance with the Gerardo Hernandez Security Act of 2015

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# I. Legislative Language

This report is submitted in response to language in the Joint Explanatory Statement accompanying the Fiscal Year 2019 Department of Homeland Security Appropriations Act (P.L. 116-6). House Report 115-948 provides additional details.

The Joint Explanatory Statement includes the following provision:

As directed in House Report 115-948, TSA shall provide a report on airport compliance with subsection (a) of section 3 of the Gerardo Hernandez Airport Security Act related to security plans.

House Report 115-948 states:

Not later than 180 days after the date of enactment of this Act, TSA shall provide a report on the compliance of airports with subsection (a) of section 3 of the Gerardo Hernandez Airport Security Act (Public Law 114-50) related to security plans, including a description of the extent to which the individualized security plans required under that section address the plan elements listed in subsection (b).

The relevant text of the Gerardo Hernandez Airport Security Act (P.L. 114-50) provides:

## SEC. 2. DEFINITIONS.

In this Act:

(1) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary of Homeland Security (Transportation Security) of the Department of Homeland Security.

(2) ADMINISTRATION.—The term “Administration” means the Transportation Security Administration.

## SEC. 3. SECURITY INCIDENT RESPONSE AT AIRPORTS

(a) IN GENERAL.—The Assistant Secretary shall, in consultation with other Federal agencies as appropriate, conduct outreach to all airports in the United States at which the Administration performs, or oversees the implementation and performance of, security measures, and provide technical assistance as necessary, to verify such airports have in place individualized working plans for responding to security incidents inside the perimeter of the airport, including active shooters, acts of terrorism, and incidents that target passenger-screening checkpoints.

(b) TYPES OF PLANS.—Such plans may include, but may not be limited to, the following:

(1) A strategy for evacuating and providing care to persons inside the perimeter of the airport, with consideration given to the needs of persons with disabilities.

(2) A plan for establishing a unified command, including identification of staging areas for non-airport-specific law enforcement and fire response.

(3) A schedule for regular testing of communications equipment used to receive emergency calls.

(4) An evaluation of how emergency calls placed by persons inside the perimeter of the airport will reach airport police in an expeditious manner.

(5) A practiced method and plan to communicate with travelers and all other persons inside the perimeter of the airport.

(6) To the extent practicable, a projected maximum timeframe for law enforcement response to active shooters, acts of terrorism, and incidents that target passenger security-screening checkpoints.

(7) A schedule of joint exercises and training to be conducted by the airport, the Administration, other stakeholders such as airport and airline tenants, and any relevant law enforcement, airport police, fire, and medical personnel.

(8) A schedule for producing after-action joint exercise reports to identify and determine how to improve security incident response capabilities.

(9) A strategy, where feasible, for providing airport law enforcement with access to airport security video surveillance systems at category X airports where those systems were purchased and installed using Administration funds.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings from its outreach to airports under subsection (a), including an analysis of the level of preparedness such airports have to respond to security incidents, including active shooters, acts of terrorism, and incidents that target passenger-screening checkpoints.

#### SEC. 4. DISSEMINATING INFORMATION ON BEST PRACTICES

The Assistant Secretary shall—

(1) identify best practices that exist across airports for security incident planning, management, and training; and

(2) establish a mechanism through which to share such best practices with other airport operators nationwide.

## II. Outreach to Airports

Under section 3 of the Gerardo Hernandez Airport Security Act of 2015 (P.L. 114-50), the Transportation Security Administration (TSA) conducted outreach and analysis to verify whether all airports covered by this Act have plans in place for responding to security incidents inside the perimeter of the airport. These incidents could include active shooters, acts of terrorism, and incidents that target passenger screening checkpoints. TSA determined that the airports covered by the Act were those U.S. commercial airports required by TSA under Title 49 part 1542 of the Code of Federal Regulations (CFR) to adopt and carry out an airport security program (ASP). This report uses the term “TSA airports” to include all regulated airports at which TSA either performs passenger and checked baggage screening or contracts for this screening under the Screening Partnership Program.

TSA reviewed the ASPs and airport emergency plans (AEP) available and determined that all TSA airports had plans for responding to security incidents inside the perimeter of the airport. TSA also determined that all TSA airports met TSA regulatory requirements related to security incident response planning. TSA is working voluntarily with individual airports to improve their preparedness to respond to security incidents and plans to share and update best practices with all TSA airports through the Homeland Security Information Network Board. Airports will be able to provide feedback and to propose additional best practices through their federal security directors.

In response to the attack on transportation security officers (TSO) at Los Angeles International Airport on November 1, 2013, during which TSO Gerardo Hernandez was killed, TSA identified the following actions aimed at improving TSO safety and security:

- Strengthen active shooter training by mandating it for all TSA employees and by requiring practical training exercises,
- Improve the existing communications infrastructure through TSA’s acquisition of duress alarms where gaps have been identified,
- Adopt recommended standards for law enforcement officer (LEO) presence at checkpoints and ticket counters during peak travel times for airports that do not have a fixed post plan,
- Publish a minimum recommended standard for airport operators conducting active shooter training and exercises,
- Incorporate explicit maximum response times in all ASPs using flexible response options, and
- Extend the temporary redeployment of additional Visible Intermodal Prevention and Response teams to airports.

ASPs are required of airports regulated by TSA under 49 CFR part 1542. TSA, in its review, analyzed the incident management-related content of ASPs and AEPs. The Federal Aviation Administration (FAA) requires AEPs of all airports regulated under 14 CFR part 139. TSA

asked individual airport authorities to clarify content within an airport's ASP or AEP, when necessary, and consulted with FAA and its regional offices, as appropriate.

### III. National Analysis

TSA analyzed airport compliance with the regulations and verified that all TSA airports have in place plans for responding to security incidents, as outlined in 49 CFR § 1542.301 and § 1542.307. In assessing the overall level of preparedness at an airport, TSA considered all the ASP and AEP measures and policies in place and consulted with FAA and other agencies, as appropriate.

Airports with complete ASPs must include the following in their ASPs:

- A contingency plan required under 49 CFR § 1542.301,
- Incident management procedures used to comply with § 1542.307, and
- Alternate security procedures, if any, that the airport operator intends to use in the event of natural disasters and other emergency or unusual conditions.

Airports with supporting ASPs must include the following in their ASPs:

- The contingency plan required under 49 CFR § 1542.301, and
- Incident management procedures used to comply with § 1542.307

Airports with partial ASPs must include in their ASPs incident management procedures used to comply with 49 CFR § 1542.307.

TSA routinely conducts security compliance activities, manages security incidents, and provides technical assistance at all TSA airports to ensure that airport operators comply with their ASPs and that they are aware of security best practices. The evaluation of each airport's level of preparedness was influenced by the experience of the transportation security inspectors. Inspectors perform regulatory activities (including inspections, tests, and assessments), conduct stakeholder outreach, and provide technical assistance to airport authorities in their areas of responsibility.

TSA confirmed whether each TSA airport had a plan and whether each of the elements or possible plan types listed in subsection 3(b) of the Act were in place at each airport. These elements or plan types are not regulatory requirements. The following highlights summarize the findings of TSA's review:

- Approximately 80 percent of TSA airports have a documented strategy for evacuating and providing care to persons inside the perimeter of the airport; approximately 55 percent explicitly consider the needs of persons with disabilities.
- Approximately 94 percent of TSA airports have a plan for establishing a unified command; approximately 81 percent identify staging areas for non-airport-specific law enforcement and fire response.

- Approximately 72 percent of TSA airports have a schedule for the regular testing of communications equipment used to receive emergency calls.
- Approximately 66 percent of TSA airports have evaluated how emergency calls placed by persons inside the perimeter of the airport will reach airport police expeditiously.
- Approximately 75 percent of TSA airports have a method and plan to communicate with travelers and all other persons inside the perimeter of the airport; approximately 58 percent have practiced the method and plan.
- All TSA airports have either a fixed-post LEO presence to respond to security incidents at TSA screening checkpoints or a defined maximum timeframe for law enforcement response to such incidents, including active shooters, acts of terrorism, and incidents that target passenger screening checkpoints. TSA has ensured that maximum response times are incorporated in all ASPs using flexible response options (ASPs that do not have a fixed-post LEO presence).
- Approximately 93 percent of TSA airports have a schedule of joint exercises and training and conduct these exercises and training with TSA and other stakeholders such as airport and airline tenants, LEOs, and fire and medical personnel. All TSA personnel, including TSOs, are trained in active shooter response and participate in active shooter response drills at all TSA airports. Many TSA airports have active shooter response plans in place that are documented separately from their ASPs or AEPs.
- Approximately 59 percent of TSA airports have a schedule for producing after-action joint exercise reports and produce reports that identify and determine how to improve security incident response capabilities.
- All Category X<sup>1</sup> airports have a strategy or process for providing airport law enforcement with access to surveillance systems. All Category X airports also have surveillance systems that were purchased and installed using TSA funds in whole or in part.

The airport operator at some TSA airports may not have included the term “active shooter” in their ASP or AEP. The plans in place to respond to security incidents, however, comply with all TSA regulatory requirements and are deemed sufficient to respond to any threat, including active shooter threats and threats at TSA screening checkpoints.

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<sup>1</sup> Category X airports are subject to the security program requirements of 49 CFR 1542.103(a), where the aircraft operator or foreign air carrier is subject to 49 CFR 1544.101(a)(1) or 1546.101(a), and where the number of annual enplanements is 5 million or more and the number of international enplanements is 1 million or more.

## IV. Conclusion

TSA conducted outreach and reviewed security incident response plans at all TSA airports and determined that all TSA airports (commercial U.S. airports regulated under 49 CFR part 1542 with TSA-provided or contracted federal screening resources) have plans in place to respond to security incidents. TSA also determined that all TSA airport operators have met TSA regulatory requirements related to planning responses to security incidents.

TSA is working with individual airports to improve their preparedness to respond to security incidents and is planning to share best practices nationally with all TSA airports. As the Act notes, airport incident response strategies may vary with respect to inclusion of certain elements or types of plans. These elements or types are not regulatory requirements. Each ASP and AEP drafted by the airport operator establishes the operator's strategies based on the needs and security requirements of the particular airport.

TSA will continue to consider other changes to incident response planning as it continues its discussions with airports, aviation security stakeholders, FAA, and other appropriate agencies.

# Appendix

<b>Abbreviation</b>	<b>Definition</b>
<b>AEP</b>	Airport Emergency Plan
<b>ASP</b>	Airport Security Program
<b>CFR</b>	Code of Federal Regulations
<b>FAA</b>	Federal Aviation Administration
<b>LEO</b>	Law Enforcement Officer
<b>TSA</b>	Transportation Security Administration
<b>TSO</b>	Transportation Security Officer