

February 2013

DEPARTMENT OF
JUSTICE

Executives' Use of
Aircraft for
Nonmission Purposes



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Why GAO Did This Study

DOJ components including the FBI, Drug Enforcement Administration (DEA), and United States Marshals Service (USMS) own, lease, and operate a fleet of aircraft primarily to conduct DOJ mission flights, including counterterrorism and criminal surveillance and prevention of illicit drug trafficking into and within the United States. DOJ components also use these aircraft to transport DOJ executives, such as the Attorney General and the FBI Director, for official but nonmission purposes, and conduct flights to position aircraft for security reasons to transport these executives from Washington, D.C. The Office of Management and Budget (OMB) and the General Services Administration (GSA) have established requirements for federal agencies regarding the use of government aircraft, including executive travel.

GAO was asked to review nonmission-related travel by DOJ executives. GAO determined, for fiscal years 2007 through 2011, which DOJ executives used DOJ aircraft for nonmission travel and the frequency, purposes, and costs of such travel. GAO analyzed executive flight data from each DOJ component for fiscal years 2007 through 2011, and interviewed officials to identify the reasons that DOJ aircraft were used to transport DOJ executives for nonmission purposes and the frequency and costs of such flights, including flights taken specifically to position aircraft to transport executives. For purposes of this report, and consistent with executive branch policy, GAO defines nonmission travel as any travel conducted by executives that is not directly related to mission operations.

View [GAO-13-235](#). For more information, contact David C. Maurer at (202) 512-9627 or maurerd@gao.gov.

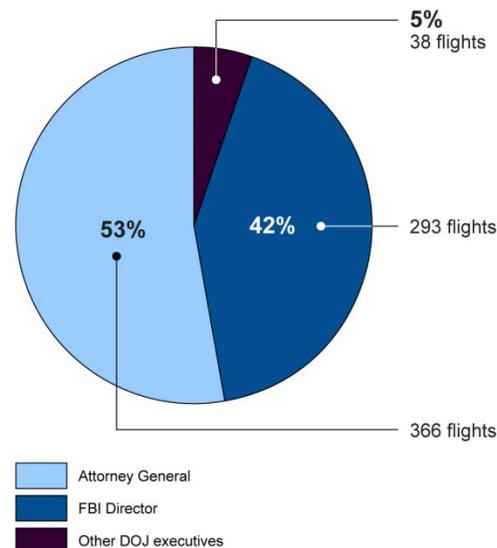
DEPARTMENT OF JUSTICE

Executives' Use of Aircraft for Nonmission Purposes

What GAO Found

From fiscal years 2007 through 2011, three individuals who served as Attorney General (AG) and the Director of the Federal Bureau of Investigation (FBI) accounted for 95 percent (659 out of 697 flights) of all Department of Justice (DOJ) executive nonmission flights using DOJ aircraft at a total cost of \$11.4 million. Specifically, the AG and FBI Director collectively took 74 percent (490 out of 659) of all of their flights for business purposes, such as conferences, meetings, and field office visits; 24 percent (158 out of 659) for personal reasons; and 2 percent (11 out of 659) for a combination of business and personal reasons. All AGs and FBI Directors are "required use" travelers who are required by executive branch policy to use government aircraft for all their travel, including travel for personal reasons, because of security and communications needs. However, according to DOJ officials, while the AG has historically been required to use government aircraft for all types of travel, including personal travel, the FBI Director had, until 2011, the discretion to use commercial air service for his personal travel. DOJ officials told us this explains the AG's greater use of DOJ aircraft for personal reasons than the FBI Director. According to DOJ and FBI flight data we reviewed, all AGs and the FBI Director provided reimbursements for their personal travel in accordance with federal requirements. The FBI also conducts flights from a covert facility to Ronald Reagan National Airport to position aircraft to transport the AG and the FBI Director. Specifically, \$1.5 million of the \$11.4 million for 659 AG and FBI Director flights from fiscal years 2007 through 2011 was used to fly aircraft from this facility to Ronald Reagan National Airport prior to transporting these officials to their destinations. According to the FBI, these positioning flights are necessary because, among other things, the location where the FBI maintains the aircraft is an unmarked covert facility, and at times, the FBI initiates sensitive flight operations from this site.

Nonmission Flights by DOJ Executives, Fiscal Years 2007 through 2011



Source: GAO analysis of Department of Justice data.

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Abbreviations

AAMS	Alliance Aviation Management System
AG	Attorney General
APSS	Automated Prisoner Scheduling System
ASO	Air Surveillance Operation
BOP	Bureau of Prisons
DEA	Drug Enforcement Administration
DOD	Department of Defense
DOJ	Department of Justice
FAA	Federal Aviation Administration
FMR	Federal Management Regulation
FTR	Federal Travel Regulation
GSA	General Services Administration
JMD	Justice Management Division
JPATS	Justice Prisoner and Alien Transportation System
MOU	memorandum of understanding
NASA	National Aeronautics and Space Administration
OMB	Office of Management and Budget
PFM	Professional Flight Management
SFT	Senior Federal Travel
USMS	United States Marshals Service

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United States Government Accountability Office
Washington, DC 20548

February 26, 2013

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Jim Sensenbrenner
Chairman
Subcommittee on Crime, Terrorism,
Homeland Security, and Investigations
Committee on the Judiciary
House of Representatives

Department of Justice (DOJ) components, including the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), and United States Marshals Service (USMS) own, lease, and operate a fleet of aviation assets, including fixed-wing aircraft and helicopters, that play a critical role in supporting DOJ's mission-related responsibilities and operations. These responsibilities include conducting counterterrorism and criminal surveillance, preventing illicit drug trafficking into and within the United States, and transporting prisoners. In addition to operations that support their missions, DOJ components use these aircraft to transport certain DOJ executives for travel other than for mission purposes.

The Office of Management and Budget (OMB) and the General Services Administration (GSA) established requirements for federal agencies regarding the use of government aircraft, including executive travel on these aircraft. OMB Circular A-126 sets forth requirements for agencies' use of government aircraft, including the types of travel that are appropriate and requirements that travelers reimburse the government for use of these aircraft for nonmission purposes.¹ According to the circular,

¹Government aircraft means any aircraft owned, leased, chartered, or rented and operated by an executive agency.

agencies may use their aircraft only for official purposes² and must report semiannually to GSA each use of such aircraft for nonmission travel by senior executives.³ GSA issued the Federal Travel Regulation (FTR), which also requires federal agencies to report on the use of their aviation assets, including executive travel. These provisions include the presumption that travel by common air carrier is the most advantageous method of transportation and must be used when reasonably available.⁴ GSA regulations provide that taxpayers should pay no more than necessary for the transportation and that travel on government aircraft may be authorized only when a government aircraft is the most cost-effective mode of travel.⁵ In addition, agencies may not determine that another mode of transportation is more advantageous on the basis of personal preference or inconvenience to the traveler.⁶

The circular and related regulations allow for nonmission use of government aircraft by government officials when no commercial airline or aircraft is reasonably available to fulfill the agency requirement or the actual cost of using a government aircraft is not more than the cost of using commercial airline or aircraft service.⁷ In addition, government

²OMB Circular No. A-126(7), *Improving the Management and Use of Government Aircraft* (May 22, 1992). In addition, 31 U.S.C. § 1344 provides that agency funds may be expended only for the maintenance, operation, or repair of any passenger carrier to the extent that the carrier is used to provide transportation for official purposes. According to OMB Circular A-126, official travel means (1) travel to meet mission requirements, (2) required use travel, and (3) other travel for the conduct of agency business.

³OMB Circular A-126 (10)(c). In response to a February 10, 1993, presidential memorandum, "Restricted Use of Government Aircraft," OMB Bulletin No. 93-11, *Fiscal Responsibility and Reducing Perquisites* (Apr. 19, 1993), directed agencies to report all uses of government aircraft by senior executive branch officials, including mission travel, and directed GSA to modify the current guidance on agency reports on nonmission uses of government aircraft to incorporate this requirement. Federal agencies are also required to report information on members of the families of senior federal officials and any nonfederal travelers, with certain exceptions.

⁴FTR §§ 301-10.5(a), 301-70.101(b). The GSA regulations also pertain to common carrier travel by rail and bus as the most advantageous modes of transportation.

⁵FTR § 301-10.260; see also FTR § 301-70.800. This includes common carrier travel by air, rail, or bus.

⁶FTR § 301-70.101(b).

⁷OMB Circular A-126(8)(a); FTR § 301-10.261. In addition, "space available" travel is authorized when an aircraft is already scheduled for use for official travel and a traveler's use of the aircraft does not require a larger aircraft or result in more than minor additional cost to the government, among other things.

aircraft are available for required use travel, which is travel that requires the use of government aircraft to meet bona fide communications needs, security requirements, or exceptional scheduling requirements of an executive agency.⁸ Certain executives have been designated by the President as “required use” travelers. Specifically, two executives within DOJ—the U.S. Attorney General and the FBI Director—have been designated as required use travelers, meaning they are authorized to travel aboard DOJ or other government aircraft regardless of their trip purpose. This includes travel for nonmission purposes, such as personal travel, because of their need for special protective security measures and secure communications while in flight. However, federal guidance requires that required use travelers, including the U.S. Attorney General and the FBI Director, reimburse the government for any travel that is for political or personal reasons.⁹ However, under departmental policy, DOJ noncareer appointees are generally prohibited from engaging in political activities, and DOJ officials stated that departmental policy prohibits travel for political purposes. We did not identify any trips taken by DOJ executives for political purposes, as discussed later in this report.

While DOJ executive travel aboard component aircraft may be approved as required use travel on a trip-by-trip basis in accordance with federal guidance, the Attorney General and the FBI Director, as designated required use travelers, account for a significant number of all nonmission flights within DOJ and approval for these types of flights for DOJ executives other than the Attorney General or FBI Director is rare.

You asked us to review the circumstances in which DOJ aircraft are being used to transport executives for nonmission purposes, including the costs of these flights. Specifically, for fiscal years 2007 through 2011, we determined which DOJ executives used DOJ aircraft for nonmission travel and the frequency, purposes, and costs associated with such travel.

⁸OMB Circular A-126(5)(d); FTR § 300-3.1. Under FTR § 300-3.1, examples include a need for 24-hour secure communication, highly unusual circumstances that present a clear and present danger, or a national emergency or another compelling operational consideration.

⁹Under OMB Circular A-126 and GSA regulations, required use travel may include travel for official, personal, or political reasons, and required use travelers must reimburse the government the full coach fare for a wholly personal or political trip, the appropriate share of the full coach fare for an official trip during which the traveler engages in political activities, or the excess of the full coach fare for an official trip during which the traveler flies to more than one location for personal reasons.

While travel aboard government aircraft must be for official purposes, and may be mission or nonmission related,¹⁰ for the purposes of this report, consistent with executive branch policy, we define nonmission flights as those that do not constitute the discharge of any agency's official responsibilities; in other words, flights that are not directly related to mission operations.¹¹ These nonmission flights could include travel to participate in coordination meetings with other U.S. government entities and foreign organizations, field office site visits, and any personal travel by executives required to use government aircraft.¹² We discuss the definition of nonmission flights in more detail later in this report. We did not review DOJ mission flight information as part of this review. We also did not review any DOJ executive travel aboard other U.S. government aircraft, such as executive flights aboard Department of Defense (DOD) or Federal Aviation Administration (FAA) aircraft. In addition, because three different individuals served as U.S. Attorneys General within the time frames of our review and this report covers the tenure of all three; we report the percentage of nonmission flights taken by the Attorneys General in the aggregate.¹³

To identify which DOJ executives used DOJ aircraft for nonmission travel and the frequency, purposes, and costs of this travel, we determined which components owned, operated, or leased aircraft, and interviewed officials from these components to determine how they categorize and track executive travel, and which executives traveled on their aircraft. We then obtained and analyzed flight data records for fiscal years 2007 through 2011 from the FBI, DEA, USMS, and Senior Federal Travel (SFT) data that each of these components previously reported to GSA. We also obtained flight data records from DOJ's Justice Management Division for Attorney General travel for the same time period. To assess the reliability of DOJ executive flight data, we spoke with DOJ officials to gain an understanding of the processes and systems used to collect and record flight data and to understand any known limitations. We also verified the

¹⁰31 U.S.C. § 1344(a)(1).

¹¹See OMB Circular A-126.

¹²See OMB Circular A-126 for additional examples of mission and nonmission purposes.

¹³The following three individuals served as U.S. Attorney General for fiscal years 2007 through 2011: Alberto Gonzales (February 2005 through September, 2007), Michael Mukasey (November 2007 through January 2009), and Eric Holder (February 2009 to the present).

flight data estimated costs provided to us by multiplying aircraft flight hours by estimated variable costs per flight hour. Furthermore, we compared data provided to us by DOJ with executive flight data it had previously reported to GSA from fiscal years 2007 through 2011. However, because the FBI stopped reporting executive flight data to GSA at the end of fiscal year 2008, we were only able to make comparisons of the FBI's data for fiscal years 2007 and 2008. To assess the reliability of FBI flight data not reported to GSA, we reviewed all available flight source documents for Attorney General and FBI Director flights taken in fiscal years 2010 and 2011. We found that the FBI flight data provided to us were sufficiently reliable for the purposes of our report. For additional information on our scope and methodology, see appendix I.

We conducted this performance audit from March 2012 through February 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

DOJ Component Aircraft

Within DOJ, USMS, DEA, and the FBI own, lease, and operate government aircraft primarily to accomplish and provide support for their various mission operations, such as transporting prisoners; preventing illicit drug trafficking into and within the United States; and conducting a variety of counterterrorism, intelligence, and criminal surveillance activities. For example, USMS operates 12 aircraft primarily for air surveillance and prisoner transport.¹⁴ DEA and the FBI also own and

¹⁴USMS has two aviation operations divisions, the Air Surveillance Operation (ASO) and the Justice Prisoner and Alien Transportation System (JPATS). ASO's primary mission is to provide air surveillance capabilities to the Investigative Operations Divisions and the USMS District Field Offices in their efforts to pursue and apprehend fugitives. JPATS's mission is to transport federal detainees, deportable aliens and prisoners, and sentenced individuals, whether in the custody of USMS or the Bureau of Prisons (BOP). JPATS also provides prisoner transportation for DOD, state, and local law enforcement agencies on a reimbursable, space-available basis. Of the aircraft that USMS operates, it owns 10 and leases 2. Specifically, JPATS leases 2 McDonnell Douglas MD-83s and owns 2 Hawker 800As and a SABB 2000, and ASO owns 6 Cessna T206s and a Cessna 208.

operate aircraft, including fixed-wing aircraft and helicopters, to prevent, among other things, illicit drug trafficking into and within the United States; to conduct counterterrorism and criminal surveillance operations; to conduct aerial photography; and to transport personnel, evidence, and equipment during a crisis or in support of time-sensitive investigations.

The FBI primarily uses its aircraft for mission operations, but also operates a small fleet of large-cabin, long-range business jets, including two Gulfstream Vs, for both mission and nonmission travel. These aircraft possess long-range capabilities that enable FBI to conduct long-distance domestic and international flights without the need to stop for refueling—which is vital to support certain missions related to counterterrorism and other sensitive FBI investigations. FBI also authorizes the use of these aircraft for executives, including DOJ executives who travel for nonmission purposes, such as required use travel or other official travel visits to FBI field offices and coordination meetings with other U.S. government entities or organizations.¹⁵ These aircraft provide secure communication capabilities allowing officials aboard to remain in constant contact with government officials and various organizations on the ground. While DOJ may authorize executives' use of these aircraft for nonmission purposes, a significant portion of this travel comprises required use travel by the Attorney General and the FBI Director, who must use government aircraft for all of their travel because of the secure communications onboard. According to FBI officials, DOJ rarely approves nonmission travel aboard these aircraft for DOJ executives other than the Attorney General and the FBI Director. In addition, because the Attorney General and the FBI Director are based in Washington, D.C., aircraft are often moved, or "positioned," from other locations to Ronald Reagan National Airport to transport them. Figures 1 and 2 provide examples of DOJ component aircraft, and figure 3 provides an example of the type of long-distance flights these aircraft can take without stopping to refuel.

¹⁵ Under departmental policy, DOJ noncareer appointees are generally prohibited from engaging in political activities, Office of the Attorney General, *Restrictions on Political Activities*, (Aug. 8, 2000), and DOJ officials stated the departmental policy prohibits travel for political purposes. We did not identify any trips taken by DOJ executives for political purposes.

Figure 1: United States Marshals Service (USMS) Prisoner Transport Plane



Source: USMS.

Figure 2: FBI Gulfstream V Aircraft.



Source: FBI.

Figure 3: Example of a Long-Distance Flight a Gulfstream V Aircraft Can Take without Refueling



Source: GAO; Map Resources (map).

Federal Requirements for Executive Travel aboard Government Aircraft

OMB Circular A-126 and related GSA implementing regulations require that federal agencies operate government aircraft only for official purposes, and also define the categories of official use.¹⁶ These categories include travel that is (1) mission required (i.e., to meet mission requirements), (2) required use, and (3) other travel for the conduct of agency business.

¹⁶See OMB Circular A-126(5), (7), and (8).

Presidentially Designated Required Use Travelers

The President of the United States has determined that within DOJ all Attorney General and FBI Director travel qualifies as required use regardless of whether it is for official, personal, or political purposes. According to a July 1993 and a March 2004 White House memorandum, the responsibilities of these individuals are such that they require instantaneous secure communications capability with the White House, their departments, and other agencies. In addition, in an emergency, they must return to Washington, D.C., or to other destinations on an expedited basis. These individuals have a heightened need for security because of their official duties and public visibility, a fact that substantially increases the likelihood of threats to their personal safety. Accordingly, government aircraft have been made available to these officials for both official and unofficial travel. According to DOJ officials, the AG has historically been required to use government aircraft for all types of travel, including personal travel, and the FBI Director had, until 2011, the discretion to use commercial air service for his personal travel, but is now also required by DOJ to use government aircraft for all travel.

- **Mission required** is travel that constitutes the discharge of an agency's official responsibilities, such as intelligence and counternarcotic activities, transportation of prisoners, training, and other such travel.
- **Required use** is travel by an executive agency officer or employee, where the use of government aircraft is required for bona fide communications or security needs of the agency or exceptional scheduling requirements. Agencies may designate officials as required use travelers on a trip-by-trip basis. However, certain high-level government officials, such as the Attorney General and the FBI Director, are presidentially designated as required use travelers for all of their travel and travel aboard DOJ or other government aircraft, including for personal purposes, even though it may be more costly than the price of comparable common carrier flights.
- **Other official travel** is defined as official travel that is not required use or mission travel. It shall be authorized only when there is no commercial airline or aircraft service that is reasonably available to effectively fulfill the agency requirement or the actual cost of using a government aircraft is not more than the cost of using commercial airline or aircraft service.

OMB Circular A-126 does not specifically define the category of nonmission travel aboard government aircraft; however, it does provide examples of activities that should not be categorized as mission required, such as travel to give speeches, attend conferences or meetings, and make routine site visits. Furthermore, OMB Circular A-126 provides requirements for senior federal officials traveling on government aircraft, and reimbursement required for such travel, including required use travel.¹⁷ Specifically, the circular provides that required use travelers must reimburse the government the full coach fare for travel that is for wholly personal or political purposes, and the appropriate share of the full coach fare for trips that include only a portion of travel for personal or political

¹⁷Senior federal officials are persons employed at the Executive Service level or above, and include presidential appointees.

reasons.¹⁸ However, under departmental policy, DOJ noncareer appointees are generally prohibited from engaging in political activities, and DOJ officials stated that departmental policy prohibits travel for political purposes. We did not identify any trips taken by DOJ executives for political purposes.

In addition, GSA issued the FTR, which applies to federal agencies that authorize travel on government aircraft, and also requires that these agencies report on a semiannual basis to GSA information about senior federal officials and nonfederal travelers who fly aboard the agency's aircraft.¹⁹ Specifically, the FTR provides that agencies must report the person's name, whether the person is a senior federal official or a nonfederal traveler, and the official purpose of the trip and destination. For official travel, agencies must also report the comparable commercial fare for the flight taken,²⁰ and for personal or political travel, the amount the traveler must reimburse the government (i.e., the full coach fare or appropriate share of that fare), among other information. DOJ and component officials said that components, specifically the FBI, DEA, and USMS, were responsible for tracking DOJ executives' use of component

¹⁸According to OMB Circular A-126, for required use travel in which an employee engages in political activities, the government shall be reimbursed for the appropriate share of the full coach fare of the entire trip. Full coach fare is the coach fare available to the general public between the day that the travel was planned and the day the travel occurred. In addition, for required use travel in which an employee flies to one or more locations for personal reasons, the government shall be reimbursed the excess of the full coach fare of all flights taken by the employee on the trip over the full coach fare of the flights that would have been taken by the employee had there been no personal activities on the trip.

¹⁹The FTR is found at 41 C.F.R. chs. 300-304. According to the FTR, its purpose is to implement statutory requirements and executive branch policy for travel by federal civilian employees and others authorized to travel at the government's expense. The Federal Management Regulation (FMR) states that it is applicable to all federally funded aviation activities that use government aircraft to accomplish official business, with certain exceptions. Additionally, GSA issued the FMR, which requires that federal agencies report to GSA inventory, cost, and utilization data on government aircraft on a quarterly basis as well as information on the senior federal officials and others who travel on government aircraft. The portion of the FMR dealing with government aircraft is found at 41 C.F.R. pt 102-33.

²⁰This includes the comparable city-pair fare (if available to the traveler) or the full coach fare if the city-pair fare is not available. The City Pair Program is a program established by GSA and the airline industry to provide lower rates to federal and military employees on official travel. Federal and military travelers on official business are required to use the contract carrier unless a specific exception applies. City-pair fares may not be used by contractors.

aircraft and reporting this information to GSA. However, in 2009, FBI officials determined that as an intelligence agency, the bureau was exempt from reporting to GSA on senior federal officials who travel on government aircraft, and therefore, stopped reporting this information to GSA.²¹

The Attorneys General and the FBI Director Were the Primary Users of DOJ Aircraft for Nonmission Purposes from Fiscal Years 2007 through 2011 at a Cost of \$11.4 Million

Mission versus Nonmission Travel

DOJ does not have aviation assets assigned to the department's headquarters; however, DEA, USMS, and the FBI, which are the only DOJ components with aviation assets, each house, maintain, and operate aircraft to support their respective missions. DOJ components apply guidance from OMB circulars and travel categories differently depending primarily on the purposes for which they use their aircraft, and no DOJ component categorizes travel as nonmission. For example, DEA officials stated that they use only two travel categories—mission required and required use—and that they did not have a separate category for nonmission or other official travel because they do not approve flights for purposes that are not relevant to the mission of their agency. DEA's flight data for fiscal years 2007 through 2011 showed a total of 114 executive flights on DEA aircraft categorized as either mission required or required use for which DEA provided all available records. According to DEA officials, while they did not have a category or definition for nonmission

²¹We are currently following up with GSA on the FTR reporting requirements, including how GSA has determined which federal aviation travel activities are exempt from these requirements.

travel, they used their professional judgment to identify a small percentage of these flights as executive travel that they said could be considered as being for nonmission purposes. We analyzed the list of flights that DEA provided to us and reviewed the source documents for those flights but were unable to independently determine the purpose of these flights. As a result, we did not include data from DEA in our analysis. DEA officials told us they are in the process of updating their *Aviation Operation Handbook* to ensure they are better categorizing and documenting the purpose of all DEA flights, including flights that could be categorized as nonmission.

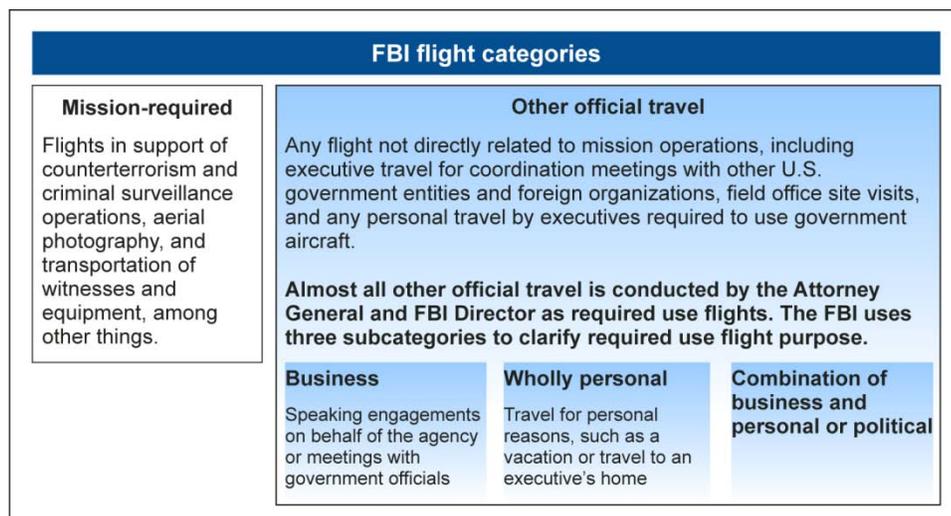
USMS officials also told us that they did not have a category for nonmission travel and stated they use USMS aircraft only for mission purposes. According to USMS officials, if an executive or nonfederal traveler flies aboard a USMS aircraft, that person does so aboard USMS prisoner transport flights.²² According to USMS flight data for fiscal years 2007 through 2011, there were a total of 10 flights in which an executive was on board USMS aircraft, but all of these flights were for the purposes of prisoner transport. For example, on May 18, 2009, a DOJ executive official traveled aboard a prisoner transport flight from Oklahoma City, Oklahoma; to Harrisburg, Pennsylvania; to Atlanta, Georgia; and back to Oklahoma City to observe prisoner drop-off and pickup operations and procedures. However, USMS officials told us this flight is considered a mission flight because they are transporting prisoners, which is part of their official mission responsibilities.

As shown in figure 4, the FBI also does not have a category for nonmission travel. Instead it uses two travel categories: (1) mission required and (2) other official travel. FBI officials explained that the other official travel category includes all flights that are not directly related to mission operations, such as flights to transport executives for purposes of attending meetings and making field office visits. FBI officials also told us that almost all of the other official travel aboard FBI aircraft is travel conducted by the Attorney General and the FBI Director. For these required use flights, FBI uses subcategories to define trip purpose: (1) business, such as speaking engagements on behalf of the agency or meetings with government officials; (2) wholly personal, such as travel to

²²According to USMS officials, DOJ and component executives typically travel aboard agency aircraft to observe how the prisoner transport system works.

an executive's home; and (3) a combination of business and personal or political.²³ For purposes of our analysis, we are using the term "nonmission travel" to refer to all required use or other official travel on DOJ aircraft.

Figure 4: FBI Flight Categories



Source: GAO.

DOJ Executive Nonmission Travel

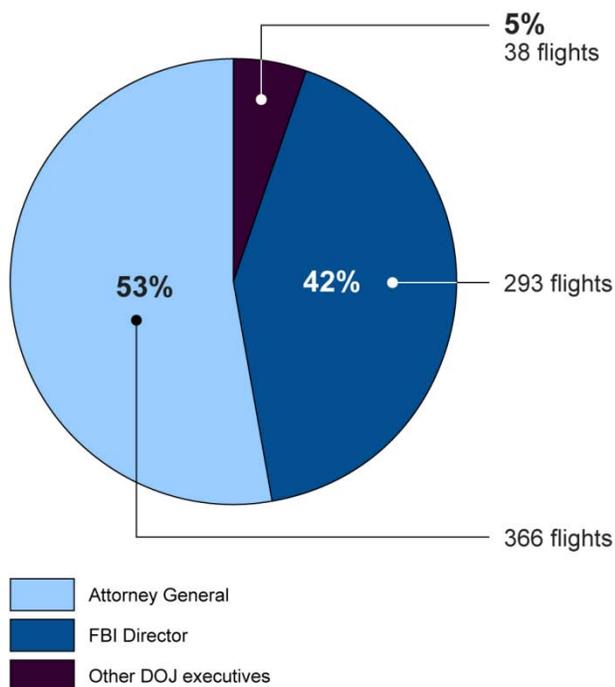
From fiscal years 2007 through 2011, three individuals who served as Attorneys General and the FBI Director were the primary users of DOJ aircraft for other official travel purposes (i.e., nonmission).²⁴ Specifically, as figure 5 illustrates, our analysis of DOJ and component executive travel data showed that Attorneys General and the FBI Director's travel constituted 95 percent (659 out of 697 flights) of all DOJ executive flights

²³According to DOJ and FBI officials we spoke with, the Attorney General and the FBI Director are prohibited from traveling for political purposes and, as such, do not use DOJ aircraft for political travel purposes.

²⁴While flights for other official travel purposes (i.e., nonmission) are approved for the Attorney General and the FBI Director, FBI officials told us these individuals often travel with several other officials who are traveling in support of DOJ and FBI official business, such as protective security details and operational support personnel.

categorized as other official travel.²⁵ The total cost of these 659 Attorney General and FBI Director flights was \$11.4 million.²⁶ Travel by the Attorney General composed 53 percent of the flights (366 out of 697), while the FBI Director's composed 42 percent (293 out of 697). The remaining 5 percent of flights (38 out of 697) were taken by other DOJ executives, such as the FBI's Deputy Director, at a total cost of \$1 million.

Figure 5: Nonmission Flights by DOJ Executives, Fiscal Years 2007 through 2011



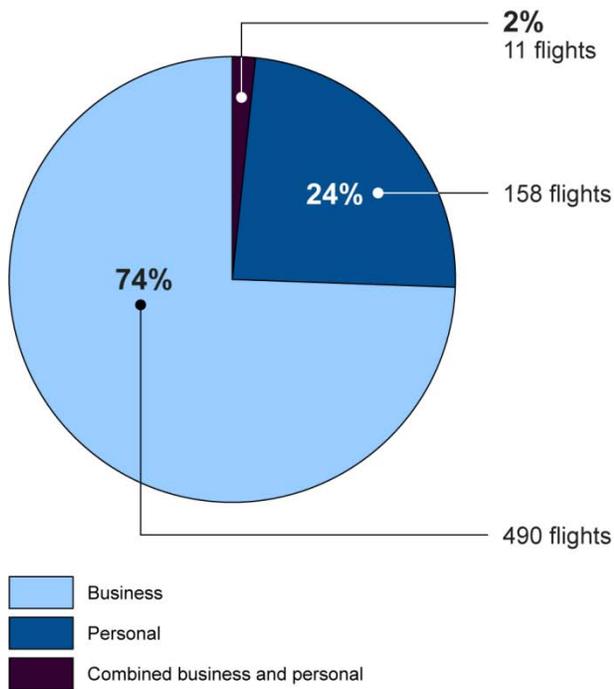
Source: GAO analysis of Department of Justice data.

²⁵An individual flight is counted per calendar day. As a result, each flight occurrence represented could include one or more flight legs if the flight occurred on the same calendar day.

²⁶FBI officials told us that other official travel (i.e., nonmission travel) by senior executives other than the FBI Director or Attorney General is highly discouraged by the department, and only on very rare occasions will FBI executives request the use of government aircraft to engage in other travel for the conduct of agency business. When such a request is made, the FBI's Office of General Counsel reviews the request and, if appropriate, sends it to the Associate Deputy Attorney General for approval. In addition, all costs are estimated costs consisting of total flight hours multiplied by estimated variable costs per hour.

As shown in figure 6, the Attorneys General and the FBI Director collectively took 74 percent (490 out of 659) of all of their flights for business purposes, such as conferences, meetings, and field office visits; 24 percent (158 out of 659) of all flights for personal reasons; and 2 percent (11 out of 659) for a combination of business purposes and personal reasons.²⁷

Figure 6: Combined Purposes of All Attorney General and FBI Director Flights, Fiscal Years 2007 Through 2011



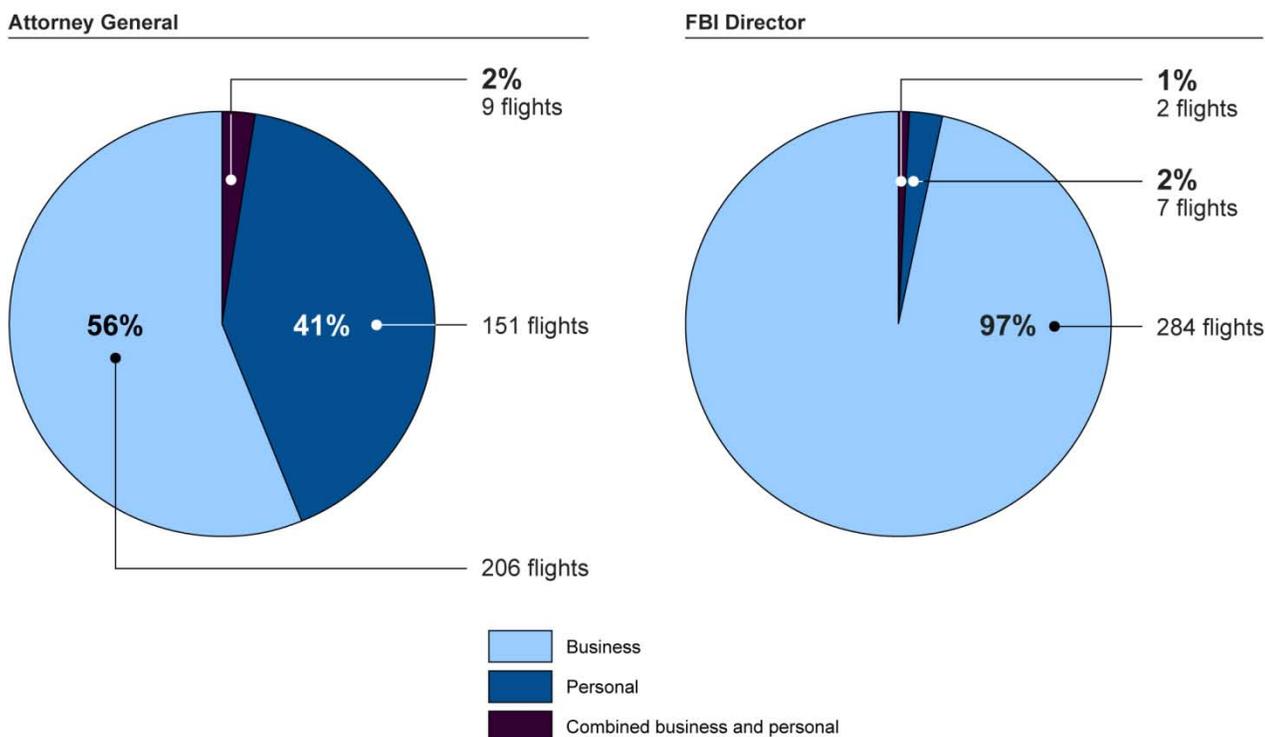
Source: GAO analysis of Department of Justice data.

On an individual basis, Attorneys General took 56 percent (206 out of 366) of flights for business reasons and 41 percent (151 out of 366) for

²⁷From fiscal years 2007 through 2011, the Attorneys General took 9 flights that were categorized as a combination of business and personal, while the FBI Director took 2 flights that were categorized as a combination of business and personal.

personal reasons,²⁸ while the FBI Director took 97 percent (284 out of 293) for business reasons and 2 percent (7 out of 293) for personal reasons, as shown in figure 7.²⁹ According to FBI flight data we reviewed, the Attorneys General and the FBI Director provided reimbursements of the applicable full coach fare for their personal travel, which are transferred to the Department of the Treasury.³⁰

Figure 7: Individual Purposes for Attorney General and FBI Director Flights, Fiscal Years 2007 through 2011



Source: GAO analysis of Department of Justice data.

²⁸The remaining 2 percent (9 out of 366) of Attorneys General flights were for a combination of business and personal reasons. In addition, because we performed calculations before rounding, some percentages may not add up to 100.

²⁹The FBI Director took 2 flights that were a combination of business and personal.

³⁰Reimbursement at the applicable full coach fare must also be provided for any individuals accompanying the Attorney General and the FBI Director on their personal travel aboard government aircraft, such as family members.

Note: DOJ officials stated that the Attorney General has historically been required to use government aircraft for all travel, including personal travel, while FBI officials stated that the FBI Director had, until recently, the discretion to use commercial air service for personal travel, which he elected to do most of the time to save on the use of government funds. Because we performed calculations before rounding, some percentages may not add up to 100.

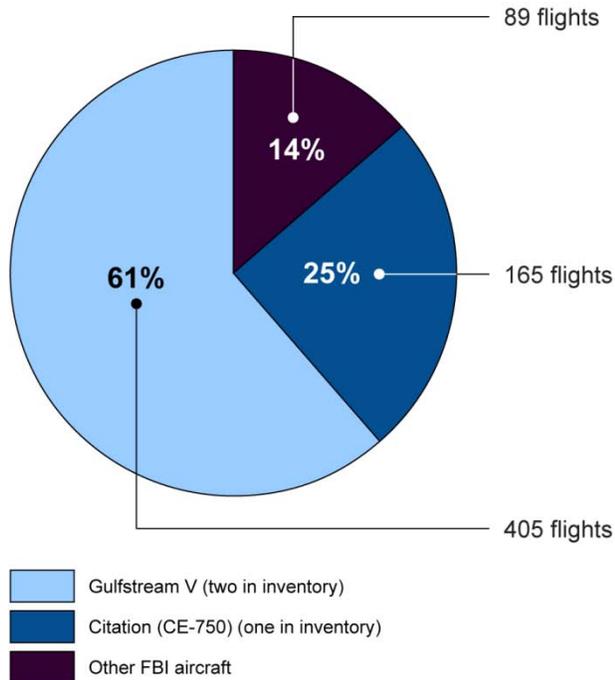
According to DOJ officials, the requirement to use government aircraft for personal travel has not always been the same for the Attorney General and the FBI Director. DOJ officials stated that the Attorney General has historically been required to use government aircraft for all travel, including personal travel, while FBI officials stated that the FBI Director had, until recently, the discretion to use commercial air service for personal travel, which he elected to do most of the time to save on the use of government funds. FBI officials told us that in 2011, for reasons related to the Director's need to access secure communication systems while traveling, DOJ made a policy change requiring the Director to use government aircraft for all of his travel, including personal travel.³¹ As a result, both the FBI Director and the Attorney General must now use government aircraft for all travel regardless of its purpose. FBI officials told us this explains the differences in the use of FBI aircraft for personal reasons between the Attorneys General and the FBI Director.

Aircraft Usage and Costs for Attorney General and FBI Director Flights

According to the FBI, three aircraft are primarily used to transport the Attorneys General and the FBI Director. As shown in figure 8, from fiscal years 2007 through 2011, 61 percent (405 out of 659) of flights were aboard one of the two Gulfstream V aircraft, and 25 percent (165 out of 659) of flights were aboard the FBI's CE-750 (Citation). The remaining 14 percent (89 out of 659) of flights were aboard other FBI aircraft.

³¹FBI officials told us that more specific information surrounding this policy change is classified.

Figure 8: Aircraft Used to Transport the Attorneys General and FBI Director from Fiscal Years 2007 through 2011



Source: GAO analysis of Department of Justice data.

FBI officials told us that these Gulfstream Vs and the Citation were the three aircraft primarily used for Attorney General and FBI Director travel because they have secure communications, larger passenger capacity, and the long-distance range that is necessary for their required use travel. However, FBI officials also noted that these aircraft are used for executive transport only when they are not needed for mission purposes—that is, mission purposes always take first priority. Specifically, investigative/operational missions are the first priority, required maintenance and pilot training is the second priority, and executive travel is the third priority. FBI officials stated that when they receive a nonmission flight request for an aircraft that is prescheduled for a mission-required flight, the Attorney General or the FBI Director makes the final determination for how the flight will be prioritized, but that they always adhere to these priorities to ensure that no mission flights are cancelled because of a nonmission flight request. According to FBI officials, they are aware of one instance in which a nonmission flight was terminated because of a conflict, and that the FBI has been able to avoid

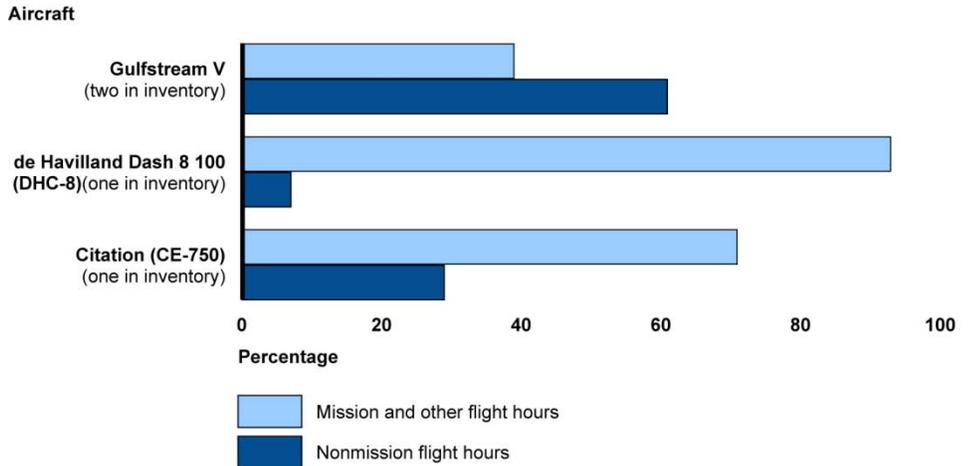
such terminations because of the availability of multiple aircraft in its fleet capable of transporting executives.³²

As shown in figure 9, while the majority of FBI aircraft are used primarily for mission flights, some FBI aircraft had more flight hours associated with nonmission flights than mission flights from fiscal years 2007 through 2011. Specifically, from fiscal years 2007 through 2011, 60 percent (2,206 of 3,657) of all flight hours for the FBI's two Gulfstream V aircraft were associated with nonmission flights to transport the Attorneys General, FBI Director, and other DOJ executives. However, the FBI's Citation had 29 percent of its flight hours (596 of 2,063) associated with nonmission flights, and the de Havilland Dash 8 100 (DHC-8) had 6 percent of its total flight hours (127 of 1,966) associated with nonmission flights. For these aircraft, 38 percent of their flight hours (2,929 of 7,686) were associated with transporting the Attorneys General, the FBI Director, and other DOJ executives for nonmission flights.³³

³²According to the FBI, in 2002, the bureau established a memorandum of understanding (MOU) with FAA to allow FBI use of FAA's Gulfstream IV aircraft on an as-needed basis for mission-related and required use travel, including for use as alternative transportation to resolve conflicts in flight scheduling for mission or required travel. However, FBI officials also told us they have yet to exercise this agreement because they have not needed to use FAA's Gulfstream IV aircraft as a result of being able to effectively resolve conflicts in flight scheduling with its current fleet of aircraft.

³³These aircraft include two Gulfstream V's, the DHC-8, and the Citation.

Figure 9: Flight Hour Breakouts for FBI's Two Gulfstream Vs, a de Havilland Dash 8 100, and a Citation from Fiscal Years 2007 through 2011



Source: GAO analysis of Department of Justice data.

From fiscal years 2007 through 2011, the cost for all Attorney General and FBI Director nonmission travel was \$11.4 million: \$5.8 million (51 percent) for the Attorney General and \$5.6 million (49 percent) for the FBI Director.³⁴ Of the \$5.8 million for Attorney General flights, about \$4 million (69 percent) was for business travel and \$1.6 million (28 percent) was for personal flights.³⁵ For the FBI Director, \$5.5 million (98 percent) was for business flights, while the remaining costs were for seven personal flights. In addition, because 86 percent of all Attorney General and FBI Director nonmission flights were taken aboard the FBI's Gulfstream Vs or Citation, the total flight costs generally resulted from the use of these aircraft. For example, the total cost of the 570 flights taken aboard these three aircraft was \$11 million—96 percent of all flight costs for the Attorneys General and the FBI Director from fiscal years 2007 through 2011. As figure 10 illustrates, 405 flights were taken aboard the FBI's

³⁴All costs are estimated costs consisting of total flight hours multiplied by estimated variable costs per hour.

³⁵About \$166,000 was used for a combination of business and personal flights.

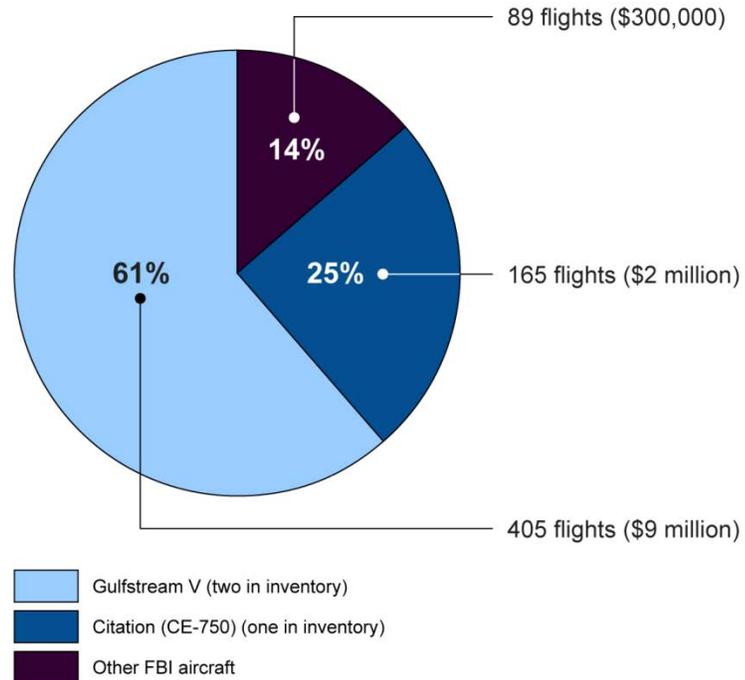
Gulfstream Vs at a cost of \$9 million, and 165 flights were on the Citation at a cost of \$2 million.³⁶

As previously noted, OMB Circular A-126 requires that the government be reimbursed for any personal travel at the full coach fare between cities. This reimbursement amount, or equivalent commercial fare, is generally less than the cost of operating a government aircraft. For example, a personal trip taken by the Attorney General to New York in November, 2010 using the FBI's Gulfstream V had an estimated flight cost of \$15,894, but the reimbursement at the equivalent commercial fare was \$420.80. The FBI's flight data showed that the FBI Director took a total of 10 trips aboard FBI aircraft that required reimbursement from fiscal years 2007 through 2011, and he reimbursed the equivalent commercial fare for these flights totaling \$4,556 in equivalent commercial cost, while 88 of the Attorney General's trips required reimbursements during the same time period, and he reimbursed the equivalent commercial fare for these flights totaling \$46,982. DOJ and FBI officials explained that while the Attorney General and FBI Director did not use DOJ aircraft to travel for political purposes, they provided reimbursements for travel involving personal purposes in accordance with federal requirements.³⁷ DOJ officials told us that the Attorney General sends his reimbursements via check to DOJ's Finance Office, which is responsible for depositing these funds to the Department of the Treasury. Similarly, FBI officials told us that the FBI Director pays reimbursements for his personal travel through the FBI Finance Division, which is responsible for depositing these funds to the Department of the Treasury.

³⁶The remaining 89 flights were taken aboard other FBI aircraft at a cost of roughly \$300,000. These other aircraft included an FBI tactical helicopter and DHC-8.

³⁷Three individuals served as U.S. Attorney General for fiscal years 2007 through 2011, and according to DOJ and FBI officials we spoke with, none of them used DOJ aircraft for political purposes, but did provide reimbursements for any personal travel in accordance with federal requirements.

Figure 10: Aircraft Costs for Attorney General and FBI Director Flights from Fiscal Years 2007 through 2011



Source: GAO analysis of Department of Justice data.

In addition, the costs of individual flights can vary depending on the aircraft being used and the length of the flight. For example, a 2-hour flight aboard the FBI's Gulfstream V on May 15, 2010, cost \$9,940, while a 2-hour flight aboard the FBI's Citation on September 9, 2010, cost \$7,408 because the Citation costs about \$1,000 less per hour to operate than the Gulfstream V. Further, a 2-hour domestic flight on the Gulfstream V aircraft cost \$9,940; while an almost 15-hour international flight on the same aircraft cost \$75,440.

FBI Positions Aircraft to Transport the Attorney General and FBI Director

Because the Attorney General and FBI Director are based in Washington, D.C., FBI aircraft are often flown from another location to Ronald Reagan National Airport to pick these officials up and take them to their destination—on what is called a positioning flight. Specifically, the FBI conducts these flights from a storage facility to Ronald Reagan National Airport to pick up the Attorney General and the FBI Director and then returns the aircraft to this facility once each trip is completed.³⁸ Of the 659 Attorney General and FBI Director flights taken from fiscal years 2007 through 2011 for nonmission purposes, 505 (77 percent) had an associated positioning flight. The total cost of these positioning flights accounted for \$1.5 million of the \$11.4 million total spent on Attorney General and FBI Director travel.³⁹ According to the FBI, these positioning flights are necessary because, among other things, the location where FBI maintains its aviation fleet is an unmarked, covert facility, and at times, the FBI initiates sensitive flight operations from this site. As a result, these aircraft need to be housed there instead of at more public airports closer to Washington, D.C., a location that could compromise operations. As discussed above, because the majority of Attorney General and FBI Director flights taken during this time period were aboard one of three FBI aircraft (two Gulfstream Vs and a Citation), almost all of the positioning costs associated with Attorney General and FBI Director nonmission flights were for these three aircraft.⁴⁰

³⁸The specific location of the covert facility was deemed highly sensitive by the FBI and cannot be publicly reported.

³⁹Of the 659 total Attorney General and FBI Director flights taken for nonmission purposes from fiscal years 2007 through 2011, 154 flights did not have a positioning cost associated with them. These were generally flights departing from foreign airports or helicopter flights.

⁴⁰Specifically, of the \$1.5 million spent from fiscal years 2007 through 2011 to position aircraft for the purposes of Attorney General and FBI Director travel, \$43,347 was spent to position an aircraft other than one of the FBI's Gulfstream V aircraft or the Citation.

Agency Comments and Our Evaluation

We provided a draft of this report to DOJ for official review and comment. DOJ provided written comments on the draft report, which are reproduced in full in appendix II. DOJ also provided technical clarifications, which we incorporated where appropriate. DOJ's letter stated that departmental policy prohibits travel for political purposes even though OMB guidance and GSA regulations allow required use travel for business, personal or political purposes. Our review of data on executive use of DOJ aviation assets found no trips taken by DOJ for political purposes. We also reflect in several places throughout our report that DOJ policy prohibits travel for political purposes.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Attorney General and other interested parties. This report will also be available at no charge on GAO's website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-9627 or maurerd@gao.gov. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix III.



David C. Maurer
Director
Homeland Security and Justice Issues

Appendix I: Objectives, Scope, and Methodology

To identify, for fiscal years 2007 through 2011, which Department of Justice (DOJ) executives used DOJ aircraft for nonmission travel and the frequency, purposes, and costs associated with such travel, we interviewed DOJ and component officials to determine which components owned, operated, or leased government aircraft. After determining that the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), and United States Marshals Service (USMS) were the three DOJ components with government aircraft, we then interviewed officials from these components to determine how they each categorize and track executive travel, and which DOJ executives traveled on their aircraft. To better understand relevant federal requirements governing the management and use of government aircraft, including executive travel aboard government aircraft, we reviewed the Office of Management and Budget (OMB) Circular A-126, the General Service Administration's (GSA) Federal Travel Regulation (FTR) and Federal Management Regulation (FMR) as contained in Title 41 of the Code of Federal Regulations, and DOJ- and component-specific guidance governing the management and use of agency aircraft. We also interviewed DOJ component officials to obtain an understanding of component-specific guidance they used for the approval of executive travel on government aircraft.

We then obtained and analyzed DOJ executive flight data from each component's flight data systems for fiscal years 2007 through 2011, including flight records from the FBI's and DEA's Professional Flight Management (PFM) systems, USMS's Automated Prisoner Scheduling System (APSS), and Senior Federal Travel (SFT) data that each component reported to GSA. We analyzed these data to identify the number of DOJ executive flights taken for nonmission purposes, including which DOJ executives used these aircraft, which aircraft they used, the frequency with which they used these aircraft, and the cost of each flight. We verified the flight data estimated costs provided to us by multiplying aircraft flight hours by estimated variable costs per flight hour. These aircraft-specific estimated variable costs per hour were provided by Conklin and de Decker software that is updated annually. We obtained documentation for the current version of the Conklin and de Decker software that the FBI uses, verified the Conklin and de Decker cost categories that the FBI uses, and reviewed the Conklin and de Decker website to better understand the company, software, and cost categories. Conklin and de Decker flight hour cost estimates are considered the government-wide and industry standard for aviation cost accounting and are widely used in private industry as well as government agencies, including GSA, the Federal Aviation Administration (FAA), and the

National Aeronautics and Space Administration (NASA). For each flight and flight segment, we identified the travel date(s), flight location (i.e., domestic or foreign), the type of nonmission travel (i.e., personal, political, or business travel), estimated per hour flight cost and total estimated flight cost, and reimbursement costs for any DOJ executive nonmission travel for personal reasons.

To identify the reasons and rationales for which the FBI positioned aircraft at Ronald Reagan National Airport to transport the Attorney General and the FBI Director, we interviewed FBI officials to better understand the purposes for which these types of flights may occur. To determine the frequency and costs of such travel, we obtained and analyzed relevant DOJ component flight data for fiscal years 2007 through 2011 to identify the number of positioning flights taken, the specific costs of these flights, and the specific aircraft used for these flights.

To assess the reliability of DOJ executive flight data, we interviewed DOJ component officials to gain an understanding of the processes and databases used to collect and record flight data and to understand existing quality control procedures and any known limitations. We also compared executive flight data provided to us by DOJ with executive flight data it had previously reported to GSA for fiscal years 2007 through 2011. To conduct this comparison, we used the flight date as a common identifier for each flight record, and identified for each flight, the passengers (i.e., DOJ executives), estimated flight cost, type of travel (i.e., personal, business, or combination), aircraft type, total flight hours (including positioning flight hours), and related reimbursement information for personal travel. However, because the FBI stopped reporting executive flight data to GSA in 2009, we were only able to compare the FBI's data with GSA's data for fiscal years 2007 and 2008. Specifically, in 2009, FBI officials determined that as an intelligence agency, the bureau was exempt from reporting to GSA on senior federal officials who travel on government aircraft, and therefore, it stopped reporting this information to GSA.

Because we were not able to compare GSA and FBI data for fiscal years 2009 through 2011, we reviewed Attorney General and FBI Director flight records for fiscal years 2010 and 2011 and for any other senior DOJ executives traveling aboard FBI aircraft from fiscal years 2007 through 2011, for nonmission purposes. Specifically, we compared the FBI flight data records with available source documents, which included the Passenger Manifest, Special Operations Flight Request Form, After Action Report, Professional Flight Management (PFM) reports, and other

internal memorandums, as available. The source documents for helicopter flights included Senior Federal Travel Form (GSA Form 3641), HRT/THU Flight Strip, HRT Flight Operations Mission Brief, and a memorandum for the Deputy Attorney General. We also compared the FBI's Attorney General flight data records for fiscal years 2007 through 2011 with Attorney General flight data records maintained by DOJ's Justice Management Division (JMD). On the basis of the results of our comparison of FBI, JMD, and GSA executive flight data for fiscal years 2007 through 2011 and our review of executive flight data for fiscal years 2010 and 2011, we determined that FBI's flight data records were sufficiently reliable for the purposes of this report.

To assess the reliability of the DEA flight data records, we discussed with DEA officials their process for tracking, documenting, and reporting DOJ and component executives' use of DEA aircraft and conducted an on-site review of the agency's executive travel records. We found that DEA officials categorize executive travel on agency aircraft as either mission required or required use. While DEA's flight data for fiscal years 2007 through 2011 showed a total of 114 executive flights aboard DEA aircraft that were categorized as either mission or required use, DEA officials identified a small percentage of these flights that could be considered as being for nonmission purposes primarily from their recollection of the flight purpose and whether or not it was associated with a specific case. In addition, we reviewed the list of flights DEA officials provided to us that they considered to be nonmission travel and reviewed the source documents for those flights. These source documents included DEA Aircraft Mission Report (DEA Form 379), VIP Transport, SES A-126 Travel Checklist, printouts from DEA's Alliance Aviation Management System (AAMS), and e-mails. However, we were unable to determine the purpose of these flights from reviewing DEA's flight documentation.

Because DEA does not have guidance that specifically addresses how the agency applies definitions outlined in OMB Circular A-126 to its aviation operations, including identifying mission versus nonmission travel, DEA officials did not maintain completed documents related to each flight they determined as nonmission. Moreover, DEA officials did not consistently document comments related to the specific purpose for travel on either Form 379 or A-126—DEA's primary source documents for executive flight records. As a result, we were unable to verify how DEA officials determined whether flights including a DOJ or DEA executive were for nonmission versus mission purposes. Additionally, since we could not use the documentation DEA provided us to identify a subset of nonmission flights for DEA executive travel, we determined that DEA

nonmission flight data records were not sufficiently reliable for the purposes of this report.

We conducted this performance audit from March 2012 through February 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Department of Justice



U.S. Department of Justice

Washington, D.C. 20530

FEB 19 2013

David C. Maurer
Director
Homeland Security and Justice Team
Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Maurer:

Thank you for the opportunity to comment on the Government Accountability Office's draft report entitled: Department of Justice: Executives' Use of Aircraft for Non Mission Purposes (GAO-13-235). While the report made no recommendations to the Department of Justice (Department), we would like to clarify that Department political appointees do not travel for political purposes even though such travel may be allowable under Executive branch policy. Longstanding DOJ policy prohibits such travel and the Departmental Ethics Office has confirmed this policy. Any reference to political travel in the report should clearly reflect that Department policy prohibits travel for political purposes.

Also, the Department appreciates GAO's effort to incorporate into the report many of the detailed technical comments the Department has provided separately. If you need further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lee J. Lofthus".

Lee J. Lofthus
Assistant Attorney General
for Administration

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Dave Maurer, (202) 512-9627 or maurerd@gao.gov

Staff Acknowledgments

In addition to the contact named above, Chris Currie, Assistant Director; Chris Ferencik, Analyst in Charge; Richard Brown; Vanessa Dillard; Stan Kostyla; Octavia Parks; Janet Temko; and Lara Miklozek made significant contributions to the work.

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