



U.S. Department
of Transportation
Federal Aviation
Administration

200 Independence Ave. S.W.
Washington, D.C. 20591

APR 17 2000

Mr. Steven B. Duke
Yale Law School
P. O. Box [REDACTED]
New Haven, Connecticut 06520-8215

Dear Mr. Duke:

Secretary Slater has asked me to respond to your March 3 letter regarding the transportation of 20 kilos of heroin from Pakistan to New York aboard Air France and Trans World Airlines flights by Drug Enforcement Administration (DEA) agent Mr. Derek Maltz.

The Federal Aviation Administration (FAA) does not have authority under its enabling statute, 49 U.S.C. § 40101 – § 48201, to prohibit DEA from transporting narcotics on commercial airlines as described in your letter. In addition, narcotics are not considered hazardous materials as defined in the Federal hazardous materials law, which is the governing statute for Department of Transportation entities. (See 49 U.S.C. § 5101 - § 5127 and 49 C.F.R. Part 171 – Part 180.) In view of the foregoing, the FAA does not have authority over DEA's conduct in this matter.

We do, however, have confidence that the DEA conceals transportation of narcotics prior to and during flights to protect potential passengers and that they consider aviation safety a high priority.

For further information regarding this incident, you may wish to write to the Drug Enforcement Administration. Their address is as follows:

Drug Enforcement Administration
Washington, D.C. 20537.

I trust that this information is helpful.

Sincerely,


Nicholas G. Garaufis
Chief Counsel