

CHAPTER 04. DETECTION

4.1 Introduction

A detection is the discovery of a possible contravention of aviation-related rules and regulations. It may result from activities such as inspections and surveillance programs, and public complaints. A Civil Aviation official must take action on observing a contravention or when apprised of one. At the very least, an inspector should carry out the initial violation process and forward it without delay to the Director, Flight Safety Standard Department (FSSD) along with all evidence gathered in support of the allegation of a violation. Even when the matter does not require further action, as in the case of an oral counselling, the initial violation process provides the Director, Flight Safety Standard Department (FSSD) with information which helps to shape the Aviation Enforcement Program.

4.2 Initial Report of violation

In all cases where an inspector detects a contravention or where information about a possible contravention is received, the inspector should attempt to gather as much information as possible regarding the incident. This is necessary to preserve perishable evidence and to provide sufficient information about the contravention to enable a complete and comprehensive investigation. The initial violation process should simply provide answers to the questions: WHO, WHERE, WHEN, WHAT, WHY and HOW. The information should be recorded and passed to the Director, Flight Safety Standard Department (FSSD) as soon as possible along with any notes or evidence such as photos, logs, tapes, etc.

The decision to conclude the incident with an oral counselling or to refer the matter for further investigation is entirely at the discretion of the inspector completing the form.

If the contravention is considered minor, the inspector may opt for oral counselling.

If the contravention is of a more serious nature, the inspector must refer the incident without delay to the Director, Flight Safety Standard Department (FSSD) for further action. The Director, Flight Safety Standard Department (FSSD) will then determine if a comprehensive investigation should be carried out.

4.2.1 Detection Record

(1) Oral Counselling

Oral counselling provides the document holder with immediate counselling on the necessity for compliance. It is an option for inspectors when the contravention is minor and inadvertent or is a safety-related violation where there is no direct flight safety hazard and the imposition of a sanction is not considered appropriate. Refer to the factors affecting choice of sanction in Chapter 12 for guidance on determining whether or not oral counselling is appropriate.

Inspectors should assess all aspects of the contravention and the attitude of the document holder to determine whether oral counselling will secure future compliance. Oral counselling may be most appropriate in cases of ignorance or misinterpretation of the law, provided aviation safety was not jeopardized, i.e. a minor contravention having little or no impact on safety or where there was no indication of a wilful act. Oral counselling is not an option when the alleged offender disputes the allegation.

(2) Further Investigation by Enforcement

If in doubt about the appropriate action to take in a given circumstance, the inspector should refer the matter to the Director, Flight Safety Standard Department (FSSD) for further investigation.

4.3 Contraventions of Dangerous Goods Regulations

Within Civil Aviation Authority, all inspectors are responsible for promoting compliance with and detecting contraventions of the *Dangerous Goods Handling Requirements*. Because of the possible hazards involved in the transport of dangerous goods, all inspectors, upon detection or receipt of a reported violation, shall apprise the Director, Flight Safety Standard Department (FSSD) of the situation.

Inspectors should have a basic familiarization of how to identify dangerous goods and must not place themselves in positions that might jeopardize their safety.

4.4 Inspectors Flying as Passengers

If inspectors, while flying as passengers on an airline, detect a contravention which, in their judgement, must be brought to the attention of the flight crew (e.g. a major disregard of the *CARs*), they shall contact the pilot-in-command after the flight has completed. After identifying themselves, inspectors should indicate to the pilot the nature of the contravention and advise the pilot that they will be making a detailed written report. An initial violation process form shall be forwarded without delay to the Director, Flight Safety Standard Department (FSSD). It shall contain sufficient detail including all available evidence to allow follow-up action.

The policy of post-flight notification does not apply where the contravention compromises flight safety. An example of this would be contravention of *FOR* which forbids a flight to commence without an inspection for adherence of frost, ice or snow to any critical surface of an aircraft. In such a case, direct and immediate action shall be taken by the inspector.

Annex 1 to Chapter 4

Expanded Description of the Initial Violation Process

The purpose of the initial violation process is to gather information in a systematic and thorough manner when it is suspected that a regulation or provision has been violated by an act or omission that warrants further investigation. All inspectors are responsible for gathering pertinent information when they detect a violation of the regulations and for recording that information, preferably in the Initial Violation Process Form. This initial process of collecting information concerning a possible violation is often the only opportunity to preserve perishable evidence.

The initial violation process should simply answer the questions: WHO, WHERE, WHEN, WHAT, WHY & HOW and, depending on the circumstances, may be expanded as follows:

- (1) fill out the Initial Violation Process Form;
- (2) record all possible contraventions (even borderline offences);
- (3) record date, time and location of the contravention;
- (4) record the identification of the aircraft and the names, addresses and telephone numbers of all persons involved;
- (5) preserve perishable evidence and documents such as log books, load control sheets, damaged aircraft parts, engineering records, invoices, etc. Obtain weather reports, etc. if it is suspected they may not be available at a later time. Give the unit manager of an ATS facility a written note requesting that information in the form of flight plans or ATS tapes be secured for later acquisition.
- (6) take photographs of all objects that cannot be secured or moved;
- (7) take notes on the events immediately preceding and following the contravention;
- (8) record the names, addresses and telephone numbers of all witnesses that were present or that may have information and note the information each could provide whether there is duplication or not. (The reason for this is twofold: to freeze evidence so that it cannot be changed later and to enable witnesses to refresh their memory at a later date);
- (9) approach any person you suspect of committing a contravention and seek their account of the occurrence;
- (10) contact the Director, Flight Safety Standard Department (FSSD) for assistance or direction as required.

NOTE: It is important to keep an accurate set of notes detailing in chronological order your actions with appropriate location, dates and times.

Upon detection of a violation and the completion of the Initial Violation Process, an inspector should forward the same to Director, Flight Safety Standard Department (FSSD) who will assign an investigator to the case. Both the reporting inspector and assigned investigator shall continue to coordinate their work as necessary until the conclusion of the case.