



# THE AMERICAN SPECTATOR

## Overcriminalization at the Airport

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People who fly a lot will invariably have a bad experience at the airport, sooner or later. Delays, cancellations, huge lines, and overbooked flights can wear on people, and sometimes individuals take their frustrations out on an airline employee. And, once in a while, the person goes too far and crosses the line into assaulting that employee.

In no airport in America is assaulting an airline employee legal under state law. The laws against simple assault — that is, unwanted physical contact, often without injury — apply just as much at the terminal gate as they do at your local bar or walking down the street. But, as with seemingly every bad thing that happens, someone wants to make a federal case out of it. Literally.

Senator Maria Cantwell (D-WA) introduced an amendment to a bill before the Senate to make the simple assault of an airline employee punishable up to ten years in federal prison. This is a problem for a bunch of reasons, but here are two that stick out.

First, the crime lacks what criminal justice folks call a “nexus” to a federal interest. That is, unlike disrupting a flight while on board a plane — which is regulated by federal law and the Federal Aviation Administration — or interfering with a federal government employee — such as a TSA agent or air marshal — there is no particular reason a simple assault of a private business employee triggers federal involvement. If a ticket agent is spat upon or touched without consent by a would-be traveler, that agent has every right to call the local (or airport) police and file charges if he chooses. For these reasons, the law is duplicative and unnecessary.

Second, the possibility of ten years in prison is too much for contact without injury. The statute that would be amended included an enhanced penalty to protect TSA employees who are charged with keeping America’s skies safe from would-be terrorists. One could argue — indeed, I would — that the original statute includes a penalty too stiff relative to the crime. Most simple assault statutes in the federal code include sentence maximums between six months and one year. It’s hard to understand how an angry person grabbing the arm of a ticket agent walking away from

them potentially carries ten times the maximum sentence if that person had instead shoved a member of Congress. (see 18 U.S.C. § 351 (e))

A skeptic might say that, in practice, no one will get ten years for petty actions. Perhaps that's true, but then why should we make such a sentence possible in the first place?

No one should shove a member of Congress or assault an airline employee, period. Simple assault is a crime already, as well it should be. But as the conversation about mass incarceration and sentencing propriety continues on Capitol Hill, legislators should internalize the lessons learned from years of disproportionate sentencing and overcriminalization.

The federal criminal law should be limited to those crimes that properly fall under federal jurisdiction, demonstrate a particular need that is not being met by local authorities, and, when needed, provide sentences proportionate to the severity of the given crime. This proposed amendment failed all of these aims.

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