

**A DECADE AFTER 9/11 COULD AMERICAN FLIGHT  
SCHOOLS STILL UNKNOWINGLY BE TRAINING  
TERRORISTS?**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON TRANSPORTATION  
SECURITY  
OF THE  
COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED TWELFTH CONGRESS

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## **A DECADE AFTER 9/11 COULD AMERICAN FLIGHT SCHOOLS STILL UNKNOWINGLY BE TRAINING TERRORISTS?**

**Wednesday, July 18, 2012**

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON TRANSPORTATION SECURITY,  
COMMITTEE ON HOMELAND SECURITY,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:02 a.m., in Room 311, Cannon House Office Building, Hon. Mike Rogers [Chairman of the subcommittee] presiding.

Present: Representatives Rogers, Lungren, Walberg, Cravaack, Walsh, Turner, Thompson, and Davis.

Mr. ROGERS. The Committee on Homeland Security, Subcommittee on Transportation Security will come to order. The subcommittee is meeting today to examine GAO's recent findings about flaws that exist in the process forbidding foreign nationals taking flight training.

I would like to welcome all of our witnesses for being here, and everyone in attendance. I know the witnesses have a lot of things they could be doing. Preparing for hearings, not one of their favorite. But it really is helpful for us to have these kind of hearings to talk about these important issues. So I appreciate your time and testimony.

Today's hearing is a sobering reminder that we cannot afford to let down our guard, or become complacent about security. It is completely unacceptable that a decade after 9/11, GAO has uncovered weaknesses in our security controls that were supposed to be fixed a decade ago.

GAO's findings are clear, and those are, not all foreign nationals who train to fly airplanes inside the United States have been properly vetted. The Department of Homeland Security does have a program to make sure foreign nationals are vetted, but the program has significant weaknesses.

First, let me say this is extremely disturbing. According to the GAO, the main cause of the problem is that TSA needs stronger internal controls, and better coordination with ICE.

Here is what amazes me. We have TWIC program that charges \$130 to every American trucker for a security background check to drive to a port. We have cancer patients, Iraq War veterans, and Nobel Prize winners, all forced to undergo rigorous security checks before getting on an airplane.

At the same time, 10 years after 9/11, there are foreign nationals in the United States training to fly, just like Mohammed Atta and the other 9/11 hijackers did. Not all of them are necessarily getting a security background check.

Is that risk-based security? I don't think so. Two years ago at a Boston-area flight school, ICE discovered 25 illegal immigrants were enrolled and taking lessons.

That is not the worst of it. The owner of the flight school was also here illegally. But surprisingly, individuals had been—but surprisingly, the individuals had been approved by TSA to take flight lessons, despite their illegal immigration status.

So the same department that gave 25 foreign nationals a green light to take flight lessons ended up investigating those 25 for being here illegally. Some improvements were made after the Boston incident, but there are still big gaps in the GAO report.

According to GAO, some foreign nationals who should not get approved do, as the Boston case I just mentioned proves. Some circumvent the vetting process all together. If foreign nationals don't go through the program, TSA and ICE don't know who is flying.

I have no doubt that the majority of people in DHS, and those who operate flight schools in the United States, are dedicated to security, and are doing the best that they can. But the fact is, we have got to do better. I expect the Department of Homeland Security to provide a concrete time line today for implementing GAO's recommendations. The Department needs to be smarter about security. I believe this is just one of many examples that we need to deal with.

I now recognize Mr. Davis, who is standing in for the Ranking Member, who is not available today. I recognize him for 5 minutes to make his opening statement.

Mr. DAVIS. Thank you very much, Mr. Chairman. I would like to take this opportunity to indicate, as you have already done so, that Congresswoman Jackson Lee will not be here today. She is attending the funeral of a friend of hers, Federal Protective Service Officer, Inspector Phillip Preta.

Inspector Preta started his career as security officer, and served as the assistant chief of police services for the Veterans Administration, Central Texas Police Division. In 2008, Inspector Preta joined the Federal Protective Service at DHS, and maintained an active role in a number of associations empowering law enforcement personnel.

In her absence, I will now read Congresswoman Jackson Lee's opening statement, and ask that it be inserted into the record.

"I want to first of all thank the witnesses for being here today. General aviation accounts for about 54 percent of all civil aviation activity in the United States. According to GAO, general aviation is the source of 1.3 million jobs, and contributes approximately \$100 billion to the U.S. economy.

"Because G.A. includes such a diverse array of operations, general aviation encompasses a wide spectrum of aircraft personnel and pilots. Today, GAO is releasing a report that outlines TSA's efforts to address G.A. security.

"I look forward to discussing GAO's findings today, and identifying solutions to complex questions. Today's hearing, however, ap-

pears to focus only on one aspect of general aviation, and that is the vetting of foreign nationals seeking to enroll in flight training school.

“I would be remiss if I did not take this opportunity to note that the threat to G.A. expands beyond the vetting of foreign nationals enrolled in flight training programs.

“A most recent example of this took place on February 2010, when a disgruntled individual flew his private one-engine plane into an IRS building in Austin, Texas. This incident killed two people, and hurt many innocent people who were caught up in the fire after the crash.

“Today we will hear from TSA and industry about increased collaboration between TSA and industry, and some of the concrete examples that point to enhanced security across the G.A. community because of these efforts. I think today’s hearing will lay important markers about general aviation security, and how DHS can more efficiently harness its resources, particularly that of information sharing, and access to accurate information databases.

“Today’s hearing will also afford us the opportunity to learn more extensively about the steps taken by TSA and ICE to address the vulnerabilities identified by the GAO. Since GAO’s findings were released, TSA and ICE have embarked on key problematic changes that enhance G.A. security.

“First, TSA and ICE have formalized their cooperation. Second, TSA and ICE are in the midst of enhancing an extensive vetting project of all foreign nationals enrolled in flight schools, pilots and crew members, and personnel at repair stations.

“And finally, ICE and TSA have improved information-sharing efforts that impact the mission and operations of both agencies in GSA. There is no doubt that GAO’s report provided clarity to TSA and Congress on the vulnerabilities present in general aviation.

“However, we cannot ignore that there is more to G.A. security than just vetting foreign nationals. The department’s approach must continue to evolve to embrace a comprehensive analysis of risk.

“I thank you, Mr. Chairman, and yield back to look forward to hearing the witnesses.”

[The statement of Ranking Member Jackson Lee follows:]

STATEMENT OF RANKING MEMBER SHEILA JACKSON LEE

JULY 18, 2012

General Aviation [GA] accounts for about 54% of all civil aviation activity in the United States. According to GAO, general aviation is the source of 1.3 million jobs and contributes approximately \$100 billion to the U.S. economy. Because GA includes such a diverse array of operations, general aviation encompasses a wide spectrum of aircraft, personnel, and pilots.

Today, GAO is releasing a report that outlines TSA’s efforts to address GA security. I look forward to discussing GAO’s findings today and identifying solutions to complex questions.

Today’s hearing, however, appears to focus only on one aspect of general aviation: The vetting of foreign nationals seeking to enroll in flight training school. I would be remiss if I did not take this opportunity note that the threat to GA expands beyond the vetting of foreign nationals enrolled in flight training programs.

A most recent example of this took place on February 2010, when a disgruntled individual flew his private one-engine plane into an IRS building in Austin, Texas. This incident killed two people and hurt many innocent people who were caught up in the fire after the crash. General aviation encompasses aircraft of virtually every

size that perform a wide variety of missions, from crop-dusting to large passenger charters.

Further, international inbound general aviation accounts for about 400 flights per day. Most—about 75%—are from Canada and Mexico, and the remainder are from a variety of countries.

Today, we will hear from TSA—and industry—about increased collaboration between TSA and industry and some of the concrete examples that point to enhanced security across the GA community because of these efforts.

I think today's hearing will lay important markers about general aviation security and how DHS can more efficiently harness its resources—particularly that of information sharing and access to accurate information in databases.

Today's hearing will also afford us the opportunity to learn more extensively about the steps taken by TSA and ICE to address the vulnerabilities identified by GAO. Since GAO's findings were released, TSA and ICE have embarked on key programmatic changes that enhance GA security: First, TSA and ICE have formalized their cooperation. Second, TSA and ICE are in the midst of enhancing an extensive vetting project of all foreign nationals enrolled in flight schools, pilots and crew members, and personnel at repair stations. Finally, ICE and TSA have improved information-sharing efforts that impact the mission and operations of both agencies in GA.

There is no doubt that GAO's report provided clarity to TSA and Congress on the vulnerabilities present in general aviation. However, we cannot ignore that there is more to GA security than just vetting foreign nationals. The Department's approach must continue to evolve to embrace a comprehensive analysis of risk.

Mr. ROGERS. I thank the gentleman. The Chairman advises other Members that their opening statements may be submitted to the record.

We are pleased to have five distinguished witnesses before us today on this important topic. We appreciate our Government witnesses agreeing to testify alongside non-Government representatives. I recognize this is deviation from standard practice, but I do appreciate it. Also, let me remind the witnesses their entire written statements will appear in the record.

Our first witness today is Mr. Steve Lord. Mr. Lord is GAO executive responsible for directing numerous engagements on aviation and service transportation issues, and regularly testifies before Congress.

Mr. Lord, as always, we appreciate your appearing before the committee, and your important work that your office does. The Chairman now recognizes Mr. Lord for 5 minutes to summarize his opening statement.

**STATEMENT OF STEVEN M. LORD, DIRECTOR, HOMELAND SECURITY AND JUSTICE ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE**

Mr. LORD. Thank you, Mr. Chairman, Representative Davis, other Members of the committee. I am really excited to be here today to discuss the findings of our general aviation security report, which we are releasing today to coincide with the hearing.

This is obviously an important issue. Not only do you have over 200,000 general aviation aircraft operating more than 19,000 facilities in this country, but as the Chairman remarked, 9/11 hijackers learned to fly at U.S. flight schools.

Today, I would like to discuss two issues in parallel with the issues in our report. First, I would like to describe some steps TSA has taken in conjunction with industry to enhance general aviation security. No. 2, I would also like to discuss the TSA vetting process to ensure that foreign nationals coming to this country for flight

school training are properly vetted before completing the training, and moving on to get their FAA airman certificate, i.e., pilots' licenses.

Regarding the first point, we found that TSA has taken a number of positive steps to work with industry to develop voluntary guidelines to help enhance security at general aviation facilities. They also indicated that an updated version of these guidelines will be issued later this year. In 2008, TSA also developed a proposed rule that would have imposed new security requirements on aircraft weighing over 12,500 pounds, thereby subjecting them to increased security requirements and inspections.

However, to their credit TSA agreed to revise the proposal after it encountered significant industry opposition and now plans on issuing a new rule, either later this year or early next year. Industry officials we interviewed as part of this engagement generally gave TSA good marks for conducting outreach with them.

The second point I would like to discuss today is we found several weaknesses in TSA's process for conducting security threat assessments, that is, background checks on foreign nationals signing up for flight training, and in DHS' process for identifying students who may be in the country illegally.

Under current program requirements, foreign nationals seeking flight training must undergo a TSA security threat assessment before flight training. To test whether this actually occurs in practice, we downloaded the FAA database of everybody who has a pilot's license and compared it to the TSA database, which is maintained separately, of everyone who has completed a background check. So in a perfect world, the two databases should match.

But we were surprised to find that some—the exact number is designated sensitive security information, so I can't tell you the exact number—but some of the foreign nationals holding pilots licenses were not in the TSA's database, indicating that some foreign nationals had not been vetted before receiving flight training, and ultimately receiving pilot's licenses.

Thus, in our report we are recommending that TSA strengthens its controls of the vetting process to ensure this doesn't take place again. Although DHS agreed with our recommendation and indicated they are moving out on this, we still have a lot of questions about how this is actually going to occur in practice, as some of the steps are preliminary in nature.

Another weakness we found is that a foreign national can be approved for flight school training after entering the country illegally. For example, as the Chairman noted, 25 foreign nationals who were investigated by ICE at a Boston area flight school in March 2010 had been approved through the TSA process to begin flight school training. However, eight of these individuals were in so-called "entry without inspection status," EWIS, meaning that they had entered the country illegally.

Three of them had obtained pilots licenses; 17 of them, 17 of the 25 foreign nationals were in so-called overstay status, meaning they had overstayed their authorized period of admission into the United States.

This concerned us, because as part of the vetting process, you are supposed to have an immigrations check. We assumed if the immi-

grations check was performed properly this wouldn't occur. Although DHS agreed to take some corrective action to address this issue, which is the good news, we still have a lot of questions about how it is going to work out in practice.

Again, a lot of this is preliminary in nature. In fact, one of the agreements—arrangements agreed to—we were just notified of last night, which I was a little surprised about, given that we have spent 15 months looking at this.

Anyway, in closing we have identified a number of weaknesses in TSA's and DHS's process for vetting foreign nationals before they begin flight school training we think deserves immediate departmental attention. Typically, we give agencies several months to implement our recs, but I agree with you, Mr. Chairman, given the significance we think they should take immediate action to address them.

The good news is they have already announced a series of measures to do that.

In closing, I look forward to working with this committee to conduct additional oversight on this issue.

Thank you very much for inviting me to appear today.

[The prepared statement of Mr. Lord follows:]

PREPARED STATEMENT OF STEPHEN M. LORD

JULY 18, 2012

GENERAL AVIATION SECURITY.—TSA'S PROCESS FOR ENSURING FOREIGN FLIGHT STUDENTS DO NOT POSE A SECURITY RISK HAS WEAKNESSES

GAO-12-900T

Chairman Rogers, Ranking Member Jackson Lee, and Members of the committee: I am pleased to be here to discuss the findings of our report assessing the Transportation Security Administration's (TSA) efforts to address general aviation security.<sup>1</sup> Altogether, more than 200,000 general aviation aircraft—from small aircraft with minimal load capacities to business jets and larger aircraft such as privately operated Boeing 747s—operate at more than 19,000 facilities.<sup>2</sup> U.S. Government threat assessments have discussed plans by terrorists to use general aviation aircraft to conduct attacks. Further, analysis conducted on behalf of TSA has indicated that larger general aviation aircraft, such as midsized and larger jets often used for business purposes, may be able to cause significant damage to buildings and other structures. Also, the terrorists responsible for the September 11, 2001, attacks learned to fly at flight schools in Florida, Arizona, and Minnesota. TSA, within the Department of Homeland Security (DHS), has responsibilities for general aviation security, and developed the Alien Flight Student Program (AFSP) to help determine whether foreign students enrolling at flight schools pose a security threat.

My testimony this morning will address the key findings from the general aviation security report that we are issuing today.<sup>3</sup> Specifically, my statement will address: (1) TSA and general aviation industry actions to enhance security and TSA efforts to obtain information on these actions, and (2) TSA efforts to ensure foreign flight students do not pose a security threat.

For the report, we reviewed applicable laws, regulations, and policies, as well as documentation provided by TSA on its oversight of general aviation security, including procedures for conducting security threat assessments of AFSP candidates. In addition, we interviewed 22 general aviation operators—including 5 private operators, 7 private charter companies that also perform as private operators, and 10 flight schools—located at eight selected airports to observe and discuss security ini-

<sup>1</sup>GAO, *General Aviation Security: Weaknesses Exist in TSA's Process for Ensuring Foreign Flight Students Do Not Pose a Security Threat*, GAO-12-875 (Washington, DC: July 18, 2012).

<sup>2</sup>General aviation includes nonscheduled aircraft operations such as air medical-ambulance, corporate aviation, and privately-owned aircraft—generally, aircraft not available to the general public for transport.

<sup>3</sup>GAO-12-875.

tatives implemented. We selected these airports based on their geographic dispersion, types of general aviation operations present, and size of aircraft based at each airport. We also interviewed representatives from six aviation industry associations. Further, we reviewed TSA analysis comparing Federal Aviation Administration (FAA) data from January 2006 to September 2011 on foreign nationals applying for airman certificates (pilot's licenses) with AFSP data. We conducted this work in accordance with generally accepted Government auditing standards. More detailed information on the scope and methodology can be found in our published report.

TSA AND AIRCRAFT OPERATORS HAVE TAKEN ACTIONS TO SECURE GENERAL AVIATION;  
TSA OBTAINS INFORMATION THROUGH OUTREACH AND INSPECTIONS

TSA and aircraft operators have taken several important actions to enhance general aviation security, and TSA is working with aviation industry stakeholders to develop new security guidelines and regulations. Among other measures, TSA worked with members of the General Aviation Working Group of its Aviation Security Advisory Committee in 2003 and 2004 to develop recommended guidelines for general aviation airport security, and TSA expects the group to issue updated guidelines later this year.<sup>4</sup> In addition, pursuant to the Aviation and Transportation Security Act, TSA established and oversees implementation of a security program in which aircraft weighing more than 12,500 pounds in scheduled or charter service that carry passengers or cargo or both, and that do not fall under another security program, must implement a "Twelve-Five" standard security program.<sup>5</sup> Aircraft operators implementing a Twelve-Five security program must include, among other elements, procedures regarding bomb or air piracy threats. TSA obtains information directly from aircraft operators that fall under Twelve-Five through its review and approval of the security programs developed by these operators and through periodic inspections to determine the extent to which operators comply with their security programs. TSA inspectors are responsible for conducting these periodic inspections and determining whether operators are in compliance with program requirements or whether a violation has occurred. Independent of regulatory requirements, operators of private general aviation aircraft not covered under existing security programs we spoke to indicated that they implement a variety of security measures to enhance security for their aircraft. For example, 7 of the 12 operators that perform as private operators that we interviewed stated that they park their aircraft in hangars to protect them from possible misuse or vandalism.

TSA has also conducted outreach to the general aviation community to establish a cooperative relationship with general aviation stakeholders. TSA officials we spoke to stated that the agency does not have a systematic mechanism to collect information on the security measures implemented by other general aviation aircraft operators that do not fall under TSA security programs. Rather, the agency has developed informal mechanisms for obtaining information on security measures enacted by these operators, such as outreach conducted by TSA inspectors, and has contacted general aviation industry associations to obtain this information.

In 2008, TSA developed a proposed rule that would have imposed security requirements on all aircraft over 12,500 pounds, including those not currently covered under existing security programs, thereby subjecting them to TSA security requirements and inspections. However, industry associations and others expressed concerns about the extent to which TSA obtained industry views and information in the proposed rule's development. They also questioned the security benefit of the proposed rule and stated that it could negatively affect the aviation industry given its broad scope. In response to these concerns, TSA officials said the agency is revising the proposed rule and plans to issue a supplemental notice of proposed rulemaking in late 2012 or early 2013. Officials from all six industry associations we spoke with stated that TSA has reached out to gather industry's input, and three of the six associations stated that TSA has improved its efforts to gather input since the 2008 notice of proposed rulemaking.

<sup>4</sup>Originally established in 1988, following the 1988 Pan American World Airways Flight 103 bombing over Lockerbie, Scotland, the Aviation Security Advisory Committee was developed to allow all segments of the population to have input into aviation security considerations. The committee's charter expired in 2010, but was subsequently reestablished by TSA in November 2011.

<sup>5</sup>See 49 C.F.R. § 1544.101(d). See also Pub. L. No. 107-71, § 132(a), 115 Stat. 597, 635-36 (2001).

WEAKNESSES EXIST IN PROCESSES FOR CONDUCTING SECURITY THREAT ASSESSMENTS  
AND FOR IDENTIFYING POTENTIAL IMMIGRATION VIOLATIONS

TSA vets foreign flight student applicants through AFSP, but weaknesses exist in the vetting process and in DHS's process for identifying flight students who may be in the country illegally. In our July 2012 report, we recommended two actions that DHS and TSA could take to address these concerns.

Under AFSP, foreign nationals seeking flight training in the United States must receive a TSA security threat assessment before receiving flight training to determine whether each applicant is a security threat to the United States. According to TSA regulations, an individual poses a security threat when the individual is suspected of posing, or is known to pose, a threat to transportation or National security, a threat of air piracy or terrorism, a threat to airline or passenger security, or a threat to civil aviation security.<sup>6</sup> According to TSA officials, when a foreign national applies to AFSP to obtain flight training, TSA uses information submitted by the foreign national—such as name, date of birth, and passport information—to conduct a criminal history records check, a review of the Terrorist Screening Database, and a review of the Department of Homeland Security's TECS system.<sup>7</sup>

According to TSA officials, most foreign nationals taking training from a U.S. flight training provider will apply for an FAA airman certificate (pilot's license) once their flight training is completed. Information obtained by FAA as part of this application for certification is placed in the airmen registry. From January 2006 through September 2011, 25,599 foreign nationals had applied for FAA airman certificates, indicating they had completed flight training. We provided data from FAA's airmen registry to TSA so that the agency could conduct a matching process to determine whether the foreign nationals in the FAA airmen registry were in TSA's AFSP database and the extent to which they had been successfully vetted through the AFSP database. The results of our review of TSA's analyses are as follows:

- TSA's analysis indicated that some of the 25,599 foreign nationals in the FAA airmen registry were not in the TSA AFSP database, indicating that these individuals had not applied to the AFSP or been vetted by TSA before taking flight training and receiving an FAA airman certificate.<sup>8</sup>
- TSA's analysis indicated that an additional number of the 25,599 foreign nationals in the FAA airmen registry were also in the TSA AFSP database but had not been successfully vetted, meaning that they had received an FAA airman certificate but had not been successfully vetted or received permission from TSA to begin flight training.

Since 2009, TSA has continuously vetted all new and existing FAA airman certificate holders against the Terrorist Screening Database, which would include the foreign nationals identified through TSA's analysis. However, this vetting does not occur until after the foreign national has obtained flight training. Thus, foreign nationals obtaining flight training with the intent to do harm, such as three of the pilots and leaders of the September 11 terrorist attacks, could have already obtained the training needed to operate an aircraft before they received any type of vetting. In our report, we recommended that TSA take steps to identify any instances where foreign nationals receive FAA airman certificates without first undergoing a TSA security threat assessment and examine those instances so that TSA can identify the reasons for these occurrences and strengthen controls to prevent future occurrences. DHS concurred with this recommendation and stated that TSA signed a memorandum of understanding with FAA in February 2012 to exchange data. The memorandum, which FAA signed in March 2012, outlines a process for FAA to provide certain data from its airmen registry on a monthly basis and authorizes TSA to use the data to ensure flight training providers are providing TSA with information to conduct the appropriate background check prior to flight instruction. This is an important first step toward addressing our recommendation, provided that TSA uses the data to identify instances where foreign nationals receive FAA airman certificates without first undergoing a TSA security threat assessment, identifies reasons

<sup>6</sup>See 49 C.F.R. § 1540.115(c).

<sup>7</sup>Information in the Terrorist Screening Center's consolidated database of known or suspected terrorists—the Terrorist Screening Database—is used for security-related screening of foreign nationals applying to AFSP. TECS, an updated and modified version of the former Treasury Enforcement Communications System, is an information-sharing platform that allows users to access different databases relevant to the antiterrorism and law enforcement mission of numerous other Federal agencies.

<sup>8</sup>For its analysis, TSA used a software tool that performs "fuzzy matching" of data such as names, dates, or telephone numbers. The specific number is deemed sensitive security information and is therefore not included in this report.

for these occurrences, and strengthens controls to prevent future occurrences, as we recommended.

Another weakness that we identified is that AFSP is not designed to determine whether a foreign flight student entered the country legally; thus, a foreign national can be approved for training through AFSP after entering the country illegally. In March 2010, U.S. Immigration and Customs Enforcement (ICE) investigated a Boston-area flight school after local police stopped the flight school owner for a traffic violation and discovered that he was in the country illegally. In response to this incident, ICE launched a broader investigation of the students enrolled at the flight school. ICE found that 25 of the foreign nationals at this flight school had applied to AFSP and had been approved by TSA to begin flight training after their security threat assessment had been completed; however, the ICE investigation and our subsequent inquiries revealed the following issues, among other things:

- Eight of the 25 foreign nationals who received approval by TSA to begin flight training were in “entry without inspection” status, meaning they had entered the country illegally. Three of these had obtained FAA airman certificates: 2 held FAA private pilot certificates and 1 held an FAA commercial pilot certificate.
- Seventeen of the 25 foreign nationals who received approval by TSA to begin flight training were in “overstay” status, meaning they had overstayed their authorized period of admission into the United States.
- In addition, the flight school owner held two FAA airman certificates. Specifically, he was a certified Airline Transport Pilot (cargo pilot) and a Certified Flight Instructor. However, he had never received a TSA security threat assessment or been approved by TSA to obtain flight training. He had registered with TSA as a flight training provider under AFSP.<sup>9</sup>

As a result, TSA and ICE jointly worked on a pilot program for vetting names of foreign students against immigration databases, but have not specified desired outcomes and time frames, or assigned individuals with responsibility for fully instituting the program. Having a road map, with steps and time frames, and assigning individuals the responsibility for fully instituting a pilot program could help TSA and ICE better identify and prevent potential risk. We recommended that TSA and ICE develop a plan, with time frames, and assign individuals with responsibility and accountability for assessing the results of their pilot program to check TSA AFSP data against information DHS has on applicants’ admissibility status to help detect and identify violations, such as overstays and entries without inspection, by foreign flight students, and institute that pilot program if it is found to be effective. DHS concurred with this recommendation and stated that TSA will prepare a plan by December 2012 to assess the results of the pilot program with ICE to determine the lawful status of the active AFSP population. The plan is to include specific details on time frames and accountability and recommendations for next steps. We believe that these are positive actions that could help TSA address the weaknesses identified in our report and we will continue to work with TSA to monitor progress on the proposed solutions as the agency proceeds.

Chairman Rogers, Ranking Member Jackson Lee, and Members of the committee, this concludes my prepared statement. I look forward to responding to any questions that you may have.

Mr. ROGERS. That may be good news. The bad news is it took them 10 years to do it.

Thank you, Mr. Lord.

Our next witness is Mr. Kerwin Wilson. Mr. Wilson serves as general manager of general aviation at TSA. He assumed that position in July. Prior to that, he served as assistant general manager of general aviation at TSA. A veteran of the U.S. Air Force as an officer, Mr. Wilson has over 20 years experience in air traffic control and airport management, with a background in security in for-

<sup>9</sup>We recently reported on issues related to ICE’s oversight of the Student and Exchange Visitor Program (SEVP). Specifically, ICE certifies schools to accept foreign nationals on student visas in academic and vocational programs, including those that provide flight training. SEVP-certified flight schools are a relatively small percentage of schools Nation-wide that offer flight training to foreign nationals. See GAO, *Student and Exchange Visitor Program: DHS Needs to Assess Security Risks and Strengthen Oversight of Schools*, GAO-12-572 (Washington, DC: June 18, 2012).

mulating aviation policy and procedures with various government agencies and foreign countries.

Chairman now recognizes Mr. Wilson for 5 minutes to summarize his testimony.

**STATEMENT OF KERWIN WILSON, GENERAL MANAGER FOR  
GENERAL AVIATION, OFFICE OF SECURITY POLICY AND IN-  
DUSTRY ENGAGEMENT, TRANSPORTATION SECURITY AD-  
MINISTRATION**

Mr. WILSON. Good morning, Chairman Mr. Rogers, Mr. Davis, and distinguished Members of the subcommittee. I want to thank you for the opportunity to testify today concerning the TSA's alien flight student program.

TSA employs risk-based intelligence-driven operations to prevent terrorist acts and to reduce the vulnerability of the Nation's transportation system to terrorism. Our goal is to maximize transportation security to stay ahead of evolving terrorist threats while protecting privacy and facilitating the flow of air commerce.

TSA security measures create a multi-layered system of transportation security that mitigates risk. We continue to evolve our security approach by examining the procedures and technologies we use, how specific security procedures are carried out, and how vetting is conducted. The mission of the of AFSP is to ensure that foreign students seeking new or recurrent training at flight schools in the United States do not pose a threat to aviation or National security.

In response to the 9/11 terrorist attacks in the United States in which terrorists trained at U.S. flight schools, Congress, in the Aviation and Transportation Security Act in 2001, and later in the FAA Reauthorization Act of 2003, directed TSA to determine whether an alien, as defined under the Immigration and Nationality Act, presented a risk to aviation or National security before that individual could train in an aircraft having a maximum certificated takeoff weight of 12,500 pounds or more.

Subsequently, TSA issued an interim final rule to implement these statutory requirements. Under the program, non-U.S. citizens seeking to undergo FAA-certificated flight training are required to submit a background check that includes a name-based terrorism check, a name-based immigration check, a fingerprint-based criminal history records check, submittal of security documents including passport copies and specific information about their desired training events.

The program also requires their flight training provider to send a digital picture of the student within 5 calendar days after the student initiates training. Flight training providers regulated under this program are prohibited from providing flight training to aliens until a security threat assessment has been successfully conducted by TSA. These flight training providers offer four different categories of training for students applying for the AFSP. Detailed definitions of each of those categories are within my written testimony.

TSA defines general aviation as all aviation operations other than regularly scheduled passenger flights, cargo operations, and military aviation. The general aviation community consists of ap-

proximately 19,000 airports, 200,000 aircraft, 630,000 certificated pilots, and 7,000 flight training providers.

These flight training providers are an important business in the aviation industry, and continue to work with properly vetted aliens as an economic benefit to the United States. In general, the general aviation community accounts for roughly 1.2 million U.S. jobs and contributes \$150 billion to the U.S. economy each year.

From March 2011 to June 2012, the GAO assessed TSA's and the general aviation industry's actions to strengthen security, as well as efforts to ensure foreign flight students do not pose a security threat. TSA concurred with all four of GAO's recommendations. In fact, TSA self-identified three of the four recommendations that GAO pointed out.

Because portions of the GAO report contain sensitive security information, I cannot fully comment on many of the recommendations today. To ensure that the subcommittee is kept informed of TSA's actions to address these recommendations as noted in the GAO report, the agency did provide the Chairman and the Ranking Member with a letter dated July 16 which outlined the current status of the implementation reports' recommendations.

TSA continues to fully vet foreign flight school students so that U.S. flight schools remain a world leader in flight training, while ensuring that only advocates who satisfy the security threat assessment receive such training.

Chairman Rogers, Mr. Davis, I thank you for the opportunity to appear before you today and I look forward to answering your questions. I also recognize Senator Thompson, as well.

[The prepared statement of Mr. Wilson follows:]

PREPARED STATEMENT OF KERWIN WILSON

JULY 18, 2012

Good morning Chairman Rogers, Ranking Member Jackson Lee, and distinguished Members of the subcommittee. Thank you for the opportunity to testify today about the Transportation Security Administration's (TSA) Alien Flight Student Program (AFSP). TSA employs risk-based, intelligence-driven operations to prevent terrorist attacks and to reduce the vulnerability of the Nation's transportation system to terrorism. Our goal at all times is to maximize transportation security to stay ahead of evolving terrorist threats while protecting privacy and facilitating the flow of legitimate commerce.

TSA's security measures create a multi-layered system of transportation security that mitigates risk. We continue to evolve our security approach by examining the procedures and technologies we use, how specific security procedures are carried out, and how screening is conducted. The mission of the AFSP is to ensure that foreign students seeking new or recurrent training at flight schools in the United States do not pose a threat to aviation or National security.

FULFILLING A CONGRESSIONAL MANDATE

Following the 9/11 terrorist attacks on the United States, where terrorists trained at U.S. flight schools in preparation for the attacks, Congress included in the "Aviation and Transportation Security Act" (ATSA) a provision that required the Attorney General to determine whether an alien, as defined under the Immigration and Nationality Act, presented a risk to aviation or National security before that individual could train in the operation of any aircraft having a maximum certified takeoff weight (MTOW) of 12,500 pounds or more.

The ATSA gives TSA broad responsibility for securing the Nation's civil aviation system, which includes general aviation operations. The "Vision 100—Century of Aviation Reauthorization Act," (Pub. L. No. 108-176) was signed into law on December 12, 2003, and Section 612 of Title VI, "Aviation Security" transferred the responsibility of vetting foreign flight student applicants from the Department of Justice

to TSA, and included provisions distinguishing between training on aircraft weighing more than 12,500 pounds and training on aircraft weighing 12,500 pounds or less. Subsequently, TSA issued an Interim Final Rule to implement these statutory requirements.

AFSP is a fee-based program that collects approximately \$5 million in annual fees and represents an added layer of security to protect our Nation's transportation networks. Under the program, non-U.S. citizens seeking to undergo Federal Aviation Administration (FAA)-certified flight training are required to submit to a rigorous background screening that includes a name-based terrorism check, a name-based immigration check, a fingerprint-based criminal history records check, submittal of security documents including passport copies, and specific information about their desired training events. The program also requires that flight training providers send a digital picture of the student within 5 calendar days after the student initiates training. Flight training providers regulated under AFSP are prohibited from providing flight training to aliens until a Security Threat Assessment (STA) has been successfully conducted by TSA.

#### THE ALIEN FLIGHT STUDENT PROGRAM

Flight schools are an important business in the aviation industry and continue to welcome properly vetted aliens as an economic benefit to the United States. General aviation includes more than 200,000 aircraft operating at more than 19,000 facilities in the United States for the purposes of such tasks as air medical-ambulance, corporate aviation, and private charters. As a result of this demand, TSA receives an average of 48,000 AFSP applications per year (4,000 per month).

Given the diversity of the general aviation landscape, there are four different categories under which students can apply to the AFSP, depending on the type of flight training they seek:

- Category 1—training for operation of aircraft with a MTOW of more than 12,500 pounds, but not fitting into Category 2.
- Category 2—training for operation of aircraft with a MTOW of more than 12,500 pounds for individuals who demonstrate certain preliminary indications of reliability such as: A candidate employed by a foreign air carrier that operates under 14 C.F.R. Part 129 and that has an approved security program under 49 C.F.R. Part 1546; a student who holds unescorted access authority to a secured area of an airport; a flight crew member who has successfully completed a criminal history records check in accordance with appropriate regulations; or a student who holds an airman's certificate from a foreign entity that is recognized by the FAA or appropriate U.S. military agency and that permits the student to operate a multi-engine aircraft with a MTOW of more than 12,500 pounds.
- Category 3—training for operation of aircraft with a MTOW of 12,500 pounds or less for Single Engine Land, Instrument Rating, and/or Multiengine Land events. 49 U.S.C. 44939(c).
- Category 4—recurrent training for operation of all aircraft for individuals who are current and qualified on the aircraft for which they are requesting training.

Since 2001, the AFSP has vetted over 350,000 applications of approximately 125,000 unique individuals.

#### GAO STUDY ON STRENGTHENING SECURITY IN THE GENERAL AVIATION ENVIRONMENT

From March 2011 to June 2012, the Government Accountability Office (GAO) assessed TSA's and the general aviation industry's actions to strengthen security as well as efforts to ensure foreign flight students do not pose a security threat. These efforts include vetting foreign flight student applicants through AFSP. GAO found that TSA has taken steps to enhance communications with general aviation industry stakeholders and improve the vetting of foreign nationals enrolling in U.S. flight schools. GAO also found weaknesses in the vetting process and in the Department of Homeland Security's (DHS) process for identifying flight students who may be in the country illegally.

TSA concurs with the GAO recommendations on identifying how often and why foreign nationals are not vetted under AFSP. The GAO also recommends that TSA work with Immigration and Customs Enforcement (ICE) to check TSA AFSP data against information DHS has on applicants' admissibility status.

TSA concurs with all of the recommendations identified in the report and is in the process of preparing the 60-day update to be submitted to GAO by August 10, 2012. TSA will also provide this subcommittee with a 90-day status update as requested. Because portions of the GAO report contain sensitive security information, I cannot fully comment on all the recommendations and TSA's responses in this

statement. To ensure that the subcommittee is informed of the actions TSA undertakes to address the recommendations noted in the GAO report, the agency provided the Chairman and the Ranking Member with a letter dated July 16, 2012, which outlined the current status of implementation of the report's recommendations.

GAO's first recommendation asked that TSA take steps to identify any instances where foreign nationals receive pilot certificates without first undergoing a TSA STA and examine the reasons for these occurrences in order to strengthen controls and prevent future occurrences. On February 21, 2012, TSA entered into a Memorandum of Agreement with the FAA to receive a monthly dataset of foreign nationals who received their first FAA airman private, sport, or recreational pilot certificate. The dataset includes the certificate holder's full name, date of birth, certificate level and type ratings, date of issuance, certificate number, citizenship, responsible Flight Standards District Office, recommending Certified Flight Instructor, physical address, and flight school number if applicable. This information is a subset of the information that TSA receives daily for recurrent vetting and is tailored for AFSP use. TSA utilizes this information to cross-check it against the current AFSP database to identify individuals who may have circumvented the AFSP STA requirements.

GAO also asked that TSA, in collaboration with ICE, "develop a plan with time frames, and assign individuals with responsibility and accountability for assessing the results of a pilot program to check TSA AFSP data against information DHS has on applicants' admissibility status." In November 2010, TSA began working with ICE to mitigate the identified concern and conducted the first recurrent lawful status check in May 2011. This pilot program was with ICE's Counterterrorism and Criminal Exploitation Unit (CTCEU) and the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Arrival Departure Information System (ADIS) and laid out a process to detect and identify AFSP applicants who are in violation of U.S. immigration laws. With positive results assessed during the pilot, TSA moved forward with a new process to check active alien flight students against the US-VISIT ADIS database to identify whether the individual may have overstayed the terms of their admission, and providing the results to CTCEU to take appropriate immigration enforcement action. If CTCEU identifies any issues, they notify TSA for action with respect to aviation security. In addition, TSA entered into an information-sharing Memorandum of Agreement on February 21, 2012, allowing ICE to access the AFSP database to aid in their investigations. By the end of this year, TSA plans to further automate this process by interfacing with US-VISIT ADIS through their new web services platform. In the mean time, TSA will continue to conduct the above-described manual vetting process through US-VISIT ADIS to mitigate the issue identified by GAO.

#### CONCLUSION

TSA continues to fully vet foreign flight school students so that U.S. flight schools remain a world leader in flight training while ensuring that only those applicants who satisfy our STA requirements receive such training. Chairman Rogers, Ranking Member Jackson Lee, I thank you for the opportunity to appear before you today, and I look forward to answering your questions.

Mr. ROGERS. Well, thank you, Mr. Wilson.

Our next witness is Mr. John Woods. Mr. Woods is assistant director for national security investigations at ICE. His division is responsible for programs that target trans-national security threats stemming from illicit travel, trade, and financial enterprises. Mr. Woods has served in this position since 2009. He has 26 years of distinguished experience in law enforcement.

The Chairman now recognizes Mr. Woods for 5 minutes to summarize his opening statement.

#### **STATEMENT OF JOHN P. WOODS, ASSISTANT DIRECTOR, NATIONAL SECURITY INVESTIGATIONS, IMMIGRATION AND CUSTOMS ENFORCEMENT**

Mr. WOODS. Chairman Rogers, Ranking Member Davis, and Ranking Member Thompson, distinguished Members of the subcommittee, thank you for the opportunity today to appear before you to discuss our efforts to identify, address vulnerabilities, and

prevent the exploitation of our visa systems by terrorists and/or criminals.

Today, I would like to focus on the role and responsibility of our counter-terrorism and criminal exploitation unit, or the CTCEU, and the opportunities we see to collaborate with TSA to improve the vetting process of the alien flight student program and the alien flight student population.

The CTCEU is the first and only National program dedicated to the enforcement of non-immigrant visa violations. It is part of ICE's Homeland Security Investigations National Security Investigations Division. The unit prevents terrorists and other criminals from exploiting the Nation's immigration system through fraud. It investigates the non-immigrant visa holders who violate their immigration status and places a high priority on scrutinizing the activities of known or suspected terrorists and those associated with terrorists.

It also prevents criminal exploitation of our student visa system. Since its creation in 2003, the CTCEU have had analysts resolve more than 2 million such records using automated and manual review techniques. ICE opens approximately 6,000 investigative cases annually and assigns them to our HS-ICE special agents in the field for further investigation.

These investigations result in approximately 1,800 administrative arrests and 35 criminal arrests annually. In 2010 HS-ICE special agents investigated TJ Aviation, a flight school in Boston, whose flight students consisted primarily of visa overstays and illegal aliens. This investigation drew attention to the alien flight training in the United States and the vulnerabilities that persisted after nearly a decade after the 9/11 terrorist attacks.

Shortly after the TJ Aviation investigation, HS-ICE has worked with TSA to help refine the alien flight school program policies and procedures. The CTCEU has assigned resources to the alien flight school program and to assist in the review of HSI and TSI procedures and processes involving alien flight students and the schools that train them.

Since the enhancement of this relationship with TSA, several significant changes have been implemented to enhance National security of the alien flight school program. One significant change is that TSA conducts checks of active alien flight students against US-VISIT's arrival and departure information system to identify whether an individuals may have overstayed the terms of their mission and provides results to the CTCEU to take enforcement action.

Another significant change is TSA has been refining their operating procedures to include having TSA inspectors talk to alien flight students and physically inspect their documents and log books. Additionally, we are conducting these inspections with them on weekends where a majority of the flight training takes place.

In December 2011, CTCU developed and implemented Operation Clipped Wings. This is a three-phase enforcement operation aimed at mitigating the vulnerabilities identified in Alien Flight School Program, and the critical infrastructure areas associated within aviation.

The first phase consists of HSI's special agents focusing on investigative efforts on those foreign nationals who have been identified in the AFSP database, having received flight training in the United States, and who have overstayed the terms of their admission.

The second phase will be centered on conducting proper immigration checks of all Federal aviation certified pilots and crew members. The final phase will focus on employees at repair stations, locations that are certified by the FAA to repair aircraft.

To date, Operation Clipped Wings has identified over 30 investigative leads for HSI special agents to follow up on, and has led to four criminal—four administrative arrests.

These are just a few examples of how ICE is committed to promoting National security in working with our DHS counterparts in identifying and preventing terrorists from exploiting our visa process. I thank you again for the opportunity to testify here today, and I would be pleased to answer any questions that you may have.

[The prepared statement of Mr. Woods follows:]

PREPARED STATEMENT OF JOHN P. WOODS

JULY 18, 2012

INTRODUCTION

Chairman Rogers, Ranking Member Jackson Lee and distinguished Members of the subcommittee: On behalf of Secretary Napolitano and Director Morton, thank you for the opportunity to appear before you today to discuss the efforts of U.S. Immigration and Customs Enforcement (ICE) to identify and address vulnerabilities in, and prevent the exploitation of, our visa system by terrorists and criminals. In June 2012, the Government Accountability Office (GAO) issued a report entitled, "General Aviation Security: Weaknesses Exist in TSA's Process for Ensuring Foreign Flight Students Do Not Pose a Security Threat." In response to the report and its recommendations, ICE's Homeland Security Investigations (HSI) Counterterrorism and Criminal Exploitation Unit (CTCEU) is working in collaboration with the Transportation Security Administration (TSA) on a pilot to determine lawful status of the active Alien Flight Student Program (AFSP) population. By December 31, 2012, TSA will prepare a plan, with specific details on time frames and accountability, to assess the results of the pilot including recommendations for future steps.

Visa overstays and other forms of status violation bring together two critical areas of ICE's mission—National security and immigration enforcement. We cannot overstate the importance of determining who to allow entry into the United States and ensuring compliance with the conditions of such entry. We are proud of the good work we have done over the last 10 years to protect the integrity of our visa system. My testimony will focus on the role and responsibility of the CTCEU, our successes and the opportunities we see to collaborate with TSA to improve the vetting process for the AFSP population.

*The Counterterrorism and Criminal Exploitation Unit*

The CTCEU is the first and only National program dedicated to the enforcement of non-immigrant visa violations. It is part of ICE's Homeland Security Investigations' (HSI) National Security Investigations Division. The unit prevents terrorists and other criminals from exploiting the Nation's immigration system through fraud. It investigates non-immigrant visa holders who violate their immigration status and places a high priority on scrutinizing the activities of known or suspected terrorists and terrorist associations. It also combats criminal exploitation of the student visa system.

Today, through the CTCEU, ICE analyzes and recommends leads for investigation from the Student and Exchange Visitor Information System (SEVIS) and the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) program.

SEVIS is the internet-based system that maintains information on Student Exchange Visitor Program (SEVP)-certified schools and international students who come to the United States on F (academic) or M (vocational) visa status to study at those schools, as well as the students' dependents. SEVIS also maintains information on U.S. Department of State-designated exchange visitor sponsors and J visa

exchange visitor program participants and their dependents. US-VISIT owns two systems: The Automated Biometric Identification System (IDENT) and the Arrival and Departure Information System (ADIS), which house biometric and associated biographic data on foreign nationals who have entered or applied to enter the United States. IDENT and ADIS maintain data on foreign nationals such as students, tourists, and temporary workers, present in the United States at any given time (including flight students and foreign students) and those who have overstayed or otherwise violated the terms and conditions of their admission.

Each year, the CTCEU analyzes records of hundreds of thousands of non-immigrants who may have violated their terms of admission or visa status, based on data received from SEVIS, US-VISIT, and other sources. These records are resolved by further identifying potential Federal violations that would warrant field investigations, establishing compliance with their terms of admission, or establishing departure dates from the United States. Since the creation of the CTCEU in 2003, analysts have resolved more than 2 million such records using automated and manual review techniques. ICE opens approximately 6,000 investigative cases annually, and assigns them to our special agents in the field for further investigation. These investigations result in over 1,800 administrative arrests and approximately 35 criminal arrests per year.

ICE furthers its counterterrorism mission by initiating or supporting high-priority National security initiatives based upon specific information from the intelligence community. The practice is designed to detect and identify individuals exhibiting specific risk factors, including international travel from specific geographic locations to the United States, and in-depth criminal research and social network link analysis.

A critical component of the CTCEU is the SEVIS Exploitation Section, which combats exploitation of the Student and Exchange Visitor Program by analyzing SEVIS data and referring school fraud criminal investigations to the field for further investigation. The SEVP is part of the National Security Investigations Division and is responsible for: Certifying schools to accept international students; administering SEVIS; and collecting, maintaining, analyzing, and providing information so only legitimate foreign students or exchange visitors gain entry to the United States.

For instance, in November 2011, the CTCEU Group in Los Angeles arrested Karena Chuang of Wright Aviation Academy for encouraging the illegal entry of aliens for private financial gain. On February 6, 2012, Ms. Chuang pleaded guilty to two counts of this crime. Wright Aviation Academy, a non-SEVP-certified flight school, was suspected by ICE's Visa Security Program of fraudulently recruiting and training foreign flight students from Egypt. As a result of ICE's investigation—representative of ICE's layered enforcement approach that works to identify and disrupt visa fraud overseas, with a focus on dismantling supporting transnational organizations committing such fraud, and prosecuting the alleged perpetrators in the United States—Chuang is alleged to have applied to SEVP-certified schools, posing as a foreign student, for the sole purpose of obtaining valid Forms I-20 (Certificates of Eligibility for Nonimmigrant Student). The students, in turn, allegedly used the fraudulently obtained Forms I-20 to get M-1 (vocational) visas to enter the United States to attend Wright Aviation Academy. This investigation successfully upheld the integrity of the SEVP program through ICE's layered enforcement approach—identifying and disrupting visa fraud overseas, dismantling the transnational organization, and prosecuting the perpetrators in the United States.

In 2010, ICE HSI special agents investigated TJ Aviation, a flight school in Boston, whose flight students consisted primarily of visa overstays and illegal aliens. This investigation drew attention to alien flight training in the United States and the vulnerabilities that persisted nearly a decade after the 9/11 terrorist attacks.<sup>1</sup>

Shortly after the TJ Aviation investigation, TSA requested an HSI liaison to help refine the AFSP policies and procedures. The CTCEU assigned a National Program Manager/special agent to the AFSP who is currently working to review HSI and TSA procedures and processes involving alien flight students and the schools that train alien flight students.

After reviewing TSA procedures and processes, the CTCEU's Liaison identified several areas of systemic vulnerabilities. ICE and TSA have identified and are discussing several ways to alleviate these issues by:

- Sharing AFSP data with ICE and SEVIS information with TSA;
- Implementing ways for TSA Transportation Security Inspectors to review but not make determinations of legal presence of alien flight students during their

<sup>1</sup>Three of the 9/11 hijackers attended flight schools while bearing visas that did not permit flight training.

semi-annual inspections of AFSP flight training providers and record this information in a historical database;

- Implementing a system for ICE and TSA to cooperatively conduct lawful presence checks on aliens in TSA databases;
- Implementing joint HSI/TSA outreach to flight training providers that train alien flight students and local airport officials; and
- Providing additional assistance and support while investigating flight schools and flight students.

During the tenure of the CTCEU liaison at TSA, several significant changes have been implemented to enhance the National security of the AFSP. One significant change is that TSA AFSP conducts checks of active alien flight students against US-VISIT's ADIS database to identify whether the individual may have overstayed the terms of their admission and provides the results to CTCEU to take appropriate action. This allows HSI to potentially target the immigration violator without TSA alerting the individual. The CTCEU liaison has access to TSA's AFSP database and has provided several accounts for HSI special agents throughout the United States. Additionally, the CTCEU liaison has participated in TSA Special Emphasis STRIKE Operations,<sup>2</sup> which has resulted in TSA refining their operating procedures to include having TSA inspectors talk to alien flight students and physically inspecting their documents and logbooks and conducting these inspections on the weekends when the majority of flight training occurs.

In December 2011, the CTCEU developed and implemented "Operation Clipped Wings," an enforcement operation aimed at mitigating the vulnerabilities identified in the AFSP and the critical infrastructure areas associated with aircrafts. This operation will be implemented in three phases. In the first phase, HSI is focusing its investigative efforts on those foreign nationals who have been identified in the AFSP database as having received flight training in the United States and overstayed their terms of admission. The second phase will be centered on conducting proper immigration checks on all Federal Aviation Administration (FAA)-certified pilots and crew members. The final phase will be focused on employees at repair stations—locations that are certified by the FAA to repair aircraft. To date, Operation Clipped Wings has identified over 30 HSI investigative leads and led to four administrative arrests.

#### CONCLUSION

ICE is committed to promoting National security and has made significant progress in identifying and preventing terrorists from exploiting the visa process.

Thank you again for the opportunity to testify today and for your continued support of ICE and its law enforcement mission.

I would be pleased to answer any questions at this time.

Mr. ROGERS. Thank you, Mr. Woods. Our next witness is Mr. Jens Hennig. Mr. Hennig is vice president of operations for the General Aviation Manufacturers Association.

Mr. Hennig joined GAMA as the manager of operations in 2003, and in advance to vice president of operations. Prior to joining GAMA, he served as manager of flight operations at Embry-Riddle Aeronautical University.

The Chairman now recognizes Mr. Hennig for 5 minutes to summarize his opening statement.

#### **STATEMENT OF JENS C. HENNIG, VICE PRESIDENT OF OPERATIONS, GENERAL AVIATION MANUFACTURERS ASSOCIATION**

Mr. HENNIG. Chairman Rogers, Congressman Davis, Ranking Member Thompson, I am Jens Hennig, and I am vice president of operations for the General Aviation Manufacturers Association. I appreciate you convening this hearing to examining the TSA's Alien Flight Student Program.

<sup>2</sup>A "STRIKE" is an operational activity involving TSA compliance personnel from multiple locations surging at one particular location to conduct inspections.

GAMA represents over 75 companies, the world-leading manufacturers of general aviation products. Our members are also involved with the service and support of the industry and our flight-training providers in 2011, and accounted for 16,000 of the individual checks conducted by the TSA, including 56 percent of the checks conducted for recurrent training.

Today's hearing specifically focuses on GAO's recommendations on ways to strengthen the program with respect to visa adherence and data sharing between different governing agencies. GAMA views the GAO's recommendations as targeted and appropriate to strengthen a specific part of the framework of the Alien Flight Program.

GAMA, however, believes there are some additional securing enhancements that also need to be implemented. These enhancements will better target TSA's limited resources by aligning the required security threat assessment for foreign nationals with other security programs.

The United States is a global leader in pilot training. There are currently 944 FAA-certified pilot schools. According to the FAA, approximately 22 percent of the airmen tests administered last year were to foreign citizens.

Pilot training is also essential for a healthy manufacturing industry. When GAMA members sell new aircraft to a customer, it is often accompanied by training for the pilot and the crew.

The current Alien Flight Student Program was created after 9/11, and the program was transferred from the Department of Justice to TSA in 2003, with the requirements established with an interim final rule published late 2004.

As an interim final rule, the program was not subject to public review and comment. This was a result in a number of areas needing policy interpretations.

As an example, for many years, there was uncertainty between TSA and industry about what constituted recurrent training vetting. Recurrent training received specific attention both by Congress, and in the rule, for how to create a proportional set of requirements to people who are already pilots, and pose less risk for training events from a threat scenario.

The lack of clarity resulted in an overly-cautious approach by TSA and industry, in vetting people for training activities that awarded no additional flying privileges.

The TSA worked with industry, and in 2010, published new policy that drew clear lines as to what is captured by the required check. The TSA showed industry how to comply with a regulation without redundant checks of the same individual. The policy is one of several issued by the TSA over the past 4 years.

GAMA welcomes this engagement by TSA with industries to develop clear compliance guidance. There are, however, several unclear areas and inefficiencies that cannot be addressed without changing the framework of the regulation.

The primary inefficiency is the requirement that a foreign national for each stand-alone training event, certificate, or rating that they hold. I have provided some examples in my written testimony.

In short, the typical situation is a fully-certified pilot who is employed by a foreign commercial airline, and approved to operate

multiple different types of aircraft. If that airline elects to contract with an FAA training center, the alien flight regulation is structured to require the pilot to be subject to a security threat assessment for each type rating that they hold.

This training, and the multiple—often occur within a period of just a couple of weeks. This approach clearly does nothing to add to enhanced security, but it wastes Government and industry resources in the conduct of the multiple vets of the same person.

GAMA believes that the TSA should shift the approach for the STA, and approach—to the approach taken by other programs. Basically, we believe that the TSA should shift from an event-based STA to one that is time-based.

Based on these concerns, GAMA, in April 2011 petitioned the TSA for a rewrite of the program. We did this in response to the administration's call for a regulatory review of all agencies.

In August of last year, DHS accepted our proposal for the rewrite. At the same time, outlined the TSA's plan to establish a streamlined procedure for the vetting of the foreign national, implement new information technology, and shift the STA to have a validity of 5 years. We believe these changes will benefit both the TSA and the students.

Chairman Rogers, Congressman Davis, thank you for providing me the opportunity to discuss with the subcommittee the need to make changes to the program. GAMA believes the changes will streamline the program, increase Government efficiencies, and provide a more effective vetting of foreign nationals seeking flight training in the United States.

At the same time, the rewrite of the program will also lend itself to the enactment of the GAO's recommendations, and establish a clear regulatory framework for industry. The TSA has been a good partner within industry, and we look forward to working with them to fully implement the changes.

Thank you, and I would be glad to answer any questions.

[The prepared statement of Mr. Hennig follows:]

PREPARED STATEMENT OF JENS C. HENNIG

JULY 18, 2012

INTRODUCTION

Chairman Rogers, Ranking Member Jackson Lee, distinguished Members of the subcommittee; my name is Jens Hennig and I am the vice president of operations for the General Aviation Manufacturers Association (GAMA). GAMA represents over 75 companies who are the world's leading manufacturers of general aviation airplanes, rotorcraft, engines, avionics, and components. Our member companies also operate airplane fleets, airport fixed-based operations, as well as pilot training and maintenance facilities world-wide.

On behalf of our members, I appreciate your convening this hearing to examine the Transportation Security Administration (TSA) security program for flight schools; often referred to as the alien flight student program.<sup>1</sup>

GAO RECOMMENDATIONS

Today's hearing specifically focuses on recommendations by the Government Accountability Office (GAO) on ways to strengthen the alien flight student program. GAMA understands the recommendations of the GAO are two-fold: (1) To strength-

<sup>1</sup> 49 CFR Part 1552 Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees; Interim Rule.

en the TSA and the Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE) interactions to ensure adherence to visa requirements; and (2) Improving data sharing between TSA and the Federal Aviation Administration (FAA) about FAA-certified pilots.

GAMA views the GAO's recommendations as targeted and appropriate for strengthening specific parts of the framework of the alien flight program. If implemented these recommendations will clarify the requirements placed upon flight schools for identifying trainees and further define record-keeping requirements about students.

GAMA believes additional program enhancements need to be implemented in other areas. We applaud action taken by TSA over the past several years to continue to improve the program, but we have also made recommendations in response to the administration's regulatory review<sup>2</sup> that we believe will further streamline the program based on risk. These changes, if implemented, will better target the TSA's limited resources using risk consideration by aligning the required Security Threat Assessment (STA) for foreign nationals with other TSA security programs. GAMA is encouraged by the TSA's engagement with industry over the past 4 years to clarify the requirements and applicability of the program and consider a risk-based approach to vetting foreign nationals who elect to obtain flight training from companies certificated by the FAA.

#### HISTORY AND CURRENT STATE OF THE PROGRAM

The regulatory framework in place today originated after September 11, 2001. The program was originally administered by the Department of Justice (DOJ),<sup>3</sup> but in 2003 Congress transferred the authority over background checks for flight training to the TSA.<sup>4 5</sup> GAMA welcomed this shift in authority because the background check process under DOJ had effectively halted the U.S. flight training industry's ability to train foreign nationals, further exacerbating the effects of the 2000–2001 recession. The TSA established the requirements of the current program through the publication of an interim final rule in September 2004.

The interim final rule introduced four different categories to vetting foreign nationals based on the type of flight training that they would undertake where Category 1 or 2 is required for large aircraft; Category 3 is required for small aircraft; and Category 4 applies to recurrent flight training on an aircraft.

Due to its status as interim final regulation, however, the TSA program was not subject to the typical regulatory review and comment that allows work between an agency and the industry to establish an effective program that ensures security concerns are addressed without unnecessarily burdening industry as well as providing for a clear process for regulatory compliance.

During the last 4 years the TSA worked with industry through a cross-section of policies, clarifications, and interpretations to define today's alien flight student program requirements. Examples of issues that industry identified as needing new policy or clarification within the framework of the existing regulation include:

- What is defined as "recurrent training"?
- Who holds responsibility for ensuring compliance with the program when "dry leasing"<sup>6</sup> a simulator?
- With respect to oversight of the program, does the TSA have responsibility to ensure that the foreign national is in the United States on a valid visa?<sup>7</sup>

The TSA's policy clarifications about the program greatly improved the processing time for a foreign national seeking flight training. Our members have seen the proc-

<sup>2</sup>GAMA petitioned the Department of Homeland Security in response to its notice Reducing Regulatory Burden; Retrospective Review under Executive Order 13563, see Volume 76 Federal Register at 13526.

<sup>3</sup>Pub. L. 107–71, the Aviation and Transportation Security Act (ATSA), Section 113 introduced a prohibition against flight training providers from providing flight training to aliens and certain designated individuals pending the Attorney General not notifying the training provider within 45 days that the candidate presented no threat to aviation or National security.

<sup>4</sup>The impact of the DOJ program for vetting for aliens seeking flight training in the United States was discussed by GAMA in testimony before the Subcommittee on Aviation, Committee on Commerce, Science & Transportation of the U.S. Senate, Hearing on Aviation Security, on February 5, 2003.

<sup>5</sup>Vision 100 Century of Aviation Act, Section 612.

<sup>6</sup>The term "dry lease" refers to a flight training provider leasing its training facilities and devices to an airline which then conducts its training at the flight training provider's facilities using its equipment.

<sup>7</sup>A number of other policy clarifications were developed or identified by industry including requirements for U.S. Government employees; requirements for U.S. Government-sponsored employees that are foreign nationals; and handling of fingerprints.

essing time for recurrent flight training reduced to approximately to 1–2 days as compared to 3–6 days as recently as a couple of years ago. Additionally, the TSA's staff is directly engaged with industry and through their "help desk" function provide necessary support to achieve regulatory compliance for individual pilots and flight training providers.

Industry does, however, face a compilation of regulatory interpretations, policy letters, and frequently asked questions when determining how to comply with the program. The core remaining concern of industry is the requirement that a foreign national seeking to undertake flight training in the United States submit to an STA prior to starting each training course.

#### ECONOMIC IMPACT ON THE FLIGHT TRAINING INDUSTRY AND ROLE OF THE PROGRAM

The United States is the global leader in pilot training. There are currently 688 active 14 CFR Part 141 FAA-certificated flight schools and 256 active 14 CFR Part 142 certificated training centers;<sup>8</sup> many of which involve multiple locations and dozens of aircraft or simulators. Additionally, there is training conducted at many schools under 14 CFR Part 61. According to the FAA, approximately 22 percent of airman tests administered in 2011 were to foreign citizens.<sup>9</sup>

The economic importance of the foreign individuals seeking flight training in the United States cannot be understated. In 2011, the TSA conducted 47,651 individual checks of foreign nationals seeking flight training in the United States including 20,407 for Category 4 recurrent trainees.<sup>10</sup>

The future need for commercial, business, and general aviation pilots continues to grow. In a forecast released just last week, the predicted need for commercial airline pilots will be 460,000 pilots world-wide through 2031.<sup>11</sup> This figure does not include the tens of thousands of pilots needed by operators outside commercial aviation such as business and general aviation.

The TSA's alien flight program is at the center of commerce both for the companies that are in the business of pilot training, but also of great importance to manufacturers of commercial and general aviation aircraft and their operators. The impact on the manufacturing industry is indirect, but for each export of an aircraft to a foreign customer, the aircraft manufacturers will as part of the sales contract include the training of the customer's pilots. Without the ability to effectively train pilots to safely operate aircraft, the aviation manufacturing and operator industry would be grounded. The U.S.-based flight training and aircraft manufacturing industry supports tens of thousands of high-paying jobs.

GAMA's members worked with the TSA to facilitate the vetting of 16,683 customers' individual checks in 2011 including 56 percent of the Category 4 checks. Training is conducted by GAMA members in numerous flight training centers across the United States and the world in hundreds of simulators and aircraft.

#### GAMA'S PETITION FOR REGULATORY REVIEW

GAMA began work with the TSA in 2009 to address several policies that we believe were either unclear or not addressed when the requirements for vetting foreign nationals were established. TSA had recognized the issues that existed with the program and worked cooperatively with industry to develop guidance. One example was the uncertainty about what the TSA viewed as constituting "recurrent training"<sup>12</sup>

<sup>8</sup>Organizations certificated by the FAA under 14 CFR Part 141 typically conduct primary training which is regulated by the TSA under Category 3 while organizations certificated under 14 CFR Part 142 typically conduct aircraft type-specific training and are regulated by the TSA under Category 1, 2, and 4 of the 49 CFR Part 1552.

<sup>9</sup>See, FAA analysis of airman certification knowledge exams in response to GAMA request July 12, 2012.

<sup>10</sup>See, TSA analysis of 2011 alien flight activity in response to GAMA request received July 13, 2012 identified Category 1 (3,930), Category 2 (4,095), Category 3 (19,219), and Category 4 (20,407) for a total of 47,651 checks.

<sup>11</sup>See, 2012 Pilot and Technician Outlook, Boeing, July 11, 2012 at [www.boeing.com/commercial/cmo/pilot\\_technician\\_outlook.html](http://www.boeing.com/commercial/cmo/pilot_technician_outlook.html).

<sup>12</sup>Congress specifically separated the requirements for recurrent training, that is pilots who already know how to competently and safely operate and aircraft, when transferring the authority to the TSA as it is widely recognized that STAs of a pilot who is in the United States to undertake recurrent training exposes the aviation system and National security to de minimis risk. Congress, however, in 2009 expanded the requirements of the alien flight student program in the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Appropriations Act of 2009), which amends 6 U.S.C. 469, and requires the Secretary of the Department of Homeland Security to: (1) Establish a process to determine that an alien who takes recurrent flight training is properly identified and does not pose a threat to aviation or National

which had the troublesome effect of the same person being subject to not one STA, but often several STAs for different programs over the course of just a few weeks. There were also different interpretations applied to flight training providers as to what activity would require the trainee to undergo another Category 4 recurrent check.

TSA published a new policy<sup>13</sup> that provided clarity about recurrent training in 2010. The TSA's new policy identified what types of courses are subject to STA using common aviation terminology. This policy has had the positive impact of reducing the number of times that the same person is vetted by the TSA in a short period of time. This efficiency has greatly enhanced the competitiveness of FAA-certified flight training providers and was achieved without reducing security since all foreign nationals are still subject to the same STA, but without the duplication.

The TSA, working jointly with industry during 2009 through 2011, successfully implemented a number of other policy clarifications for the alien flight program that resulted in shorter threat assessment review times and reductions in the number of times one person is vetted by the TSA within a short period of time. The program, however, in its current status as an interim final rule remains difficult to understand for applicants and still includes several inefficiencies. As a result, numerous policy clarifications have been necessary and the TSA was prompted to post a Frequently Asked Question section on its website. The flight training industry is also experiencing some confusion in the field when subject to TSA audits since the current program looks quite different from the requirements in 49 CFR Part 1552.

The primary inefficiency remaining is the requirement to vet a foreign national for stand-alone training courses for new certificates or ratings. There are two common problems.

(1) Persons who are not pilots, but come to the United States to become commercial pilots, (so called ab initio training). A training program to become a commercial pilot covers 4–5 separate FAA certificates or ratings which are typically taken by the student over the course of 1 year. Currently, the TSA program requires that the foreign national submit to the alien flight program STA for each individual certificate or rating course with the result that the TSA conduct multiple vets of the same person within 1 year for a corresponding fee for each vetting.

(2) Professional pilots that hold multiple type ratings which each permit that pilot to fly a unique aircraft. The pilots with multiple type ratings that elect to do recurrent type rating training in the United States must submit to the STA for each type rating they hold. This means that a foreign national in the United States doing three type ratings within a couple of weeks must submit their information to an STA three times prior to starting training.

These practices raise costs, create confusion, and they do not enhance security. It is GAMA's belief that the intent of Congress and the regulation was not to vet the same person on multiple occasions simultaneously or with high frequency, but instead ensure that each person that receives FAA flight training is vetted one time prior to the start of training and that the TSA has an understanding of who is taking flight training. If not, the TSA wastes scarce Federal resources when checking the same person multiple times, sometimes on the same day. At the same time, industry is subject to duplicative and redundant requirements at direct cost through the payment of the STA fee and indirectly through the requirement to submit the same personal identifiable information multiple times.

GAMA believes that the TSA should shift its approach to Security Threat Assessment of foreign nationals seeking flight training to the approach in other TSA programs. For example, instead of having the STA be event-based (that is, when a person elects to do a certain activity), it could be time-based (that is, the person be required to submit to an STA with a certain frequency and allow the agency to maintain the information about the individual to conduct constant vetting of that person's name and information against appropriate threat lists and the flight training provider notifying the TSA that additional training is about to commence with that person.)

On April 13, 2011, GAMA petitioned the TSA to rewrite the alien flight student program in response to the administration's call for a regulatory review of all agencies. In our petition, we identified several areas that need further policy clarifications and proposed that the TSA shift to require foreign nationals to be vetted no more frequently than annually. GAMA also proposed the removal of the four cat-

security; and (2) impose reasonable fees to recoup the cost of checking recurrent training candidates.

<sup>13</sup>TSA Docket No. TSA-2004-19147, Interpretation of "Recurrent Training" and Changes to Security Threat Assessment Process for Recurrent Training, September 13, 2010.

egories in the existing program and the sunset of recurrent training as a separate requirement in favor of a single consistent process where the flight training provider and the TSA ensure foreign nationals are subject to an STA within the prescribed time frame.<sup>14</sup> GAMA's petition was formally endorsed by the Aircraft Owners and Pilots Association (AOPA), the main association representing the general aviation pilot community.<sup>15</sup>

In its final plan for executing the regulatory review, the Department of Homeland Security accepted GAMA's proposal.<sup>16</sup> At the same time, DHS identified the TSA's plan to introduce a streamlined procedure for students; implement new information technology infrastructure to better administer the program; make the STA valid for 5 years; and sunset the four categories for training in the existing program. We believe these changes will benefit both TSA and students and that the rewrite of the program would lend itself to incorporate those recommendations by the GAO that are applicable to regulated entities. GAMA also expects noticeable savings to the TSA through a reduced volume of STAs; more targeted oversight through a more efficient program; and enhanced competitiveness of U.S.-based flight schools when catering to the growing world-wide pilot training market.

#### NEXT STEPS

GAMA, in cooperation with other associations and our member companies, have worked with the TSA since 2011 to further refine the new regulatory framework of the alien flight student program. GAMA met as recently as February with the TSA to respond to questions on specific ways to enhance the program including new information technology. We continue to encourage the TSA to prioritize the rewrite internally and to advocate consideration by the Department of Homeland Security so that the rulemaking process can conclude.

While the agency has been a willing partner for the alien flight program, its inability to complete other rulemaking continues to impede our manufacturing competitiveness and the DHS's rulemaking pipeline remains a concern to GAMA.

Mr. Chairman, thank you for providing me the opportunity to discuss with the subcommittee an overview of the necessary changes to the alien flight student program. GAMA believes that these changes will streamline the program, increase Government efficiencies, and provide a more effective execution of vetting of foreign national seeking flight training in the United States. At the same time, the restructuring of the program will also lend itself to the enactment of GAO's recommendations in a new, clear regulatory framework that industry and Government can build upon in a safe and secure manner.

Thank you and I would be glad to answer any question that you may have.

Mr. ROGERS. Thank you, Mr. Hennig. Our last witness is Mr. Douglas Carr. Mr. Carr is the National Business Aviation Association's vice president for safety, security operations, and regulations. He is responsible for leading the association's efforts on business aviation safety and security, and has oversight of NBAA's regulatory activity involving business aviation, aircraft equipment mandates, operations, and security.

The Chairman now recognizes Mr. Carr for 5 minutes to summarize his opening statement.

#### **STATEMENT OF DOUGLAS CARR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL BUSINESS AVIATION ASSOCIATION**

Mr. CARR. Chairman Rogers, Ranking Member Thompson, Mr. Davis, thank you very much for the opportunity and the invitation to speak before you today. As the Chairman mentioned, my name is Doug Carr. I am the vice president for safety, security, and regulation at the National Business Aviation Association.

<sup>14</sup> See, TSA Docket No. DHS-2011-0015: DHS Retrospective Review.

<sup>15</sup> See, TSA Docket No. DHS-2011-0015; AOPA Letter Dated April 12, 2011.

<sup>16</sup> U.S. Department of Homeland Security, Final Plan for the Retrospective Review of Existing Regulations, August 22, 2011.

NBAA's over 9,000 members represent a wide variety of companies who all operate business aircraft to support their travel needs, or are involved in the support of the business aviation industry.

In my role at NBAA, I have had the opportunity to work with TSA since its early days as an agency, and have served in a number of advisory capacities. That includes currently serving as the co-chairman of the TSA's Aviation Security Advisory Committee, General Aviation's subgroup.

Let me start by reaffirming the general aviation's community to working with our Government leaders to improve security for our transportation system. We continue to seek productive and innovative ways to partner with the Federal Government to develop reasonable and effective security regulations, policies, and programs that ensure our National security while facilitating general aviation operations. This includes the Alien Flight School Program.

Business aviation, as you have heard earlier, is a vital portion of our National economy. With over \$100 billion worth of economic output each year, and over 1 million employees involved in the industry, it is a vital part of our economy.

The operations conducted by business aviation are wide and diverse, including firefighting, EMS operations, agricultural, to law enforcement, non-profit, and business operations of all shapes and sizes.

Many small and rural communities are connected to the broader transportation system by business aviation aircraft. These companies that utilize these aircraft also recognize the value of giving back to their local citizens through participation in charity, and charitable organizations such as the Corporate Angel Network, the Veterans Airlift Command, and Angel Flight, that provide free transportation to cancer patients, to military veterans and their families, and to others needing medical assistance.

As has been mentioned earlier, the general aviation community has been very proactive in working with TSA and other Government agencies in the development of a number of security enhancements for our community. These include the development of a toll-free hotline to report suspicious activity at general-aviation airports; a recommendation to issue Government-issued, tamper-proof identification for pilots; financial transaction monitoring improvements; and TSA guidelines for aircraft, for general aviation aircraft, and airport operators.

The focus of today's hearing being the Alien Flight School Program, is one of TSA's programs that affect many people beyond our borders. It is important, I think, that we look at some of the improvements that have been made in the program since its early days.

Initially, the program required a foreign flight-training candidate to come to the United States to initiate that clearance process, and often then wait here for 30 to 45 days as that clearance process took place.

Today, the candidate no longer is required to come to the United States, and that clearance process takes only a few days. That has significantly improved the system for the flight-training candidate, and for the flight schools who have to schedule a number of simulators, classrooms, instructors, and aircraft.

But as with any program, there is always room for improvement. We look forward to working with TSA following this hearing to address many of the issues raised by the GAO report.

Some of the things that we have addressed with TSA that will come as no surprise to them, in terms of areas of improvement, include the area identified by Mr. Hennig, dealing with focusing the clearance on the candidate, as opposed to the training event. We believe that will allow TSA to focus its resources in areas that will have a dramatic improvement.

In addition, we believe that increased guidance and regulatory support for helping flight schools identify exactly what they need to do to comply with the rules, will eliminate much of the ambiguity and variability that exists today across the flight-school community in complying with the Alien Flight School Program.

In addition to improving guidance related to a unique situation, dealing with dry-leasing of full flight motion simulators, the U.S. flight-training industry, we believe, is the best in the world. These flight schools produce students that are well qualified to fly in both private and commercial environments throughout the world. Thousands of U.S. jobs are supported by the U.S. flight-training industry.

We should ensure that our regulations and policies not only eliminate and prevent the opportunity for terrorists to exploit that system, but also to ensure that our flight-training industry remains the best in the world. Thank you for the opportunity to be here today, and I look forward to answering any of your questions.

[The prepared statement of Mr. Carr follows:]

PREPARED STATEMENT OF DOUGLAS CARR

JULY 18, 2012

Chairman Rogers, Ranking Member Jackson Lee, Members of the subcommittee, on behalf of the more than 9,000 members of the National Business Aviation Association (NBAA), we appreciate this opportunity to provide our views at this important hearing on general aviation security and American flight schools.

I am Doug Carr and I serve as vice president for safety, security, and regulation at the National Business Aviation Association based here in Washington, DC. NBAA represents over 9,000 diverse companies with one thing in common—they all depend on general aviation aircraft for the conduct of their business. In this position, I have worked with the Transportation Security Administration (TSA) since its first days as a Government agency and have served in several advisory capacities, which include currently serving as co-chairman of the Aviation Security Advisory Committee (ASAC) General Aviation Subgroup.

The general aviation community is committed to the security of our National transportation system. We continue to seek productive ways to partner with the Federal Government on developing reasonable, workable, and effective regulations that simultaneously ensure security and facilitate general aviation operations. This includes the TSA's Alien Flight Student Program (AFSP).

FACTS ABOUT BUSINESS AVIATION

From creating growth opportunities and global connectivity for America's small towns and rural areas to supporting the Nation's productivity, business aviation is an important economic engine, creating jobs and investment, while contributing to the world's leading aviation system. Business aviation is absolutely essential as U.S. companies work to compete in a global marketplace. Simply put, business aviation is a vital part of the Nation's economy and transportation system.

Business aviation is defined by the FAA as the use of any general aviation aircraft (piston or turbine) for a business purpose. NBAA was founded 67 years ago to represent companies that utilize general aviation aircraft as a tool for meeting some of their transportation challenges. While NBAA member companies purchase

billions of dollars per year in commercial airline tickets, there are critical situations where the use of a general aviation aircraft is indispensable. For U.S. companies to be successful in these challenging economic times, every business tool must be available—including general aviation aircraft.

General aviation is an essential economic generator, contributing more than \$150 billion to annual U.S. economic output, and employing more than 1 million people. Most general aviation aircraft operating around the world are manufactured and/or completed in the United States, and our industry is continuing to build a strong American manufacturing and employment base that contributes positively to our National balance of trade.

General aviation includes diverse operations, with business uses that range from agriculture, to law enforcement, to fire and rescue services, to varied Government, educational, nonprofit organizations and businesses of all sizes. Servicing and supporting these organizations are FBO's, maintenance technicians, suppliers, and service providers.

Business aviation is not only an economic lifeline for thousands of our Nation's smaller communities; it also supports people and communities in times of crisis in the United States and around the world.

General aviation has snapped into action when there's a need to confront floods in the Midwest, fires in the West, or a whole host of other natural disasters. The business aviation community—working mostly on a volunteer basis—has always been quick to help assess damage, rescue those affected by these disasters, and carry in lifesaving support and supplies to the affected regions.

In addition, hundreds of GA operators carried thousands of passengers and over a million pounds of supplies to and from Haiti after the devastating earthquake there. In fact, Congress passed a resolution commending general aviation for its response to the crisis.

The people who rely on a general aviation aircraft for business are also dedicated to helping provide life-saving flights to the communities in which they live and work. Operations like the Corporate Angel Network arrange free air transportation for cancer patients traveling to treatment using the empty seats aboard business airplanes. Angel Flight America's seven member organizations and 7,200 volunteer pilots arrange flights to carry patients to medical facilities.

The Veterans Airlift Command uses business airplanes and unused hours of fractional aircraft ownership programs to provide free flights for medical and other purposes for wounded service members, veterans, and their families. Veterans Airlift finds volunteers in the business aviation community to fly missions on request and contribute the full cost of their aircraft and fuel for the missions flown.

#### ECONOMIC CHALLENGES FACING BUSINESS AVIATION

Unfortunately, the people and businesses in general aviation, like other industries, are weathering one of the worst economic storms anyone has ever seen. The impact of the flagging economy on the companies and communities that rely on general aviation is visible in all parts of the country.

Over the past few years, we saw business aviation flying decrease by as much as 35 percent in some locations—which unfortunately led to thousands of layoffs across the industry and country. While we have seen some uptick in flight activity in recent months, activity is still below the 2008 levels and experts agree that the recovery will be slow and gradual over the next several years.

#### TSA'S ALIEN FLIGHT STUDENT PROGRAM (AFSP)

Since the events of 9/11, NBAA and indeed the entire general aviation community has been very proactive in enhancing security by developing and implementing a large number of workable and effective security measures.

The general aviation community has worked closely with several Government agencies including the Department of Homeland Security (DHS) and the Transportation Security Administration (TSA) and this partnership approach has produced tangible results. The security measures we have implemented include the creation of a toll-free general aviation security reporting hotline for any suspicious activity at an airport, the monitoring of aircraft financing transactions, a new requirement for Government-issued, tamper-proof photo IDs for pilots, and guidelines for security at general aviation airports and an AOPA Airport Watch program. In addition, 8 years ago, NBAA members in the NY area voluntarily initiated a pilot program to design a security program specifically for operations in that area.

The Alien Flight School Program (AFSP) represents one of TSA's programs that affect many people beyond our borders. The goal of the program, we believe, is vital in protecting our National security. While the program initially created a substan-

tial burden for foreign citizens seeking flight training in the United States, recent program changes and continued feedback from the flight training industry have produced improvements not only in the program, but also for foreign flight training candidates.

It is important that we note the improvements made in the Alien Flight School Program since its inception. When the program began, it was common for a flight training candidate to come to the United States for processing, only to then wait an additional 30–45 days for a review and approval to then begin training. These days, processing takes only a few days and does not require the candidate to come to the United States in advance. The improvements made to the clearance process have reduced the uncertainty of securing a clearance while improving the flight school's ability to schedule classroom, simulator, and aircraft training.

These improvements resulted from on-going and collaborative feedback from the flight training industry and is an example of how we can work together to overcome challenges. NBAA looks forward to partnering with DHS and TSA in working to address concerns raised by the recent GAO report. This hearing today will be extremely beneficial in this effort.

We continue to work with the TSA on other areas of the AFSP that need improvement. These include:

- *Assigning a security clearance to an individual, not a training event.*—Currently, a flight school must submit an individual for clearance for every training event he or she attends, regardless of how many training visits this entails. We believe that one candidate-centric review should suffice for a defined period of time, perhaps 5 years, regardless of the number of training events.
- *Improving regulatory guidance.*—Flight schools still face a wide variety of interpretation regarding various, sometimes basic elements of the program. More standardized guidance to flight schools about the program would assist with compliance and oversight.
- *Dry leasing of simulators.*—Current guidance requires both the simulator owner and simulator lessor to submit candidates for clearance. This seems duplicative and does not appear to enhance security. Updating TSA's guidance on who should submit names for clearance would greatly reduce the burden on both the Government and the industry in the clearance process.

We strongly believe that the U.S. flight training industry is the best in the world. Students leave U.S. flight schools very well prepared to deal with the challenges of private and commercial flying regimes throughout the world. Thousands of jobs in the United States are supported directly from the flight training industry and our policies and regulations should not only ensure that flight candidates do not represent a security threat to our Nation, but also continue to appropriately support the United States as the preeminent flight training location in the world.

Mr. Chairman, Ranking Member Jackson Lee and Members of the subcommittee, the general aviation community is grateful for the tremendous leadership this committee has provided as we collectively work to address these vital homeland security issues.

We would like also to note the efforts of this committee to support the inclusion of the GA community in the TSA ASAC process—including most recently in Ranking Member Thompson's "Aviation Security Stakeholder Participation Act" (HR 1477)—which passed the House on June 28. On behalf of NBAA, I would like to reiterate our appreciation to the committee for your continued support for general aviation.

Thank you.

Mr. ROGERS. Thank you, Mr. Carr. The Chairman now recognizes himself for 5 minutes of questions.

Mr. Lord, isn't it true that, based on your report, the Transportation Security Administration cannot assure the American people that foreign terrorists are not in this country learning how to fly airplanes? Yes or no?

Mr. LORD. At this time, no.

Mr. ROGERS. That is what I thought. Mr. Wilson, who bears responsibility for that?

Mr. WILSON. Ultimately, the Transportation Security Administration is responsible for the Alien Flight Student Program. During Mr. Lord's testimony in the GAO report, what was not noted was that there is an additional Federal agency that has the autonomy

to allow Alien Flight students to also begin training. That was not captured during the testimony.

When he spoke of several weaknesses, and there was a disconnect between the FAA's registry information and TSA's AFSP database, no one really looked into the other Federal agency to see how many of those were vetted through that particular agency.

Mr. ROGERS. But shouldn't the TSA know—shouldn't they be working in coordination with Immigration and Customs Enforcement and other Federal agencies to know who is being vetted and approved and who is not?

Mr. WILSON. Yes, sir. As you have heard before from all these panel members before me today, you have heard that TSA has done a tremendous job in the collaboration with our stakeholders, as well as other Federal agencies.

We have increased our—treaty engagement very greatly in the last 24 months. This panel here recognizes that TSA is making its best effort to ensure that we address the inefficiencies in all of our problems, not just the Alien Flight Student Program, as well as addressing all of the vulnerabilities.

Mr. ROGERS. Mr. Wilson, I beg to differ with you. The only thing that TSA has done a tremendous job of is losing the American people's confidence. GAO identified this, Mr. Wilson. GAO identified examples where foreign nationals were rejected by TSA but somehow managed to complete flight training anyway. How is that possible?

Mr. WILSON. Chairman Rogers, I don't recall seeing that in the GAO report. What I do recall seeing is that there are individuals that were still being adjudicated through the vetting process that hadn't been allowed to conduct flight training.

As I said earlier in my testimony, sir, the first line of defense in order to prevent these individuals from protecting flight training is our flight training providers. Flight training providers are not supposed to allow these individuals to begin in training until they have received information from TSA that these individuals have undergone and completed a successful—

Mr. ROGERS. What about if a certain time period lapses without the TSA making a determination? Are they allowed to go ahead and start their training?

Mr. WILSON. Yes sir, they are.

Mr. ROGERS. So they can get trained without TSA?

Mr. WILSON. They can begin training, but within a certain period of time we continuously vet these individuals until we can determine whether or not that they are suited to begin flight training or not.

Mr. ROGERS. Mr. Lord, you heard my question a minute ago about the foreign nationals who were rejected by TSA somehow managing to get flight training anyway. Is that not in your report?

Mr. LORD. Yes, that is the second example we provide under the vetting process. We didn't use the word rejection. We said they initiated the vetting process, but did not receive an affirmative response from TSA yet they were still able to go on and take flight training.

For the record, I would like to respond to one comment Mr. Wilson made. The one agency he indicates we did not mention, it is

fully discussed in the SSI version of our report. So I just want to be clear. We have a full understanding of the vetting process and all the various Government agencies involved.

Mr. ROGERS. Well, I agree, and nobody's hands are clean. Mr. Woods, obviously this committee is concerned about this report and its finding. Are you concerned about it?

Mr. WOODS. We are concerned, and we are working closely with our DHS counterparts with TSA to ensure that their procedures in vetting these Alien Flight students goes the right way. We have been working with them for over a year now, and as I used in my opening statement, in correcting the processes they use in the vetting process. They were previously using for immigration checks the database that would not necessarily determine an immigration status. So we are making sure they use the right database, and we are working with the program to ensure that they determine the right status before they give that clearance.

Mr. ROGERS. Okay. You learned about these report's findings preliminarily 2 months ago. Have you already started programs or processes to remedy these problems?

Mr. WOODS. Absolutely, previous to even the report being issued based on the—as I said, the TJ aviation investigation.

Mr. ROGERS. Can you tell this committee a time certain in which you think that those remedies will be completely in place and satisfactorily operating?

Mr. WOODS. From what I understand, TSA plans to issue a report by December outlining their new policies and procedures.

Mr. ROGERS. Goodness gracious. We have got to wait until December to find out what you all are going to do to fix this? I mean, surely you can tell us that you have remedied these problems, Mr. Wilson, without having to wait to December.

Mr. WILSON. Chairman Rogers, we have remedied the situation. What we were talking about and we are providing in December is a report based on the activities that we recover from the time frame that we complete this process up until December. We do have a plan in place. We are working very closely with ICE in terms of automating the process to ensure that TSA is also checking for immigration status, as well as the terrorist screening database.

The individuals that are being vetted today are undergoing a TSDB check. They are undergoing the—criminal history check, as well as the tax check. We also discussed immigration concerns with ICE. When there is an individual that is identified as having immigration issues, we immediately prevent them from taking training and discuss it with ICE.

Mr. ROGERS. Thank you. My time is expired. The Chairman now recognizes Mr. Davis for 5 minutes.

Mr. DAVIS. Thank you very much, Mr. Chairman. Mr. Wilson, GAO's report states that TSA has not ensured that all foreign nationals seeking flight training in the United States have been vetted through the Alien Flight Student Program prior to beginning training.

Further, it states that TSA has not established controls to help verify the identity of individuals seeking flight training who claim U.S. citizenship. What responsibility does a flight training school

have to ensure that a foreign national seeking flight training has been vetted through the Alien Flight Student Program prior to training beginning?

Mr. WILSON. Thank you, Mr. Davis. As I stated earlier, flight training providers, as regulated under this program, are required to wait for TSA to tell them that these individuals have completed a security threat assessment. Our first line of defense in preventing these individuals from flying is the flight school. It is the flight training providers.

The second thing: TSA does inspections yearly, sir. We do approximately 7,000 inspections of the flight training providers. We have a 96 percent compliance rate. That is a very high percentage, 96 percent. When we talk about whether or not these individuals haven't been vetted or processed through TSA's program, once again, no one has really addressed that there is another Federal agency that also vets these individuals prior to them starting flight training.

Mr. DAVIS. Well, does TSA have any process in place to verify the citizenship of persons who self-certify as U.S. citizens?

Mr. WILSON. Sir, in regards to that particular question, the information—I can't go into great details about that information. It is SSI.

But I will tell you that issue is a Government-wide issue in terms of verifying the U.S. citizenship, not only within the general aviation community but through various other transportation sectors and other communities as well. We do understand it is an issue. We do understand it is a concern. We are taking the necessary steps to look at some technology that will be applicable to certain activity.

Mr. DAVIS. Mr. Woods, let me ask you: How can ICE support TSA's on-going process to vet foreign nationals prior to training at a flight school?

Mr. WOODS. Representative Davis, thank you. We have been for the past year vetting TSA's Alien Flight School population. We have vetted over 19,200 individuals for them for their immigration status. As I said in my oral statement, we have identified 30 possible individuals that were here unlawfully or overstayed their visa, and we sent those leads out to the field under Operation Clipped Wings to initiative investigations.

Mr. DAVIS. Mr. Wilson, according to your testimony, since 2001 the Alien Flight Student Program has vetted over 350,000 applications of approximately 125,000 unique individuals. What would cause the same individual to be vetted multiple times, and is there a more efficient system that could be put in place to prevent this?

Mr. WILSON. Senator Davis, yes sir. Mr. Hennig to my left here brought that issue up during his oral testimony.

When an individual applies for training, whether it is Category 1, Category 2, or Category 3 or 4, each time that individual applies for training, he or she must go through that same vetting process again. The program itself is set up that way. It has become an issue in the industry, and the industry has identified that this is costly, and at times is sometimes as well as burdensome.

As Mr. Hennig said earlier, in order for TSA to really address this issue and this concern, it is going to take rulemaking. I have

sat down with our leadership to discuss the applicable tool in order to address the concerns of the AFSP. But we have gotten a tremendous amount of support and input from our stakeholders, training providers, as well as Mr. Hennig's association.

Mr. DAVIS. Thank you very much. Mr. Chairman, I see my time is about to expire.

Mr. ROGERS. I thank the gentleman. What was that thing you said? In order for us to be successful, we are going to have to have what?

Mr. WILSON. In what terms? I am sorry, sir.

Mr. ROGERS. Right at the end of your statement, you said in order for us to be successful we are going to have to have, and I missed that word.

Mr. WILSON. I am sorry. We will have to conduct rulemaking.

Mr. ROGERS. Rulemaking. Okay. All right. Thank you. I just couldn't hear it. All right. The Chairman will now recognize Mr. Cravaack for 5 minutes for questions.

Mr. CRAVAACK. Thank you, Mr. Chairman. Thanks for the panel for being here today. You know, it is kind of a personal note here is that Moussaoui was actually flying the same simulators I flew at Northwest Airlines. So this is kind of a personal issue with me.

Mr. Wilson, thank you very much for your service in the Air Force. Appreciate your service to this great country of ours. From important testimony, it appears that not all—my understanding is not all flight attendees are actually going through the screening before they actually start flight training. Did I hear you say that correctly?

Mr. WILSON. What I said earlier, sir, there is a percentage of individuals that do not process through the TSA AFSP. There is an additional Federal agency that we will not discuss today because that information is SSI that has its own process. That is what I said, sir.

Mr. CRAVAACK. Okay. So just to make sure I am clear on this, before anybody steps into any type of training, they have to be totally—the promise is everyone is cleared if everybody is doing their job at the flight training schools?

Mr. WILSON. That is correct, sir. If everyone is doing their job, a flight training provider is not permitted to allow anyone to conduct training, unless cleared by TSA or the additional—or the other agency that we cannot speak about today.

Mr. CRAVAACK. Roger that. Okay. Mr. Lord, can you comment on that?

Mr. LORD. Yes. What he said is technically accurate, but I just want to clarify something. Again, we did—we compared the two databases. We found the discrepancy. We asked them, we asked TSA what percent is doing to—you know, for legitimate reasons as allowed by this other agency he is referencing, and we could not get any granularity beyond that.

We found a discrepancy, but TSA couldn't explain what portion of the discrepancy was contributed by this one other Government agency Mr. Wilson is referring to. So we think they need to do some more work and figure that out.

People aren't getting vetted. We want to know, is it because it is this other Government agency, or is it for some other reasons?

That is what our recommendation is intended to accomplish. We think that is where they need to do some more homework.

Mr. CRAVAACK. Okay. I understand that. Mr. Wilson, I guess you have taken that for action?

Mr. WILSON. Yes, sir, Mr. Cravaack. We have already been in active engagement, that other agency, to ensure that the information that they collect on the students that they are endorsing is shared with TSA—training.

So what you will see in the next month or so is that that particular issue has been addressed and the mitigation plans are underway.

Mr. CRAVAACK. With this other agency, are you finding compliance and cooperation?

Mr. WILSON. Yes, sir, we are.

Mr. CRAVAACK. Okay. Excellent. That is what we need to hear. Now, Mr. Wilson, do you go back, and do you go ahead and you—I think you said the percentage was 96 percent. You go back, and you ensure that there is some type of audit being done, that there is no one slipping through the cracks. Would that be a correct statement?

Mr. WILSON. That is correct, sir. In 2011—well, let me go back first. We normally implement one comprehensive inspection per year for our 7,000 flight-training providers.

In 2011, we actually inspected each flight-training provider twice with the 96 percent compliance rate, and 4 percent of non-compliance rate. We talk about non-compliance, we are talking about administrative issues, not something very egregious.

Mr. CRAVAACK. Okay. That was the last time you did, in 2007. Are you planning to do it again, or are you doing annually, or—

Mr. WILSON. I am sorry, sir. Say it again?

Mr. CRAVAACK. You said in 2007—

Mr. WILSON. No, sir, 2011, we actually—

Mr. CRAVAACK. 2011.

Mr. WILSON. Yes, sir. 2011, we conducted two inspections per flight-training provider.

Mr. CRAVAACK. Sorry, I am a half-deaf helicopter pilot. Mr. Lord, on page 27 of the report, you say that the TSA has only afforded the same level of access to FBI databases that a private company doing a background check would be.

In your report, you say that the FBI and the TSA were collaborating on options, but had not identified the extent which the potential security risk may exist under the current process, and the cost of benefits pursuing alternate—alternatives to provide additional access.

What is the likelihood in your opinion of allowing a terrorist in, because the TSA is not having a higher level access to the FBI systems?

Mr. LORD. That is difficult to answer directly. But we studied this issue in great detail. I should mention it is not unique to the Alien Flight School Program. It is a Government-wide issue.

TSA has limited access to the FBI database because they are considered a non-criminal justice agency, and the searches they are running are considered for non-criminal-justice purposes.

So we, in our prior report, we recommended TSA and FBI get together to explore options for giving them greater access. If you do a criminal history records check, there is a lot of information, especially at the State and local level, that they don't have visibility over.

So we think that would improve their vetting process. But again, it is a Government-wide issue, and TSA's constraint on multiple fronts in running criminal-history records checks because of this.

Mr. CRAVAACK. Okay. Thank you very much, Mr. Lord, Mr. Wilson. My time is expired. I yield back.

Mr. ROGERS. I thank the gentleman. Chairman now recognizes Ranking Member, Mr. Thompson. Mr. Thompson, you have 5 minutes.

Mr. THOMPSON. Thank you very much. Mr. Chairman, I would like to have my written statement entered into the record.

[The statement of Mr. Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JULY 18, 2012

The issue of General Aviation security has long been of great interest to the Democratic Members of this committee. I am pleased the subcommittee is turning its attention to this issue today. At the outset, I would like to thank all of the witnesses for appearing before the subcommittee today.

In particular, I would like to thank the Government Accountability Office for their diligent work on the report on general aviation security they are releasing today. GAO undertook this report as a result of a joint request by both the Chair and the Ranking Members of the full committee and the subcommittee. We made the request because of our shared interests in identifying areas where TSA's policies affecting a large segment of the aviation community are working and need increased attention.

Before focusing on the challenges highlighted by the report, I would like to commend TSA for enhancing its collaboration with the general aviation community. In passing legislation that I introduced this Congress to statutorily authorize the Aviation Security Advisory Committee, this Congress has indicated its desire that TSA and the General Aviation industry cooperate to improve the security of the General Aviation sector.

I look forward to hearing from both TSA and the stakeholders before us today on how increased collaboration has and will continue to enhance security. Turning to the challenges identified by GAO, TSA must answer for its shortfalls in identifying whether non-U.S. citizens obtaining flight training represent a threat.

We cannot allow loopholes exploited by the 9/11 hijackers to be exploited again. However, we cannot ignore that violent domestic extremists can also pose a threat to our aviation security.

The last individual to fly a plane into a building and kill innocent civilians in this country was not a foreign national or "Islamist extremist," it was a United States citizen with an extremist and violent ideology regarding the Internal Revenue Service.

I look forward to hearing from TSA about the measures they have employed to ensure that such a scenario does not occur again and our current capacity to identify persons who may pose a threat.

Mr. THOMPSON. Thank you, gentlemen, for your testimony this morning. One of the concerns I have is between TSA and ICE's coordination role. Are we to understand that there exists a memorandum of agreement between the two agencies to coordinate? Mr. Wilson.

Mr. WILSON. Chairman Thompson, that is correct, sir. We have a memorandum of agreement in place, where we are sharing information with ICE, as well as ICE is sharing information with us.

Mr. THOMPSON. Mr. Woods, is that your testimony, too?

Mr. WOODS. We do share information under the information-sharing agreements, all through DHS. I am not aware of an incident of our specific memorandum. We do share information on a regular basis.

Mr. THOMPSON. Mr. Lord, were you able to get a copy of that agreement?

Mr. LORD. I notice, there appears to be some confusion on what the nature of this agreement is. Is it in fact an MOU, or does it take up some other form? But this again, we have a copy of the MOU between TSA and FAA. Whatever this other agreement is, we were just alerted to this yesterday in fact.

So we are going to follow up on this. I would like to know a little bit more about it. Is it an MOU, or does it take some other form? What are they going to do with the information once they get it? I think that is just as important, if not more important.

Mr. THOMPSON. So you see from a policy perspective, if we are trying to create a law that makes sense, at least the agencies who are tasked with the responsibility. One says yes. One says maybe. Another says, "Well, I just heard about it yesterday."

You know, training goes on every day. So we have a problem. In addition to that, Mr. Wilson, can you provide me with the copy of whatever agreement you reference?

Mr. WILSON. Yes, sir. I will get that to you today.

Mr. THOMPSON. Mr. Woods, can you provide the committee with whatever agreements that you understand we operate under—

Mr. WOODS. Absolutely.

Mr. THOMPSON [continuing]. With respect to this? Now, Mr. Wilson, would a U.S. citizen on the no-fly list be able to obtain flight training without undergoing a security threat assessment?

Mr. WILSON. Mr. Thompson, that is correct. But keep in mind, the way the program is set up, there are—there is layered security put in place. You are right.

Initially, a U.S. citizen who is on the no-fly list could commence flight training. But once the individual receives a flight certificate, an FAA certificate, that individual is bounced against the various databases as well, perpetually vetted, meaning that individual was vetted once a day, once a week.

Mr. THOMPSON. Well, I guess my concern is, the last time we had somebody do something wrong, it was a U.S. citizen who flew into an Internal Revenue building in Texas a couple years ago.

But if we train them, and the only thing we don't do is provide a license, then we have created a problem at that moment. I don't think somebody who wants to do harm is going to not do harm because they don't have a license. We have trained them to do it. That is my concern.

If flight training is the public policy question for this committee, why do we have a policy for training U.S. citizens, and a policy for training non-U.S. citizens, and the same schools are training the same people? Mr. Lord, you want to try that?

Mr. LORD. I think you are raising a good policy question. I am just an auditor, and that is probably best left to Congress to decide, whether the scope of the program should be expanded.

Mr. Wilson is correct. If you are a U.S. citizen, you are not subject to this Alien Flight School vetting process. It is—that is—

Mr. THOMPSON. The point is, is that we could—the last time we had an incident since 9/11 using an airplane, it was a U.S. citizen. I think if we are going to look at one segment of the threat, let's look at the entire segment of the threat, and see if we can fix the whole threat. That is the public policy question.

Mr. LORD. Yes. This question as to what extent do you want to vet people against a terrorist watch list, regardless if they are a U.S. or not, I think that is a question you are answering.

Under the current process described by Mr. Wilson, once you get an airman certificate, once you learn to fly, get a pilot's license, you are perpetually vetted. But in some respects, that may be too late. The person has already learned to fly an aircraft.

So if I hear you correctly, you are suggesting they move that vetting process up earlier. But again, there would be some administrative regulatory costs, I am sure, are associated—

Mr. THOMPSON. I just think the reasonable approach is to say you can apply for the training. But until you are vetted, you don't receive the training. Now, I don't understand how difficult that is. I mean, how much would that cost?

Mr. LORD. I don't have that information. Perhaps Mr. Wilson would have some more information on this.

Mr. THOMPSON. I yield back, Mr. Chairman.

Mr. ROGERS. It is mind-blowing. Mr. Walberg is recognized for 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman. Thanks to the witnesses to be here today with us.

Mr. Hennig, what responsibilities do flight-school operators, instructors, have in reducing security vulnerabilities?

Mr. HENNIG. Well, the way that regulation is structured, there are really three. There is adherence-to-visa policy, which is going through ICE. There is adherence to the Alien Flight Student Program specifically on the vetting of any foreign nationals taking training. Then of course, there is also requirement of—it is part of the same rule, which is focused on training the employees, so the flight school to be aware of security.

This predates the "See Something, Say Something," which is a big program here at DHS discussing today. But ever since this rule was put in place in 2004, every employee of that flight school is told to look for things that are suspicious.

So within the flight-training community, we have one of the most involved training process, to just raise the awareness about things to look for.

Mr. WALBERG. Is there anything that Congress, TSA, ICE, FAA, any other Federal entities that are involved, could do to help the industry carry out these requirements and these responsibilities? I would ask Mr. Carr as well to respond to that.

Mr. HENNIG. Well, for our members, whatever rule we are talking about, give us a clear framework that we can comply with. As I discuss in my testimony, what we have struggled with over the past several years is that the rule was written very quickly. It was, you know, just a couple of years after 9/11 and there was not enough time to really structure a good framework.

Give us a clear framework for how to comply with TSA rules and ICE rules and the flight schools will do their utmost to do so. When

you look at the GAO's recommendations specifically, what I see as a good benefit is the data flow, especially within agencies of the Department of Homeland Security. As industry, I hate duplicative activities.

So if I am providing some data to ICE, if I am supplying some data to TSA, I am in the hope that they are sharing data with each other. So those kind of things between the clear regulatory framework and then the Government just working with itself to share any data because we don't see that obviously as industry.

Mr. WALBERG. You are not certain that they are sharing this. That is my common concern.

Mr. HENNIG. My understanding of the briefing on the GAO report that I have received is that one of the shortfalls, at least a few years ago, was the data sharing about visa status between ICE and the TSA.

Mr. WALBERG. Mr. Carr, additional?

Mr. CARR. I would like to support what Mr. Hennig has mentioned in terms of greater clarity in terms of the requirements that flight schools are required to comply with.

As is common across Government, when it comes to regulatory guidance and compliance, better guidance, better clarity from the Government on exactly what is required to not only comply with the rule, but to then show compliance has always aided the private industry in ensuring that not only are we meeting our requirements to comply with the rule in letter but also in spirit, so that when we are faced with an audit or an inspection, it is pretty clear to demonstrate that I either am or am not meeting the requirements.

Mr. WALBERG. In your organization's view, how effective is the AFSP program? How effective is it working for you?

Mr. HENNIG. Especially in the past several years, it has gotten a lot better. Our—one of the biggest problems early on was the timeliness of the vets. These are businesses trying to compete for contracts to train pilots. Early on, we were—we were signing up contracts. We were scheduling training times, and we would be—we would be bringing people over here and put them up in a hotel down in Florida waiting for the TSA vet.

That has changed drastically. TSA is doing a great job lately. For the vast majority of vets that we are looking to have done on foreign nationals arriving in the United States, it is done within 24 to 48 hours. It is predictable, and that is very useful for our members.

Mr. WALBERG. It is predictable, but you said the vast majority. Why aren't—why isn't it the majority? Why isn't it the full majority?

Mr. HENNIG. It is actually the system working the way it is supposed to. The vast majority of the people who are not in any way a concern to the TSA or others are cleared within 24 to 48 hours. The person that requires some additional attention experiences longer times. It may be a name that is very similar to another name. It may be something else that raises a concern.

So from the framework of how the system should work, I think where the TSA has gotten us, where 24 to 48 hours for most people

and then if there is attention maybe a few more days, it is predictable and we know what to expect.

Mr. CARR. If I could add to Mr. Hennig's statement, the notion that coming to the United States to receive your flight training because it is so good is I think something very positive. We should look to the U.S. flight training industry. It is significant. It is very robust, and the world looks to us to train pilots.

The improvements that TSA has made over the past several years in the program I think have changed a trend where we have flight training going elsewhere, going to other countries where this kind of program is not in place. These improvements are really helping to restore the United States to its preeminence as the world's leader in flight training.

The—the vast majority of people that are coming to the United States do not pose the kinds of threats that I believe we are concerned about. However, where they do, the program absolutely is effective in at least raising that awareness.

But I think what we have seen with GAO is that there are lots of opportunities for improvement, and we definitely want to work with TSA to help close those loopholes so we are not exploited and the flight schools aren't exploited in doing something they shouldn't be.

Mr. WALBERG. Okay. Thank you. I see my time is expired.

Mr. ROGERS. I thank the gentleman. The Chairman now recognizes Mr. Lungren from California for 5 minutes of questions.

Mr. LUNGREN. Thank you very much, Mr. Chairman. Mr. Carr, I think you made a good point. We are preeminent in the world, or have been, in terms of flight training. Might have something to do that manned flight started here, and hopefully we keep that up. If I am flying on a foreign carrier, I would certainly feel better about it in most cases if a pilot was trained under our standards. I think we ought not to lose sight of that.

Let me ask you this: There has been raised the question of doing checks on American citizens, American residents, as well as aliens. Mr. Hennig, Mr. Carr, do you see any problem with that?

Mr. CARR. Let me offer maybe just some perspectives, in that the applications that are required to be completed to begin your flight training process, which often begins with an FAA airman medical certificate and then follow on your FAA pilot certificate, there is a lot of information that is required in those applications that I think give the Government access to other sources of data that would allow a realistic assessment of the threat posed by an individual.

The data that is available to non-U.S. citizens is, in our view, a little harder to get. The U.S. Government doesn't always have access to the same data sets for foreign citizens that they for U.S. citizens. I think that is where the vetting process has real value to bring that visibility to non-U.S. citizens who are training in the United States where, for our own citizens, we have hopefully a better data set that we can make some realistic determinations with.

Mr. HENNIG. I think there is a risk approach that lends itself to this. About 1 in 20 people trained are holding an FAA airman certificated as a foreign national. If we were to expand that to U.S. citizens as well, TSA would have to expand its resources by 20 times. I have certainly appreciated the focus of TSA to, so to say,

reduce the size of the haystack. It is terminology we often hear from the administrator.

So if we want to look at a broader scope, as long as risk and especially data sharing of what already exists within the FAA and what already exists within other agencies about these individuals, maybe the first step to explore before you expand the program by orders of magnitude.

Mr. LUNGREN. Would it make sense to you or would it seem logical or illogical to you that we might look at the no-fly list for those people who are wanting to become pilots?

Mr. HENNIG. When we look at other TSA programs that have supplied to general aviation, the vetting that those pilots who are flying those types of aircraft, we are talking about regulated programs that are already in place, some of them established by Congress, the no-fly list is certainly one of the vets that the person goes through specifically, but it is also criminal history, record check, and other things that are subject to those pilots.

But again, in those cases it is based on what the pilot is able to fly, so there is a risk discussion about what actually the threat and the consequences would be from the event.

Mr. LUNGREN. Mr. Carr, you mention in your written testimony that we could have some better operations of the program that currently exists, the AFSP program, and you say that assigning a security clearance to an individual is not a training event. Can you tell us exactly what you mean by that?

Mr. CARR. Certainly. As Mr. Hennig mentioned earlier in his testimony, and one which we completely agree with, today's process for vetting is triggered any time a candidate presents themselves for training, regardless of how many times that candidate comes for training.

Aviation—the aviation industry requires a lot of regular training and checking to ensure compliance with the regulations. Our view is that repetitive training cycles should not necessarily be the focus of the vetting. The individual should be the focus of the vetting.

If we are able to develop a construct that allows an individual to be vetted once and allow that clearance to be valid for a period of time, perhaps as much as 5 years, that would allow the individual to return to training as often as is needed without involving duplicative additional processes that are technically the same.

Mr. LUNGREN. What if the training is of a higher level? Would not it be good information for the vetting agency to know that someone who may have just started out at one level of ability is now seeking another level?

Mr. HENNIG. What we have proposed is today you have four different types of vetting that the TSA makes the person subject to based on the size of the aircraft. The proposal, which we believe TSA has endorsed publicly, is for a single, standardized vet applying to everybody. Then, in combination with that, a reporting back to TSA when any type of training occurs. So we actually bring everybody up to the highest level of check, and then—

Mr. LUNGREN. Then you would report each time they come for training and that would go to TSA. Then it would be on TSA's shoulders to utilize that information as we direct them or as they see fit in the program.

Mr. HENNIG. Yes, sir. We will comply with providing the data, and it is for them to do the appropriate checks on that individual.

Mr. LUNGREN. Thank you very much. Thank you, Mr. Chairman.

Mr. ROGERS. I thank the gentleman. The Chairman now recognizes Mr. Walsh of Illinois for 5 minutes.

Mr. WALSH. Thank you, Mr. Chairman. Thank you, panel. Comment for me on whether this following statement is true: As things are today, a person who would not be allowed to board a commercial plane as a passenger, as policy is today would be allowed to receive training to fly that commercial plane. Mr. Carr, Mr. Wilson, let's start there. As things are today, a typical person who would not be allowed to board a plane as a passenger would be allowed to receive training to begin to fly that commercial plane.

Mr. WILSON. Mr. Walsh, this is going back to the similar question that Mr. Thompson asked earlier about individual U.S. citizens who are considered no-flies is basically what you are talking about. Yes, in theory, yes, they would be allowed to conduct—

Mr. WALSH. They would not be allowed to board a plane as a passenger.

Mr. WILSON. Right. They would not be allowed to board an airplane as a passenger, but they could engage and enter flight training. Now keep in mind, when you talk about—you just said something about the individual being allowed to fly the same aircraft that he or she is being prevented from getting on. It takes a very long time for the individual to get to that type of rating.

The individual will start off in a Category 1 status, which would mean that once they get their airman certificated under Cat 1, that individually is perpetually vetted. Once they receive that first certificate, they are perpetually vetted. It is going to take several hours before they work their way up to a multi-engine aircraft.

Mr. WALSH. Right. It may take time, but they can't set—that person couldn't set foot on that plane as a passenger, yet they can begin to receive training to fly that plane no matter how long it takes.

Mr. WILSON. Correct. That is correct.

Mr. WALSH. Does that make sense?

Mr. WILSON. Well, as we said earlier, what you are posing is that we are looking—we should be looking at anyone and everyone that wants to take training regardless of their status, whether it is a U.S. citizen or it is an alien. As Mr. Hennig and Mr. Carr testified here, there may be some additional costs involved. There is something that we can look at, and I could take that back to our administrator, Administrator Pistole, and take a look at that. But we have to realize that we are going from a very larger population.

Mr. WALSH. Mr. Woods, quick question on flight schools. Outside of that Boston-area flight school, have there been any other schools that ICE has investigated?

Mr. WOODS. Yes. We have investigated several other schools. We have investigated a school in California that was taking students that were lawfully brought—coming to take other flight-school training, and went to a different flight school for a cheaper price, unlawfully violating the status. So we do investigate flight schools as they come to our attention.

Mr. WALSH. You have found some problems elsewhere?

Mr. WOODS. We do find some problems, yes.

Mr. WALSH. Somewhat related, in the news this morning, a bipartisan group of Senators just released what they called a disturbing GAO report, revealing that hundreds of non-certified sham colleges and universities were awarding student visas to foreign nationals at an alarming rate.

Of special concern to us was their finding that 167 of the 434 U.S. flight schools were not accredited by the FAA, but they still awarded student visas like those given to two of the 9/11 terrorists. Mr. Hennig and Mr. Carr, any comment on that?

Mr. HENNIG. I will take first stab at it. I think there is—if you look at the framework that we have for flight training in the United States, there are several different approaches to doing the training.

In the mid 1990s, I believe it was, the FAA established requirements to become a flight school, so-called Part 141 or 142. For decades before that, the FAA had established regulations to teach people how to fly. This is called Part 61.

So the FAA doesn't go out and necessarily certify the latter schools. This may be individual persons that our flight instructor said do certain types of training. These may be businesses for whom the type of training they do, becoming an FAA-certified school doesn't make sense. They just comply with the regulations.

At the same time, and I will lean on Mr. Woods here with respect to ICE, ICE has processes providing visa for the students, whether they are 141, 142, or 61. So there is the compliance with the rules. There is the difference between being a certified school versus something else.

Mr. WALSH. Mr. Woods, quick comment.

Mr. WOODS. Yes. I am familiar with that GAO report that was released yesterday. ICE right now has certified 469 schools that are CFIT-certified to bring in students for flight training. Of those schools, 153 were a question of the GAO report. We have done a drill-down on that where we identify several of these schools lapsed their 141 certificate. It is apparently a very expensive process to maintain. They reverted back to a 61 certificate.

Several schools utilized subcontractors in violation of their CFIT certification. They are under compliance review now. Additionally, we have identified some—several schools have completely closed, and no longer provide flight training as part of their curriculum, but there was still—due to that.

So I don't think it is that alarming as the GAO report made it out to be. But at the same time, we are looking at it on a compliance level to ensure that schools that are certified to bring students in to fly do have their 141, 142 certificate.

Mr. WALSH. Thank you. I see my time is expired. Thank you, Mr. Chairman.

Mr. ROGERS. I thank the gentleman. Chairman now recognizes himself for a second round of questions.

I think it is fair to say, Mr. Wilson, that I am shocked to hear that somebody on the no-fly list can be approved for flight lessons in this country. I think the people watching this hearing are, too. You don't have to worry about bringing it to Mr. Pistole's attention. I am going to take care of that.

Mr. Lord, prior to this report coming out, if the 9/11 hijackers had applied to take flight training in the United States as they did in 2000, do you think they could have been approved for flight lessons?

Mr. LORD. I am sorry. I couldn't hear you because of the door slamming. Sorry.

Mr. ROGERS. We will wait until they sit down. If the 9/11 hijackers had applied—goodness gracious.

If the 9/11 hijackers had applied for flight training, as they did in 2000, in this country today, or up until this report was released, do you think they would have been approved?

Mr. LORD. That is a real difficult one to answer directly. We have a lot of questions about how to process as working, and whether or not they would have been—I am sorry, Mr. Chairman. There are a lot of unknowns right now. I just don't know.

Mr. ROGERS. What do you think, Mr. Woods?

Mr. WOODS. Based on the information I have, I would agree with Mr. Lord, that it would be difficult to make that determination. These individuals are checked for criminal history. They are checked to see if they are on the terrorist-screening database, and checked for their immigration status.

In those individuals that were trained prior to 9/11, if they fell into any of those categories in violation, they would not receive training today.

Mr. ROGERS. Mr. Wilson.

Mr. WILSON. I piggyback on Mr. Woods' response. He is exactly correct. Before these individuals could start flight training, they would have to undergo the AFSP process, which would include a terrorist-screened database check, a TECS check, as well as a fingerprint base—records check.

Mr. ROGERS. If a foreign national goes to flight school part-time, does that person still have to be vetted? Mr. Wilson.

Mr. WILSON. Thank you, Chairman Rogers. Chairman Rogers, regardless of whether they go part-time or full-time, before an individual can conduct flight training as an alien, the individual must undergo a security threat assessment.

Mr. ROGERS. So the standards are the same, whether they are part-time or full-time?

Mr. WILSON. Whether you are part-time or full-time, sir. If you are starting training, you have to undergo that security threat assessment.

Mr. ROGERS. In your opinion, do you think more legislative or regulatory authority is—or changes are going to need to be made by us for you to be able to better do your job?

Mr. WILSON. Well, it depends on the recommendations we are discussing. There was a particular recommendation by GAO that would require significant rule-making that TSA hasn't considered. We do need to talk about that in the very near future. Based on the technological concerns that we may have there, that is one.

As far as our regulatory authority with the existing programs that we have now, we have pretty good authority in order to accomplish the necessary measures we need to in order to address the vulnerabilities identified. I think the panel here has recognized

that we have been collaborating with them, ensuring that we are able to meet our 60-day notice to GAO.

Mr. ROGERS. Mr. Woods, do you agree that if the part-time student applies, has to go through the same vetting standards as a full-time student?

Mr. WOODS. Yes. I would think even our aviation partners, this is what they want—it is event-based. So every time they attend training, they have—whether it is part-time or full-time—

Mr. ROGERS. I was informed by my staff that ICE had told my staff that it is 18 hours of training or less, they didn't have to be vetted. Is that not accurate?

Mr. WOODS. I don't think it is whether they do 18 hours or less. I think it is whether, if they are training, there is going to be a flight training, it has to go through AFSP. The 18-hour rule pertains to their visa type, many times, what type of visa they are allowed to do training on.

Mr. ROGERS. Mr. Lord, you talked a little bit about this in your opening statement. What do you in your estimation view as a reasonable amount of time to give TSA and ICE to fully remedy these shortcomings?

Mr. LORD. Well, there are a lot of questions here. They have discussed the new data they are going to be sharing. But again, they still haven't figured out why some of these individuals weren't vetted to begin with. Mr. Wilson keeps talking about the STA process, where they do the three checks.

But as our report shows, you could be out of status on the immigration side of the house, yet successfully pass the TECS check. So we don't quite understand why the TECS check doesn't pick up these people in overstay status that ICE, you know, provided us data that clearly showed there was a conflict in the system.

So there are some kinks in the system. It is going to take a while to figure out. I think 3 months is reasonable amount of time. We are not talking about a cutting-edge technology. A lot of it is just management attention and priority.

Mr. ROGERS. Great. My time is expired. The Chairman now recognizes Mr. Davis for 5 minutes.

Mr. DAVIS. Thank you Mr. Chairman. Chairman, I would ask unanimous consent to switch times with the Ranking Member. He has an appointment he needs to keep.

Mr. ROGERS. Without objection, so ordered.

Mr. THOMPSON. Thank the gentleman from Chicago for allowing me to ask the question. Mr. Woods, would you provide the committee with the statistics of people who have applied through your various programs for flight training, and a number who have been denied? Do you have those statistics available? Not Wilson.

Mr. WILSON. I am sorry, sir. You said "Woods."

Mr. THOMPSON. Yes, Woods.

Mr. WOODS. Well, first of all, it is Mr. Wilson's program that does the Alien Flight School Program. We have cooperated and vetted them for immigration purposes.

Mr. THOMPSON. Yes. I am going to get to him.

Mr. WOODS. Very good. We have vetted 18,900 individuals at an Alien Flight School Program. Of those, 9,700 came up initially to

automated databases to be in status, and lawfully here to take flight training.

Nine thousand two hundred we had to drill down on, and look at—and do manual checks on. Of those—and I can go through all the numbers all the way down to how many were in compliance, how many had already departed the United States, all the way down to 30 cases, like I said, that we identified there were possible visa violators that needed to—

Mr. THOMPSON. Went from 18,000 to—

Mr. WOODS. Thirty.

Mr. THOMPSON. Thirty. They were denied?

Mr. WOODS. Those individuals are under investigation right now for overstaying their visa. This is going back through the database of people that have applied for—

Mr. THOMPSON. Mr. Wilson, can you elaborate on the statistics that your department reflects?

Mr. WILSON. Ranking Member Thompson, I do not have specific numbers in front of me. But we do have very few individuals that are denied flight training because of various issues; one of them being the immigration status. That is something we have worked out recently with ICE.

Other issues may be information that has not been supplied to TSA, which we will put through in a vetting-process status, meaning that they haven't been cleared, and they haven't been denied.

Mr. THOMPSON. All right. They haven't been cleared, haven't been denied. They can still receive training?

Mr. WILSON. No, sir. They cannot begin training until they have—

Mr. THOMPSON. Well, if they are ICE people, they—but in—if they are American citizens, they can be.

Mr. WILSON. Yes, sir. If they are U.S. citizens, they do not go through any track.

Mr. THOMPSON. Right. Mr. Carr, on a public policy side, do you see any problems with vetting American citizens before the training commences on a no-fly list, or whatever?

Mr. WILSON. Well, I guess, if we take a quick look at the history of this program, it quickly came into place after 9/11 as part of the Aviation Transportation Security Act of 2001. The focus of that program was clearly on foreign citizens coming to the United States for training, which we identified as a source of problems on 9/11.

I think, when we look at vetting U.S. citizens for flight training, we have—we would have to take a broader look. Because I think there are a number of training activities, beyond just flight training, where additional vetting might be viewed as valuable. I don't think flight training is a unique activity when we look at complex operating requirements.

So while flight training has been viewed as one area that should possibly receive some additional scrutiny, I think there could be others as well that we should take a holistic look at and determine if there is really value in doing this check against U.S. citizens who are seeking to enjoy this type of privilege.

Mr. THOMPSON. Mr. Chairman, I yield back.

Mr. ROGERS. I thank the gentleman. The Chairman recognizes Mr. Cravaack of Minnesota for 5 minutes.

Mr. CRAVAACK. I think, in just listening to some of the conversation, I think everybody here wants to do the right thing. We want to make sure that a person doesn't step inside of an aircraft that has mal intentions.

Also, they should be attending a ground school without having—with the same type of intentions. So those are just some of the comments in listening to what I have heard today.

What I would like to just encourage everyone to do is to ensure that the end goal is not lost, in making sure that we protect the United States. We never want to have a Moussaoui being able to take flight training, being able to go to that extent and be able to fly an aircraft into a building. We never want that, and nobody on this panel wants that to occur as well.

We also understand, coming from the commercial industry, we have a viable business in the United States in making sure that people without mal intent want to come to the United States to become one of the best pilots in the world.

So I would just encourage everyone on this panel and, Mr. Wilson, unfortunately, a lot of it falls upon your shoulders, to ensure the safety of the general public in ensuring that no one, including those in the United States that never step in an aircraft—now—I remember taking, you know, there was some of what are the mental background that had to be taken a look at as well.

We don't want to—we want to make sure that nobody flies into an IRS building who has mal intent, but we will never have 100 percent security. That just won't happen. Somebody that is perfectly normal one day can flip because of whatever he or she are under.

So my comment is just make sure that everybody here works very closely together in ensuring a common-sense solution to this problem, to ensure that we never, ever have a 9/11 again. With that, I yield back.

Mr. ROGERS. I thank the gentleman and I recognize Mr. Davis for 5 minutes.

Mr. DAVIS. Thank you very much, Mr. Chairman.

Mr. Woods, in your testimony, you described five actions TSA and ICE intend to take to mitigate vulnerabilities identified in the procedures and processes associated with the Alien Flight Student Program.

Has a time table been established for the implementation of these action items?

Mr. WOODS. A time table has not been established, but we are—some of these items are already in effect that we are working on. We are working cooperatively, doing the alien checks of the TSA databases already. We are sharing our ICE data with them. We are working on sharing the CFIUS data with them in the near future. We are working already on their strike teams with doing the inspections.

So some of these have already been implemented. We will continue to move forward on others.

Mr. DAVIS. Thank you. Mr. Wilson, both of the stakeholders appearing before the committee today have praised TSA's interaction with the general aviation community over the past 2 years. What

is being done by your office to ensure that this progress will continue and is sustained?

Mr. WILSON. Well, sir, in my current position—I assumed this position last year—I put together a plan for the next 3 years to ensure that certain items have been addressed within the general aviation realm.

Back in January 2012, I laid out my plan of action for the general aviation community. It included the Alien Flight Student Program. It included the large aircraft security program. It included the repair station role. It included South Capitol Street Heliport. It included the Maryland Three.

It included a vetting process, an automated vetting process for general aviation aircraft operating within the Private Charter Standard Security Program and the Twelve Five Standard Security Program.

So as you can see, that long laundry list that I put together will keep us busy for a very long time.

One additional item that I did not mention was access to temporary flight restrictions by general aviation aircraft. We have done a tremendous lot of work with the industry, as well as our Federal partners, to allow increased access to these temporary flight restrictions in the last 24 months.

Mr. DAVIS. Thank you very much.

Mr. Woods, how confident are you that individuals out of status are not receiving flight training in the United States today?

Mr. WOODS. Well, with the new process TSA has in checking the automated arrivals and departure information system, ADIS, through US-VISIT, I feel much more comfortable that we are identifying those individuals on the front end that may be out of status before they take any training.

Mr. DAVIS. Mr. Lord, do you believe that establishing the Aviation Security Advisory Committee and the General Aviation Working Group and statute, as Ranking Member Thompson's bill H.R. 1447 proposes—do you think this would help stabilize the relationship between TSA and the general aviation community?

Mr. LORD. Personally, I think it is important to have a stable ASAC process, whether you do it through legislative means or not. Again, that is not my call. That is Congress' call. But, again, we were concerned about the lapse in observations, and now we are encouraged to see, you know, it is functioning again. It seems to be very active.

But the particular way you establish it, I mean, obviously, that is something for Congress to consider, not us.

Mr. DAVIS. Thank you very much.

Thank you, Mr. Chairman. I have no further questions.

Mr. ROGERS. I thank the gentleman. The Chairman now recognizes Mr. Lungren for 5 minutes.

Mr. LUNGREN. Just to follow up on Mr. Davis, I would ask Mr. Lord and Mr. Wilson and Mr. Woods, is there anything that has been suggested here about cooperation, about considering doing more vetting of non-aliens, Americans, or of the information that is allowed to be transferred among the various Government agencies, including the unnamed Government agency here?

Is there anything that either—that any of the three of you would believe requires legislative authority?

Mr. WILSON. Mr. Lungren, yes, sir, in regard to the vetting of U.S. citizens prior to them starting training, yes, I think that would require some type of mandate in order for them to be required to submit certain information prior to pilot training.

Mr. LUNGREN. Mr. Woods.

Mr. WOODS. I would defer to Mr. Wilson on this, but I think—

Mr. LUNGREN. I am not asking for the administration's position. What I am asking for is an answer to some of our questions here, there have been some suggestions about more action being taken and so forth, and I am just trying to find out whether that would require us to legislatively authorize it or mandate it or is that within the ambit of jurisdiction that is already allowed to the various aspects of DHS?

Mr. WOODS. I am not clear if it is within TSA's authority to mandate U.S. citizens to be vetted for flight training. I am aware of the Alien Flight Training Program and I worked for Immigration Customs Enforcement so I am very familiar with the alien rules of taking flight training at any school in the United States.

Mr. LUNGREN. Okay, well, there was one question that was brought up about the incongruity of having a no-fly list which would't allow somebody to get on a commercial aircraft but not being checked when they are beginning the training for learning how to pilot aircraft.

I guess one of my questions is: If you could state it on the record, if you know, is the impediment—is there an impediment to that legislatively or is that something that could be considered by TSA in carrying out its responsibility as already authorized?

Mr. WOODS. Again, I would have to defer to—

Mr. LUNGREN [continuing]. Mr. Wilson.

Mr. WILSON. Sir, not off-hand whether our existing authorities are that broad.

Mr. LUNGREN. But maybe you can get back to us on that.

Mr. WILSON. Yes, sir, I will.

Mr. LUNGREN. Mr. Lord.

Mr. LORD. I would argue that ATSA provides TSA broad authority to do a number of things. So that is the question: Could they do that within the current legislative conferred by ATSA? It is a question the lawyers would probably answer for you.

Mr. LUNGREN. We always blame it on the lawyers.

[Laughter.]

Mr. LORD. But they do have broad authority now to identify any individual posing a threat to the U.S. aviation systems, so perhaps.

Mr. LUNGREN. Thank you very much.

Thank you all for testifying. We appreciate the work that you are doing, the cooperation that you have exhibited and being forthright in your comments here with us at this subcommittee hearing today.

Thank you, Mr. Chairman.

Mr. ROGERS. Thank you.

A couple of things. Mr. Lord mentioned he thought 90 days was a reasonable amount of time for you all to be able to make these corrections. Mr. Wilson, do you agree with that?

Mr. WILSON. Yes, sir, I concur.

Mr. ROGERS. Mr. Woods, do you agree with that time frame?

Mr. WOODS. I concur.

Mr. ROGERS. Great. Mr. Wilson or Mr. Woods, has there been a U.S. citizen on the no-fly list that has actually gone through training, to your knowledge?

Mr. WILSON. Chairman Rogers, I am not aware of that, and I will have to get back with you on that, sir.

Mr. ROGERS. Mr. Woods.

Mr. WOODS. I am not aware of anyone.

Mr. ROGERS. All right. I do, Mr. Woods, want to point out that the staff still seems confused with what your Department has told us about the part-time students, so we want to get your question for the record, and if you could go back and check with the Department on this part-time status and see if there is any differential at all for somebody who may be in the country as a tourist, maybe, and once they get here decide they want training.

Go ahead, Mr. Woods.

Mr. WOODS. As I said earlier, you brought up a strong point. A person that comes in as a tourist to take training incidental to their arrival as opposed to a person who comes as a student to the United States on a student visa, on an F-M visa, they are allowed to take a certain amount of training incidental—

Mr. ROGERS. Okay, so they can come in as a tourist and get training without being vetted?

Mr. WOODS. I think the thing that they are unvetted for is, when they are coming to the United States on a student visa or F or M visa. You are allowed to take a certain amount of training incidental.

Mr. ROGERS. Okay so they can't come in as a tourist and get training without being vetted?

Mr. WOODS. The thing that they are not vetted for is coming to the United States, but what the purpose of their visit is and we can take enforcement action against them for taking their training in violation of their status. What we would be looking for is clarification and legislation of who is allowed to take—

Mr. ROGERS. That goes back to Mr. Lungren's question. You may need some regulatory or legislative authority.

Mr. WOODS. Who is allowed to come to the United States and take training or under what visa class and categories? Whether it is a visitor, as a non-immigrant worker or whether it is as a student itself? Currently the interpretations are varied through the Federal agencies where you may have a visitor who can take on his visit to the United States to go to Disneyland, can take incidental training.

Mr. ROGERS. Okay. All right, well I want to thank the witnesses for, as Mr. Lungren said for a frank, eye-opening discussion here. I want to remind all of the witnesses that some of the Members of the committee that couldn't be present, may have questions and so we will leave the record open for 10 days. I would ask you if there are any questions that are submitted to you, that you get those back to us in written form within that 10-day period of time. With that, this committee is adjourned.

[Whereupon, at 11:37 a.m., the subcommittee was adjourned.]



## APPENDIX

### QUESTIONS FOR KERWIN WILSON FROM CHAIRMAN MIKE ROGERS

*Question 1a.* In your written statement, you indicate that TSA has moved forward with a new process to check active alien flight students against the US-VISIT ADIS database to identify whether an individual may have overstayed the terms of his or her admission and provide the results to ICE's CTCEU to take appropriate immigration enforcement action. However, as of July 18, ICE program officials characterized this information-sharing effort as being in the "testing phase."

At what point in the AFSP process will TSA check ADIS?

Answer. Response was not received at the time of publication.

*Question 1b.* In addition to identifying whether an individual may have overstayed the terms of his/her admission, will the check of ADIS allow TSA to determine whether someone may have entered the country illegally ("entry without inspection")? If not, what additional checks will TSA do to determine this?

Answer. Response was not received at the time of publication.

*Question 1c.* What controls has TSA put in place to ensure that information is provided to ICE for enforcement action?

Answer. Response was not received at the time of publication.

*Question 2.* As part of its compliance inspections of flight schools participating in AFSP, TSA inspectors check for documentation that the school received approval from TSA before training a foreign national. Yet GAO found instances where foreign nationals completed flight training without receiving approval from TSA.

What specific actions has TSA taken to determine why TSA's inspections of flight school compliance with AFSP did not identify the problems GAO raised in its report (i.e., that foreign nationals could complete training at U.S. flight schools without applying to AFSP, or after their applications were denied or canceled in AFSP)?

Answer. Response was not received at the time of publication.

*Question 3a.* The February/March memorandum of understanding between FAA and TSA to share certain data on foreign pilots was signed by the TSA officials responsible for overseeing flight school compliance inspections, but not officials responsible for completing security threat assessments.

Does this effort involve the TSA officials who are responsible for the AFSP security threat assessment process as well? If so, how?

Answer. Response was not received at the time of publication.

*Question 3b.* How do you think FAA and TSA can work more collaboratively to ensure that foreign nationals are being properly vetted by TSA before receiving flight training and an airman's certificate?

Answer. Response was not received at the time of publication.

*Question 4a.* FAA officials indicate that they began sending data to TSA in March. How, specifically, has TSA used the FAA data to help ensure that all foreign flight students have received the appropriate background checks?

Answer. Response was not received at the time of publication.

*Question 4b.* How many foreign nationals has TSA identified through this process that did not successfully complete AFSP security threat assessments? How many of those were required to complete AFSP security threat assessments?

Answer. Response was not received at the time of publication.

*Question 4c.* What specific actions has TSA taken to address any weaknesses identified through the data matching process?

Answer. Response was not received at the time of publication.

*Question 5.* Now that TSA is receiving data from FAA on foreign nationals with pilot's licenses, has TSA discovered any foreign nationals with commercial or airline transport pilot licenses who did not receive approval to begin training through AFSP? If so, what actions have TSA and FAA taken to resolve these issues?

Answer. Response was not received at the time of publication.

*Question 6.* Do TSA inspectors issue violations if a flight training school does not maintain the required documentation?

Answer. Response was not received at the time of publication.

*Question 7a.* Can you provide some examples of when a flight training provider would be deemed non-compliant and what penalties it could face?

How often do you re-inspect a provider that has failed inspection?

Answer. Response was not received at the time of publication.

*Question 7b.* Have there been any instances where an applicant was denied by TSA because of the individual's country of origin? If so, which country(s)? Does TSA have a prohibited list of countries from which it will not accept students into AFSP?

Answer. Response was not received at the time of publication.

#### QUESTIONS FOR JOHN P. WOODS FROM CHAIRMAN MIKE ROGERS

*Question 1.* If a foreign-national arrives in the United States on a student visa or F or M visa and then decides to enroll in a flight school part-time, does that person get vetted against terrorist watch databases? Do you think there needs to be clarification throughout the Federal Government of what type(s) of visa allows for an individual to take flight training?

Answer. Response was not received at the time of publication.

*Question 2a.* In May 2011, TSA provided ICE with the identification of 142 potential overstays that were in TSA's AFSP database. After further vetting ICE reduced the list of possible overstays to 22.

Can you share the results of the investigations?

Answer. Response was not received at the time of publication.

*Question 2b.* How many of the 22 individuals had completed flight training when you began your investigation?

Answer. Response was not received at the time of publication.

*Question 2c.* Were any of the foreign nationals deported?

Answer. Response was not received at the time of publication.

