

**Testimony by Mark Van Tine
President and CEO, Jeppesen
Chairman, General Aviation Manufacturers Association
Subcommittee on Transportation Security and Infrastructure Protection
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Introduction

Chairwoman Jackson-Lee, Ranking Member Dent, distinguished members of the Subcommittee; my name is Mark Van Tine and I am the President and CEO of Jeppesen and the Chairman of the General Aviation Manufacturers Association (GAMA) for 2009. Jeppesen is a wholly owned subsidiary of the Boeing Company and is based in Englewood, Colorado. For more than 75 years, Jeppesen has provided navigation charts, electronic databases, and other information solutions to general aviation and commercial airlines around the world. I appear here today in my capacity as the current Chairman of GAMA.

As the committee knows, general aviation (GA) is an essential part of our transportation system that is especially critical for individuals and businesses people needing to travel and move goods quickly and efficiently in today's just-in-time environment. GA is also an important contributor to the U.S. economy, supporting over 1.2 million jobs, providing \$150 billion¹ in economic activity annually and, in 2008, generating over \$5.9 billion² in exports of domestically manufactured airplanes. We are one of the few remaining manufacturing industries that still provide a significant trade surplus for the United States.

General Aviation Security

GAMA has long advocated for general aviation security to be based on risk analysis – measuring threat, vulnerability, and consequences. When higher risks are identified, appropriate countermeasures and security postures should be deployed in order to mitigate those risks. We also believe that this risk analysis should consider the security risks inherent with other modes of transportation.

Since the events of September 11, 2001 the general aviation community has worked diligently to increase security and awareness of potential threats to the aviation system. Numerous voluntary and regulatory initiatives have been put into place by both government and industry that have substantially increased security. For instance:

- The TSA has published Security Guidelines for General Aviation Airports that outline best practices for enhancing security at GA airports.³

¹ General Aviation Contribution to the US Economy, Merge Global 2006.

² 2008 General Aviation Statistical Databook and Industry Outlook, GAMA 2009.

³ TSA Information Publication A-001, May 2004.

- The Twelve-Five Standards Security Program requires that commercial operators of general aviation airplanes weighing more than 12,500 pounds establish a formal security program which is overseen by the TSA.
- The TSA has established a hotline for the general aviation community to report suspicious activity and the Aircraft Owners and Pilots Association (AOPA) is actively promoting an airport watch program for the community.
- Non-U.S. citizens seeking flight training are subject to background checks through the Alien Flight Student Program (AFSP).⁴ Flight school employees are also required to undergo security awareness training per 49 CFR 1522.23(d) to be able to identify potential risks.
- GAMA has, in conjunction with the Department of Treasury, published “Guidelines for Establishing Anti-Money Laundering Procedures and Practices Related to the Purchase of a General Aviation Aircraft” to assist in identification of suspicious transactions in accordance with the USA PATRIOT Act.
- Foreign airplanes flying into the United States are subject to specific security procedures from both the TSA and Customs and Border Protection and are actively monitored by the TSA when operating into, within, or out of United States airspace.
- Domestic aircraft are subject to the requirements of the Electronic Advanced Passenger Information System when crossing into the United States from an overseas location.
- General aviation aircraft are subject to specific airspace requirements within the Washington Air Defense Identification Zone and its more restrictive Flight Restricted Zone (FRZ) including restrictions at three Maryland Airports⁵ where pilots are subject to additional background check and procedural requirements. General aviation operators who wish to fly into Ronald Reagan National Airport are required to comply with the DCA Access Standard Security Program.

All of these initiatives have been put into place to help prevent a terrorist from using a general aviation airplane to attack the United States. At the same time, we would like to draw the attention of the committee to the Department of Homeland Security’s Office of the Inspector General’s⁶ May, 2009 report which concludes that “general aviation presents only limited and mostly hypothetical threats to security” and that “the steps general aviation airport owners and managers have taken to enhance security are positive and effective.” We appreciate the recognition by the IG and believe we have been a positive, proactive partner in addressing legitimate security threats.

The Large Aircraft Security Program (LASP)

The Large Aircraft Security Program (LASP) has received significant attention from the general aviation community and Members of Congress since published as a Notice of Proposed Rulemaking (NPRM) in October of 2008. The general aviation community does not oppose enhancing security; rather it believes that the NPRM proposed by the

⁴ Additional background about the AFSP is located at <https://www.flightschoolcandidates.gov>

⁵ College Park Airport, Washington Executive/Hyde Field, and Potomac Airfield

⁶ TSA’s Role in General Aviation Security, OIG-09-69, May 2009

TSA was unnecessarily burdensome and did not reflect an adequate understanding of general aviation operations.

For instance, under the NPRM, an individual who wishes to fly his or her own plane would have to pay a third party contractor to undergo a background check before every flight. Not only is this needlessly redundant from a security standpoint, it could also substantially increase the cost of flying a plane. The proposed use of private contractors also raises important questions about privacy and protection of personal information and the ability of TSA to oversee this program. It is these types of concerns that generated a groundswell of negative reaction from general aviation operators across the country.

Industry View

The LASP proposal is the first time that TSA has attempted to regulate private travel. We believe strongly that the TSA should take pains to recognize this and ensure that LASP does not infringe on the ability of general aviation pilots and passengers to exercise their freedom to fly.

In this regard, GAMA believes that any final rule should recognize that passengers who board general aviation aircraft are known to the operator and crew, and are made up of employees, guests, family members and clients who typically have close ties to the operator of the aircraft. Unlike commercial operations, passengers in this context are not “revenue service passengers” and warrant a uniquely different consideration from a security vulnerability context. In assessing risk, the general aviation “passenger,” an individual known to the pilot, represents an inherent and significant risk reduction which should be recognized and accounted for by the TSA as it finishes drafting a final rule for LASP.

Indeed, as a point of reference, the preamble to Federal Aviation Administration (FAA) NPRM “Security Related Considerations in the Design and Operation of Transport Category Aircraft 14 CFR Parts 25 and 121” (i.e. above 12,500 pounds in scheduled commercial operations) the FAA states:

“Generally, airplanes in private use carry heads of state, business leaders, and ordinary citizens. In contrast to commercial passenger airplanes, access to airplanes in private use is limited to specific individuals, names, the owner and guests. For this reasons, these airplanes typically are not targets of onboard terrorists. [We] believe that applying the proposed requirements to airplanes in private use would not provide significant improvements in security.”⁷

GAMA believes this basic philosophy should be the guiding principle throughout the development of the LASP and for any future regulations proposed for general aviation.

Steps Taken To Address Concerns in LASP

⁷ FAA NPRM RIN 2120-AI66, Docket No. FAA-2006-26722; Notice No. 06-19

Over the past eight months, our industry has raised concerns with the LASP and actively engaged with the TSA to help develop a program that appropriately balances legitimate security risks with the right of citizens to fly their own airplanes.

GA manufacturers have testified at the five public hearings hosted by the TSA and GAMA submitted a formal position paper that was among 7,000 comments to the docket during the public comment period. We have also provided TSA officials with opportunities to visit general aviation manufacturers to see the types of aircraft that would be subject to the LASP.

We have made good progress. During two industry working group sessions in April and May set up by the Transportation Security Network Management (TSNM) office we were able to agree on a framework for the LASP rule. Assistant Administrator John Sammon⁸ has committed to build upon what the TSA has learned from these two sessions and issue a second NPRM that incorporates suggestions from stakeholders.

The framework we have identified in our sessions with the TSA includes:

- The establishment of a “trusted pilot” system that would require pilots to meet certain requirements before operating their aircraft if that aircraft falls within the TSA-defined scope of LASP.
- The trusted pilot would be responsible for conducting key security functions for flights including identity verification of known passengers and an established process for subjecting unknown individuals to vetting through eSecure flight.
- The establishment of a sensible restricted items list that takes the place of the prohibited items list originally proposed by the TSA.

We commend the hard work that Mr. Sammon and the staff within the General Aviation Office has put in to reworking the NPRM and their willingness to consider our views. We also appreciate the strong support we have received from members of Congress who have recognized our concerns and urged TSA to develop a more practical and effective approach. In particular, I want to thank Congressman Dent and Congressman Olson for introducing H.R. 3093, the General Aviation Security Enhancement Act of 2009, which would ensure stakeholder participation in the development of the LASP.

TSA’s Use of Security Directives

The general aviation industry is very concerned about the TSA’s liberal use of Security Directives to implement new requirements on operators that are not subject to the rulemaking requirements of the Administrative Procedures Act.

The general aviation community strongly supports a risk-based, threat vulnerability approach to securing our national transportation system. However, we have seen the TSA repeatedly use Security Directive to vastly expand existing security requirements

⁸ John Sammon, Associate Administrator for Transportation Security Network Management (TSNM)

without consideration of the implementation challenges, operational impacts and economic burdens these mandates impose on the aviation industry. Our most recent experience involves the expansion of security credentialing requirements to tens-of-thousands of pilots and employees at airports and aviation manufacturer facilities without any input from these constituencies or due process protections under the APA.

GAMA strongly supported an amendment that was offered by Representative John Mica to the Transportation Security Administration (TSA) Authorization Act (H.R. 2200), which would require TSA to initiate a rulemaking process for Security Directives six months after implementation. Representative Mica's amendment provided appropriate discretion to TSA to waive the rulemaking process in the event of an emergency situation.

We supported the Mica amendment because it struck the right balance between national security and due process. We recognize and respect TSA's authority to issue Security Directives. However, we do not believe that TSA should use Security Directives to make policy unless there is a compelling and immediate national security risk that warrants it.

This is an issue of great concern to the general aviation community and we urge Congress to include the Mica amendment in the final TSA reauthorization bill.

Conclusion

In closing, Madame Chairwoman, thank you for your leadership on these issues and for inviting me to testify before the subcommittee. I feel strongly that if TSA, industry, and Congress continue to work together on general aviation security issues we will put in place an effective security system that does not inhibit the freedom people enjoy today to privately use general aviation aircraft.

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