

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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<http://oversight.house.gov>

February 15, 2018

The Honorable Daniel K. Elwell
Acting Administrator
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Dear Mr. Elwell:

The Committee is engaged in ongoing oversight of our nation's aviation security system. A February 2016 Committee hearing titled "Securing Our Skies: Oversight of Aviation Credentials" examined weaknesses in aviation credentials and databases, including civilian pilot licenses and Federal Aviation Administration (FAA) records.¹

The FAA has failed to make statutorily required improvements to pilot credentials, including some mandated over a decade ago. For example, in 2004 the *Intelligence Reform and Terrorism Prevention Act* required the FAA to upgrade pilot licenses so that they are resistant to tampering and counterfeiting, include a photograph of the pilot, and be capable of accommodating a digital photograph, biometric identifier, or other unique identifier.²

FAA issued a notice of proposed rulemaking on photo requirements for pilot certificates in 2010 but never issued a final rule.³ Subsequently, the *FAA Modernization and Reform Act of 2012* required pilot licenses to be resistant to tampering and counterfeiting, include a photograph of the pilot, and be able to accommodate iris and fingerprint biometric identifiers. The licenses must also comply with Federal Information Processing Standards-201 or Personal Identity Verification Interoperability Standards for proceeding through airport security checkpoints.⁴

The Department of Transportation's Office of Inspector General (DOT OIG) subsequently found fraudulent pilot licenses "have also been used in smuggling, human trafficking, and other criminal activities."⁵ A September 2017 investigation by the *Boston Globe* identified lax enforcement of FAA standards for the revocation of valid aviation credentials,

¹ *Securing Our Skies: Oversight of Aviation Credentials: Hearing Before the H. Subcomm. on Transp. & Pub. Assets*, 114th Cong. (2016).

² *Intelligence Reform and Terrorism Prevention Act of 2004*, Pub. L. No. 108-458.

³ Fed. Aviation Admin., *Photo Requirements for Pilot Certificates*, 75 Fed. Reg. 70,871 (Nov. 19, 2010) (Notice of Proposed Rulemaking).

⁴ *FAA Modernization and Reform Act of 2012*, Pub. L. No. 112-95.

⁵ *Securing Our Skies: Oversight of Aviation Credentials: Hearing Before the H. Subcomm. on Transp. & Pub. Assets*, 114th Cong. (2016) (statement for the record of the Dep't of Transp. Office of Inspector Gen.)

<https://www.oig.dot.gov/sites/default/files/Aviation%20Credentialing%20Statement%20for%20the%20Record%20HOG%20Hearing%5E2-3-2016.pdf>.

including cases in which pilots retained their licenses despite criminal convictions and alcohol-related offenses. Most disturbingly, individuals known or suspected to be terrorists were also able to maintain their licenses.⁶

There are also serious problems with FAA's oversight of its Civil Aviation Registry. The FAA has reportedly "acknowledged it does not verify the validity of documents filed for the registry's more than 300,000 planes."⁷ In 2013 DOT OIG found significant deficiencies in the Registry, including that it "lacks information on registered aircraft, their owners, and their operators that FAA needs for aviation and security measures."⁸ DOT OIG found an estimated 54 percent of aircraft owned under trusts for non-U.S. citizens were missing information such as the identity of the trusts' owners and aircraft operators.⁹ United States aircraft registered in this manner have been connected to individuals involved in illicit activity, including terrorism and drug trafficking.¹⁰

To assist the Committee's oversight of this issue, please provide the following documents and information:

1. All documents and communications referring or relating to security vulnerabilities of aviation credentials or aviation records, including, but not limited to, the Civil Aviation Registry and Pilot Records Database;
2. All documents and communications referring or relating to implementation of or compliance with legislative requirements regarding security features for pilot licenses;
3. A list identifying all known cases of fraudulent use of pilot licenses, specifying all cases in which fraudulent certificates were found or suspected to have been used for criminal purposes since January 1, 2008;
4. A detailed description of FAA's policies, procedures, and methods for vetting holders of aviation credentials;
5. A list of all cases since January 1, 2018, in which FAA aviation credentials were reviewed due to criminal activity, improper use of drugs or alcohol, or known or suspected ties to terrorism, including a detailed description of each case, its ultimate disposition, and whether the individual maintained FAA credentials;
6. A detailed description of FAA's policies, procedures, and methods for verifying the validity of information in the Civil Aviation Registry;

⁶ Kelly Carr, Jaimi Dowdell, et.al., *Flight Plan for Failure*, BOSTON GLOBE (Sept. 2017), <https://apps.bostonglobe.com/spotlight/secrets-in-the-sky/series/part-two/>.

⁷ Kelly Carr and Jaimi Dowdell, *Secrets in the Sky*, BOSTON GLOBE (Sept. 2017), <http://apps.bostonglobe.com/spotlight/secrets-in-the-sky/series/part-one/>.

⁸ OFFICE OF INSPECTOR GEN., U.S. DEP'T. OF TRANSP., FI-2013-101, FAA'S CIVIL AVIATION REGISTRY LACKS INFORMATION NEEDED FOR AVIATION SAFETY AND SECURITY MEASURES (2013), at 4.

⁹ *Id.*, at 4-5.


¹⁰ Carr and Dowdell, *supra* note 7.

7. A list identifying all known cases of the use of U.S. registered aircraft for criminal or illicit purposes since January 1, 2008, including a detailed description of each case;
8. All FAA policies, procedures, and regulations concerning the use of trusts to register aircraft; and
9. A list identifying all cases in which more than 100 aircraft are registered to a single address through the use of trusts.

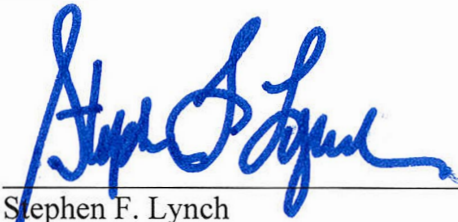
Provide the requested documents and information as soon as possible, but no later than 5:00 p.m. on March 1, 2018. An attachment to this letter provides additional instructions for responding to the Committee's request. Should your response necessitate production of classified documents or information, please provide those as an appendix to your response letter under separate cover. In addition, please arrange to brief Committee staff on this matter no later than March 8, 2018.

Please contact Ari Wisch of the Majority staff at (202) 225-5074 or Ari.Wisch@mail.house.gov and Lucinda Lessley of the Minority staff at (202) 225-5051 with any questions about this request. Thank you for your attention to this matter.


Sincerely,



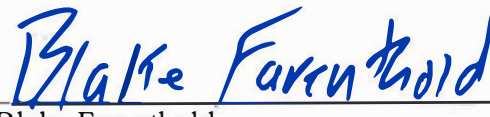
Ron DeSantis
Subcommittee on National Security




Stephen F. Lynch
Subcommittee on National Security



Gary J. Palmer
Subcommittee on Intergovernmental Affairs



Blake Farenthold
Subcommittee on the Interior,
Energy, and the Environment



Paul Mitchell
Subcommittee on Information Technology

Enclosure

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.