

Congress of the United States
House of Representatives
Washington, DC 20515-2506

September 9, 2013

Charles K. Edwards
Inspector General
Office of Inspector General
Department of Homeland Security
Mail Stop 0305
245 Murray Lane, SW
Washington, DC 20528

Calvin L. Scovel, III
Inspector General
Office of Inspector General
Department of Transportation
1200 New Jersey Avenue, SE
7th Floor
Washington, DC 20590

Dear Inspector General Edwards and Inspector General Scovel:

I have been hearing disturbing reports from around the General Aviation community which warrants your immediate attention. It is my understanding that Customs and Border Patrol (CBP) Air and Marine Division has been conducting searches of general aviation aircrafts in excess of any authority, without probable cause, and in a manner that circumvents the protection citizens are afforded under the Fourth Amendment of the Constitution. Furthermore, I have heard reports of misuse of a section of Federal Aviation Administration (FAA) Code of Federal Regulations that requires a pilot to produce identification upon demand from law enforcement. Given these disturbing reports, I request that the Office of the Inspector General at the Department of Homeland Security and the Office of the Inspector General at the Department of Transportation conduct a thorough investigation of the activities of the Customs and Border Patrol Air and Marine Division related to the monitoring, surveillance, and subsequent search of general aviation aircraft operating legally within the continental United States.

To date, I have been made aware of more than 40 reports of law-abiding, general aviation pilots being stopped, in many cases for extended periods of time, while their documentation, belongings and aircrafts are exhaustively searched. To my knowledge, none of these searches have produced evidence of any criminal activity by these pilots. This begs the question, were these searches reasonable? In all of these reports, the pilots have been operating their aircraft on flights within the borders of the Continental United States, in some cases at distances of over 500 miles from the nearest border, and they are engaged in typical general aviation activities. These flights were met by officers from CBP Air and Marine Division and in some cases local law enforcement at the request of CBP.

Requests pursuant to the Freedom of Information Act (FOIA) have been made with CBP, the Department of Homeland Security, the U.S. Department of Justice, and the U.S. Drug Enforcement Agency, pertaining to some of these reports. Information that was obtained in response to the FOIA request from CBP's FOIA Analyst does not disclose why these stops were initiated. However, information learned from local law enforcement agencies – that are often involved with CBP requested stops – is more revealing. It is clear from local law enforcement information that they are being instructed by CBP to conduct stops on private citizen's property without probable cause and with little additional guidance.

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Inspector General Edwards and Inspector General Scoval

Additionally, it is my understanding that CBP Air and Marine Division and the El Paso Intelligence Center (EPIC) continue to develop and distribute erroneous guidance materials to law enforcement in support of stop and search activities related to domestic general aviation operations. If this is the case, these materials only serve to confuse and compound the problems with CBP's stop and search activities of GA aircraft. CBP and our nation's security would be better served if the agency endeavored to distribute accurate and reasonable guidance on how to handle an inspection situation by either Federal or local law enforcement. Additionally, that guidance should ensure that the rights of pilots are protected.

Thus, I ask that you conduct a full Inspector General investigation and address the following issues in your investigation and report:

1. Under what authority are CBP Air and Marine Operations Center (AMOC) monitoring all general aviation activity within the boundaries of the United States? To the extent that such authority may exist, is the present use of that authority the best use of limited CBP resources when so many stops reveal no criminal activity?
2. Are the reasons for singling out certain flights for further inspection consistent with the principles of reasonable suspicion, probable cause, and other provisions of the Fourth Amendment?
3. Are the sections of FAA regulations governing the requirement to produce identification upon demand being used to circumvent the provisions of the Fourth Amendment?
4. Were federal funds used to develop a course for local law enforcement, and is guidance being issued by Federal Law Enforcement, that encourages practices inconsistent with the principles of the Fourth Amendment?

If it is determined that CBP is operating outside of its authority, then I request that your office ensure that proper oversight is applied and the agency is prevented from continuing this practice.

Thank you for your prompt and personal attention to this request. Due to the seriousness of the issue and its impact on the Constitutional rights of citizens, I request that your offices provide me with the investigation's findings no later than November 1, 2013. If you have any question please feel free to contact [REDACTED]

Sincerely,

A handwritten signature in blue ink, appearing to read "Sam Graves", written over a horizontal line.

Sam Graves
Member of Congress