



## Aviators Share Concerns About Government Security Programs

Aviation enthusiasts from all 50 states and 22 foreign countries met in Fort Worth, Texas, on October 10-12, as the Aircraft Owners and Pilots Association (AOPA) held its AOPA Aviation Summit. On tap was the usual fare: representatives from companies selling everything from spare parts to complete airplanes, flight instruction, flying safety seminars, organizations of volunteer pilots for benevolent purposes and, of course, seminars on dealing with government agencies. In the past, most seminars on dealing with government agencies covered such topics as how to improve communications between pilots and air traffic controllers and how pilots could keep from violating the FAA's flying regulations.



### Federal Agents Stopping Small Aircraft

But something has changed in the last few years. Starting around 2008 or 2009, pilots started reporting being approached by federal agents, sometimes with fully automatic weapons pointed at them. Sometimes the agents brought drug-sniffing dogs or otherwise indicated they were looking for drugs. Sometimes the federal agents worked on their own and sometimes with local law-enforcement agencies. Sometimes the pilots have been told why they are under suspicion and sometimes not. The reasons for suspicion, when given, have been as trivial as telling the pilot they knew he made a stop in Colorado, where marijuana has been legalized, or a federal monitoring agency noticing the plane landed at a relatively remote airport after flying more than a certain distance. Of course, pilots of small planes frequently stop at small airports to refuel their planes or use the restroom facilities when they are traveling. Smaller airports usually have less air traffic, making such stops faster.

Matters came to a head earlier this year when an AOPA member was stopped twice on a round trip and reported it to AOPA. AOPA responded by asking members to report such stops. Within two or three weeks, 43 members filed reports of similar stops, some of them having occurred in previous years. There would have been more reports filed, but some pilots expressed fears of retribution and didn't make the formal reports. For those incidents that were reported AOPA filed Freedom of Information Act (FOIA) requests with the agencies involved to determine if these stops were legal and constitutional. In general, the federal agencies have not responded to the FOIA requests, but state and local law-enforcement agencies have typically responded. Local law-enforcement responses have typically referenced these incidents as tips by which federal authorities identified an inbound small plane as being suspicious.

One of the leaders at a seminar on government relations noted there are at least eight government



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surveillance agencies watching small planes inside the United States. They use radar information and data mining from government computers that keep information on Americans to look for something suspicious.

### **The John and Martha King Incident**

John and Martha King were at the summit and *The New American* interviewed them regarding their bizarre experience in the Santa Barbara Airport on August 28, 2010. Owing to an inaccurate government database, the airplane they were flying was mistakenly reported as stolen. After landing, they were directed to a remote area of the airport where police were waiting for them. [John King described it](#) on AOPA's website:

A Loudspeaker comes on. Pilot! Very slowly open your door. Pilot! Stick your hands out so we can see both your hands. So I stick my hands out. Pilot! Get out of the airplane. Keep your hands in the air and face away from speaker. Pilot! Back up. Walk backwards towards the noise of the speaker. And they say 'Stop there.' And then they grabbed my hands and start to put them in handcuffs behind my back. I said well I've been having a lot of trouble with my shoulders. My shoulders are very, very sore and really have to go to the bathroom. And, you know, that didn't stop them one minute. That didn't even slow them down.

Martha King was treated in a similar manner. The Kings were held for about 30 minutes until the police learned the airplane wasn't stolen. John King told *The New American* he was very impressed with how well the police followed their SWAT-style procedures, but questioned whether they should have been following those procedures. He questions to this day why the police didn't just let the Kings taxi the plane to a regular parking spot and talk to them when they got out of the airplane. He sees no need to have set up this potentially lethal situation just to discover the airplane was not stolen. He also noted that if the police were afraid the Kings would attempt to use the Cessna 172S as a get-away vehicle all they needed to do was park a car right in front of the plane. The only direction the plane can move itself is forward. Even a tight turn requires some forward motion.

The news of this incident went viral among pilots. What makes the John and Martha King incident so different is the Kings are an internationally known husband-and-wife team of instructor pilots. The Kings' flight instruction school is the source for millions of CD-ROMs, videotapes, and DVDs used for flight instruction. The Kings are icons in the aviation community. Since this incident the Kings have been contacted by about a half-dozen other pilots who have experienced similar stops, but the incidents involving lesser known pilots haven't been treated as news. It's a sad commentary on the mainstream news media that these violations of pilots' constitutional rights haven't been reported in the news.

The Kings reflected on a previous incident about a year and a half prior when the same plane had been mistakenly reported as stolen, probably owing to the same database error. This has led John King to question how well the data in these databases is maintained. He also noted that the law-enforcement people in Wichita, Kansas, didn't pull guns in the incident a year and a half earlier.

### **The Robin Fleming Incident**

Robin Fleming passed away this July 3, but *The New American* was able to connect with an acquaintance of his at the AOPA National Summit. Fleming made the news among aviators for his encounter with law enforcement on July 26, 2012. Fleming was flying his glider and looking, as glider pilots do, for an updraft. Skillful glider pilots can stay aloft for hours this way and sometimes travel considerable distances.



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Fleming flew over a nuclear power plant, which isn't illegal, but some federal law-enforcement people thought it was and wanted to order him to land. After learning they didn't have the authority to order him to land, they asked him to land. After landing, Fleming was interrogated regarding their assertion that he was flying in a no-fly zone.

*AOPA Pilot* magazine said in the February 2013 issue that after being held for about 22 hours Fleming was charged with breach of peace. The article went on to say of his court hearing:

Fleming waited outside the courtroom as his case went before the judge. When his attorney returned and said the case would be dismissed if he agreed not to take any legal action against Darlington County law enforcement, he reluctantly agreed.

The article went on to say:

Fleming hopes no other pilots will be subjected to the same nightmarish ordeal he experienced, or the breach of peace charge that shocked him and those who know him. "It was the police that breached the peace," Fleming said.

*The New American* spoke with witnesses regarding any possible disturbance of the peace. When asked if they noticed any commotion during the arrest, they saw no commotion nor any disturbance of the peace of any type.

Just to set the record straight regarding Robin Fleming's glider, a Rolladen-Schneider LS8-18 weighs less than a Volkswagen Beetle. Fleming's glider had no engine and carried no fuel, so there was no threat of exploding on impact. It could have knocked over a doghouse, but probably not a sturdy backyard shed.

### **Should Small Aircraft Be Restricted From Flying Over Nuclear Power Plants?**

There is a notice to airmen (NOTAM) advising: "To the extent practicable, pilots are advised to avoid the airspace above or in proximity to" nuclear power plants, power plants, dams, and similar facilities. It also says not to "circle as to loiter" in the vicinity.

This may be a good time to review this unconstitutional guidance from a federal agency. In a police-state frame of mind, law-abiding citizens are frequently viewed with suspicion even when such suspicions are completely unwarranted. This NOTAM is an example of such thinking. Guidance such as this completely ignores the value of pilots as law-abiding citizens whose very presence is a deterrent to crime. Just ask any woman where she would prefer to walk at night — a completely deserted street or one with occasional law-abiding citizens going about their business.

A suggested change to the NOTAM might read:

To the extent practicable, pilots are advised to have their cameras or their passengers' cameras available when flying in the proximity of nuclear power plants, power plants, dams, and similar facilities. In case of any criminal activity, terrorist or other, airborne photographs or other means of airborne assistance can greatly help law enforcement agencies in identifying and capturing the perpetrators.

### **Has American Aviation Drunk the Kool-Aid?**

The federal government has no constitutional authority to regulate aviation. It's obvious that aviation needs to be regulated in an intelligent manner by some form of governmental authority, but that regulation could be done by the states in a coordinated manner, as they do with motor vehicle laws, or



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by a constitutional amendment giving the federal government specific enumerated powers to do so, though such an amendment, if not carefully worded, would likely again lead to abuses of power.

The number of pilots who have not come forward owing to fears of retribution by government agencies could also be addressed by better adherence to the U.S. Constitution. The Seventh Amendment to the U.S. Constitution says: "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved." A pilots' license clearly has a value over \$20. Congress should order the FAA to make mandatory provisions for cases of suspension or revocation of pilot's licenses to be decided by a jury of their peers in FAA enforcement actions.

The government agencies that monitor small planes could use their skills in a constitutional manner that would benefit our country. They could use radar and data mining skills along the border to protect our borders. They could use their data mining skills — using legal, constitutional data bases — to identify illegal aliens and their addresses. They could work for state governments using their data mining skills to identify fraudulent or inaccurate voter registrations.

The federal government took control over aviation in much the same way as government schools and government libraries took control over American education and libraries. They started by making the services free or virtually free of cost to the customer. That's how the private sector is driven out of the marketplace. In the initial phases, the regulations are reasonable and those administering them go out of their way to be helpful. Once the service grows to a point where it becomes a necessity and all competition has been effectively eliminated, the government regulators are in control and are able to take the service in their desired directions. This process needs to be reversed and the federal government security programs also need to be brought back under the control of the U.S. Constitution.



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