

STATEMENT OF THE HONORABLE LANGHORNE BOND, FEDERAL AVIATION ADMINISTRATOR, BEFORE THE HOUSE GOVERNMENT OPERATIONS COMMITTEE, SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION, CONCERNING THE AVIATION SAFETY REPORTING PROGRAM. APRIL 3, 1979.

Mr. Chairman and Members of the Subcommittee:

You have asked me to appear before you today to discuss the amendment I have recently announced concerning the FAA's Aviation Safety Reporting Program.

Before discussing this subject, let me describe the circumstances under which the decision to modify the Program was made. First, it is important to focus on the tremendous growth throughout the aviation community which has been fostered by the Airline Deregulation Act of 1978. You will recall that when I appeared before you in September 1977, I assured the Members of the Subcommittee that safety would not be jeopardized by relaxing the economic regulations governing air transportation. I stand by that statement today as I did then, and I am working to ensure that safety will not be compromised in any way by this sustained traffic growth. Also,

I should point out that the Congress, in enacting the Deregulation Act, restated its concern for aviation safety. In short, Mr. Chairman, my decision to alter the Aviation Safety Reporting Program was made in the light of my personal commitment, and indeed the Congressional mandate, to continue the high level of safety we have today in this country, and in recognition of the need to closely monitor aviation safety during this period of rapid growth in the air transportation industry.

To foster the proper safety climate in the aviation community, I recently announced a comprehensive program to strengthen our enforcement of our safety regulations. The decision to modify the Aviation Safety Reporting Program is but one facet of that overall program, yet I believe it to be a cornerstone in improving upon our enforcement capabilities. This decision was not made overnight nor was it reached in a vacuum. In fact, I solicited the views of the FAA's regional directors last fall on the benefits and drawbacks they had experienced with the Program.

Before discussing the change I have announced concerning the Program, let me describe the Program itself. The Aviation Safety Reporting Program was established by the FAA to encourage pilots, controllers, and others to report incidents as a means of helping us substantiate weaknesses that might exist in our safety system. Although it has provided some useful information, its benefits to the FAA have been somewhat overstated by those who are most concerned by my recent change to the Program.

It's important to note that the vast majority of problems that are identified through the Program are already known to us through our own information and reporting systems. In fact, it was unanimously expressed to me by FAA regional directors last fall that the Aviation Safety Reporting Program had not provided any significant, useful data not already known to us through FAA programs. These internal programs such as our accident investigation program, air carrier enroute inspections, unsatisfactory condition reports, incident reports, airport certification reports and the like, measure

the suitability and performance of people and equipment throughout our National Airspace System. All facets of the system are covered by these programs which generate literally millions of timely reports each year. On the other hand much of the data we receive through the Aviation Safety Reporting Program is nearly a year old.

Essentially the Program has served as a means of providing us with data--albeit unverified data--to reinforce for us what we have determined through other means. With respect to the nature of the data provided, I invite your attention to the disclaimer NASA places on quarterly reports which reads:

"Readers are reminded that these reports are unverified and that specific information cited in them may or may not be correct." Insofar as the data we receive through our own internal reporting programs is concerned, we are, of course, able to verify the information because we are aware of the sources and accordingly can meaningfully sort and refine the data received.

The present Program was structured to encourage a free flow of information through use of the National Aeronautics and Space Administration to guarantee anonymity to anyone making a report, thus assuring that reports would not be self-incriminating. This protection against self-incrimination will remain under my modification to the Program and, in fact, will be strengthened. But, in addition to the protection against self-incrimination afforded by the system, the FAA offered "immunity" from enforcement sanctions to anyone involved in an incident reported to NASA, provided that the incident reported did not involve an accident, gross negligence, or reckless or willful misconduct. Therein lies my concern with the Program.

It has become apparent to me that providing blanket immunity to anyone involved in an incident--an incident in which human lives could have been jeopardized--does not promote aviation safety and, in fact, could well serve as a roadblock to the advancement of safety. Before deciding to modify the Program,

however, I assessed the potential ramifications to the Program, from the perspective that the level of reports could diminish with the withdrawal of blanket immunity. It's important to bear in mind that the reporting of site specific problems such as malfunctioning navigation aids or obstructions to navigation should be unaffected by the change in the Program. I recognize, however, that the withdrawal of blanket immunity could affect the level of response by those who have violated our safety regulations. But, in this connection, let me point out some NASA statistics which I find revealing. In an analysis of a sample of 500 consecutive reports filed with NASA, NASA concluded that 149 (or 30 percent) of the reports concerned a situation in which "no human error" was involved. I believe it reasonable to expect that this flow of information will be unaltered. Of the remaining 351 reports which involved human error, only 143 (40 percent) were "self-reported." This means that 6 out of 10 incidents in this sample involving human error were reported by an observer or third party. Seventy-one percent of the total reports in the sample population were not classified as "self-reported." I don't see why we shouldn't

expect that information flow to continue. Further, I think it fair to expect that the professionalism and interest in promoting aviation safety of the self-reporting 29 percent would likely result in a number of the persons falling in this category continuing to file reports once the blanket immunity is removed from the Program.

In assessing the need for an effective enforcement program, it's important to recognize that a significant causal factor in the vast majority of aircraft accidents is the human component. We can improve the capabilities of our aircraft; we can continue to improve upon the equipment and tools available to pilots and controllers; but, how can we deal with the human factor? First, we can, and do, require specified standards of aeronautical knowledge and skill of those who participate in the National Airspace System; the existence of these knowledges and skills being measured in the certification process and through periodic checks. But, then, we need to assure that these knowledges and skills are being properly applied, as they must be if the system is to provide a high level of safety.

Although there are several ways this can be done, one important way is through the exercise of the statutory enforcement powers the FAA has been granted by the Congress, and I have determined that we should not foreclose on our capability to effectively use this means.

We can take enforcement action to remove from the system those who demonstrate they should not possess a certificate, and we can assess civil penalties against those who have violated the rules but not to the extent that their licenses should be suspended or revoked. But, if we do not retain for ourselves the flexibility to take enforcement action against any and all who violate the regulations upon which air safety is founded, we have lost the deterrent factor that any enforcement program must have to be effective. In that connection, Mr. Chairman, you have questioned to what extent the immunity program has interfered with our enforcement responsibilities. I'd like to respond to that.

The FAA completed 324 enforcement actions against air carrier pilots in 1976 and 1977. But in that same time, 116 enforcement actions could not be taken against airline pilots because of the immunity program. During that same period, our enforcement actions against air carriers and air carrier personnel decreased 22 percent despite increased traffic levels. Although our data for 1978 has not yet been refined, the same trend seems to continue.

It is an inescapable fact that our enforcement abilities have been seriously compromised by the Program's blanket immunity. Many of the incidents in which we have been powerless to proceed have involved pilot complacency with near catastrophic consequences. Let me give you some examples:

*A B-727 inbound to Okalahoma City missed its altitude assignment by 10,000 feet.

*At LaGuardia airport, a controller cleared a B-727 to land on Runway 4. Shortly thereafter he cleared another B-727

for takeoff on Runway 31, an intersecting runway. The controller then realized that the landing aircraft would not be clear of the runway intersection when the departure passed it and tried to stop the departure. The landing aircraft was completing his landing roll about 2700 feet from the intersection when the departure passed.

*A B-727 lost two engines near Des Moines due to fuel mismanagement.

*A B-727 attempted a takeoff on a taxiway at Dallas-Fort Worth.

*A DC-10 on approach to Los Angeles descended 1,000 feet below its glide slope. The error was detected by controllers, not the crew.

*An L-1011 departed from Los Angeles with its right wing spoilers locked in the deployed position. An emergency landing was made due to extreme control difficulty.

*A B-720 enroute to Honolulu discovered 14,000 pounds of fuel "missing" one hour after takeoff. The flight returned to Los Angeles.

*A B-727 landed halfway down a runway with a tail wind component, and ran off the end of the runway.

*A flight instructor departed from Martin, Maryland, without an air traffic control clearance. At the same time, an emergency landing by an airplane with a failed engine was in progress on the opposite direction runway.

And there are many more examples involving flying at the wrong altitude, taking off without clearances, and failing to maintain control of the aircraft. I cite these examples not necessarily to show that the program has been abused, although this has certainly happened, but to indicate that I believe I cannot discharge my statutory obligations if I am prevented from taking all actions at my disposal to prevent

recurrence of incidents such as these. Although there is no way I know of to measure the impact of blanket immunity on pilot or controller behavior, I am convinced in my own mind that knowledge of the protection afforded by the program breeds complacency and disregard for compliance with our regulations.

I am not altering the NASA role in the safety reporting process. All reports filed with NASA will continue to receive anonymity, and will not be the basis or contribute in any way to sanctions we may take for violations of our regulations. What I am doing is removing the blanket immunity heretofore offered by the program. If persons filing reports are, in fact, doing so to provide information to help improve the system's safety, they should be expected to continue doing so. If, on the other hand, their sole interest is to protect themselves from enforcement sanctions, this inducement will no longer exist.

Again, I want to make it clear that the identity of any person reporting information to NASA under the safety reporting

program will continue to remain anonymous to the FAA. But independent information developed by the FAA, which is separate and apart from the NASA data, can and will be used against safety violators. I mentioned earlier that the protection against self-incrimination will be strengthened under our modified Program. I intend to do that through a regulation which will bar the FAA from using in enforcement proceedings data obtained from a report filed with NASA. Further, to assure that no investigation will be prompted by a report filed with NASA, we will not query NASA concerning any specific incident, and I have requested NASA not to furnish FAA any information received in a report until 90 days have elapsed from the date of the incident. Unless FAA has initiated an investigation of the reported incident within this 90 day period, the reporter of the incident will be entitled to immunity, provided the report was timely filed.

Mr. Chairman, I will not indirectly encourage the loss of air safety discipline or foster laxity in the cockpit or on the ground by making available a shield of immunity for violators

to hide behind. I have concluded that the public interest deserves a better approach to air safety. Those upon whom air safety depends must be--and will be--held accountable for their actions.

Mr. Chairman, that completes my prepared statement. I am available to respond to questions you may have at this time.