

**Remarks of Mary Schiavo  
National Air Disaster Alliance and Foundation  
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Washington, D.C.**

Citizens, Farmers, Soldiers and Statesmen

Thank you very much for inviting me to be a part of your efforts to improve air safety.

Like most of America, and most likely the entire world, I used to think air safety and the reasonable regulation thereof were responsibilities and privileges rightfully in the hands of the Federal government—and exclusively so. I thought that even after going through flight school. I thought that after going through government school. I thought that after law school. And, I thought that after I worked for the government for many years.

But I do not think that now, and you do not think that now. But how then to explain this to the rest of the world, and what difference does it make whether government-by-and-for-the-people is a current reality? Oh yes, as we approach the year 2000 (Y2K bug and all, in various degrees of repair by the agencies of the Federal government, the FAA self-proclaimed to be about 60% percent fixed) most folks seem to exist comfortably by pretty much ignoring government. We all forgot about the participatory democracy platitudes shortly after high school civics class, until something happens that government should have done something about.

Some things are so precious, so sacred, so life sustaining, so important that we cannot leave these things untended, unguarded, unexamined, in the hands of government. Specifically, the lives of my children, your children, your life, my life, and the lives of all those we love.

And, we cannot trust things so important to the government, because government forgets. You do not. Therein lies the reason that the framers of the Constitution envisioned the citizen-farmer-soldier-statesman. Government is best is administered by real people. People who have not lost touch. People who govern, but go home to the normal range of human experiences--people whose values reflect the nation as a whole, because they are the nation as a whole. Farmers who are soldiers when necessary and governors when expedient, but at the end of the campaign (in the theatre of war or the theatre of politics) return home to the approval or approbation of their countrymen.

There is no calling which better proves the wisdom of such Constitutional conscience than aviation, an endeavor without serious mention in 1776, and then even imaginations were confined to balloons and birds--the Montgolfier brothers and the martins.

I started becoming suspicious of the wisdom of government preemption when I first went to Washington, D.C. as a White House Fellow. I was assigned to the Attorney General of the United States of America and served as his Special Assistant for criminal and prosecution matters. There was a meeting in Washington, D.C., of the AG and sundry assistants and deputies working at the Justice Department headquarters, almost none of whom had actually been street prosecutors. They were debating some new policies for the field Assistant U.S. Attorneys—the several thousand of us who were actually out there prosecuting the federal criminals of America,

and prescribing operational rules which made absolutely no sense to anyone who actually had to conduct a federal investigation and prosecution. I spoke up and said, "Wait a minute, I am from the field and that is not the way it works. Here is what makes sense." What made sense to the rest of the country, and in the real world, had gotten lost in Washington, D.C. D.C. was so out of touch that in the field (meaning any part of the United States of America lying outside Washington, D.C., and Arlington, Fairfax, Montgomery and Prince Georges Counties) we referred to main Justice as the Puzzle Palace, and often openly laughed at the directives which came to us from on high, in the form of videotapes which, after viewing, we were forced to sign an affidavit stating we had watched it.

There were often 2 unfortunate hallmarks of government conducted in this manner. First, the policies were not representative of the requests and realities of the rest of the country and second, the government (except for the IRS) seems to have a real bad memory.

Nowhere is this more evident than in aviation.

Let me explain by anecdote, since Congress is said to govern by anecdote.

Let me first read to you some excerpts about the crash of TWA 800.

(I will save these for those of you in attendance.)

Now let me read to you some excerpts from the cockpit voice recorder of the final minutes of the Swissair jet crash.

(Again, a surprise for those of you in attendance.)

Would it surprise you to learn that since 1994, just in the FAA publicly available internet data bases there are 783 reports of smoke in the cockpit, with about half of the reports concerning commercial carriers?

How about the history of smoke and fire suppression and detection systems before ValuJet? The FAA had a little something to say about their reasoning process just this month when they answered questions posed by the United States Senate—which answers are soon to appear in the *Congressional Record*.

(Another irony for those of you in attendance to ponder.)

How about bad wire and what the government knew and when they knew it? Mr. Block filled you in on that situation yesterday.

Now lets turn our attention to the statement of some of the aviation officials of this country (and my thanks to (Ostriches Anonymous Association for collecting some of these statements in the annual Head in the Sand Award Competition).

*The survivors were just lucky that there was no fuel on board the airplane when it crashed.* (Note—the plane had just crashed because it ran out of fuel.)

*We've had a terrible year for accidents (1996). On the other hand, two of them, the ValuJet and the TWA, don't appear to be directly related to maintenance or flight operations or anything.* (FAA Associate Administrator)

*The probable cause of the controlled flight into terrain accident was that the pilots descended below the minimum descent altitude for that approach.* (NTSB Report)

*The manufacturers recommended increase in final approach speeds during known or forecast icing conditions did not apply to the plane that crashed because it was still maneuvering to the final approach.* (Airline spokesperson)

*I don't see a problem.* (The FAA chief of air traffic control after being told that controllers under 5 feet 5 inches tall could not see over the counters at the \$25 million FAA tower at Washington National Airport.)

*It doesn't need flaps to fly.* (The FAA after a 21-foot wing flap of a Delta plane loaded with passengers fell off over DFW while on approach for landing. Note—this is true. The plane needs them to LAND or take off.)

*I have learned to speak for any period of time—30 minutes, 45 minutes—and not say anything.* (FAA Administrator (former))

*During flight tests in natural icing, it is very difficult to find the maximum tolerated levels, and it would not be realistic to want to find conditions more severe than those fixed by regulation.* (French Investigating Agency.)

*I am disappointed you have not yet dated my daughter.* (Current FAA Administrator Garvey to a representative at the meeting of the Task Force on Victims and Families.)

*We learned that the analysis of routine flight data...provides significant data by identifying trends. These trends can point out potential problems and enable us to take steps **before (emphasis in original) accidents happen.** Let me repeat that—**before accidents happen (emphasis in original).*** (The current FAA Administrator)

Sadly, the rest of the world has known that for some time. We citizen-farmer-soldier-statesmen believe that is precisely how government is supposed to operate. Indeed, that is how we thought it did operate, until we started tracking the governments response to aviation problems. When I was Inspector General, we investigated that precise point. Our report was nicknamed the Black Hole Report, because we discovered that reports of known design and engineering problems went into a black hole. The FAA made no use of them for trending and tracking problems and fixing them before disasters. Indeed it was during that investigation that I discovered the FAA Two Crash Rule. One crash is an aberration, not a trend, so no corrective action is ordered. Only upon the second crash will the FAA order action. That is why TWA 800, ValuJet, Korean Air, FineAir, and Swissair, and countless other tragedies are so impossible to bear. Voices spoke out, but the government labeled those persons extremists, themselves aberrations, wild cards, unnecessarily scaring the public.

*Why is aviation the only mode of transportation in which there is a hands off policy?....It is indeed even more regrettable that our transportation policy makers at the Federal Aviation Administration and the Department of Transportation have been unresponsive to those voicing concern....What determines the government's transportation policy?....Well, that depends on what floor of the DOT Building you are on. (The United States Congress, Representative Borski.)*

*Indeed if there was ever an accident waiting to happen, this is it. (Congressman Borski)*

The transportation policy is determined in part by the cost benefit analysis. What surprised me most when my book was printed was the huge disconnect between the FAA insiders reaction to my publication of the use of cost benefits analysis and the fact that it was cheaper to kill a few of us rather than fix the problem, the remedial action was not ordered, and the reaction of the rest of the country. The FAA types and their usual pundits said so what, big deal, we have to do this because of government regulation. We inside the government all know that is how regulations are made. The rest of the country was angry, shocked, outraged and disappointed that our lives were a mere dollar tit for tat. Surely our government could not be so cold and calculating.

Back to 1776 for a moment. Our government was never supposed to become so cold and calculating. That's what the framers did not intend--sending bureaucrats to Washington for their entire lives—neither bureaucrats nor Senators nor Members of Congress. But that's what we ended up with.

Now getting back to 1998. So why is that so bad? Here's why.

James Oberstar	\$305,505
John Murtha	\$289,225
Newt Gingrich	\$275,165
Ted Stevens	\$247,616
Norm Minetta	\$244,292

Money from aviation's big money. Keeping your government post in an elected position costs money. If you make aviation policy, the easiest and biggest pot to dip into is that of the aviation interests.

But how about our regulators, the government by the unelected? They are perhaps worse, because they are not answerable to you, the public voters, but make aviation policy based on the costs to the airline, now admittedly so, even when they know some people will die.

*"Plain and simple—dollars."* That's how Thomas McSweeney, top director of FAA's Aircraft Certification Service put it.

### ***WHY NADA CAN BE THE MOST EFFECTIVE FORCE FOR AVIATION SAFETY.***

***Three words—you don't forget.*** The government is aided in its amnesia by such government regulation as records destruction policies permitting vast sums of information, data, and disclosures which otherwise would be routinely destroyed after in some cases 3 years, or even 14 days, information which would allow citizens to hold the government more accountable. Protective personnel rules shield government employees from ever being held publicly

accountable where the violation is deemed to be *administrative* as opposed to *criminal*, and that is most of them. Names, locations and even longitude and latitude are purged from government data when it is requested subject to the Freedom of Information Act, so it is useless to the probing air safety researcher.

It is so bad, in 1996 I sent the FAA Administrator a letter complaining about the *FAA Culture of Accountability*. It was so bad, that unless the media caught the FAA in action, and usually on tape, the FAA would deny it ever happened. *Ultimate deniability* they call it in Washington. FAA officials deliberately instructing underlings not to tell them something so they can deny it. I don't know what's worse—that this exists, or that there's a name for it.

But NADA does not operate on a system of ultimate deniability. Quite the opposite. NADA is on a quest for full information, full disclosure, full action, full effort, and full speed ahead. And frankly, you are it.

Oh sure, there's the Flight Safety Foundation. Have you checked their sources of funding lately? There's an industry publication about air safety. Have you looked at their paid advertising and other sources of revenue?

You are the undisputed leader when it comes to objective, persistent and heartfelt efforts. No one can question your place at the table. You have more than paid the price of admission with sacrifices we hope others will never have to endure. Most important, your members, tragedy by tragedy, have together amassed a pool of knowledge, with institutional memory, that the government does not have, and cannot replicate.

But what more can you do to make yourselves more effective? You need a constant monitoring and supply of worldwide data. Accidents, incidents, reports, investigations, safety, security, a steady drumbeat of unassailable evidence, collected like a clearinghouse. Available to safety activists and just or even more important, the media. The media needs your help to understand some of the issues, to quickly gather data when the need arises or another disaster happens and to explain it to the rest of the world. Evidence will beat Washington almost every time because as investigations conducted by my former staff and I revealed, the FAA often did not have data to back up its claims, or willfully refused to generate the data, so it could have ultimate deniability, as succinctly stated in a letter I received from the FAA.

*This responds to your Freedom of Information Request of May 22, 1997....Your request sought accident, incident, pilot deviation, runway incursion and near midair collision event counts and rates for individual airlines by year from 1991 through 1996. You attached certain documents prepared by the Federal Aviation Administration to support your assertion that the FAA has records of the information you are requesting.*

*A records search was conducted in FAA Headquarters offices to locate both the rate information and the runway data that you requested. Other than the documents that you included with your request, no records were found of this information and data, and we are unaware of any other FAA offices likely to possess additional responsive records. The nine charts attached to your request that are dated June 3, 1996 were all calculated on a one-time basis in response to a specific request by officials from the Department of Transportation's Office of Inspector General when you were Inspector General. While the FAA made no effort to prevent the public disclosure of the nine charts, the FAA would not have been required to calculate rates and prepare the charts in response to a request from the public. No*

*records were found that update those rate charts for 1996. The other document attached to your request was calculated on a one-time basis for inclusion in a FAA report prepared in May 1996. No record was found, however, that updates that chart for 1996.*

Sadly, the data and charts to which the letter refers are those in the May 1996 report, dated 9 days before the ValuJet 592 crash, which warned on its cover that ValuJet dominated the accident statistics.

Congressman Oberstar said he could *only spend so much time on a subject.... NADA can beat that.*

And then there's the FAA's McSweeney again, when presented with data and the issue of whether Kapton and PolyX wire posed a danger to safety said,

***"Define safety."***

That was one definition even the President did not need. Our government made sure the wire was off Air Force One...but not off the planes the rest of us fly.

In fact the FAA has never defined safety. I have an internal document in which the FAA reveals that shortcoming. Safety, and more important for the FAA, the statement that safety was not compromised, cannot be proved, because it is what the FAA says it is. There is no objective standard, no yardstick other than the cost benefit analysis which yields disastrous results, or even curious outcomes.

Did the FAA use the cost benefit analysis before establishing the no peanut fly zones? They claim their cost benefit analyses do not warrant buckling up kids under two, but we will save their lives if they are allergic to peanuts. How many kids have died or been hurt on planes because of the FAA under 2 rules? How many people died because of inhaling peanut air? Yet how many people have died due to inhalation of smoke and fumes, yet we have no passenger PBEs? How many have died due to bad wire, yet the FAA says safety has not been compromised? How many people died because there were no defibrilators on board. How many people got tuberculosis on board? How many people died after catching other serious illness because airlines have no clean air requirements but federal prisons, and the FAA employees, do. Old or malfunctioning black boxes, no 16 G seats, flammable and toxic interiors, no smoke and fire detection and suppression systems, just plain bad plane design and construction, get no action. Without a definition of safety we sure get strange regulation.

Or maybe it's just that pretzels are cheaper than peanuts.

NADA can define safety better than that. After all, we consider our loved ones to be priceless. So should the United States government.