



DEPARTMENT OF THE AIR FORCE
56th Fighter Wing (AETC)
Luke Air Force Base Arizona

14 November 2011

MEMORANDUM FOR 56 OG/CC

FROM: 56 FW/JA


SUBJECT: Unauthorized Civilian Use of Aux-1 Instrument Landing System

1. You have requested a legal opinion concerning the unauthorized use by civilian pilots of the Aux-1 Instrument Landing System (ILS). The Air Force does face potential liability connected with this practice.
2. Aux-1 is an auxiliary airfield north of Luke AFB which is operated exclusively by the United States Air Force. It is not suitable for use by aircraft (civilian or military) to land or take-off due to disrepair. However, Luke AFB uses Aux-1 to train military pilots to make instrument approaches. This is accomplished by using the ILS located at Aux-1. The ILS emits a signal that assists a pilot in making an instrument approach. Only military pilots are authorized to engage in this type of training at Aux-1. Luke AFB uses the Aux-1 ILS to simulate instrument approaches Monday through Friday during daylight hours and only in visual-flight-rules weather conditions. However, the ILS can emit a signal seven days a week, good weather or bad. During the periods when Luke AFB is not conducting instrument training, especially on the weekends, civilian pilots use the Aux-1 ILS, without authorization, to simulate their own instrument approaches. The Aux-1 ILS can be cycled off (meaning it does not emit a signal) without being powered off.
3. My liability concerns are two-fold. First, during periods of non-use by Luke AFB, the ILS could fail or malfunction and, as a result, a civilian aircraft could crash while engaging in unauthorized instrument training. Second, during periods of use by Luke AFB, there exists the possibility of concurrent but unauthorized use by civilian aircraft, which could cause either the military or civilian aircraft, or both, to collide or crash. In either instance, the Air Force would face potential liability and, if determined to be liable, substantial monetary damages. Moreover, the use of Aux-1 by civilian aircraft does not appear to benefit Luke AFB in any way.
4. To avoid this potential liability, I recommend cycling off the Aux-1 ILS during periods of non-military use. Further, to avoid civilian pilots flying to Aux-1 to try to engage in unauthorized instrument training, we recommend that the civilian pilot community be issued a Notice to Airmen through an appropriate agency, such as the FAA, stating that use of Aux-1 by civilian pilots is not permitted and that ILS will be cycled-off when not in use by the military.

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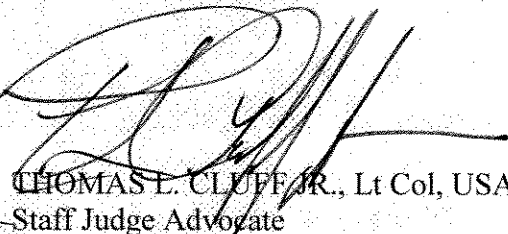
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5. This memorandum was coordinated with AETC/JAO and AETC/A3OF.



BRADLEY J. SAUER, Capt, USAF
Chief, Operations and Administrative Law

I concur.



THOMAS L. CLUFF, JR., Lt Col, USAF
Staff Judge Advocate

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