A DESCRIPTIVE STUDY OF AIRCRAFT HIJACKING

by

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A THESIS

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A DESCRIPTIVE STUDY OF AIRCRAFT HIJACKING

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by

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ABSTRACT

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Aerial hijacking is a relatively new peril for the American airline industry and the millions of passengers who depart each year from American airports. Only a little over a decade has passed since the first "skyjacking" of an American airplane on May 1, 1961. Yet, the snowballing effect of this initial incident has been swift and dramatic, as one airplane after another is diverted to an unscheduled destination.

In 1961 there were a total of five skyjackings of United States registered aircraft, which were followed by only one in 1962 and none in 1963. In 1968 activity increased with 22 aircraft being seized followed by 40 aircraft in 1969, this is the largest yearly total to date. In 1970 and 1971 there were 27 per year. So far this year, as of 1 March, 1972, we have had 6 skyjackings. This gives us a total of 134 skyjackings since 1961.

The purpose of this paper was to prepare a descriptive study of all aspects of the phenomenon of skyjacking. This study includes the latest statistics on skyjacking, i.e., number of

skyjackings, type of weapons, type of aircraft, skyjackers' identification and disposition or status. This paper also discusses the legal aspects, both national and international, related to this crime. The personality and emotional nature of the skyjacker is also examined. In addition, the preventive measures instituted by the government and the airline industry are discussed. Included in this discussion are the sky marshal program, the pre-board screening process and the use of electronic detection equipment.

A review of the literature was the major procedure used to gather background information, especially concerning the legal aspects of this problem. The current statistics were obtained both through written correspondence and personal interviews with Federal Aviation Authority officials. Aviation journals such as Aviation Week and Space Technology were reviewed in an attempt to ascertain the technical problems that akyjacking presents for the airlines. Court proceedings were examined to determine the legality of airport searches. Government documents, Department of State Bulletins and reports to Congress concerning skyjacking were reviewed and analyzed.

Approved:

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CHAPTER I

INTRODUCTION

Statement of the Problem

Aerial hijacking is a relatively new peril for the American airline industry and the millions of passengers who depart each year from American airports. Only a little over a decade has passed since the first "skyjacking" of an American airplane on May 1, 1961.[1] Yet, the snowballing effect of this initial incident has been swift and dramatic, as one airplane after another is diverted to an unscheduled destination.

In 1961, there were a total of five skyjackings of United States registered aircraft, which were followed by only one in 1962 and none in 1963. In 1968, activity increased with 22 aircraft being seized followed by 40 aircraft in 1969. The 40 aircraft seized in 1969 is the largest total to date. Since then, both 1970 and 1971 had an individual total of 27 per year. As of March 1, 1972, there have been 6 skyjackings, making a grand total of 134 skyjackings since 1961.[2] (See Table 1)

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[1] New York Times, May 2, 1961, p. 1

[2] Letter from V. L. Krohn, Chief, Operations Laison Staff, Office of Air Transportation Security, February 7, 1972 (hereinafter referred to as FAA Statistics, February 2, 1972).

TABLE 1

SUMMARY OF HIJACKING INCIDENTS INVOLVING
U. S. REGISTERED AIRCRAFT
(MAY 1961-MARCH 1972)

	Air Carrier				General Aviation				Total			
	I	S	U	Total	I	S	U	Total	I	S	U	Total
1961	1	3	1	5	0	0	0	0	1	3	1	5
1962	0	0	0	0	0	1	0	1	0	1	0	1
1963	0	0	0	0	0	0	0	0	0	0	0	0
1964	0	0	0	0	0	1	0	1	0	1	0	1
1965	0	1	3	4	0	0	0	0	0	1	3	4
1966	0	0	0	0	0	0	0	0	0	0	0	0
1967	0	0	0	0	0	1	0	1	0	1	0	1
1968	1	13	3	17	0	5	0	5	1	18	3	22
1969	1	33	6	40	0	0	0	0	1	33	6	40
1970	5	17	4	26	0	1	0	1	5	18	4	27
1971	8	11	6	25	1	1	0	2	9	12	6	27
1972	4	1	0	5	0	0	1	1	4	1	1	6
TOTAL	20	79	23	122	1	10	1	12	21	89	24	134

Legend: S - Successful
U - Unsuccessful
I - Incomplete

Purpose of the Study

There have been numerous articles and papers written concerning the problem of hijacking aircraft, however, most tend to concentrate on a specific aspect of the problem, i.e., the absence of international law. The purpose of this study is to prepare a descriptive study of all aspects of the phenomenon known as "skyjacking." This study compiles the latest statistics on skyjacking, i.e., number of incidents, type of aircraft, type of weapons, disposition or status

of the skyjackers. It also reviews the legal aspects, both national and international, related to this crime. The personality and emotional state of the skyjacker is also examined. The preventive measures taken by both the government and the airline industry are examined. Included in the preventive measures are the sky marshal program, the pre-boarding screeining process and the latest developments in electronic detection devices.

Methodology

The major procedure used to gather the information for this study was an extensive review of the pertinent literature. Columbia University Law Library provided the legal journals and government documents and the New York Public Library provided the technical journals that were necessary to prepare this study. Government document, Department of State Bulletins and Reports to Congress concerning skyjacking, were also reviewed and analyzed.

Current statistics were obtained both through written correspondence and personal interviews with Federal Aviation Authority officials, in Washington, D. C. and Houston, Texas.

The Danger of Aircraft Hijacking

While the hijacked aircraft have been used for diverse missions--such as fleeing with a child awarded to the other parent

as a result of a broken marriage,[3] kidnapping citizens of an enemy state in an aircraft registered in a third state,[4] dropping political leaflets on the capitols of two countries, Lisbon[5] and Caracas,[6] and fleeing from Communist to non-communist nations,[7] the hijackers all have endangered the lives of the passengers on board, have presented the potential of great damage to the aircraft itself, and have added a note of uncertainty to a hitherto tranquil means of international commerce.[8]

The human dimensions of skyjacking have grown considerably; the five skyjackings in 1961 affected one hundred seventy-eight passengers, as well as the crews, while twenty-seven fully reported hijackings in 1968 involved one thousand four hundred ninety passengers (including forty-three hijackers) and one hundred sixty-eight crew members.[9]

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[3] New York Times, November 3, 1969, p. 1.

[4] New York Times, August 30, 1969, p. 1.

[5] New York Times, November 11, 1961, p. 1.

[6] New York Times, November 28, 1961, p. 21.

[7] New York Times, October 20, 1969, p. 1.

[8] R. L. Smith McKeithen, "Prospects for the Prevention of Aircraft Hijacking Through Law," Columbia Journal of Transnational Law, IX (Spring, 1970), 60.

[9] Gary N. Horlick, "The Developing Law of Air Hijacking," Harvard International Law Journal, XII (Winter, 1971), 39-40.

The danger to the aircraft, passengers, and crewmembers was described in the testimony of the Acting Administrator of the Federal Aviation Administration as follows:

> . . . hijacking has involved physical danger to the passengers and the crew. Passengers have been held as hostages or intimidated and crewmembers have been subjected to minor assaults. It is obvious that should a bomb or other form of explosive discharge aboard an aircraft that the aircraft could be lost. Gunplay aboard could involve injury or death among the crew or passengers. As to the possible effects of bullets penetrating the aircraft fuselage, there is little danger of catastrophic effects regarding cabin pressurization; however, there is danger that critical aircraft parts could be hit and rendered inoperable (hydraulic or electrical systems, radios, or fuel tanks).
>
> There is always the danger that the hijacker could insist on diverting the flight to a destination beyond the range of the aircraft's fuel supply. This could result in a ditching, a crash landing, or an emergency landing at an airport without the required runway length for the aircraft involved. The aircraft could be diverted to an airport at which bad weather and a lack of navigational aids would make an approach and landing unsafe. The hijacker could divert the aircraft to an unfriendly or hostile country where the passengers would be subject to imprisonment.
>
> The action of the hijacker in exploding a bomb or firing a gun or the general commotion caused by the seizure could cause a fire on board the aircraft with resulting injuries, death, or accident.
>
> The act of seizing the aircraft by the hijacker might cause certain passengers to react in an imprudent manner resulting in injuries to themselves or other passengers on the aircraft.[10]

Danger, ever present in aviation, is magnified many times when the control of the plane is under the direction of a probably

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[10]U. S., Congress, House, Report from the Committee on Interstate and Foreign Commerce, House Doc. 91-33, 91st Cong., 1st Sess., 1969, p. 3.

nervous and perhaps derranged person who is unlikely to be professionally qualified to make operational decisions.[11] In November, 1965 a juvenile, Thomas Robinson, who attempted to hijack an aircraft fired eight shots into the floor before being subdued by three of the passengers.[12] No hijacker has threatened to take over the controls of an American plane; this is reported to have happened in the hijacking of an Israeli aircraft in July, 1968, by members of the Popular Front for the Liberation of Palestine (PFLP).[13]

Given the seriousness of any outbreak of violence on an aircraft in flight, it is not surprising that pilots are instructed to cooperate with the hijacker if there is any prospect of armed attack. An Eastern Airlines Flight Brief, dated March 27, 1968, provides:

> March 27, 1968
>
> To: All flight officers.
> Subject: Aircraft piracy--Hijacking policy.
>
> The most important consideration under the act of aircraft piracy is the safety of the lives of the passengers and crew. Any other factor is secondary.
>
> Therefore, company policy is:
>
> In the fact of an armed threat to any crewmember, comply with the demands presented.
>
> Remember, more than one gunman may be on board. If not allowed to make a radio contact, it is suggested you

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[11] Horlick, "Developing Law," p. 48.

[12] Alona E. Evans, "Aircraft Hijacking: Its Cause and Cure," The American Journal of International Law, LXIII (October, 1969), 702.

[13] Ibid.

might be able to go to code 77 (emergency) on the transponder. This would alert all ATC air defense radar stations in your vicinity that an emergency exists on your flight.

If allowed to make radio contact, as much information as to the status of your condition, whether violence has or has not taken place, and so forth, is desirable for both the United States and Cuba authorities to know.

Previous experience has indicated that the U.S. and Havana centers are well coordinated in these instances and will handle you in a routine manner, including handoff to the tower.

Your Latin American H/L en route chart covers the airways involved to Cuba.

There is no published approach procedure for Jose Marti Airport, Havana, Cuba. The jet runway is 5-23, 10,500 feet long, and elevation is 210 feet. The radio facility is a radio beacon, approximately 3 miles southwest of runway 5. The frequency is 348 kilocycles.

Ground support for both the aircraft and the passengers and crew have been available at Jose Marti Airport, offered by Cubana. Services have included telephone to the United States, fuel, air starting equipment, weather information, and so forth. It is not recommended that fuel be taken in Cuba unless absolutely required. Fuel is available from the Navy at Key West (Boca Chica). The Swiss Embassy has proved to be most helpful and will probably have a representative at the airport. If not, a call to the Swiss Embassy for any help you require is in order.

To sum up: Going on past experience, it is much more prudent to submit to a gunman's demands than to attempt action which may well jeopardize the lives of all on board.

J. H. O'Neill
Division Vice-President--Flight.[14]

The dangers involved in aircraft hijacking are out of all proportion to the number of incidents. Apart from the navigational

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[14]Seymour W. Wurfel, "Aircraft Piracy--Crime or Fun?" William and Mary Law Review, X (Summer, 1969), 864-865.

difficulties attendant upon changes of course, together with landing and take-off in Cuba, there are other hazards. Aircraft flying overland routes are not necessarily equipped for emergency landing at sea, as one pilot pointed out in an incident in November, 1968.[15] Fuel shortage is presumably no problem for transcontinental flights, as was evident in the hijacking in June, 1969, of an aircraft bound from Oakland, California, to New York. The aircraft made the 2700 mile trip to Havana with fuel to spare. However, for aircraft on shorter runs, refueling may be necessary.[16] Refueling has been used by the flight crew as a ruse to regain control of the aircraft, but this can be a dangerous maneuver. An attempted hijacking in March, 1969, was successfully frustrated at a refueling stop when an F. B. I. agent, traveling as a passenger managed to disarm the hijacker. On the other hand, an attempted hijacking of a Columbian aircraft a week earlier led to a shooting affray between the hijacker and local police at a refueling stop, as a result of which the hijacker and the aircraft's flight engineer were killed and several other persons were wounded.[17]

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[15] Evans, "Aircraft Hijacking," p. 701.

[16] Ibid.

[17] Ibid., p. 702.

The dangerous activity of hijacking has rapidly spread so that it is no longer purely a matter of concern in the Western Hemisphere. None of the hijackings in 1961 or thereafter were outside the Americas until 1967, when an Egyptian aircraft was forced to land in Jordan, and a small chartered British plane was diverted to Algiers as part of the kidnapping of Moise Tshombe. The next year there were three in the Eastern Hemisphere; a Nigerian plane to Biafra, an Israeli flight from Rome to Tel Aviv diverted to Algiers, and an Olympic Paris-Athens flight forced to return to Paris. In 1969, there were eighteen non-American hijackings within the course of the year.[18]

Insurance

Air piracy exploded into a world problem in September, 1970, when four aircraft were successfully hijacked and destroyed by Arab guerrillas. This upsurge of air piracy by Arab guerrillas forced a boost in premiums on insurance covering hijacking. Hijacking insurance was now placed in the same category as war risk insurance.[19]

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[18]Horlick, "Developing Law," pp. 39-40.

[19]"Arab Guerrillas Adopt Air Piracy as Tactic," Aviation Week and Space Technology, September 14, 1970, pp. 33-38.

Until then, hijacking was treated by insurance groups in the same class as standard hull and liability coverage and was handled through normal channels. War risk, and now hijacking, insurance is purchased in a market separate from that which handled standard aircraft policies. In war risk, Lloyds of London normally will pick up 60% of the coverage with the United States Transportation Department handling the balance for United States carriers. The Transportation Department maintains a revolving fund which provides premium aviation war risk insurance in the event of an outbreak of war. Binders are issued to cover aircraft, persons and property and will become war risk insurance in wartime and "in situations short of war."[20]

The United States government's entry as a major aviation insurer was based on existing congressional authority permitting it to provide United States airlines war risk coverage when commercial insurance is not available at reasonable rates and conditions. When the government announced that through the Transportation Department, it was offering fully underwritten aviation hull insurance, Transportation Secretary John A. Volpe said, "Commercial insurance premiums have been deemed prohibitively expensive due

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[20] Ibid., pp. 33-38.

to the present situation . . ."[21]

The United States government's entrance into the insurance field, began on a grand scale as of 12:01 A. M., September 21, 1970. This was timed to coincide with termination of most war-risk policies that had been obtained by United States airlines from London-based syndicates. Both hull and liability insurance policies were cancelled, with renewal offered only for hull insurance at rates estimated at from 10-15 times higher than before the four 1970 Labor Day weekend hijackings for similar coverage.[22]

Prior to September 21, 1970, the Transportation Department's insurance involvement had been limited. Owing to the inability of United States international airlines to obtain 100% hull insurance coverage for the then new Boeing 747's, the department began offering in July of 1970 a deductible form of war risk hull insurance covering the last 40% of the insured value. The London syndicates were covering the first 60%.

A common United States airline practice was to obtain so-called all-risk insurance from United States insurance companies and then to go to the London insurance market for coverage excluded

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[21] Harold D. Watkins, "Relations of U. S. Airlines Altered," Aviation Week and Space Technology, September 28, 1970, p. 23.

[22] Ibid.

from this domestic policy. This exclusion has been typically war risk coverage, with hijacking not excluded.[23]

Confusion that has been created over whether certain hijackings are war risk or other coverage is a major problem within the aviation insurance market. A case in 1962 is relevant in the fact that an insurance company sought to invoke the exclusionary clause of the policy on the grounds that the loss had taken place in Cuba as a result of warlike activity. The aircraft, chartered for a flight from Fort Lauderdale, Florida, to Orlando, was hijacked to Cuba. On take-off from a Cuban pasture, the plane was intercepted by a Cuban military plane and damaged by gunfire. The pilot was eventually able to get the aircraft back to Florida where the claim for loss was filed. The District Court of Appeals held that, as the act had taken place in the United States, the resultant damage must be considered ". . . to have occurred in the United States in and by the theft," so that the exclusionary clause would not constitute a bar to recovery; the Supreme Court of Florida affirmed that the act of hijacking constituted a theft in that it involved the taking of personal property without consent ". . . in such a manner as to create an unreasonable risk of permanent loss. . . ." Presumably, recovery could be obtained for theft if the hijacked aircraft were not

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[23] Ibid., p. 24.

returned by Cuba.[24] This same issue was at stake in a more recent case when Trans World Airlines attempted to collect from $2.5-3 million in damages to one of its aircraft caused by a hijacker's bomb in Damascus in 1969. The all-risk and war-risk insurers could not agree on who was responsible and the airline had to take the matter to court for judgment.[25]

Under congressional authority there are certain terms under which the government insurance can be written. It must be for war-risk only, hijacking by persons seeking political asylum or by deranged persons is not covered by the U. S. government under current law. However, the war-risk does explicitly cover the type of piracy conducted by Arab guerrillas in 1970. The terms of the policy includes protection against ". . . independent unit or individual activities in furtherance of a program of irregular warfare."[26]

The government war-risk insurance is also limited to protection of international flights. The classification of the flight is determined by the intended destination. Thus a flight scheduled between domestic points would not be covered if it was commandeered to some foreign point.

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[24] Evans, "Aircraft Hijacking," p. 702.

[25] Watkins, "Relations Altered," p. 24.

[26] Ibid.

The Transportation Department insurance is being offered for $.20 per $100 of value per year, regardless of the type of aircraft. This may be retroactively increased to $.80 during any one policy year, if premiums are inadequate to cover losses suffered within one year.

Pre Labor Day 1970 rates for London war-risk insurance were about 1/2-3/4 the Transportation Department's rate.[27]

National Law

In May of 1961, when an armed Cuban named Antulio Ramirez Ortiz, using as an alias "Elpirata Corfrisi," the name of an eighteenth century Spanish pirate, forced the pilot of a National Airlines Convair 440 flying from Marathon to Key West with eight passengers to change course and land at Havana, and thus began what may be called the modern era of hijacking, he flew into what was in many ways a legal vacuum.[28]

Not only was there a complete lack of international agreement to a solution of the jurisdiction problem of hijacking, municipal legal systems themselves were not completely clear for a long time about their jurisdiction over airborne crimes. A 1959 summary of the laws of International Civil Aviation Organization (ICAO)

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[27] Ibid.

[28] Horlick, "Developing Law," p. 33.

members on the subject of jurisdiction over crimes in the air, uncovered forty-one states with such laws. Twenty-three relied mainly on the law of the flag, but only nine of these twenty-three did so without attaching exceptions or conditions to this as a ground for jurisdiction. Thirteen states, not necessarily different ones from those above, had a base of jurisdiction in territoriality, but each under a different set of conditions, and six had specific provisions for jurisdiction where the offense had effect within their territory. Nationality of the offender was invoked by twenty-seven states in some form, and the nationality of the victim of the offense by fifteen. Nine states had legislation permitting jurisdiction as place of first landing, and seven as the place of arrest. Finally, all states had general jurisdiction based on the nature of the offense, i.e., those involving universal jurisdiction, such as piracy, and those affecting the security or credit of the state.[29]

The famous case of United States v. Cordove (89 F. Supp. 298 (E. D. N. Y., 1949)), for instance, seemed to indicate that one could literally get away with murder in an American airplane over international waters. Cordova involved charges of assault resulting from a drunken brawl on a commercial airliner over international waters. The court held that the federal statutes relied upon

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[29] Ibid., p. 34.

to give jurisdiction, which were cast in terms of acts "within the admiralty and maritime jurisdiction of the United States," could not be read to include acts occurring in aircraft. The court recognized that this interpretation left a gap in the law.[30]

Then in 1961, a drunken passenger, who boarded a nonstop flight from Chicago to Los Angeles, became angry when he was forced to give up a private supply of liquor and attacked the pilot with a knife. After the plane landed, the offender escaped prosecution because of a conflict of jurisdiction. In order to plug this gap in the criminal code, the late Senator Clair Engle of California introduced a bill in the Senate to amend the Federal Aviation Act of 1958 to make it a federal offense to commit assaults and certain other crimes of violence, including aircraft piracy, aboard aircraft in flight.[31]

On July 28, 1961, N. E. Halaby, Administrator of the Federal Aviation Agency (FAA) forwarded to a House Committee a series of suggested amendments to the Federal Aviation Act to protect against any future hijackings of U. S. aircraft.[32] In the House,

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[30] Ibid.

[31] Robert Burkhardt, The Federal Aviation Administration (New York: Frederick A. Praeger, 1967), p. 90.

[32] "Halaby Proposes Amendments to FAA Act to Guard Against Hijacking of Aircraft," FAA News, XCVII, July 28, 1961, p. 4.

Representative John Bell Williams of Mississippi introduced a bill, which, after various amendments, became Public Law 87-197, an Act "to amend the Federal Aviation Act of 1958 to provide for the application of federal criminal law to certain events occurring aboard aircraft in air commerce."[33]

However, before this Act was signed into law by President John F. Kennedy on September 5, 1961, the United States government was forced to use its kidnapping and obstruction of commerce laws to try skyjacking cases. These laws were held applicable to a hijacking which occurred within the country on August 3, 1961 (United States v. Bearden, 304 F. 2d 532 (5th Cir. 1962)).

President Kennedy personally intervened in the Bearden case. This case involved a man and his sixteen year old son who hijacked a Continental Airlines Boeing 707 between Phoenix and El Paso. President Kennedy personally ordered the airline not to allow the plane to be taken to Cuba. The aircraft was halted by shooting out the tires as it headed for a takeoff at El Paso after the pilot had talked the hijackers into letting him land to refuel.[34] The Bearden's were charged with "Interruption of Commerce by

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[33]Burkhardt, Federal Aviation Administration, p. 90.

[34]Donald R. Witnah, Safer Skyways: Federal Control of Aviation, 1926-1966 (Ames, Iowa: Iowa State University Press, 1966), p. 326.

Threats" (18 U.S.C. Sec. 1951) and subsequently found guilty, the father was sentenced to 20 years, the son went to reform school.[35]

Public Law 87-197 gave the United States the power to try such incidents as interference with the aircraft's crew, carrying weapons aboard an aircraft and conveying false information about a hijacking. It also provided that:

> (1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished
> (a) by death . . . or
> (b) by imprisonment for not less than twenty years
> if the death penalty is not imposed.
> (2) As used in this subsection, the term "aircraft piracy" means any seizure or exercise of control, by force or violence or threat of force or violence and with wrongful intent, of an aircraft in flight in air commerce.[36]

These laws also authorize an air carrier, subject to reasonable FAA rules, to refuse to transport persons or property that it believes would endanger safety in flight.[37]

They also charge the Federal Bureau of Investigation with the investigation of these crimes.[38]

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[35]Arthur I. Hirsch and David Fuller, "Aircraft Piracy and Extradition," New York Law Forum, XVI (Spring, 1970), 406.

[36]Act of September 5, 1961, Pub. L. No. 87-197, Sec. 1, 75 Stat. 466; amending Federal Aviation Act of 1958, Sec. 902 [49 U.S.C. Sec. 1472(i)-(n)(1964)].

[37]Ibid., Sec. 1111.

[38]Ibid., Sec. 902(n).

Incidents of Aircraft Hijacking

Since 1961, there have been approximately 177 persons involved in the 134 hijackings of U. S. registered aircraft and of one foreign aircraft engaged in U. S. air commerce.[39] Of these 177 persons, 102 are still listed as fugitives by the Department of Justice, and there have been 35 convictions to date.[40] (Table 2)

Those convicted have had a wide variety of sentences imposed upon them. (See Appendix A, pp. 150-154) Some airline industry officials feel that an alleged leniency in some U. S. Federal Courts as opposed to severity in others is "tempering the risk of hijacking and, consequently, possibly encouraging the act."[41]

In addition, disparity of laws among nations, lack of extradition authority in many areas and abuse of political asylum practices imply favorable odds in escaping rigid punishment for acts of air piracy.[42] These aspects of the problem will be discussed in detail in Chapter II.

The best example of the differences in U. S. court attitude toward hijacking was shown in June 1970, on the same day in the same

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[39] FAA Statistics, February 2, 1972.

[40] Ibid.

[41] "Airlines Demand Stiffer Hijack Penalties," Aviation Week and Space Technology, July 6, 1970, p. 32.

[42] Ibid.

TABLE 2

CHRONOLOGY OF HIJACKINGS 1961 to MARCH 1972

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
5/1/61	Ramirez-Ortiz, Antulio 11/20/26	Latin + Santurce, P. R.	Fugitive	NA	Key West	Miami	S - Cuba
7/24/61	Oquendo, Wilfredo R. 2/28/25	Latin + Havana, Cuba	Fugitive	EA	Tampa	Miami	S - Cuba
7/21/61	Britt, Bruce McRae DOB unk	White * POB unk.	Convicted (illegal possession of fire-arms) Sentenced in Orville, Calif. 20 yrs.	PAC	San Fran-cisco	Chico, Ca.	U - Unk.
8/3/61	Bearden, Leon DOB unk. Bearden, Cody (son) 1945	White + POB unk. White + POB unk	Convicted-Inter-ruption of Com-merce, 20 yrs. Juvenile Detention (Released)	CO	El Paso	Phoe-nix	I - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
8/9/61	Cadon, Albert C. 11/28/33	White + Paris, France	Deported to Mexico - Convicted Robbery & illegal possession of firearms - 8 yrs. 9 mo.	PA	Guatemala City	Mexico City	S - Cuba
4/13/62	Healy, David Ths. 6/4/39 Deth, Leonard M. 8/2/33	White * Coral Gables Florida White * Grandtoule, Illinois	Both convicted 11/12/64, Aircraft piracy & kidnapping - 20 yrs & 1 yr to run concurrently	Ch.	Local	Miami	S - Cuba
2/18/64	Hernandez, E. C. 6/30/30 Lopez-Rodriquez 3/22/39	Latin * Havana, Cuba Latin * Havana, Cuba	Fugitives	Ch.	Local	Miami	S - Cuba
8/31/65	Ferger-Strom, Harry F. 1949	White + POB unk.	Juvenile - Indeterminate sentence	HA	Kauai	Honolulu	S - Honolulu

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
10/11/65	Heisler, Lawrence DOB unk. Boyd, Richard DOB unk.	White * POB unk. White * POB unk.	Both - U.S. Navy Gen. Court Martial - 4 yrs & D. D.	TS	Honolulu	Molokai, Hi.	U - Unk.
10/26/65	Medina-Perez, L. 8/19/45	Latin + Havana, Cuba	Acquitted - Insanity	NA	Key West	Miami	U - Cuba
11/17/65	Robinson, Thomas H. 3/1/49	White + Marion, Ky.	Juvenile - Indeterminate sentence; paroled 6/8/67	NA	New Orleans	Houston	U - Cuba
11/20/67	Babler, Louis G. 3/10/34	White * Budapest, Hungary	Fugitive	Ch.	Bimini, B.W.I.	Hollywood, Fla.	S - Cuba
2/9/68	Clark, William DOB unk.	White * POB unk.	Court of Military Appeals dismissed charge	PA (mil. ch.)	Hong King	Saigon	U - Unk.
2/17/68	Boynton, Thomas J. 2/2/37	White * Kalamazoo, Mich.	Returned U.S. via Canada Convicted 20 yr	Private	Miami	Marathon, Fla.	S - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
2/21/68	Rhodes, Lawrence 11/12/39	White + Welch, W. Va.	1/4/71 Charges dismissed; committed to mental institution	DL	West Palm Beach	Tampa	S - Cuba
3/12/68	Carrazana y Gonzales 11/19/34 Armenteros, Jesus 7/1/29 Donato-Martin Ramon 8/4/22	Latin + Camajuani, Cuba Latin + Camajuani, Cuba Latin + Camajuani, Cuba	Fugitives	NA	Miami	Tampa	S - Cuba
6/29/68	"Carter, E. H." DOB unk.	Black # POB unk.	Fugitive - no positive identification	SL	Key West	Marathon, Fla.	S - Cuba
7/1/68	Velasquez-Fonseca, M. 6/30/34	Latin Guantanamo, Cuba	Fugitive	NW	Miami	Chicago	S - Cuba
7/4/68	Morris, John Hamilton 9/8/20	White * Martin, Michigan	Sentenced 5 yrs	TW	Las Vegas	Kan. City	U - Mexico

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
7/12/68	Bendicks, Leonard 6/16/35	White * Renovo, Pa.	Sentenced 10 yrs	Ch.	Miami	Key West	S - Cuba
7/12/68	Richards, Oran D. 5/26/35	White + Columbus, Ga.	Charges Dismissed; insane	DL	Houston	Baltimore	I - Cuba
7/17/68	Hernandez-Leyva 6/8/44	Latin + Guantanamo, Cuba	Fugitive	NA	New Orleans	Los Angeles	S - Cuba
8/4/68	Jessie, Willis 5/22/41	White * Ethel, W. Va.	Sentenced 10 yrs	Pri.	Local	Naples Fla.	S - Cuba
8/22/68	"McBride, Bill" DOB unk.	White * POB unk.	Fugitive - no positive Identification	Pri.	Georgetown, Bahamas	Nassau	S - Cuba
9/20/68	Suarez-Garcia 2/13/43	Latin + Yateras, Cuba	Fugitive	EA	Miami	San Juan	S - Cuba
10/23/68	Truitt, Alben W. Barkley 12/16/33	White * St. Louis, Missouri	Sentenced 20 yrs aircraft piracy & 20 yrs kidnapping	Pri.	Dry Tortugas Isl.	Key West	S - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
11/2/68	Pastorich, Roger C. 1951	White # Bayminette, Ala.	Juvenile Proba-tion	EA	Chicago	Birming-ham	U - South Vietnam
11/4/68	Johnson, Raymond 1/8/47	Black + Cheveyville, La.	Fugitive	NA	Miami	New Or-leans	S - Cuba
11/23/68	Suarez-Garcia 8/1/46 Mayor-Velasques 9/24/24 Arroyo-Quintero 9/12/49 Mendoza-Viera 8/3/38 Rodriguez-Rodriguez 9/4/30	Latin + Yateras, Cuba Latin + Guantanamo, Cuba Latin + Cuba Latin + Havana Latin + Orte, Cuba	Fugitives	EA	Miami	Chi-cago	S - Cuba
11/24/68	Rios-Cruz 1/41	Latin + Barceloneta P. R.	Fugitives	PA	San Juan	New York	S - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
11/24/68 (cont'd.)	Pena-Soltren 1/15/43 Castro, Miguel DOB unk.	Latin + Mayaquez, P. R. Latin + POB unk.					
11/30/68	Montesino-Sanchez 9/24/24	Latin + Pinar Del Rio, Cuba	Fugitive	EA	Dallas	Miami	S - Cuba
12/3/68	"Cantera, Eduardo" DOB unk.	Latin - Cuba	Fugitive - no positive identi-fication	NA	Miami	Tampa	S - Cuba
12/11/68	Patterson, James J. 11/15/47 Patterson, Gwendolin 3/21/49	Black + Jamaica, N. Y Black + Memphis, Tenn.	Fugitives	TW	Miami	Kansas City	S - Cuba
12/19/68	Washington, Thomas G. 2/1/41	Black # Phil., Pa.	Sentenced 2 yrs. interferring with flight crew	EA	Miami	Phil. Pa.	S - Cuba
1/2/69	Austin, Tyrone 10/3/49	Black + Jersey City, N. J.	Killed, Bank rob-bery, N. Y. 4/22/71	EA	Miami	New York	S - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-Line	To	From	Hijacker Destination Objective
1/2/69 (cont'd.)	Austin, Linda 10/15/48	Black + Brooklyn, N. Y.	Fugitive				
1/9/69	Bohle, Ronald Thomas 2/27/47	White * Michigan City Mich.	Orig. sentence reversed, new trial pending	EA	Nassau	Miami	S - Cuba
1/11/69	Helmey, Robert 10/28/32	White + Savannah, Ga.	Acquitted	UA	Miami	Jacksonville	S - Cuba
1/13/69	McPeek, Kenneth 1/29/37	White # Berkeley, Mich.	Sentenced 15 yrs	DL	Miami	Detroit	U - Cuba
1/19/69	Navarro-Payand 7/12/49	Latin + Dom. Rep.	Fugitive	EA	Miami	New York	S - Cuba
1/24/69	"Ayre" DOB unk.	White + POB unk.	Fugitive - no positive I. D.	NA	Miami	Key West	S - Cuba
1/28/69	Booth, Byron 9/1/44 Smith, Clinton 4/14/44	Black + Chicago, Ill. Black + L. A. Calif.	Fugitives	NA	Miami	Los Angeles	S - Cuba
1/28/69	"Brooks, L." "Mason, N."	Black + Black +	Fugitives - no positive I. D.	EA	Miami	Atlanta	S - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
1/28/69 (cont'd)	"White, L." DOB's unk.	Black + POB's unk.					
1/31/69	"Jackson, L." DOB unk.	White # POB unk.	Fugitive - no positive I. D.	NA	Tampa	San Francisco	S - Cuba
2/3/69	Peparo, Michael 11/3/47 Fritzgerald, Tamsin 7/4/50	White + Cold Spring, N. Y. White + Poughkeepsie, N. Y.	Juvenile Detention (Both)	NA	Miami	New York	U - Cuba
2/3/69	Hernandez-Garcia 11/13/26 Babin-Estrada 9/17/27	Latin + Placetas, Cuba Latin + Cuba	Fugitives	EA	Miami	Newark	S - Cuba
2/10/69	Alvarez-Dequesada 9/29/37	Latin + Havana	Fugitive	EA	Miami	San Juan	S - Cuba
2/25/69	Ervin, Jr. L. R. 3/30/47	Black + Chattanooga, Tenn.	Sentenced life prison, 7/7/70	EA	Miami	Atlanta	S - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
3/5/69	Bryant, Anthony 2/23/38	Black * San Bernadino Calif.	Fugitive	NA	Miami	New York	S - Cuba
3/17/69	Sandlin, Robert 8/27/50	White + Houston, Tex.	Custody (11/25/70) Mental Institution	DL	Augusta	At-lanta	S - Cuba
3/19/69	Dickey, Douglas 3/19/43	White + Casa Grande, Ariz.	Committed mental institution	DL	New Or-leans	Dallas	I - Cuba
3/25/69	Frese, Luis 9/16/29	Latin + San Juan, P. R.	Fugitive	DL	San Diego	Dallas	S - Cuba
4/13/69	Courouneaux-Sanchez 2/10/44 Vargas-Agueros 3/9/30 Diaz-Claro 10/2/43 Ramirez-Castaneda 8/8/39	Latin + Cuba Latin + Cuba Latin + Cuba Latin + Cuba	Fugitives	PA	Miami	San Juan	S - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
5/5/69	Charrette, Jean P. 7/7/23 Allard, Alain 1/21/47	White + Quebec, Canada White + POB unk.	Fugitives	NA	Miami	New York	S - Cuba
5/26/69	Parra-Zamora, C. 7/15/46 Romero-Gracial R. 4/8/45 Bolivar-Samon M. 7/8/49	Latin * Cuba Latin * Cuba Latin + Cuba	Fugitives	NE	New York	Miami	S - Cuba
5/30/69	Niemeyer, Terrance DOB unk.	White *	Found insane, committed 4/15/71	TT	New Orleans	Alex. La.	U - Cuba
6/17/69	Brent, William L. 6/2/30	Black + Franklin, La.	Fugitive	TW	New York	Oakland	S - Cuba
6/22/69	Esquivel-Medrano DOB unk.	Latin # POB unk.	Fugitive	EA	Miami	Newark	S - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
6/25/69	Marques, John G. 2/27/38	Latin # Santa Monica	Fugitive	UA	New York	L. A.	S - Cuba
6/28/69	Anthony, Raymond 4/11/14	White - Midland, Md.	Sentenced 15 yrs	EA	Miami	Balti-more	S - Cuba
7/27/69	Crawford, Joseph 1/13/41	Black + St. Simons Isl. Ga.	Sentenced 50 yrs 9/14/70	CO	Midland Texas	El Paso	S - Cuba
7/31/69	Perry, Lester 8/8/37	White * Chicago, Ill.	Fugitive	TW	L. A.	Pitts-burgh	S - Cuba
8/5/69	McCreery, John 8/14/95	White - Phil., Pa.	Committed men-tal institution	EA	Tampa	Char-lotte	U - Cuba
8/14/69	Torres-Diaz, D. - 2/17/43 Perez, Julio 10/1/39	Latin + Cuba Latin + Cuba	Fugitives	NE	Miami	Boston	S - Cuba
8/29/69	Essawai, Salim 1945 Khaled, Leila 1944	Arab Baghdad, Iraq Arab Haifa, Israel	Fugitives	TW	Tel Aviv	L. A.	S - Syria

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
8/29/69	Carballe-Delgado 3/2/29	Latin Santa Domingo	Fugitive	NA	New Orleans	Miami	S - Cuba
9/7/69	Peterson-Coplin, F. 11/20/34	Latin Dom. Rep.	Fugitive	EA	San Juan	New York	S - Cuba
9/10/69	Gonzalez-Medina 1/4/49	Latin + Lares, P. R.	Committed mental institution 1/30/70	EA	San Juan	New York	U - Cuba
9/24/69	Hernandez, Alfred 3/20/43	Latin + Placetas, Cuba	Fugitive	NA	Jacksonville	Charleston	S - Cuba
10/9/69	Rivera-Perez 8/24/20	Latin Cuba	Fugitive	NA	Miami	L. A.	S - Cuba
10/21/69	Shorr, Henry 11/3/51	White + Detroit, Mich.	Suicide in Cuba	PA	Merida, Mexico	Mex. City	S - Cuba
10/31/69	Minichiello, R 12/1/49	White Italy	Sentenced 7-1/2 yrs (Italy). Reduced to 3-1/2 yrs, w/ 2 yrs commuted. Released 5/1/71	TW	San Francisco	L. A.	S - Italy

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
11/10/69	Booth, David 6/24/55	White * Cincinnati	Juvenile Detention	DL	Chicago	Cinci-natti	U - Sweden or Mexico
12/2/69	Hamilton Benny 5/11/46	Black - Houston, Tex.	Fugitive	TW	Phil. Pa.	San Fran-cisco	S - Cuba
12/26/69	"Martinez, M." DOB unk.	Latin # POB unk.	Fugitive - no Positive I. D.	UA	Chicago	New York	S - Cuba
1/6/70	Funjek, Anton 1/17/28	White + Yugoslavia	Sentenced 25 yrs	DL	Jackson-ville	Orlan-do	U - Switzer-land
1/8/70	Belon, Christian 12/22/43	White # France	Sentenced 9 mo. in Lebanon	TW	Rome	New York	S - Beirut
2/16/70	Lopez Del Abad, 6/4/30	Latin + Cuba	Fugitive	EA	Miami	Newark	S - Cuba
3/11/70	Stubbs, Clemmie 10/3/34	Black # Pittsburgh, Pa.	Fugitive	UA	Atlanta	Cleve-land	S - Cuba
3/17/70	Divivo, John 6/24/42	White * Englewood	Suicide in prison	EA	Boston	Newark	I - Unk.
4/6/70	Little, Lynn 8/27/47	White + McKeesport,	Committed to men-tal institution	TW	Pitts-burgh	S. F.	U - Pitts-burg

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
4/22/70	Meeks, Ira 2/23/44 Meeks, Dianne 6/25/52	Black * York, S. C. Black* Baltimore	Fugitives	Ch.	Local	Gas-tonia, N. C.	S - Cuba
4/23/70	Wagstaff, Joseph 6/24/28	White * POB unk.	Custody (?)	NC	Sault St. Marie	Petos-key	U - Detroit
5/25/70	Quesada, Graciella 4/29/42	Latin - Havana	Fugitive	DL	Miami	Chica-go	S - Cuba
5/25/70	Molina, Nelson 5/20/46	Latin - Havana	Fugitive	AA	N. Y.	Chica-go	S - Cuba
6/4/70	Barkley, Arthur 5/23/21	White # Logan, Tex.	Committed men-tal Institution	TW	St. Louis	Phoe-nix	I - Unk.
6/22/70	Xhaferi, Haxhi 1/10/38	White # Albania	Custody-Egypt(?)	PA	Rome	Beirut	S - Cairo
7/1/70	Lopez, Geo. 12/5/49	Latin + New Orleans	Fugitive	NA	Tampa	Las Vegas	S - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
8/2/70	Rivera-Rios, R., 5/2/43; 5/15/43 or 5/23/42	Latin + Albonito, P. R.	Fugitive	PA	San Juan	New York	S - Cuba
8/3/70	Huber, Johan DOB unk.	White # Germany	Unknown	PA	West Berlin	Munich	U - Buda-pest
8/19/70	Arrue-Marti-nez, 4/20/48 Ramos-Cobas 4/3/47 Torres-Llurdan 11/27/45	Latin + Cuba Latin + Colona, Spain Latin + Cuba	Fugitives	TC	San Juan	Newark	S - Cuba
8/20/70	Graves, Gregory 4/17/49	Black * Kansas City	Fugitive	DL	Savannah	Atlanta	S - Cuba
8/24/70	Labadie, Robert 2/27/43	White # Detroit, Mich.	Committed men-tal institution	TW	Phila-delphia	Chicago	S - Cuba
9/6/70	Ali, Said Ali Ibrahim, Samer Khalil, Mazin DOB unk.	Arab # Arab # Arab # POB unk.	Fugitives	PA	New York	Amster-dam	S - Cairo

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
9/6/70	"Vasques" "Lapez" DOB unk.	Arab # Arab # POB unk.	Fugitives - No positive I. D.	TW	New York	Frank-furt	S - Jordan
9/15/70	Irwin, Don-ald, 11/19/42	White # Detroit, Mich	Convicted 11/23/71 12-1/2 yrs. At-tempted kidnapping	TW	S. F.	L. A.	I - North Korea
9/19/70	Witt, Richard 12/22/52	Black # Pittsburgh	Fugitive	AL	Boston	Pitts-burgh	S - Cuba
9/22/70	Donovan, David DOB unk	White * POB unk.	Custody. To be tried for unrelated murder charge	EA	San Juan	Boston	U - Unk.
10/30/70	"Rosas, L." DOB unk.	Latin # POB unk.	Fugitive - No positive I. D.	NA	S. F.	Miami	S - Cuba
11/1/70	Larrazolo, Felipe 11/13/35	Latin # Mexico	Fugitive	UA	L. A.	San Diego	S - Cuba
11/13/70	"Jones, G." DOB unk.	Black + POB unk.	Fugitive - No positive I. D.	EA	Atlanta	Raleigh	S - Cuba
12/19/70	Denis, Carlos 11/25/35	Black # New York	Sentenced to 5 yrs conveying false info. re attempt to commit air piracy	CO	Tulsa	Albu-querque	I - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
12/21/70	Lopez-Morales, V. 7/10/48	Latin # Salinas, P. R.	Committed men-institution	PQ	Ponce	San Juan	I - Mexico
1/3/71	Wilson, Arthur 11/1/46 Graves, Lolita 5/5/47 White, Carl 8/29/46 White, Norma J., 8/5/47	Black + POB unk. Black + POB unk. Black # Detroit, Mich Black # Haynesville, La	Fugitives	NA	Tampa	L. A.	S - Cuba
1/22/71	Grant, Garland 10/20/50	Black + Milwaukee, Wis	Fugitive	NW	Wash. D. C.	Milwau-kee	S - Cuba
2/4/71	Abdalah, A. DOB unk.	Black + POB unk.	Fugitive - No positive I. D.	DL	Nash-ville	Chicago	S - Cuba
2/26/71	Paterson, Chapin 8/23/51	White * Long Beach, Calif.	Convicted 6/11/71 to 10 yrs. Deport-ed from Canada	WA	Seattle	S. F.	S - Canada

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
3/8/71	Marston, Thomas 9/4/54	White * Augusta, Ga.	Juvenile - Indefinite sentence	NA	New Orleans	Mobile	I - Canada
3/31/71	Mathews, John 14 yrs old	White * POB unk.	3 yrs Probation	DL	Chicago	Birmingham	U - Cuba
3/31/71	Ramirez, Diego 8/30/06	Latin - Venezuela	Fugitive	EA	San Juan	New York	S - Cuba
4/5/71	Hernandez-Tranhs 10/18/48	Latin * Cuba	Fugitive	Ch.	Miami	Key West	S - Cuba
4/21/71	Anile, Francesco, 8/9/40	White + Italy	Released on bond 5/25/71	EA	Miami	Newark	U - Italy
5/28/71	Bennet, James 5/22/31	White + New York	Custody, mental exam.	EA	New York	Miami	I - Ireland
5/29/71	Garcia-Landaeta, 1/8/49	Latin * Venezuela	Fugitive	PA	Miami	Caracas	S - Cuba
6/4/71	Riggs, Glen 12/1/12	White - Powellton, W. V.	2 concurrent 20 yr. sentences	UA	Newark	Charleston W. Va.	I - Israel

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
6/12/71	White, Gregory 9/25/47	Black * Chicago	Committed mental institution	TW	New York	Chicago	I - North Vietnam
6/18/71	White, Bobby 7/23/44	White * Kings Port, Tenn.	Sentenced 5 yrs	PI	Winston-Salem	Ground	U - Cuba
7/2/71	Jackson, Robert 12/25/34 Sanchez-Archila 6/7/48	White - Townsend, Tenn. Latin * Guatemala	Custody Argentina	BN	San Antonio	Mexico City	I - Algeria
7/23/71	Obergfell, Richard 9/26/44	White + Brooklyn	Killed by F.B.I.	TW	Chicago	New York	I - Italy
7/24/71	Guerra-Valdez, 8/19/32	Latin + Cuba	Fugitive	NA	Jacksonville	Miami	S - Cuba
9/3/71	Borges-Guerra 6/24/51	Latin + Cuba	Custody	EA	Miami	Chicago	U - Cuba
9/24/71	Pliskow, Barbara, 9/14/33 Jackson, Brenda, 2/27/48	White - Detroit, Mich Black * POB unk.	Custody	NA	New York	Detroit	U - Algeria

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
10/4/71	Giffe, Geo. 35 yrs. old Wallace, Bobby 32 yrs. old	White * White * POB unk.	Suicide Custody	Ch.	Atlanta	Nash-ville	I - Bahama
10/9/71	Dixon, John 8/5/40	White + Pontiac, Mich	Fugitive	EA	Miami	Detroit	S - Cuba
10/18/71	Thomas, Del 12/29/42	White + Hawthorne, Ca.	Custody	WC	Bethel	Anchor-age	I - Cuba
10/25/71	Lugo-Casado 3/1/49	Latin * Ponce, P. R.	Fugitive	AA	San Juan	New York	S - Cuba
11/24/71	"Cooper, D. B" DOB unk.	White + POB unk.	Fugitive - No positive I. D. parachuted en route to Reno	NW	Seattle	Port-land	$200 K Extortion S
11/27/71	Finney, Michael 12/9/50 Goodwin, Ralph 4/29/47 Hill, Chas. 12/15/49	Black * San Fran-cisco Black * Berkeley, Ca. Black * Olney, Ill.	Fugitives	TW	Ground	Albu-querque	S - Cuba

TABLE 2--Continued

Date	Hijacker(s) DOB	Ethnic Background POB	Status	Air-line	To	From	Hijacker Destination Objective
12/24/71	Holt, Everett DOB 1946	White + POB unk	Custody	NW	Chicago	Minn.	I - $300 K Extortion
12/26/71	Coleman, Donald 9/17/47	White - POB unk.	Custody	AA	S. F.	Chicago	U - $200 K Extortion
1/7/72	Sims, Allen DOB 1947 Robinson, Ida DOB 1951	Black + Black + POB's unk.	Fugitives	PS	L. A.	S. F.	S - Cuba
1/12/72	Hurst, Billy 9/29/49	White + Walters, Ok.	Custody	BN	Dallas	Houston	I - $1 M Extortion
1/20/72	LaPoint, Richard 9/10/48	White + Boston	Captured, para-chuted jump. Re-leased on bail 1/25/72	RW	Reno	Las Vegas	I - $50 K Extortion
1/26/72	Von Geo. H. Age mid-40's	White + POB unk.	Killed by F. B. I.	MO	New York	Albany	I - $200 K Extortion
1/26/72	McAlroy, P. Age 26	White * POB unk.	Captured while attempting to hi-jack helicopter	N/A	N/A	Berke-ley, Ca.	U - Cuba
1/29/72	Trapnell, Garrett DOB unk.	White + POB unk.	Shot & apprehended by F. B. I. in N. Y.	TW	New York	L. A.	I - $306, 800 Extortion Prisoner release

Legend: I = Incomplete S = Successful U = Unsuccessful + = Met Profile - = Did not meet profile * = Profile not applicable # = Probably met profile

building in Miami. Federal District Judge William O. Mehrtens sentenced Thomas James Boynton to 20 years for commandeering a private aircraft after he had chartered it for a flight in the Florida Keys, on February 17, 1968.

By contrast, Thomas George Washington was given two years by District Judge Joe Caston for hijacking an Eastern Airlines transport carrying 151 persons on December 19, 1968. In order to get around the Federal Aviation Act that requires a penalty not less than 20 years. Washington was not charged with air piracy but rather with "interfering with the crew of an aircraft."[43]

In the first prosecution of a pair of successful hijackers, the accused, who had hijacked a chartered aircraft, were indicted on charges of air piracy as well as kidnapping the pilot of the aircraft. The District Court for the Southern District of Florida dismissed the indictment before trial on grounds that a chartered aircraft is not a "commercial aircraft" within the meaning of the statute and that a kidnapping must be for the "pecuniary benefit" of the accused, which could not be shown here. When the government's petition for rehearing was denied, the government appealed directly to the Supreme Court which reversed the judgment of dismissal. The Court held "inter alia," that the act of kidnapping is illegal

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[43] Ibid.

whatever the purpose of the kidnapper and that Congress clearly intended to include private aircraft within the scope of the air piracy clause of the Federal Aviation Act.[44] The two offenders, David Healy and Oeth Leonard, were convicted and sentenced to 20 years for air piracy and one year for kidnapping.[45]

Only one hijacker, Lorenzo Edward Ervin, Jr., who hijacked an Eastern Airline DC-8 from Atlanta to Cuba on February 25, 1969, has been sentenced to life. The next most severe sentence was given to J. C. Crawford who also successfully hijacked an aircraft to Cuba; he was given 50 years. Both of these hijackers were returned to the United States through third party nations. Ervin returned via Czechoslovakia and Crawford via Canada.[46]

Is there any definite pattern to the 134 hijackings of United States registered aircraft? Computers have been employed to sort the facts surrounding each case and attempt to relate them to the others. Generally, little has been gleaned from analyzing these incidents. The Department of Justice states flatly that "no definite pattern" can be perceived in the statistics of hijackings.[47]

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[44] Evans, "Aircraft Hijacking," p. 706.

[45] Hirsh, "Extradition," p. 406.

[46] FAA Statistics, February 2, 1972.

[47] John E. Stephen, "'Going South' - Air Piracy and Unlawful Interference with Air Commerce," International Lawyer, IX (1970), 434.

However, three facts stand out in the incidents of hijacking according to John E. Stephen.

First, the overwhelming number of United States hijackings are to Cuba, ninety-six since 1961. This is reasonably to be explained on the obvious ground that Cuba, under present abnormal U. S. - Cuba diplomatic relationships, is the only practical destination which appears to offer some possibility of asylum or sanctuary to the hijacker.[48] This aspect of political asylum will be discussed in detail in Chapter II.

Another reason is the fact that a great many of the hijackers are Cuban nationals, using the hijacking as a means of returning to Cuba. There have been thirty-nine known Cuban nationals involved in hijacking U. S. registered aircraft. There also has been some reason to believe that some incidents have involved the return to Cuba of Cuban agents working in the United States.[49]

The second significant common denominator of the U. S. hijackings is that they have been cyclical and have occured in flurries. (See Figure 1) There has been some evidence of political conspiracy in the timing and modus operandi of some of the cases, particularly by violent extremist groups in the United States such

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[48] Ibid.

[49] Ibid.

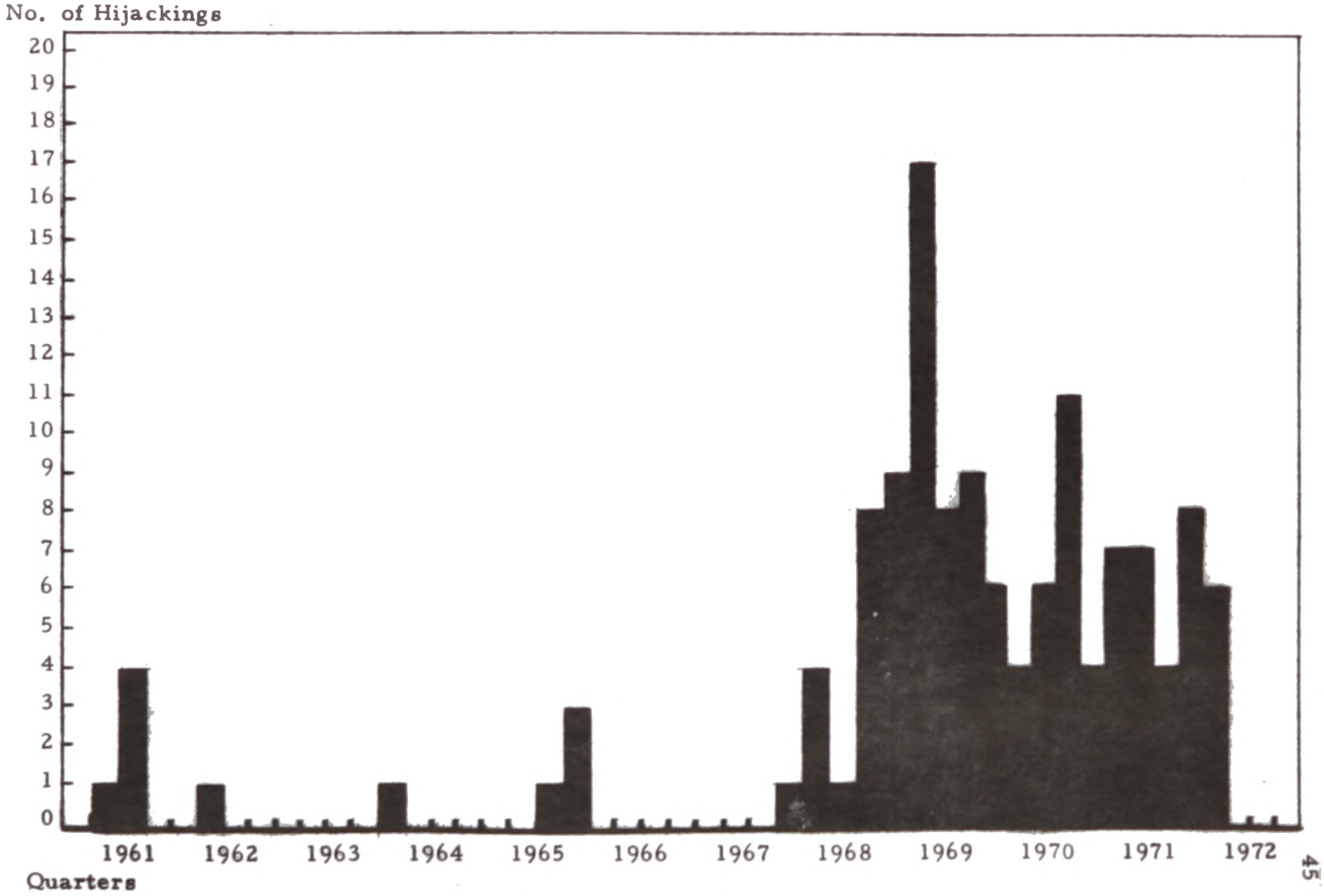

Fig. 1.--U. S. Hijackings from 1961 to March 1972

such as the "Black Panthers."[50]

Peter G. Masefield, chairman of the British Airports Authority, told an international symposium that organized hijacking of aircraft can be traced back to a tri-continental communist congress in Cuba in 1966. He claims that it was a school for hijackers to "export terrorism and subversion."[51]

However, the evidence in this respect is inconclusive in a majority of the cases. In the report on hearings on "Air Piracy in the Caribbean Area" by the House Subcommittee on Inter-American Affairs, it is stated that, ". . . there is no evidence available to show that the Castro regime has sponsored these activities."[52]

Many believe that these epidemics of hijackings feed on the inordinate publicity which accompanies nearly every incident. A study committee of the Air Line Pilots Association (ALPA) reported in 1970 that the coverage of hijacking cases by the news media has been "sensational and disproportionate" and has thereby

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[50] Ibid.

[51] "Masefield Traces Hijacking to Cuba Congress," Aviation Week and Space Technology, December 6, 1971, p. 22.

[52] U. S., Congress, House, Report from the House Committee on Foreign Affairs, Subcommittee on Inter-American Affairs, House Doc. 9-19, 90th Cong. 2nd Sess., 1968.

tended to encourage publicity seeking offenders and mentally disturbed persons.[53] Captain Walter C. Hill, safety director of Eastern Airlines, recommended in 1970 that increased efforts be made to publicize the fate of hijackers. Captain Hill stated that this could be a very powerful deterrent if the facts concerning the poor treatment of hijackers by the Cuban government and the number of U. S. convictions were made public. However, what is played up is the glamorous escapes and the large sums of money that are extorted from the airlines.[54]

Dr. David G. Hubbard, a psychiatrist who has created a center to study hijackers, said recently that the news media is responsible for the latest rash of hijackings.[55] Both government and industry have leveled an obverse criticism at the news media for giving insufficient publicity to the drastic federal criminal penalties for aircraft piracy.[56]

A third feature of U. S. hijackings is that a large proportion of them involve mentally-disturbed persons and persons in

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[53]Stephen, "'Going South'," p. 434.

[54]"Eastern Accelerates Anti-Hijack Preboarding Screening Program," Aviation Week and Space Technology, May 4, 1970, p. 34.

[55]Security Systems Digest, February 2, 1972, pp. 3-4.

[56]Stephen, "'Going South'," p. 435.

difficulty with the law. In fact, in an incident in 1970 an aircraft was commandeered by an unarmed federal prisoner being transported by two U. S. Marshals. This attempted hijacking was unsuccessful in that the hijacker, David W. Donovan, was overpowered and forcibly subdued by the two U. S. Marshals.[57] There have been forty-six unsuccessful or incomplete hijackings since 1961, for details see Appendix B (pp. 155-163).

There have been ten hijackers committed to mental institutions, two of these have been since released.[58] (See Appendix A, p. 153) A detailed discussion of the psychological aspects of hijacking will be presented in Chapter III.

Even though these factors stand out in the majority of hijackings, the fact remains that hijackings occur under a variety of conditions. Almost every type of aircraft has been hijacked from Boeing 747's to helicopters,[59] (See Table 3) and almost every type of weapon, from the most popular, the firearm, to acid and ice picks, has been used.[60] (See Table 4) These are the facts that make aircraft hijacking such a difficult crime to control.

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[57] Ibid.

[58] FAA Statistics, February 2, 1972.

[59] Ibid.

[60] Ibid.

TABLE 3

SUMMARY OF TYPE AIRCRAFT INVOLVED IN HIJACKING INCIDENTS (MAY 1961-MARCH 1972)

Air Carriers		General Aviation	
Jets	111	Jets	0
Prop-Jets	5	Prop-Jets	0
Propeller Driven	6	Propeller Driven	11
TOTAL	122	Helicopter	1
		TOTAL	12

Type Aircraft	Number of Incidents
B-747	3
B-727	40
DC-8	27
B-707	15
DC-9	15
B-720	3
DC-3	3
DC-6	1
Convair 880	4
Convair 440	1
Piper Apache	3
Lockheed 188	2
Fairchild F-27	2
Cessna Twin	2
Cessna 182	1
Cessna 177	1
Cessna 172	2
Convair 600	1
Heron	1
B-737	4
Cessna 402	1
Aero Commander	1
U/I Helicopter	1
TOTAL	134

TABLE 4

SUMMARY OF TYPES OF WEAPONS INVOLVED IN HIJACKING INCIDENTS (MAY 1961-MARCH 1972)

Type	Number of Incidents*
Firearms (Alleged and Real)	92
BB Gun	1
Knives	21
Bombs, Explosives (Alleged and Real)	39
Razor or Razor Blade	3
Tear Gas Pen	1
Broken Bottle	1
Fire Threat	1
Hatchet	1
Acid	1
Ice Pick	1

*Several hijackers used combinations of two or more weapons.

The Hijacking Process

A hijacker usually begins by seizing a stewardess and forcing her at gunpoint to take him to the cockpit where the pilot is ordered to proceed, in most cases, to Havana, or the stewardess may be held in the cabin and forced to relay the order to the pilot

through the aircraft's internal communication system.[61] In some instances, especially in chartered aircraft, an attack is made directly on the pilot. In a recent case, both the pilot and mechanic of a chartered seaplane were wounded by hijackers who then forced the co-pilot to fly them to Havana.[62]

As soon as he is aware of a hijacking, the pilot notifies the nearest FAA traffic control center which, in turn, proceeds to obtain clearance for the aircraft from the Havana traffic control center, together with the necessary information for landing at Havana's Jose Marti Airport. This information is relayed to the aircraft. The Department of State is immediately notifed about the incident and either informs the Czech Embassy at Washington, representing Cuban interests in the United States, or the Swiss Government which sends the information on to the Swiss Embassy at Havana, representing the United States in Cuba. The Swiss Embassy arranges for exit clearances for the aircraft, passengers and flight crew and pays for any charges arising from the stopover.[63] These costs for landing fees and lost commercial time might amount to $3,000-$4,000. However, a recent B-747 hijacking to Cuba cost American

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[61] Evans, "Aircraft Hijacking," p. 698.

[62] Houston Post, March 8, 1972, sec. A, p. 8.

[63] Evans, "Aircraft Hijacking," p. 699.

Airlines over $100,000 in direct dollar outlay.[64]

The Swiss Government is reimbursed by the Department of State which, in turn, is reimbursed by the carrier.[65] In route to Havana the aircraft may be followed while over the high seas by United States Air Force planes for safety purposes. The Air Force planes will not attempt to force the airplane down through active maneuvers or use of weapons but is rather an attempt to bring passive pressure on the hijackers. Their main purpose is the continued monitoring of the flight for search and rescue operations should it crash.[66]

On landing in Cuba, the hijacker is removed by Cuban military authorities, and the aircraft, crew, and passengers are allowed to return to the United States. Upon reaching the U. S., passengers and crew are interviewed by agents of the F. B. I. with a view to identifying the hijacker and to clarifying the circumstances of the incident. In the majority of cases identification is made and a complaint is filed against the hijacker on a charge of air piracy in the place of last departure of the aircraft, or a John Doe warrant

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[64] Letter from V. L. Krohn, February 7, 1972.

[65] Evans, "Aircraft Hijacking," p. 699.

[66] U. S. Federal Aviation Agency, "Hijacking of Civil Aircraft," Notice at 7500.4 (Washington, D. C.: FAA, January 14, 1964), pp. 1-2.

for the hijacker's arrest may be sworn out so that he can be promptly taken into custody should he return to the United States. The key words in the last sentence are "should he return," as we shall see in the following chapter there is great difficulty in gaining jurisdiction over a hijacker once he leaves the country.

CHAPTER II

INTERNATIONAL LAW

"Aircraft hijacking" is a contemporary addition to the roster of international crimes, and the necessity for its control at the international as well as national level has only recently begun to be recognized.[1] In the wake of the four hijackings on Labor Day weekend 1970, President Nixon received many proposals from his advisors on the problem of hijacking. Some of the more vehement proposed that:

(1) Legislation should be passed that would prevent any hijacker entering the United States from disembarking from the aircraft he has hijacked, if the aircraft flies the flag of a nation other than the United States. He would be disarmed if possible but would remain on the aircraft as the responsibility of the carrier or the nation of that carrier's registration. The United States would have no interest in the final destination of the aircraft outside the continental limits but at no point would the hijacker be permitted to disembark within the United States. There would be

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[1] Evans, "Aircraft Hijacking," p. 699.

no consideration of political asylum, which the United States traditionally had a tendency to acknowledge if the culprit is a refugee from a Communist nation.

(2) An Executive order should be adopted which would authorize the President to sever all air commerce with any nation that fails to return the hijacker of a United States aircraft to the United States within 48 hours. It would be expected that the hijacker be disarmed and retained on board the aircraft until it is flown back to the United States. Cancellation of air service would include those provided by the United States as well as those operated by the flag carrier of the negligent nation.

(3) If a third country is involved--any nation that releases and permits a hijacked airplane to continue on to the air pirate's destination--air commerce with that country would also be cut off immediately.[2]

These proposals were aimed directly at those international processes that were, and in some cases are still, preventing a solution to the problem of aircraft hijacking. This chapter will discuss these international aspects and bring the reader up to date on the international conventions and other actions that have been

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[2]Laurence Dody, "Stiffer Measures Rejected in Nixon Hijacking Plans," Aviation Week and Space Technology, October 5, 1970, p. 30.

initiated for the suppression of aircraft hijacking.

The Traditional Concept of Piracy

First of all, the term "hijacking" is a relic of the Prohibition Era, it is not entirely descriptive of the act, for in common usage hijacking applies to the seizure of a private commercial vehicle or vessel with the intent of theft of its load or cargo. The offense of "aircraft hijacking" essentially consists of a taking or conversion to private use of an aircraft as a means of transportation and forcibly changing its flight plan to a different destination.[3]

Likewise, the offense is often called "air piracy," although it does not always fit within the definition of piracy, as it has been codified in Article 15 of the Geneva Convention on the High Seas:

> Piracy consists of any of the following acts:
> (1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or private aircraft, and directed:
> (a) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
> (b) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any state.
> (2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; . . .[4]

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[3]Evans, "Aircraft Hijacking," p. 696.

[4]Convention on the High Seas, April 29, 1958 (1962) 2 U.S.T. 2312, T.I.A.S. No. 5200, 450 U.N.T.S. 82.

Hijacking is not committed by one aircraft against another, nor is it always committed "on the high seas" or outside the jurisdiction of any state.

Dr. Van Panhuys states that, "the scope of the traditional concept of piracy is rather limited and that any automatic or mechanical application to air piracy of the existing rules of international law with regard to sea piracy would not lead to a satisfactory result."[5]

In particular he finds three main points of difference between sea and air piracy. First, the rules of international law with respect to piracy are limited to acts perpetrated on the high seas, or in any other place outside the jurisdiction of any state.[6] Although the hijacking of aircraft can occur outside the sovereign airspace of any state, it is different from piracy in the classical sense in that it is nearly always wholly or partially perpetrated within the territorial airspace, or territory, of a state. Having the character of a so-called "continuous wrong," the hijacking may commence at a place outside national airspace. If it is successful, however, it will continue until the aircraft has landed within the

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[5]Haro F. Van Panhuys, "Aircraft Hijacking and International Law," Columbia Journal of Transnational Law, IX (Spring, 1970), 11.

[6]Ibid., p. 4.

territory of a state.[7]

Second, for the purpose of defining piracy, only those acts are taken into consideration which are committed by the crew or passengers of the pirate ship and which are directed against another ship or aircraft. This excludes acts committed on board an ordinary, non-pirate, merchant ship and directed against property or persons aboard that ship.

Third, to be properly called acts of piracy, the relevant acts must have been committed "for private ends," whereas in many cases of aircraft hijacking, the offense is quite frequently prompted by political motives.[8]

Amir Rafat states that,

> . . . most hijackings have been carried out for reasons which cannot be described as 'personal,' such as asking political asylum, as with hijackings originating from the Communist-bloc countries, or publicizing a political cause, which has been the principal reason behind hijackings by the Arab commandos.[9]

He concludes that, "hijacking is not a piratical act and therefore does not have the same legal status as 'piracy,'--that is to say,

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[7]Ibid., p. 7.

[8]Ibid., p. 5.

[9]Amir Rafat, "Control of Aircraft Hijacking: The Law of International Civil Aviation," World Affairs, CXXXIV (Fall, 1971), 145.

it is not a recognized offense under customary international law."[10]

The Problem of Jurisdiction

Now the problem was to create international law dealing with aircraft piracy so that the question of jurisdiction would become clear. Lack of jurisdiction over those who commit air piracy has been a major obstacle to successful prosecution in these types of crimes.[11]

The question of jurisdiction in this area is a two-fold problem. In 1959, Dr. Bin Cheng made a distinction between "jurisfaction" and "jurisaction." This difference between "the legislative power of a State, as well as the competence of its courts to apply such rules" and "the actual administration of justice and the enforcement of such laws"[12] is the heart of the problem of hijacking in international law. The very nature of hijacking is that the hijackers will attempt to divert the airplanes outside of the exercise of national "jurisaction" against them. Construction of an international system of "jurisaction" is essential to the control of crime aboard aircraft, but the suppression of the problem of

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[10] Ibid.

[11] "ICAO Actions May Reduce Aircraft Civil Violence Threat," Aviation Week and Space Technology, July 13, 1970, p. 24.

[12] Bin Cheng, "Crimes On Board Aircraft," Current Legal Problems, XII (1959), 181-182.

of hijacking requires an internationally-agreed system of "juris-action" as well.[13]

The Tokyo Convention

The first efforts to create international law dealing with aircraft seizure were made at a meeting of the Legal Subcommittee of the International Civil Aviation Organization (ICAO) which was then considering a convention on crimes aboard aircraft in Montreal during March and April of 1962.[14] At that meeting the United States proposed the inclusion of a section dealing with forcible seizure of aircraft. This convention, which became known as the Tokyo Convention was drafted by ICAO and its members to provide a clear international agreement on jurisdiction, in the sense of "jurisaction," over in-aircraft crimes, including those municipal law crimes which constitute hijacking. It was not a hijacking-prevention device, although that misconception is widespread. In fact, the Tokyo Convention was not specifically aimed at aircraft hijacking, and did not even provide for the offense per se. The substance of the convention goes back at least to Geneva in 1956, yet in the drafts there was no mention of hijacking as a separate category until 1962. This is why the United States, which was the

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[13]Horlick, "Developing Law," p. 34.

[14]McKeithen, "Prospects for the Prevention," p. 63.

nation most concerned with hijacking, found it necessary along with Venezuela, to introduce the subject into the convention.[15]

The proposed section would have required the state in which the plane landed to take custody of the hijacker and, if so requested, to extradite him either to the state of registry of the aircraft or to the state in whose territory the hijacking occurred. If extradition were not requested, the state of landing could try the hijacker under its own laws. The proposal also contained provisions for the safe return of the passengers, crew, cargo, and aircraft. The Fourteenth Session of the ICAO Legal Committee (Rome, August-September, 1962) deleted the section dealing with custody, extradition and punishment, but kept the section concerning restoration of control to the aircraft commander and expeditious continuation of the journey.[16]

With minor exceptions, the draft emerging from the Rome meeting was included as Chapter IV, Article II (Unlawful Seizure of Aircraft) of the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, signed in Tokyo on September 14, 1963.[17]

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[15] Horlick, "Developing Law," pp. 35-36.

[16] McKeithen, "Prospects for the Prevention," p. 63.

[17] Ibid.

Article 11 deals with unlawful commission "by force or threat thereof" of "an act of interference, seizure, or other wrongful exercise of control of an aircraft," and charges the signatories, when such acts are committed or are about to be committed, to "take all appropriate measures to restore control of an aircraft to its lawful commander or to preserve his control of the aircraft." Paragraph 2 of this same Article commits the contracting state where the hijacked plane lands to "permit its passengers and crew to continue their journey as soon as practicable" and "return the craft and its cargo to the persons lawfully entitled to possession."[18]

The Tokyo Convention went into effect on December 4, 1969, a long six years after it was first proposed. It seems that one of the chief problems in attaining any force in international agreements is an inbred complacency on the part of nations which have never suffered from piracy. Japan had no laws governing hijacking, nor had it ratified the Tokyo Convention, until a Japan Air Lines Boeing 727 was forced to fly to North Korea by a band of radicals.[19]

It required a wave of hijackings to accelerate the ratification of the Tokyo Convention. The United States became the twelfth

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[18]Convention on Offenses and Certain Other Acts Committed on Board Aircraft, ICAO Doc. 8364 (1963), Art. 11 [hereinafter cited as Tokyo Convention].

[19]Aviation Week and Space Technology, September 21, 1970, p. 27.

nation to ratify the Convention on September 5, 1969. By January 1, 1970, there were fourteen parties to the Convention, and six more nations had their acceptance become effective during the first three months of 1970.[20] By the end of 1970, thirty-seven states ratified the Convention.[21] This is stark contrast to the six years that were necessary to get the first twelve ratifications needed for the convention to go into effect.[22]

Individual State Practices

It has been noted that the practice of landing states, whether parties to the Convention or not, has for the most part conformed to the standards set by Article 11. According to Dr. Rafat, in only three cases has state practice diverged from these standards.[23]

The first case arose on June 30, 1967, when a plane carrying former Congolese Prime Minister Moise Tshombe was forced by a Frenchman to alter course and land at Algiers. All persons aboard the aircraft, including Tshombe, the pilots, and the hijacker, were immediately placed under detention by Algerian security officials. The Algerian government justified the detention

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[20]Horlick, "Developing Law," p. 42.

[21]Rafat, "Control of Aircraft Hijacking," p. 145.

[22]Horlick, "Developing Law," p. 42.

[23]Rafat, "Control of Aircraft Hijacking," p. 145.

of those travelling with Tshombe on the grounds that they were needed for questioning in connection with an inquiry into the incident. However, by the end of September 1967 all occupants of the plane had been released except for Moise Tshombe who was kept under detention until his death on January 29, 1969.

The second case involved the hijacking of an El Al airliner by Arab commandos of the Popular Front to Free Israel. This aircraft was also taken to Algiers. The Algerian government permitted all non-Israeli passengers to depart, but kept the airliner and its 22 Israeli passengers and crew members. This led to strong protests, not only from the Israeli government but from the International Federation of Airline Pilots' Associations (IFAPA).[24] There was a concerted drive in April 1970 by some members of the IFAPA for an aggressive policy against aircraft hijacking. This policy called for the utilization of boycotts and twenty-four hour strikes "to bring offending states to heel." This policy failed to be passed when a majority of the 250 IFALPA delegates went along with elder statesmen of the group who wanted a more diplomatic approach via the United Nations and the International Civil Aviation Organization (ICAO).[25]

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[24] Ibid.

[25] Herbert J. Coleman, "Hijack Policy Reflects Conservative View," Aviation Week and Space Technology, April 13, 1970, p. 43.

The ICAO is a specialized agency of the United Nations with cognizance over international civil aviation matters.[26]

On August 30, 1969, Arab commandos hijacked a Trans-World Airline Jetliner to Damascus. The Syrian government released all passengers except for two Israeli nationals who were taken into custody and kept in Syria for more than two months until they were released in exchange for 13 Syrian commandos held by Israel, on December 5, 1969.[27]

In addition to the three cases reviewed here, the hijackings carried out by the Arab commandos in September 1970 also led to temporary detention of the passengers and crew members. Here, three civilian airliners, a TWA and a Swissair on September 6 and a BOAC on September 7, were forced to change course and land in a desert strip in Northern Jordan. The airliners were blown up and some passengers and crew members--between 354 persons at different stages of the hijacking episode--were kept by Arab commandos as hostages for exchange for Arab commandos held in Israel, Britain, West Germany, and Switzerland. This action, however, cannot be taken as evidence of state practice because it was taken by the Popular Front to Free Israel (PFLP) which is not a

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[26]U. S. Department of State, Department of State Bulletin, LX, March 10, 1969, p. 213.

[27]Rafat, "Control of Aircraft Hijacking," p. 146.

recognized sovereign entity under international law.[28]

Aside from the exceptions noted here, in all other hijacking cases the conduct of the landing state has conformed to the prescriptions imposed by Article 11.[29] In a statement before the House Committee on Interstate and Foreign Commerce on February 5, 1969, Frank E. Loy, Deputy Assistant Secretary for Transportation and Telecommunications, said, "In the hijackings that involved United States aircraft we have in fact been very fortunate that the aircraft, the passengers, and the crew have been permitted to return in each case without undue delay."[30] This policy is true not only of signatories of the Tokyo Convention but also of states such as Iraq, the United Arab Republic, Cuba, and North Korea, which are not parties to that Convention.[31]

The Cubans, for example have returned all planes, allowing immediate refueling and return since February 10, 1969. They did, however, charge Venezuela $31,450 after four days detention, following the Venezuelan detention of a Cuban fishing boat for six weeks. As previously stated, the normal fee paid for the return of the aircraft is $3,000. They also held a United States aircraft in

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[28] Ibid.

[29] Ibid.

[30] Department of State Bulletin, March 10, 1969, p. 213.

[31] Rafat, "Control of Aircraft Hijacking," p. 146.

1961 for three weeks until it was exchanged for a Cuban SV-8 patrol boat.[32]

The worst record for return of planes is that of the United States before 1961, "of 25 planes (18 hijacked, 7 seized in the United States), 11 were sold pursuant to court orders, while 14 were returned--at least one after a plea of sovereign immunity entered by Cuba through the Czech Embassy."[33]

Besides these few exceptions, Cuba has steadfastly allowed hijacked airliners to return to the country of registration.[34] In only one instance has Cuba arrested and charged a person claimed by a foreign country as its national, and then with some justification. This case arose out of the hijacking on June 30, 1968, of a plane piloted by George Prellezo. Prellezo, a former Cuban national, had defected to the United States, adopting American citizenship. After landing in Havana, he was taken into custody by Cuban officials and charged with defection. This case involved a case of dual citizenship which afforded Cuba legitimate ground for regarding Prellezo as a Cuban national. The Cuban government subsequently

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[32]Horlick, "Developing Law," p. 43.

[33]U. S. Department of State, Department of State Bulletin, LXV, 1961, p. 278.

[34]Department of State Bulletin, March 10, 1969, p. 213.

decided not to proceed with the defection charge and Prellezo was allowed to return to the United States two weeks after his arrest.[35]

In view of these facts it appears that the principles of Article 11 of the Tokyo Convention have been established as an internationally accepted norm. At the 16th Assembly of the International Civil Aviation Organization (ICAO) in Buenos Aires during September 1968, the United States was largely responsible for a unanimous resolution calling upon all member states to enforce Article 11 of the Convention as if it were already in effect. The resolution was adopted, the Cubans joining in the vote for its adoption.[36]

The fact remains that the provisions of the Tokyo Convention, including those in Article 11, important as they are to the freedom of international air travel, do not directly attack the hijacking problem. The relevant provisions of the Tokyo Convention aim at protecting passengers, crew, and airlines against arbitrary treatment by the landing state, but fall short of instituting an international system aimed at the prevention of hijacking. Any preventive system must include provisions to ensure the apprehension, prosecution, and punishment of would-be hijackers and, on this

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[35] Rafat, "Control of Aircraft Hijacking," p. 146.

[36] U. S. Congress, House, Report, House Doc. 91-33, 1969, p. 6.

score, the obligations created by the Tokyo Convention are of little significance.[37]

The only provision in the Tokyo Convention relating to the hijacker himself and which is mandatory upon signatory states provides for an immediate inquiry and a report of the results to the state of registration of the aircraft and the state of nationality of the hijacker.[38] The Convention does not provide for the extradition or prosecution and punishment of hijackers. It merely allows for temporary detention of the hijacker, and this only if the state of landing is satisfied that "the circumstances so warrant."[39]

In "The Developing Law of Air Hijacking," Gary N. Horlick states that Article 11 "represents the barest minimum of agreement among nations with any aviation interest at all, since every nation would like to ensure the return of its own planes, and consequently will agree to act reciprocally."[40]

Although the Tokyo Convention imposed no responsibility on contracting states to extradite or punish, it served the useful purpose of categorizing the possible responses of states to aircraft

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[37]Rafat, "Control of Aircraft Hijacking," p. 147.

[38]McKeithen, "Prospects for the Prevention," p. 64.

[39]Tokyo Convention, Art. 13, par. 1.

[40]Horlick, "Developing Law," p. 38.

seizures. By setting minimum standards of conduct and showing the concern of the international community for this problem, it also served as a basis for the drafting of further international agreements.[41]

International Organizations

In order to close the gap left by the Tokyo Convention respecting the punishment of hijackers, additional measures had to be instituted. Knut Hammarskjold, Director General of the International Air Transport Association (IATA) said,

> . . . the only way to stop hijacking is for all governments either to extradite the hijackers to the country of the airline concerned or to punish them severely at the point of landing. The cause of continued hijackings is the failure of many governments to fulfill their responsibilities in this respect, including some governments who, although they have punished the hijackers, have awarded such light sentences that they have no deterrent effect.[42]

In order to foster this international punitive policy against hijackers, various agencies were called upon. Congressman Dante B. Fascell, United States Representative to the United Nations, stated:

> The United Nations itself is not the forum best suited for working out the technical details of practical arrangements

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[41] McKeithen, "Prospects for the Prevention," p. 64.

[42] "IATA, Official of Munich Airport Debate Over Anti-Hijacking Roles," Aviation Week and Space Technology, November 16, 1970, p. 29.

> for dealing with the problem or drafting international legal instruments embodying those arrangements. These tasks are best pursued through another organ in the UN family, the International Civil Aviation Organization. The UN General Assembly, however, can serve as a forum for the marshalling of a strong body of opinion in favor of taking vigorous action on the problem of hijacking and consequently for expressing support for the specific steps, both national and collective, which should be taken in the immediate future.[43]

In October of 1970, the American Society of Travel Agents (ASTA) discontinued customer services for any travel to four Arabian countries; Algeria, Iraq, Jordan and Syria. The organization's board of directors met in Ottawa on September 12, 1970 and decided to request seven nations "to declare themselves opposed to hijacking . . . and to take whatever steps are necessary to halt these acts of air piracy."[44]

The seven nations were Algeria, Iraq, Jordan, Lebanon, Syria, Tunisia, and the United Arab Republic (Egypt). Only three governments, Egypt, Lebanon and Tunisia had taken actions that conformed with ASTA's requests, leaving the other four on the group's boycott list.

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[43]U. S. Department of State, Department of State Bulletin, LXII, January 19, 1970, p. 62.

[44]Laurence Dody, "Anti-Hijacking Drive Gains Added Impetus," Aviation Week and Space Technology, October 19, 1970, p. 27.

The boycott included the return of all ticket stocks of national carriers of the countries involved to those nations, removal from agents' files of all tariffs and schedules pertaining to those countries and refusal to accept any travel literature or brochure from the countries involved.[45]

In addition to these and other agencies, private individuals also made various proposals designed to solve the problem of aircraft hijacking. In November of 1970, Chester Leo Smith submitted to the World Peace Through Law Center, a suggested approach to the problem. The essence of the draft proposal for a model treaty was that each contracting jurisdiction to such a treaty or convention would, within a period of 24 hours after obtaining custody of any alleged hijacker, transport such person to the now unused Spandau Prison in West Berlin. He would be detained until guilt or innocence was determined by an appropriate tribunal and where, thereafter, any sentence would be served. It was suggested that the International Court of Justice be such an appropriate tribunal.[46]

In October of 1970, U Thant proposed the establishment of an international tribunal to try hijackers. This proposal was

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[45] Ibid.

[46] Chester Leo Smith, "The Probable Necessity of an International Prison in Solving Aircraft Hijacking," The International Lawyer, V (April, 1971), 273-274.

received very cooly in the General Assembly.[47] While these and other suggested solutions to the problem were debated, official diplomatic efforts to close the gap left by the Tokyo Convention were also being initiated. In February 1969, the United States had proposed at the ICAO Legal Subcommittee meeting in Montreal, a draft international agreement which would make it a crime to hijack a commercial aircraft carrying passengers for hire, and require the return of persons committing that crime to the state of registration of the hijacked aircraft.[48]

However, most of the other states represented on the ICAO Subcommittee took the position that it would be preferable to provide for the punishment of the hijacker in the state where he disembarks and to carry out the extradition of hijackers, if at all, under normal extradition agreements.[49]

This brings up two major points: first, just what actions have the various states most involved with hijacking taken in the past; second, what are the international implications involved in the extradition of hijackers?

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[47] New York Times, October 2, 1970, p. 69.

[48] U. S. Congress, House, Report, House Doc. 91-33, 1969, p. 6.

[49] Ibid.

Extradition

It appears that while some states do nothing, others view unlawful seizure of aircraft as a serious matter and have taken steps to discourage it.[50] Cuba has been the primary site for the landing of hijacked aircraft. The facts seem to indicate that the motivation for this is that the perpetrator is unlikely to divert a plane to a country where it is likely that he would be returned for prosecution.[51] Of one hundred thirty-four hijackings between January 1, 1961 and March 1, 1972, where an intended destination can be determined, nearly all were to places from where the hijacker could reasonably expect not to be sent back. Eighty have been of American planes from the United States to Cuba.[52]

Cuba has not been consistent in her actions against hijackers. On the basis of a 1925 treaty, Cuba granted Mexico's request in 1961 to extradite the French-Algerian hijacker of a Pan American jet.[53] The man's name was Albert Cadon and he was convicted of robbery and illegal carrying of firearms and sentenced to eight years nine months by Mexican officials.[54] Since then, Cuba has

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[50] McKeithen, "Prospects for the Prevention," p. 66.

[51] Horlick, "Developing Law," p. 44.

[52] FAA Statistics, February 2, 1972.

[53] McKeithen, "Prospects for the Prevention," p. 66.

[54] Hirsh, "Extradition," p. 406.

reportedly signed an extradition treaty with Mexico providing for provisional detention of a hijacker pending a formal extradition demand.[55]

On the other hand, Cuba has reserved her right to refuse extradition when the hijackers are wanted for political crimes, and on that ground has denied extradition on four subsequent Mexican hijackings during 1968 and 1969.[56]

Cuba does not institute any domestic proceedings against those who land there. However, it seems that although no official action is publicly taken, hijackers are not accorded hero status or otherwise given any prominence in Cuba. A member of the Black Panther organization who had hijacked a plane to Cuba gave a press interview in Havana in which he condemned the Cuban government for the way he had been treated. According to him, Black Panthers were "isolated and imprisoned" in Cuba, although they were seeking political asylum there.[57] There have been cases where many non-Cuban hijackers have been allowed to leave for third countries or to return of their own volition to the states from which they fled.

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[55]McKeithen, "Prospects for the Prevention," p. 67.

[56]Horlick, "Developing Law," p. 44.

[57]Frank E. Loy, "Some International Approaches to Dealing with Hijacking of Aircraft," International Lawyer, IV (1970), 446.

In the case of United States nationals, they usually return to the United States via Canada.[58] Although, the Cubans in September, 1970, did turn over a hijacker directly to the United States. This was not evidence of a new pattern, since the particular hijacker, Robert Ladadie, was an escaped mental patient from an Army hospital. It has been an American practice to supply Cuba with derogatory background information on hijackers, however, up until this incident this information did not have any impact.[59]

Algeria, Egypt, Syria, and Jordan are among other states where hijacked planes have landed which have taken no action to prosecute or extradite hijackers. The hijackers who landed in Algeria and Syria were either their own nationals or nationals of their allies and were engaged in political seizures. They were apparently not detained. Those who landed in Jordan and Egypt had fled from other countries and were granted political asylum.[60]

The rule seems to be that hijackers operate almost exclusively where the existence of two antagonistic sides assures them a sympathetic reception from one of them.[61] This problem

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[58]Hirsh, "Extradition," pp. 406-412.

[59]Horlick, "Developing Law," p. 44.

[60]McKeithen, "Prospects for the Prevention," p. 67.

[61]Horlick, "Developing Law," p. 44.

of political asylum will be discussed in detail later in this chapter.

There are some states that take aircraft hijacking as a serious offense as evidenced by their actions.[62] The Netherlands, Great Britain, Saudi Arabia and Bulgaria have all chosen to return hijackers to the places in which the aircraft were seized or were registered, in some instances without applicable extradition treaties.[63] In the Soviet Union, several persons recently tried on charges of planning or attempting to hijack Soviet aircraft were sentenced to death, however, their sentences were reduced on appeal to fifteen years in prison, the maximum imprisonment permitted by Soviet law. It is interesting to note that they were not charged under a law specifically applicable to hijacking, which apparently is lacking in Soviet legislation, but rather under a law forbidding attempts to leave the country without permission.[64]

A French statute enacted in 1970 prescribes penalties of five to ten years in prison for simple hijacking, ten to twenty years for hijacking resulting in injury or illness, and life imprisonment

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[62]Gerhard, O. W. Mueller and Fre LePoole-Griffiths, Comparative Criminal Procedure (New York: University Press, 1969), p. 159-174.

[63]McKeithen, "Prospects for the Prevention," p. 67.

[64]Oliver J. Lissitzyn, "International Control of Aerial Hijacking: The Role of Values and Interests," American Journal of International Law, LXV (September, 1971), 84.

for hijacking resulting in death.[65]

Political Asylum

With reference to political asylum, the question is, is there a duty for the state which may at any time find a hijacker within its territory, either to extradite or to punish him? Can the hijacking act ever be considered to be a political crime entitling the perpetrator to political asylum, and if so, when?

The attitude of mankind with regard to the moral and judicial evaluation of so-called political crimes has undergone considerable change in the course of centuries. The 19th century has left us the conceptual legacy that political offenders should not be extradited and that, as a matter of principle, political asylum should be granted to them.[66] In this evaluation two considerations have played a significant role. First, the conception prevails in liberal democracies that very often a person considered to be a political offender may in fact be a defender of liberty against an oppressive or tyrannical government. Second, the fear exists that a person who is sought by his political opponents is not likely to receive an impartial hearing.[67]

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[65] Ibid.

[66] Van Panhuys, "International Law," p. 13.

[67] Ibid.

These feelings may account for the fact that the United States did not prosecute or extradite those who flew stolen airplanes from Cuba to the United States between 1959 and 1961.[68] Frank E. Loy, Deputy Assistant Secretary for Transportation and Telecommunications, addressed this potential loophole for hijackers in a statement made before the House Committee on Interstate and Foreign Commerce on February 5, 1969. Mr. Loy said,

> In our extradition treaties--and this is true for treaties of other countries as well--we traditionally have not accepted an obligation to return fugitives accused of common crimes whom we determined to be fleeing from political persecution. We have taken a hard look at this traditional policy in the light of the increasing danger to innocent persons from hijacking of commercial aircraft, and of the importance of an effective deterrent; and we have concluded that the hijacker of a commercial aircraft carrying passengers for hire should be returned regardless of any claim that he was fleeing political persecution.[69]

What are some of the conceivable political motivations which may govern the behavior of hijackers? First, one motive is the violent overthrow of a government, or even the annihilation of a state, as is the proclaimed purpose of the Popular Front for the Liberation of Palestine (PFLP), an organization claiming responsibility for various hijacking cases.[70] In such cases, the hijacker

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[68] McKeithen, "Prospects for the Prevention," p. 68.

[69] Department of State Bulletin, March 10, 1969, p. 213.

[70] Aviation Week and Technology, September 14, 1970, pp. 33-38.

acts as a member of an organized group, and the unlawful seizure of the airplane, or the kidnapping of passengers, is incident to a more general plan. The second type of motive may be to "demonstrate" against a political regime, or merely to embarrass a government. In these cases the offense can be committed by one individual acting independently of any organized political movement.[71] Finally, there are instances where the hijacker wants to escape from his country for political reasons or "quasi-political" reasons.[72]

To a great extent attempts to organize the control of hijacking on an international basis have foundered on the easily made argument that "the implications of international confrontation present in nearly every hijacking ensure that the hijackers will never be extradited to face prosecution, any extradition agreements notwithstanding, as they would be classed as non-extraditable political offenders."[73]

The Cubans have accepted this view:

> The question was whether a given offense was a political offense and whether the offenders could be extradited. . . . For the purposes of extradition the concept of a political offense seemed not to be an objective notion, and the problem of determining such offenses depended on psychological

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[71] Van Panhuys, "International Law," p. 13.

[72] Peter Martin, "The Unlawful Seizure of Aircraft," The Law Society's Gazette, LXVI (July, 1969), 716.

[73] Horlick, "Developing Law," pp. 45-46.

> considerations, the motives of the alleged offender, and above all the political relationship between the State where he had taken refuge and the State where the political offense had been committed.[74]

This relationship between the states is evident even in cases where the hijacker is punished by the state in which he landed. In Western European countries penalties imposed on hijackers fleeing from states in the Soviet bloc have been mild, generally ranging from one to six years in jail.[75] In a case involving two East Germans, who directed a Polish airliner to land in the French sector of West Berlin, they were sentenced to two years imprisonment by a French military tribunal. This followed a refusal to grant an extradition request made by Poland.[76]

The extent of this traditional concern for the right of asylum can be seen in the minutes of the ICAO Subcommittee of the Legal Committee on the Unlawful Seizure of Aircraft, meeting in February 1969:

> A majority of 9 members against 3 believed that any State, whether or not it was the State in the territory of which the offender left the aircraft, may refuse extradition of the alleged offender in accordance with its own national law, for example where the offender was its own national or

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[74] Ibid.

[75] Lissitzyn, "International Control," p. 84.

[76] New York Times, November 21, 1969, p. 3.

> was asking asylum from persecution or acted from political motives. The minority took the view that the existence of political motives should not be a basis for refusal of extradition.[77]

A majority of states, particularly Switzerland hold the principle of political asylum to be sacrosanct.[78] A decision of the Swiss Federal Tribunal in a case involving one of the earliest hijackings explained the broad application of asylum to airplane hijackings:

> Extradition is not granted for political offenses. This applies not only to offenses directed against the State . . . but also to so-called relative political offenses, which consist in the commission of a common offense, but which, by virtue of the circumstances and in particular, the motive, of their commission, acquire a political colouring . . . it is also necessary that their political colouring outweigh their common characteristics . . . Such a [political] character must also be attributed to offenses which were committed in order to escape the constraint of a State which makes all opposition and, therefore, the fight for power impossible. In this connection there can also be applied the principle that the relation between the purpose and the means adopted for its achievement must be such that the ideals connected with purpose are sufficiently strong to excuse, if not justify, the injury to private property, and to make the offender appear worthy of asylum . . .[79]

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[77]Horlick, "Developing Law," p. 46.

[78]Aviation Week and Space Technology, September 8, 1969, p. 13.

[79]Horlick, "Developing Law," p. 47.

This decision may still be a valid exposition of the international law of asylum, but changed circumstances have altered its application to hijackings. Hijacking is coming to be recognized by some as a danger to the aircraft, crew, and passengers distinctly out of proportion to the needs of most of the hijackers; thus this exposure of innocent bystanders to danger should not be excused by its political colorings. This view is expressed by Frank E. Loy when he stated:

> We do not propose to change in any way our general policy on political asylum; but we think the risks involved in the hijacking of commercial aircraft are great enough so that neither we nor others should treat hijackers--whatever their motivation--as simple political offenders.[80]

In his 1969 address to the General Assembly, President Nixon said the hijacking could not be curtailed "as long as the pirates receive asylum."[81] His viewpoint is not shared universally, however, and even the United States' extradition treaties with Brazil and Sweden affirm the requested state's right to grant political asylum.[82]

The traditional test for the granting of asylum required an act done in the course of acting in a political matter, a political

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[80] Department of State Bulletin, March 10, 1969, p. 213.

[81] U. S. Department of State, Department of State Bulletin, LXI, March 17, 1969, p. 300.

[82] McKeithen, "Prospects for the Prevention," p. 70.

rising or a dispute between two parties in the State."[83] This test evolved from the case, In re Castioni which occurred in 1891. This test was later expanded in 1955 by the English case of Re Kolczynski which included in the test an action "to prevent [the actors] from being prosecuted for a political offense."[84]

In this case the crewmen of a Polish fishing boat mutinied and sought asylum in Great Britain. The Polish government demanded their return for trial, citing damage to the vessel and a slight injury to the captain during the mutiny. The court said that notwithstanding the fact that acts ordinarily constituting a crime had been committed, it was clear that any trial in Poland would be basically political and that therefore the British statute would not permit extradition or prosecution.[85]

The traditional concept of a political offense has been broadened by the change in attitude in response to the rising tide of totalitarian regimes which do not permit any domestic opposition, so that dissidents often have no choice other than to leave the country by secret and unlawful means.[86]

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[83] Ibid.

[84] Ibid.

[85] Horlick, "Developing Law," p. 49.

[86] Van Panhuys, "International Law," p. 14.

In this connection the question may well be asked whether in such cases there exists a proportionality between ends and means? It was precisely this question which the Swiss Federal Tribunal had to answer in In Re Kavic, Bjelanovic and Arsenijevic, concerning a request by Yugoslavia for the extradition of three Yugoslav nationals, members of the crew of a Yugoslav passenger airplane, who had diverted the airplane from its destination in Yugoslavia to Switzerland. During the flight the other members of the crew were subjected to constraint. The Court held that the extradition could not be granted, since the offenses in question constituted a means to effectuate the perpetrators' escape from a country with whose regime they were not in agreement and had, for that reason, a political character.[87] The court went on to strike a balance between the motivations of the hijackers and what it considered to be the effects of their actions:

> . . . on the one hand, the offenses against the other members of the crew were not very serious, and, on the other, the political freedom and even existence of the accused was at stake, and could only be achieved through the commission of these offenses.[88]

However, if one takes into account the enormous risks brought upon the members of the crew and the passengers, it seems

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[87] Ibid., pp. 14-15.

[88] McKeithen, "Prospects for the Prevention," p. 71.

hazardous to maintain that the possible political freedom of one or two individuals should be held to outweigh the risks to the lives of all involved.[89]

These hazards were emphasized by Mr. P. Houben, speaking for the Netherlands and twenty-seven supporting delegates at the 6th Committee of the 24th Session of the United Nations General Assembly, when he introduced a resolution on hijacking:

> As the number of incidents and as the demands of hijackers escalate, the risk to the safety of passengers and crew will rise. With the advent . . . of newer types of aircraft carrying greater numbers of passengers, an even greater number of human lives may be placed in jeopardy by these incidents.[90]

The September 16, 1969 Cuban Law 1226 on hijacking also takes into account these dangers:

> The forced diverting of air and maritime ships from their normal routes and activities endangers the lives of innocent persons, affects the development of air and maritime navigation, infringes national and international legislation and the general regulation of migration in effect in all countries, and likewise, implies the danger of the introduction of epidemics, plagues, or infectious disease which may affect the health of the Cuban people . . .
>
> The Cuban Revolutionary Government considers it necessary to adopt measures tending to end the climate of insecurity created in air and maritime navigation through the forced diversion of air and maritime vessels from their routes and normal activities.[91]

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[89] Van Panhuys, "International Law," p. 15.

[90] Horlick, "Developing Law," pp. 49-50.

[91] Ibid., p. 51.

The Palestinian guerrilla organization responsible for the September 1970 hijackings, the PFLP, was expelled from the umbrella organization, the PLO, as protests mounting from around the world even included criticism from Iraq and Syria, usually among the most militant of Arab states. As Al Ahram, the "semi-official spokesman" for the Cairo government, pointed out, "the attack on international civil aviation does not encourage world feeling of solidarity with the Palestine cause."[92]

These facts would tend to indicate that even the most radical countries realize the dangers involved in aircraft hijacking. It is this widespread realization of the dangers, to persons and states, which will eventually allow states to subordinate rights of political asylum to the need to suppress hijacking. This was illustrated in a September 1970 incident when three men diverted an Algerian domestic flight to Albania. They said they did it because "we don't agree with our socialist regime. We wanted to live in a real socialist country." Albania refused them permission to land, and the hijackers finally sought asylum in Yugoslavia.[93]

Even if states made known their intention to refuse extradition in situations with political overtones, they could still include

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[92] Time, September 21, 1970, pp. 20-27.

[93] New York Times, September 1, 1970, p. 70.

aircraft hijacking in a bilateral agreement. These bilateral agreements would serve as effective deterrents if they are predictable.[94] For example, one group of hijackers flew from Venezuela to Trinidad because they thought that there was no extradition treaty in force which covered their act. They were sadly disappointed when the Trinidad authorities said that they would be returned to Venezuela;[95] if such a policy had been made known beforehand, however, the hijacking might not have occurred.

Recent treaties with Italy and Spain, have provisions that call for a "presumption" that hijacking is a crime and not a political cause. Constitutional laws or basic policies of a number of countries prevent them from expressly establishing hijacking as a common crime, for this reason a "presumption" is used in the pattern of bilateral treaties being negotiated by the United States. As of September 1970 there were seven [Italy, Spain, Brazil, Sweden, France, New Zealand, and Great Britain] such pacts in effect and talks were in session on an additional eleven.[96]

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[94] McKeithen, "Prospects for the Prevention," pp. 68-71.

[95] New York Times, November 29, 1963, p. 1.

[96] Laurence Dody, "White House Drive Gains to Unify International Laws on Air Piracy," Aviation Week and Space Technology, September 28, 1970.

Cuba will enter only bilateral agreements concerning hijackings. It has been speculated that Cuba's desire for United States recognition is one reason why it is determined to maintain this policy.[97]

Since Cuba has diplomatic relations with only one country in the Western Hemisphere, Mexico, the requisite bilateral agreements are unlikely to be negotiated, although the United States' State Department has recently indicated a willingness to honor reciprocal commitments to return hijackers.[98] The Cubans did offer to return all hijackers on a reciprocal basis in 1961. However, this was when the traffic was mostly in the other direction, Cuba to the United States.[99]

More recently, Frank E. Loy stated before the House Committee on Interstate and Foreign Commerce:

> We are encouraged by recent indications that the Cuban Government regards the hijacking problem as a serious one and that it neither encourages nor condones hijacking. We are now trying to work out with them some of the practical problems relating to the handling of planes, crews, and passengers once a hijacking takes place and have reason to believe that from now on the return of passengers, for example, may be carried out more simply and expeditiously than heretofore.

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[97] New York Times, September 20, 1969, p. 58.

[98] Department of State Bulletin, March 10, 1969, p. 214.

[99] Department of State Bulletin, 1961, p. 407.

> With regard to the larger problem of deterring future hijackings, so far we have not been able to effect a bilateral arrangement for return of hijackers for prosecution, but there are indications that if hijackings continue on the present scale the Cuban Government may adopt measures of its own.[100]

Just what these measures are was not mentioned. However, it does seem likely that if the practice of states were to prosecute or extradite hijackers and this practice was well-known, it might deter hijackers as readily as would an international treaty. In 1969, a Federal Aviation Administration psychologist linked a lull in hijacking with publicity of unfavorable treatment of hijackers in Cuba and with Cuba's announcement of her willingness to negotiate extradition treaties covering hijacking.[101] Cuba's actions and announcements on hijacking showed a concern which reflects its desire to enhance its stature as a member of the international community. Cuba's delegate to the ICAO conference in Buenos Aires in September, 1969, said that Cuba would support measures to prevent hijacking.[102]

A year earlier the 16th Session of the ICAO Assembly at Buenos Aires passed Resolution A 16-37, which requested "the

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[100] Department of State Bulletin, March 10, 1969, p. 214.

[101] New York Times, September 20, 1969, p. 1.

[102] New York Times, September 22, 1969, p. 10.

Council at the earliest possible date, to institute a study of other measures to cope with the problem of unlawful seizure."[103] The Council, in December, 1968, decided to convene a special subcommittee of the Legal Committee in Montreal the next February to examine the development both of model national legislation and of an international convention dealing with the prosecution of hijackers. At this meeting in Montreal, the United States proposed a draft protocol to the Tokyo Convention.[104] This protocol constituted a multilateral mandatory extradition convention limited to hijackers of any aircraft in flight which was carrying passengers for hire. The draft contained the procedural protections that are normally found in extradition treaties.[105] That is, provisions to insure that an extradited hijacker could only be tried for that offense, unless the extraditing government consented to prosecution on other charges. This was designed to vitiate the objection that extradited persons could be prosecuted for "political" offenses.[106]

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[103]Horlick, "Developing Law," p. 59.

[104]Ibid., p. 60.

[105]K. E. Malmorg, "New Developments in the Law of International Aviation: The Control of Aerial Hijacking," American Journal of International Law, LXV (September, 1971), 76.

[106]Horlick, "Developing Law," p. 60.

This proposal was rejected, as was a compromise which would have created an obligation to prosecute if extradition was refused on the ground that the offender was sought for political persecution.[107]

The United States position that vigorous international action is necessary to bring hijacking under control was for the most part shared by its allies in Europe and the Western Hemisphere. Yet some members of the Western coalition such as Great Britain, France, Denmark, Mexico, and Venezuela were reluctant to commit themselves to treaty obligations calling for automatic extradition of hijackers regardless of motivation.[108]

The evolution of the Soviet position on the question of the international control of hijacking is interesting because it improved the prospects for the effective implementation of the international arrangements developed by the Hague Convention.[109] This convention which is the present major international control against aircraft hijacking will be discussed in detail below.

The Soviets had originally been very cautious about accepting the various Western-sponsored proposals for the control of

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[107]Wurfel, "Aircraft Piracy," pp. 867-871.

[108]Rafat, "Control of Aircraft Hijacking," p. 149.

[109]Ibid.

hijacking. Without going so far as to actually oppose Western efforts, the Soviet Union refrained from giving support and occasionally expressed skepticism about Western motives. For example, in October of 1969, the Soviet delegate to the United Nations accused Western proponents of action against hijacking of "unsavory political purposes."[110]

However, on November 14, 1970, the Soviet Union became an official member of the International Civil Aviation Organization (ICAO). Since joining the ICAO they have voiced strong support for international cooperation in prosecuting hijackers.[111]

What accounts for the shift in the Soviet position? The answer simply is certain hijacking incidents in 1969 and 1970, involving aircraft from the Soviet Union and its East European allies, caused the Kremlin leaders to see that the communist world has a vital interest in the prevention of hijacking.[112]

The first successful hijacking of an airliner from a Communist-bloc country occurred on October 19, 1969, involving forcible diversion of a Soviet airliner to West Berlin by two East

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[110] New York Times, October 11, 1969, p. 1.

[111] James P. Woolsey, "U. S. Sees Anti-Hijacking Support in Soviet's Membership in ICAO," Aviation Week and Space Technology, November 23, 1970, p. 26.

[112] Rafat, "Control of Aircraft Hijacking," p. 149.

German youths who after landing demanded political asylum. There were nine other acts of hijacking involving aircraft from four countries in Eastern Europe, Poland, Czechoslovakia, Rumania, and East Germany. Then, on October 15, 1970, two Lithuanians hijacked a Soviet aircraft and forced it to land at the Turkish port of Trebizand. The airline was on a domestic flight between two Black Sea cities when it was hijacked. The hijackers killed a stewardess and seriously injured the pilot and co-pilot. On October 27, 1970, another Soviet plane was hijacked to Turkey, this time by two Russian citizens seeking political asylum.[113]

These last hijackings occurred just prior to the Hague Conference and caused the Soviets to come to that conference with a bloc of votes favoring a stronger convention.[114]

Another major reason why the international community had strong feelings about strengthening the convention was the fact that between the Legal Committee meeting and the Conference at The Hague there occurred a series of hijackings for what have been called international blackmail purposes. This was the forcible seizure and diversion of civil aircraft, not to flee from one country to another, but to hold the aircraft, passengers and crew hostage

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[113] Ibid.

[114] Malmorg, "New Developments," pp. 76-77.

for specific demands.[115] These were the so-called Labor Day hijackings that were discussed in Chapter I.

The Hague Convention

Following this rash of worldwide incidents, those countries who rejected the United States' earlier proposals to strengthen the Tokyo Convention, became avid supporters of a strong convention. By the end of 1970 the ICAO Legal Committee had prepared a draft convention which was submitted to a 77 nation international conference on air law which met at The Hague December 1-16, 1970.[116]

The Hague convention greatly strengthens the Tokyo Convention especially in the area of apprehension, prosecution and punishment. Its significance lies in the fact that it defines hijacking as an offense, creates an obligation to apprehend, extradite, or penalize hijackers, and extends the obligations regarding prosecution and extradition of hijackers to all third parties on whose territory the alleged hijacker may be found. Each of these actions further internationalizes the hijacking offense.[117]

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[115] Ibid.

[116] U. S. Department of State, Department of State Bulletin, LXIV, January 11, 1971, p. 50.

[117] Rafat, "Control of Aircraft Hijacking," p. 153.

If we look at some of the major provisions of the Convention more closely we see that this Convention applies to any unlawful seizure or exercise of control, by force or threat of force or by any other form of intimidation, committed on board a civil aircraft in flight and to any attempt at such an act committed on board.[118]

An aircraft is defined to be in flight from the moment when all its external doors are closed following embarkation until the moment when any door is opened for disembarkation. But in the event of a hijacking, the flight is deemed to be continued until the competent authorities where the plane lands assume responsibility for the aircraft and the persons and property on board. The Convention does not apply to aircraft used in military, customs, or police services. This is in accordance with the usual practice of limiting international air law conventions to civil aircraft.[119]

The convention also contains provisions which limit its scope of application geographically. Thus flights which occur solely within the state of registration of the aircraft are excluded.[120] Perhaps examples will best illustrate the operation of that paragraph:

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[118]"Convention for the Suppression of Unlawful Seizure of Aircraft, "Department of State Bulletin, LXIV, January 11, 1971, pp. 53-55 (hereinafter referred to as The Hague Convention).

[119]Ibid., Art. 3, para. 1.

[120]Ibid., Art. 3, para. 3.

An Eastern Airlines aircraft scheduled from New York to Montreal is hijacked en route and diverted to Chicago--the Convention does not apply (unless the hijacker escapes to another country, in which case the extradition, punishment, and certain other provisions become applicable).

An Eastern Airlines aircraft scheduled from New York to Chicago is hijacked en route and diverted to Canada--the Convention does apply.[121]

Penalties and Universal Jurisdiction

Each state is obliged to make hijacking punishable by severe penalties[122] and to establish its criminal jurisdiction to cover cases where an alleged hijacker is present in its territory, regardless of where the hijacking takes place.[123]

Custody

Under the convention each state is obliged, when it is "satisfied that the circumstances so warrant," to take a hijacker into immediate custody or to take other measures to insure his presence

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[121] U. S. Department of State, Department of State Bulletin, LXV, July 19, 1971, p. 86.

[122] The Hague Convention, Art. 2.

[123] Ibid., Art. 4.

for such time as is necessary to enable criminal or extradition proceedings to be instituted.[124]

Normally the circumstances are quite clear, an aircraft lands with the alleged hijacker on board, but there are cases where there is little or no evidence to support placing a person in custody and a certain flexibility is required. For example, the case of "D. B. Cooper," the individual who successfully extorted $200,000 from the airlines and parachuted to freedom on November 24, 1971.[125]

Once the decision is made that the circumstances warrant taking the hijacker into custody, however, there is no exception to the obligations on contracting states that flow from action under this paragraph--notification to the other states specified in the Convention and extradition or submission to prosecution.[126]

Extradition or Prosecution

The convention amends existing extradition treaties, all bilateral in the case of the United States, to include hijacking as an extraditable offense and also provides that it shall be an extraditable offense between states which do not make extradition

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[124] Ibid., Art. 6.

[125] FAA Statistics, February 2, 1972.

[126] The Hague Convention, Art. 6.

conditional on an extradition treaty.[127] If a state in which a hijacker is found does not extradite him, that state is obligated "without exception whatsoever, and whether or not the offense was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution."[128] These authorities are also required to make their decision whether or not to prosecute in the same manner as for serious ordinary offenses under their own laws.[129]

It has been stated that these provisions of the Convention taken together provide the basic deterrent to hijackers. Now the hijacker must take the risk when he enters one of the contracting states that he will either be extradited to another state or prosecuted where he is found.[130]

The Convention also requires the contracting states to include hijacking as an extraditable offense in all extradition treaties concluded in the future between contracting states.[131] The United States is including hijacking as an extraditable offense in all new extradition treaties it negotiates.[132]

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[127] Ibid., Art. 8.

[128] Ibid., Art. 7.

[129] Ibid.

[130] Department of State Bulletin, July 19, 1971, p. 87.

[131] The Hague Convention, Art. 8.

[132] Department of State Bulletin, July 19, 1971, p. 87.

When a State has taken a hijacker into custody, it shall immediately notify certain States,[133] including the State of registration of the aircraft and the State of nationality of the hijacker. In addition, each State is required to report to the Council of the International Civil Aviation Organization relevant information concerning a hijacking, the release of passengers, crew, cargo, and aircraft, and the results of any extradition or other legal proceedings.[134]

The Convention applies to hijackings of all civil aircraft, whether engaged in an international or a domestic flight. The Convention strengthens Article 11 of the Tokyo Convention regarding the obligation of States to release hijacked passengers, crew, and aircraft. The prosecution obligations assumed by States are not based on reciprocal treaty relationships. The obligation to extradite or prosecute, together with universal jurisdiction, provide a framework within which the problem of hijacking can be dealt with as forcefully as piracy. The Convention may be ratified or acceded to by all States.[135]

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[133] The Hague Convention, Art. 6.

[134] Ibid., Art. 11.

[135] U. S. Department of State, Department of State Bulletin, LXIV, May 17, 1971, p. 656.

In brief, the convention strives to deprive hijackers of asylum from prosecution. A hijacker will either be extradited or prosecuted where found.[136]

There is, however, no assurance that the convention will result in sufficiently severe penalties in all cases to serve as an effective deterrent. Diversity in national standards of severity may be reflected not only in the statutory provisions for penalties, but also in the relative ease of placing convicted offenders on probation or parole.[137]

There is, furthermore, no provision in the convention for its enforcement against delinquent states. Article 12 provides for the settlement of disputes arising under the Convention by arbitration or the International Court of Justice, but it also specifies that any state may at the time of signature or ratification of the Convention or accession thereto declare that it is not bound by this provision. Even if there should be a finding by an arbitral tribunal or the International Court that a state has violated the Convention, the question of enforcement of such a decision is left open.[138]

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[136]U. S. Department of State, Department of State Bulletin, LXV, October 4, 1971, p. 371.

[137]Lissitzyn, "International Control," p. 84.

[138]Ibid.

Fearing that ratification of The Hague Convention would take as long as ratification of the Tokyo Convention, the Air Line Pilots Association (ALPA) launched a multi-phase political campaign to pressure governments into early ratification. The program was called "T Plus" and ranged from informing passengers of the Convention's provisions and the nations that participate, to threats of pilot boycotts of those nations that refuse to sign and ratify the Convention.[139]

However, it is important to keep in mind that no boycott can be effective unless it is total. The concept that every nation will commit itself to boycotting any other country, including close allies, is not very acceptable to most governments.[140]

This time, however, ratification came quickly. The United States adopted the Convention on September 14, 1971, as did the Soviet Union, United Kingdom and Northern Ireland. There are 76 countries that have ratified this Convention, including Japan, Bulgaria, Sweden, Costa Rica, Gabon, Hungary, Israel, Norway and Switzerland.[141]

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[139]"Pilots Spur Anti-Hijacking Drive," Aviation Week and Space Technology, January 18, 1971, p. 19.

[140]Dody, "White House," Aviation Week and Space Technology, September 28, 1970, p. 25.

[141]Department of State Bulletin, October 4, 1971, p. 371.

It must be concluded that the limitations on the effectiveness of the new Convention will probably prevent it from really solving the hijacking problem.[142] It is, nevertheless, a decisive step toward the creation of conventional international law governing the problems associated with unlawful seizure of civil aircraft.[143]

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[142] Lissitzyn, "International Control," p. 84.

[143] Rafat, "Control of Aircraft Hijacking," p. 153.

CHAPTER III

THE HIJACKER

Given the incidence of hijacking, one must necessarily inquire as to who the hijackers are and what their motives may be. This chapter will discuss this question and present two case histories of convicted hijackers in an attempt to provide some insight into the psychological nature of this individual we call "skyjacker."

Skyjackers have been described as "psychopaths, fugitives from justice, disturbed hippies, unbalanced political extremists, losers, ex convicts, juvenile delinquents and mystery men fleeing from we know not what."[1]

Dr. David G. Hubbard, a Dallas, Texas, psychiatrist has conducted interviews with twenty skyjackers and has written a book about his findings, The Skyjacker: His Flights of Fantasy.[2]

Nineteen of the subjects interviewed were men. The youngest of the group was 16, and the oldest, 74. Deleting the

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[1]Ronald L. Fick, Jon I. Gordon and John C. Patterson, "Aircraft Hijacking: Criminal and Civil Aspects," University of Florida Law Review, XXII (Summer, 1969), 81.

[2]David G. Hubbard, The Skyjacker: His Flights of Fantasy (New York: Macmillan Co., 1971).

lone old man, the mean age was 29. Fifteen of the twenty were native-born American whites, four were native-born blacks and one was a white immigrant. Fifteen of the group acted alone, three were accompanied by children and two by women. Sixteen of the twenty failed in their attempt. The other four reached Cuba, but were returned to the U. S. through Canada.[3]

From this small group of twenty skyjackers a composite profile of the "American skyjacker" has been drawn.

According to Dr. Hubbard, the American skyjacker is a twenty-nine year old, native-born white man on the lower rungs of the economic ladder. He is apolitical, emotionally unattached to public causes and intellectually uninterested in the rhetoric and theories of either revolutionaries or establishments. He is a conservative in dress, in ideas and in customs, tending to cringe at the prospect of change. He is weak, ineffectual and afraid. His many fears include a phobia about falling or jumping from tall structures. He is a failure in business, in sex, in marriage, in friendship. He has no close friends.[4]

Dr. John Daily, the Chief of the Federal Aviation Administration's psychology staff agrees, "They have had a general pattern

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[3]Fletcher Knebel, "The Skyjacker," Look, February 9, 1971, pp. 23-24.

[4]Ibid.

of 'inadequacy' in their education, jobs and personal life." He uses for example Leon Bearden, a chronic malcontent who had a twenty year criminal record and also had spent some time in a mental hospital. Bearden, whose case history will be presented in this chapter, unsuccessfully attempted to hijack a plane to Cuba. He believed Castro would give him a large reward for the plane. When captured he told police he hated the U. S. and planned to renounce his citizenship and live as a hero in Cuba.[5]

According to Dr. Hubbard's composite, the skyjacker has no criminal record, but he is prone to petty theft. Although he has fantasies of violent crime, he shies from the reality of violence. He knows little about guns or other weapons.[6] There seems to be much disagreement about this aspect of violence.

Dr. Leonard Olinger, who teaches abnormal psychology at the University of Southern California, places the skyjacker "in the same class as the assassin, the same sort of acting-out character."[7]

Dr. Ralph Greenson, a Beverly Hills psychiatrist, agrees, "Skyjacking is a typical mechanism of people who resort to

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[5]"They want a Moment of Power and Glory," Life, April 18, 1969, p. 27.

[6]Knebel, "Skyjacker," p. 24.

[7]"What can be done about Skyjacking?" Time, January 31, 1969, p. 19.

irrational violence."[8] Dr. Dailey disagrees and says "Their behavior resembles that of the suicide rather than of the assassin with whom some psychologists have compared them.[9]

However, there does seem to be agreement that the skyjacker is a man in psychological turmoil, and that he spends his tortured existence in anxiety, frustration and rage. He worries about possible impotence.[10] Dr. Frederick Hacker, a professor of psychiatry at the University of Southern California, states that, "Behind [skyjacking] is the omnipotent fantasy. To steal an airplane has a lot to do with feelings of masculinity that need strengthening."[11]

If one word could characterize the feeling that pervades his life, it would be "helplessness." He is psychotic but not stupid.[12] Dr. Dailey says, "If you dig deeply enough you find serious emotional instability in almost every case. Some of them have been in mental hospitals; but most are borderline cases, not hard-core psychotics. Those who fail in their effort--who are disarmed or talked out of hijacking while actually on the plane--tend to be more

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[8]Ibid.

[9]Life, January 31, 1969, p. 26.

[10]Hubbard, Skyjacker, pp. 188-192.

[11]Time, January 31, 1969, p. 19.

[12]Knebel, "Skyjacker," p. 24.

unstable than those who succeed. The successful ones act intelligently, almost with the deliberation of a computer."[13]

Dr. Hubbard's composite finds that the skyjacker realizes that skyjacking is a futile gesture, nevertheless he fastens upon it as his means of showing the world that for once in his miserable, timid, failure-scarred existence, he can stand up and display his manhood by ordering the captain of a multimillion dollar airliner to do his bidding.[14]

In 1969, Dr. Peter Siegel, the FAA's air surgeon formulated what he called the "skyjacker syndrome." This syndrome was reportedly formulated from limited data, it basicly states that the skyjacker believes that he can prove himself a decisive, effective human being by taking control of a plane, its crew and passengers, and commanding it to go to Cuba. There, in his fantasy, Castro will welcome him as a hero. But skyjacking is self-defeating, an example of what psychiatrists, according to Dr. Siegel call "the Indian coup phenomenon; you scalp yourself. After that, what have you got?"[15]

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[13] Life, January 31, 1969, p. 26.

[14] Knebel, "Skyjacker," p. 24.

[15] Time, January 31, 1969, p. 19.

Dr. Greenson says, "With the temporarily omnipotent feelings the skyjacker gets, he actually is in control of his own destiny and the destinies of others. He's next to God, literally, flying to Cuba. With this one grand gesture of power, the skyjacker shows his contempt for the establishment."[16]

He is aware of the severe penalties for skyjacking, including death, but far from deterring him, these penalties increase the risk and therefore the challenge of the venture. He considers himself a lifelong loser anyway. He has contemplated suicide, and he is bent on destruction of the worthless creature he deems himself to be. With that forlorn view of his empty self, he is eager to defy death in the electric chair by vaulting into the air in one grand glorious final fling.[17]

Case Histories

In order to provide a deeper insight into the psychological nature of a skyjacker, two case histories prepared by Dr. Hubbard, are presented. Dr. Hubbard gave his cases code names, the man in the first case, Ted, is in actuality Leon Bearden, who was discussed in the preceding chapters.

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[16] Ibid.

[17] Hubbard, Skyjacker, p. 230.

The Case of Ted

Ted was forty-six, convicted for skyjacking in 1961. He came from an intact family with only one other child, a sister three and one-half years younger. He is divorced from his wife. They had four children, the oldest of whom accompanied him in his skyjacking.

Ted's father was a construction worker who brought in a steady income "until he started drinking, and of course, nobody who drinks heavy is really steady. He drank some when I was a child, but it was only for a short period of time as I recall. He got really hung up on booze after I got married. He became quite an alcoholic over a period of five or six years." Between the early alcoholic period and the later one, he became a church deacon at his wife's strong insistence. Ted and his father always had a close relationship, which was being maintained during his prison term.

The mother was a devout Baptist. Ted said she was "very Baptist. I think religion has had a very definite influence on my mother." He reported that he and his sister attended Sunday School "on a regular basis. The whole family went together, and it was Sunday School and church and BYPU and the whole bit." He often had to take care of his little sister.

Ted had an exceptional memory. "I can remember the first day I walked. I remember I was on the floor and I crawled up to a chair or something and pulled myself up. I remember my mother was in the next room; I think it was the kitchen, but I'm not positive. But I remember seeing her in the other room there and I remember I pulled myself up to my feet, and I attempted to walk. I felt pretty good about it."

His only recollection of repetitive dreams from childhood was of "a prehistoric setting--a mammal-type creature like a slug came up out of the water and caught several people, but it didn't catch me. I woke up." From this dream he went on to say that he was sure he also often dreamed of falling. On inquiry, he stated he was sure he had never dreamed of flying.

During the first several years of school, he was a "straight A student. I think my grades definitely started deteriorating when I got into about the fifth grade. I wasn't interested for one thing, because it was becoming repetitious. I do remember something we were studying,

I lost interest." He dropped out of school at the beginning of the ninth grade. At about the same time his grades in school declined, something interesting happened and the two are probably connected. "I enjoyed art from the first grade to the fourth. Then they told me that an artist is a sissy. I got that impression and it stuck with me for years." He didn't resume painting until he was in prison. His work now sells widely and an art dealer is considering him for a major show.

Ted reported having spent a great deal of time riding his bicycle. "That was my wheels as a kid, as we say today. Took me everywhere I went, practically. I've rode paper routes that were twenty-eight miles long." He learned to drive a car at about age fourteen and owned one at age sixteen.

He discovered sex at age five or six. "A little girl introduced me to the subject. I think she was two or three years older than me. As I recall, the first time she brought the subject up it was just a matter of how little kids happened to look, you know. Later she tried to have sexual relations." This experience aroused his curiosity, and he experimented with other girls. The girls were older and they were also the aggressors. "There were two or three of these girls, but this continued over a considerable period of time. I was between five and six years old and it continued until they were about eleven years old." He started dating when he was sixteen. He developed his first serious crush when he was seventeen. He was engaged for two years. Then while he was in the Army, she married someone else and wrote him a "Dear John" letter.

He joined the National Guard at eighteen and was in the inactive reserve for about four months. He never went active because shortly after receiving the "Dear John" letter, he became so disturbed that he went AWOL. While he and a buddy were AWOL, they hitchhiked. "We caught a ride with this young fellow driving a Chevrolet, but his actions indicated that he was on the run from the law. He had also indicated that he might be armed. So what happened is, I slugged him with the intention of knocking him out and taking him to jail. It was pretty phony, you know--when a man was obviously trying to stay away from the cops. I just stunned him. So, anyhow, after calling the doctor and everything, why, I let him off at the hospital and told him the doctor had told me that he'd be right there and take care

of him. And me and my partner left with the car . . . see? We didn't have any idea that we'd be involved in some kind of criminal activity with the automobile. The cops didn't catch us; we turned ourselves in to the Army." He pleaded guilty on the basis of a deal with the District Attorney for a suspended sentence, but was convicted and sentenced to fifteen months. He served five months before he was paroled.

Shortly afterward, his old girlfriend turned to him while trying to get away from her husband. "I was still very much in love with this girl myself, and from all indications she was still in love with me. She propositioned me to help her get a divorce and I went so far as to take her to talk to an attorney. But her husband, of course, I don't think he wanted to give her up at all, and I know that as a matter of fact he attempted to find me a couple of times when he was armed. I wasn't carrying a gun, but I had one available if I needed it. But it did look like things could get out of hand and develop into something real serious. And frankly, I just said to hell with it. And I didn't want to hurt the girl or see her get hurt. So I decided to pass a few checks and go back to prison. And that's exactly what I did." He was in prison on the forgery charge for sixteen months.

When he was twenty-one years old, he took flying lessons and qualified to fly a light plane. This was in 1945, and it took him only seven hours to fly solo. He flew only eleven or twelve hours in all because he could not afford it.

He married when he was twenty-one, after a two-week courtship. Their first child was born the first year, "I looked forward to it, I thought it was going to be a pretty fine thing to be a daddy." The first child was a son, closely followed by another, then by a daughter. Several years later, they had another son. Neither Ted nor his wife smoked or drank.

Prior to his marriage he had been working with his father in construction. Afterward, he became a truck driver. "We were kind of nomadic. We didn't stay too long in one place. Working conditions had something to do with it, and we wasn't in any great big hurry to settle down. We didn't want any roots. We were just happy-go-lucky. We didn't take life too damned serious, but we tried to enjoy ourself." He and his wife moved to three different states, staying briefly at several places in each. He quit the trucking business and became a miner. "In 1949, I went

to work for a power company, and I sayed with them nine whole months before I quit." This was the longest time he held a job, except for one that he held for a little over a year in 1954.

After this long tenure, he had some money saved and he was not working, so he decided to have himself committed to a mental hospital to see whether conditions there were as bad as people said they were. "I went to a certain amount of trouble to try to prepare myself to gain entrance. I have been an avid reader of the literature, publications, weeklies, monthlies, and so forth. The best I could come up with was to try to convince people that I was a little bit despondent. It seemed to me like an opportune time to satisfy my curiosity, so I did." He was in the hospital for about twenty-eight days.

He went into selling. In 1957, he moved and worked for a transportation company as a service man. While he was employed there, his cousin robbed the company. It looked like an inside job, and Ted was arrested. "I didn't commit the crime, and I didn't execute it, and I didn't plan it. But I done time for it." He was in prison thirty-three months. "But these things don't happen in the United States, do they?" The Castro revolution occurred while he was in prison, and the patient watched it closely. He decided "while I was in prison, that I was going to leave the United States (because of his false imprisonment). I had't determined at that time that it was necessarily going to be to Cuba."

When he came out of prison, he began selling cars. He found that while he was in prison, his wife "became quite involved in religious matters and church activities and so forth. I didn't object to her going to church and taking the kids to church. I've never done that. I don't think anybody can appreciate freedom more than someone who has been denied freedom. She told me that she wanted to become a missionary. I quoted some Scripture at her that this wasn't the way it was supposed to be done. A woman wasn't supposed to--and her husband, either, for that matter--wasn't supposed to split up the home and his family for such a ridiculous thing as that."

He further explained that his wife was religious, but lax on discipline. "There's something else that happened during this period of confinement that caused me to feel and resent this thing more than just the fact that I was not guilty of the damn crime to begin with. It was the fact that the

children were going away from me. There was no discipline." When he tried to establish order in the household, the children considered him a "big dictator." "That caused my resentment against the authorities to increase a lot. Even today, I hate the state with a passion. It's safe to say that I hate what they represent, law and justice. But I found in the last few months that I was locked up in prison, I could tell from the kids' manner of speech, little things, they showed disrespect, you know."

Soon after his release from prison, Ted went to Mexico City. He went to the Cuban Consulate there, and inquired about the school system, living conditions, and the possibility of going to Cuba. "I applied for citizenship and told them I wanted to request political asylum. I was granted residence." He took the whole family down to Mexico, with their consent, and made plans to go to Cuba. Before he could leave, however, he had to return to the States to finish some paper work on his car sales. He planned to return shortly and then leave for Cuba. He believes that while he was gone his wife wrote the authorities and claimed he was trying to force the family to go to Cuba. He had broken parole by leaving the State, and before he could return to Mexico, "I get a call from the parole officer, telling me to remain there at my father's house and wait for my parole officer. He gets there about two hours later and he tells me that the state is screaming for my arrest. He informed me that it might be a good thing if I'd hire an attorney. I told him, I said, I hadn't broken any laws. I hadn't committed any crimes. I didn't say that I hadn't broken my parole. He said, "I thought maybe that you and your partner had been selling some hot cars in Mexico." I said, "The FBI is barking up the wrong tree if they're looking for something there."

He then received a letter from his wife saying the family was returning from Mexico and had decided not to go to Cuba. "So I tell'em that they can either go back or whatever they damn well please, that I was still wanting to go to Cuba, because that's just the way it is. The Cuban government had given us citizenship, not only me, but my entire family, and that as soon as we decided we want to go to Cuba, the Cuban government would pay air transportation all the way for my entire family." At this point, his family deserted him and he expected the federal authorities to arrest him. "I didn't think I had any choice at the time." He skyjacked. "They had me in a place where I was crawling. I either had to do what I did,

or I had to split altogether, leave my family, and head for Mexico. I was pretty sure when I boarded the aircraft that I wouldn't go any farther than El Paso. 'Cause they could do what they damned well pleased, but I done some research while I was being researched and it's a well-known fact that these airlines, at that time for economy reasons, were fueling at these intermediate stops. I knew this, I knew the plane would never make it to Cuba without refueling."

He had his oldest son with him. He was sixteen years old at the time and went with his father because he wanted to "Nobody forced him. My other oldest boy wanted to go and I wouldn't take him. I wouldn't have taken the oldest if it hadn't been for his mother and sister. They both, all the time during the year before I was released on parole, why, they couldn't get along, always fighting." The son told the authorities later that they were stealing the aircraft and were going to sell it in Cuba. Ted was perplexed over this. "It'd be pretty damned ridiculous. It belongs to the airline." The son was held in juvenile authority for a while, then released. He has not contacted his father since he entered prison.[18]

The Case of Elmer

Elmer was thirty-five and came from a home where the father was an alcoholic and the mother a religious zealot (Church of God). "My father was drunk most of the time. He used to beat Mother and us kids. He used to chase us kids in his truck and try to run over us. He was crazy." His family was low socio-economically, and their acted-out impulses were more common. For example, during one family fight, a brother older than Elmer stabbed his father in the back in order to protect his mother, who was being choked by his father. (It may be relevant that this wound collapsed one of the father's lungs, subsequently contributing to his dying of pneumonia.)

There were four children: an older brother and sister, and a younger sister. Here, too, the mother won the identification of most of the children, and the feminine dominance of the home was established. "The family split right down the middle with my older brother and Daddy on one side and the rest of us on the other." The girls, as children, involved the patient in all of their games of dolls, in some

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[18] Ibid., pp. 117-123.

instances using him as a doll himself. He had many memories of futile rage at being restrained by them for this play.

He also reported dreams of paralysis. "I was afraid a monster would get me. I was all slow motion, my hands and feet were made of lead." Similarly, in sports he was "too clumsy," and "besides, Mother and my sisters sort of had me on their team." He felt the girls were "favored."

Elmer accepted the religious doctrine of his mother wholeheartedly. "At home we prayed a lot and often talked about Hell and what would get us there; all kinds of little things were dangerous. I used to pray that I wouldn't die in my sleep or the monster get me. Heaven sounded pretty good."

During his school years, he "frequently cut out of class just to get outside where I could feel free." He quit school during the tenth grade.

He matured into a quiet "sissy" of such obvious rigidity and morality that, at the time he entered the army, he had never had a date. This innocence and naivete so offended his fellow recruits that they "bought me a prostitute, but I couldn't do anything. They seemed to think that I put on a lot of airs about not going with women. I didn't dare let them know what I was really feeling, so when we went to the whorehouse, I went up to the girl's room and stayed there awhile. When I came down, I told them I had done it, just as I had told my older brother many years before." (When he had been five years old, his older brother used to try to force him into intercourse with girls. At that time, he went behind the hay bales, only to come out later and report that he "had." His brother wanted to "make me like he was." He meant that his brother wanted to make him "male.")

During military service, he had no dates because he "didn't know how to ask for one." He was quiet, thrifty, and generally envious of the freedom of his bunkmates. "I didn't make much rank during my stay in the service, but I didn't get in any trouble. I knew how to keep my mouth shut."

After discharge from the military, he wandered about alone, envious of the dating of other young men. Finally, he met a very retarded girl who did not frighten him. They went about together for a time "just like the other fellows did," and at last sexual activity began between them.

Almost immediately, he became certain that "people were following" him when he drove about. He was certain

that someone was after him, and that perhaps they had wired dynamite to his car. In his fear, he ran to the police and told them to lock him up for safety. Their reply that they weren't "running a hotel" left him depressed. A few hours later, he told them he was planning to bomb the station and shoot everyone in it. The police promptly arranged for his safety in the local state mental hospital.

While in the hospital, he met a seriously ill psychiatric patient who also had epilepsy. She had been hospitalized for twelve years, and Elmer subsequently proposed to her. After both had been released from the hospital, they began to live together, believing marriage to be impossible because of a state law which stated that "an epileptic could not marry." He promptly began to experience the same sort of delusions of being followed and of someone's being "after him," which had occurred after his first sexual experience.

He kept his mouth shut about his suspicions, saved his money from work, and quietly did those prudent things suitable to his situation. He arranged defenses and checks against his enemies and ingratiated himself with his factory supervisor as much as he could. He treasured the belief that he was this man's favorite.

All went along fine, other than the fact that his common-law wife taunted him at home that his penis was "tiny," that he knew nothing about how to use it, and that he didn't take care of her. He was humiliated by these taunts and began to suspect her of infidelity and to check her closely. He found a number of things which, to him, were at first highly suspicious and, finally, absolutely convincing, although in fact, they lacked all substance. For example, on one occasion he found the door unlocked when he came home from work. On other occasions, he was most concerned about cars parked on the block.

During this time, his work apparently suffered. Soon thereafter, he was suddenly, sharply reprimanded by the supervisor whom he believed to be his best friend. He was amazed by this further evidence of infidelity and began to plot the murder of this man, as well as shooting up "some of those people" who were following him. He first bought a pistol to carry out his purpose, but later settled on a knife as being somehow more suitable, so he made one from an old file.

Much disturbed by his feelings, he vacillated for weeks between the intention to kill and the wish to make up. He

was dissatisfied with his plans for mass murder because it was "the good people" who were persecuting him for his sexual sins. He hated the thought of killing them, since there were so many of them. During this time, he and his common-law wife drove about a great deal in his car, and he watched the rear view mirror closely.

He felt sure he had developed skin cancer as a result of his sexual sin. His skin "stank," and he felt that the pores at the hair roots had opened into gaping spaces from which the evil odor came. He went to a physician, but since the doctor belonged to the "good people," he wouldn't cure him. Also, the doctor began to hint to the patient that his problems were mental, and that he should go to the hospital. He became even more fearful and decided that only Russia, which belonged to the Devil, would treat his disease. Therefore, he traveled to Washington and applied for a visa to Russia, in order to obtain treatment. Apparently, the Russians were doubtful about him, and there were inexplicable delays in his receiving the necessary documents. He was far from home, stymied in his wish to escape from the United States, and faced with having to return home once again as a failure.

He decided to go to Cuba without the formalities. He bought a return ticket to his hometown, and, using his gun, demanded to be flown to Cuba. He was very puzzled by the amiability and compliance of the crew, and he was softening under their kindness, until they offered to let him sit in a pilot's seat. Instantly, he figured that it was "rigged to a trap door and that they would dump me." He stiffened and regained control of his feelings and the situation. Their continued kindness and affability, however, troubled him, and at last he put down his gun.

Interestingly, he was miraculously "cured" of his skin cancer in Dade County Jail by a bowl of soup he received from the warden.

During the interview, he made no attempt to justify his crime. He obviously felt he had not sinned against God, but had committed only a secular crime. He was meek and appeared to be effeminate, both physically and in his speech. He didn't smoke, drink, or curse. He used righteous platitudes and indicated his desire to serve in the ministry.[19]

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[19] Ibid., pp. 26-30.

CHAPTER IV

CURRENT PREVENTIVE MEASURES

"The hijacking of a United States airliner or other aircraft is becoming an increasingly difficult and dangerous task and people who try it are landing in prisons and other institutions in accelerating numbers."[1]

The Federal Aviation Agency noted that 1971 was the first year in which there were more unsuccessful hijacking of United States air carrier aircraft than successful ones. Of twenty-five airline hijackings attempted last year, eleven met with success. This compares with seventeen of twenty-six in 1970 and thirty-three of forty in 1969.[2] (See Appendix B)

FAA Administrator John H. Shaffer recently said that he was encouraged by the dramatic drop in the number of successful hijackings last year but remained intensely concerned about the total picture. "This year's hijacking statistics remind me of those good news/bad news stories making the rounds these days."

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[1] Security Systems Digest, February 2, 1972, p. 2.

[2] Ibid.

Shaffer added,

> The good news, of course, is that we have achieved a significant decline in the rate of successful hijackings. The bad news, on the other hand, is that we did not manage a meaningful reduction last year in the total number of hijacking attempts. Obviously, we need to place even greater emphasis on improving ground security at airports in 1972 than we ever have before. I firmly believe that the best place to stop hijackers is at the aircraft boarding gate and until we achieve something like 100 per cent reliability in this regard I don't believe the Government, the airlines or the airport operators should take too many bows for our achievments to date.[3]

This chapter will discuss the security measures that have been initiated to bring about this 100 per cent reliability, and those measures which are planned for the future. It will also discuss some of the past measures that were tried and found not to be very effective.

Security measures initiated by airlines and government agencies in the United States were slow in coming but they are now being developed and applied with considerable urgency in response to the increasing boldness of aircraft skyjackers.[4]

The Sky Marshal Program

The series of hijackings which precipitated Congressional action on air piracy in 1961, also aroused public concern about

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[3] Ibid.

[4] "Airport Security Searches and the Fourth Amendment," Columbia Law Review, LXXI (June 1971), 1039.

methods of protection aboard aircraft in flight. At first members of the United States Border Patrol were ordered to accompany flights along the southern borders; immigration officers also traveled on some of these flights.[5] In March 1962, Attorney General Kennedy swore in as Special United States Deputy Marshals a specially trained group of "sky marshals." These "sky marshals" were made available to the FAA and were stationed at key points around the country for service aboard airline aircraft. They were graduates of a special training course at the U. S. Border Patrol Academy in Port Isabel, Texas.[6]

The "sky marshal" program was originally opposed by United States airlines and the Air Line Pilots Association (ALPA).[7] In Congress a considerable amount of testimony was given respecting the use of armed guards or peace officers aboard aircraft. The limitations and dangers in the use of such officers were pointed out by witnesses representing the FAA, the Air Transport Association, and ALPA.[8]

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[5]Evans, "Aircraft Hijacking," p. 704.

[6]"FAA Outlines Actions Taken Against Crimes Aboard Aircraft," FAA Information, XLV, May 12, 1964, p. 3.

[7]Aviation Week and Space Technology, September 21, 1970, p. 26.

[8]U. S. Congress, House, Report, House Doc. 91-33, 1969, p. 5.

As the FAA witnesses indicated, the danger exists that gunfire in the confined space of an aircraft could easily result in innocent passengers being killed or vital parts of the aircraft being hit. Subsequent to these hearings actions were taken to lessen some of these dangers. For example, presently each "sky marshal" is issued special ammunition for his 38 caliber handgun to prevent damage to the aircraft skin and critical control components should a gun battle take place aboard the aircraft. Bullets are special light-weight hollow-point models which expand at impact with rapid loss of velocity. One official described them as having good knock-down and poor penetration characteristics, they have minimal chance of penetrating the airplane skin, and if they do, there will be no severe decompression problems in the aircraft.[9] In addition, Eastern Airlines has gone as far as negotiating with a major weapon manufacturer to evaluate, and possibly develop, a "defensive device" for use in the close, vulnerable environment of a cockpit. This device is believed to be of the "low lethality" type shooting some disabling projectile other than the conventional bullet or an electronic device.[10] However, these devices do not by any means eliminate the dangers

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[9] Aviation Week and Space Technology, September 21, 1970, p. 29.

[10] "Anti-Hijacking Plans Augmented," Aviation Week and Space Technology, November 9, 1970, p. 32.

involved in a confrontation between an armed guard and a hijacker. There are cases where the hijacker has held a gun to the head of a stewardess, any move by an armed guard in these cases might have fatal consequences. Among the unknown factors involved are the mental health of the hijacker and the number and possible behavior of accomplices who may be aboard.[11]

In view of these dangers, airline officials remained traditionally opposed to the use of force on board airplanes. The policy, particularly when most of the hijackings involved trips to Cuba, was best described as passive.[12]

Some officials wavered from this passive policy when hijackers began threatening to destroy aircraft and their occupants. The risk balance was tipped substantially by the magnitude of the Arab terrorist action during Labor Day weekend in September 1970.[13] Another factor in the change of policy was the success of the El Al Israel Airlines in preventing a fifth hijacking by the terrorists. During this incident the pilot banked his Boeing 707 sharply to the

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[11] U. S. Congress, House, Report, House Doc. 91-33, 1969, p. 5.

[12] Aviation Week and Space Technology, September 21, 1970, p. 29.

[13] Ibid.

left and put the aircraft into a steep dive. This knocked the hijacker off balance and he was subdued by a steward.[14]

At the time of these hijackings by Arab terrorists the FAA, which had been and still is the central agency in the anti-hijacking program, was in the process of reorganizing its staff. The original nine-man task force established to develop an effective anti-hijacking program had been disbanded. It was replaced by the Office of Air Transportation Security with broadened authority also to deal with aircraft sabotage and theft problems.[15]

The new organization was hardly established sufficiently to administer the existing program when the four Arab terrorist hijackings created pressure to accelerate the program and add new ones. President Nixon asked Congress for a special appropriation amounting to $28 million to cover the cost of security guards, which would be funded by increased passenger taxes.[16]

President Nixon also appointed retired Air Force Lieutenant General Benjamin O. Davis, Jr. as Director of the Transportation

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[14] Aviation Week and Space Technology, September 14, 1970, p. 37.

[15] Aviation Week and Space Technology, September 21, 1970, p. 30.

[16] Ibid., p. 27.

Department's Civil Aviation Security Program.[17] This program is administered by the FAA.

When the program first went into action it involved personnel from several agencies. The initial plainclothes guards assigned mostly to international flights were FAA sky marshals who had been mostly used in the past to protect valuable cargoes on aircraft. Others were drawn from the Secret Service, Federal Bureau of Investigation, U. S. Customs Bureau and the Defense Department.[18] The military men from the Department of Defense were sworn in as deputy United States marshals and were granted the power of arrest.[19]

In January of 1971, the first class of new sky marshals was graduated. These sky marshals belong to the Treasury Department's Customs Security. They have initial civil service ratings from GS-4 to GS-7 depending on their experience. Each Customs Security Officer is sworn in as a federal marshal and has authority to make arrests under federal hijacking laws. These arrest powers apply

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[17]James P. Woolsey, "Davis to Lead Hijacking Prevention Drive," Aviation Week and Space Technology, September 28, 1970, p. 26.

[18]Aviation Week and Space Technology, September 21, 1970, p. 29.

[19]"Military Men Riding as Airline Guards," Aviation Week and Space Technology, October 12, 1970, p. 28.

both on board aircraft and on the ground in conjunction with pre-board screening programs.[20]

All the new sky marshals are specially trained to operate within the airplane with special consideration to vulnerable components. In each assignment, they operate in teams of at least two. They are always under the command of the airline captain.[21]

They are given courses in reaction of passengers to numerous aircraft maneuvers, this is to aid in coordinated flight-crew/guard actions in overcoming a hijacker. They also receive indoctrination in the hijacker behavioral profile system to assist in spotting potential hijackers.[22]

The Screening Process

Noting that there were actual or attempted hijackings of twenty-eight United States aircraft in a six-month period during 1968 and 1969, the U. S. Department of Transportation established a task force to study and develo practical answers to the problem.[23]

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[20]"Sky Marshal Program Graduates First Class," Aviation Week and Space Technology, January 4, 1971, p. 22.

[21]Aviation Week and Space Technology, September 21, 1970, p. 29.

[22]Aviation Week and Space Technology, September 28, 1970, p. 26.

[23]Columbia Law Review (June 1971), 1039.

The principal product of this task force was the "hijacker personality profile," developed by Dr. H. L. Reighard of the Medical Branch of the Federal Aviation Administration and Dr. John T. Dailey, an FAA psychologist.[24]

The factors employed in the personality profile are of necessity confidential. The director of the government's efforts in this area, General Davis, explained, however, the manner in which it is employed:

> When the passenger presents his ticket, the airline employee applies the FAA criteria. Increased efforts in intelligence collection activities and detailed studies of case histories of previous hijackers and incidents have given us definite ideas about the nature of the potential hijacker. This profile, or behavioral pattern, is not static. It is being constantly updated and refined with the introduction of new information. In addition, we can increase or reduce at will the number of factors we actively use in the profile.[25]

The FAA reported more than 2,250 arrests in 1971 by U. S. Marshals and Customs Security Officers involved in the screening of passengers as a part of the anti-hijacking program. Included were some 350 arrests for carriage of firearms or other weapons and 575 for possession of narcotics. More than 700 firearms and $14.5 million in narcotics were seized as a result of the screening process. There also were 18 arrests by Sky Marshals

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[24] Ibid.

[25] Ibid., pp. 1039-1040.

aboard aircraft last year, of which six were in response to an announced or threatened hijacking.[26]

Legality of Airport Searches

These arrests by Sky Marshals, especially for crimes not associated with hijacking brings up the question of whether the anti-hijacking system used at our airports is constitutional.

The Fourth Amendment to the U. S. Constitution assures that:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.[27]

Inasmuch as airport searches are not authorized through the issuance of a warrant following detached judicial scrutiny of the basis of official suspicion, such security practices may involve constitutional infirmities.[28]

In United States v. Lopez (Crim. No. 70-813 E. D. N. Y. May 7, 1971) the District Court for the Eastern District of New York concluded that the Fourth Amendment "does not render inadmissible

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[26] Security Systems Digest, February 2, 1972, p. 3.

[27] U. S. Constitution, Amendment IV.

[28] Columbia Law Review (June 1971), 1041.

non-weapon evidence found in federal marshals' frisk of would-be airline passengers based on Federal Government's hijacker-detection system."[29]

In this case Lopez was singled out by airline employees and frisked by the marshals. A small, hard metal package carried by Lopez, which felt like a gun but actually contained heroin, was seized. In the hearing addressed to suppression of the seized heroin, a psychologist involved in devising the currently used anti-hijacking system explained it in great detail. It involves a magnetometer, which detects about 50 per cent of all boarding passengers as metal carriers, and the profile of individual characteristics.[30] Masses of metal on a person may trigger a green light as the passenger walks between the poles of the magnetometer. However, unless the individual exhibits a characteristic which sets him off from the other passengers as a potential hijacker, he will not be asked to step aside for further investigation.[31] John H. Steele, Trans-World Airline security chief, stated that, "Under normal circumstances the passenger would be cleared immediately."

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[29]"New Court Decision," The United States Law Week, XXXIX (June 1, 1971), 2677.

[30]Ibid.

[31]"Anti-Hijacking System Being Used by TWA," Aviation Week and Space Technology, December 22, 1969, p. 32.

However, if the passenger becomes uncooperative a search is conducted by a deputy U. S. Marshal stationed nearby. In most cases, Steele said, passengers detected carrying "sufficient masses of metals" are not asked to step aside because the visual observations of the passenger did not reveal the tell-tale traits.[32]

Statistically only .05 per cent of a sampling of 500,000 passengers actually ended up being searched. Of these, only 1 in 15 was armed.[33]

The court also found that the screening system was accurate enough to establish, if not probable cause, sufficient probability of illegal conduct to warrant the type of temporary investigative detention, or search, deemed valid by the Supreme Court in Terry v. Ohio, 392 U.S. 1 (1968).[34]

In Terry, a policeman, upon observing the defendant and two acquaintances loitering suspiciously in the vicinity of a store, approached in order to investigate them. When the defendant "mumbled something" in response to the officer's inquiries, the policeman, fearing the imminent use of a weapon, "spun him around so they were facing the other two . . . and patted down the outside of his

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[32] Ibid.

[33] The United States Law Week (June 1, 1971), 2677.

[34] Ibid.

clothing." The defendant sought to exclude from evidence a pistol uncovered by this search. The Supreme Court held the search proper:

> [W]here a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where in the course of investigating this behavior he identifies himself as a policeman and makes reasonable inquiries; and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his or others' safety, he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him. Such a search is a reasonable search under the Fourteenth Amendment, and any weapons seized may properly be introduced in evidence against the person from whom they were taken.[35]

In U. S. v. Felton Chinn, Jr., Judge Leonard Garth found that there "is a relationship and I feel a reasonable relationship, certainly one that has been proved between the characteristics presented in the established profile and the evil which the profile wishes to seek to avoid."[36]

Judge Garth also found that the characteristics of the profile are such that they are not so completely general that they would be meaningless. He also found a very high relationship as to individuals who have in fact been found to have either had contraband of one sort or another and their conformity to the profile. For these

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[35] Columbia Law Review (June 1971), 1053.

[36] United States v. Felton Chinn, Jr., 320-70 (Newark District, 1971).

reasons he found that the profile enables the marshals to meet the Terry test when it is used to justify further investigation, i.e., a search.[37]

Therefore as the issue stands today the anti-hijacking system used at our airports is constitutional. The Justice Department has informed the FAA that the use of the two techniques of ferrous metal detectors and behavior pattern observations used in combination provide adequate legal grounds for asking to search a suspicious passenger who is carrying sufficient ferrous metal to trigger the magnetic detection equipment.[38]

Electronic Devices

The magnetometers had a large number of false alarms at first. The detectors reacted to any ferrous metal object and gave positive readings for passengers carrying cameras, women's compacts and even handbag hinges.[39] However, now the magnetometers have been greatly improved. The new systems not only lessen the number of false alarms they also point out the area of the body where

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[37] Ibid.

[38] "Hijack Detector Tested by FAA," Aviation Week and Space Technology, September 22, 1969, p. 53.

[39] Aviation Week and Space Technology, September 21, 1970, p. 30.

the metal is located.[40] The magnetic detection device used by Eastern Airlines is manufactured by Infinetics, Inc., Wilmington, Delaware at a cost of about $600.[41]

Funding for the Security Program

The funding for the initial screening programs was a major problem. In New Orleans the magnetometers were purchased by the local airport authority and were operated by airline personnel at the carrier's expense.[42] General Davis has emphasized that the Transportation Department expects the preboarding security systems to be purchased and maintained by the airlines. The bulk of the Federal money is spent on the sky marshal program. General Davis said that he considered the government's role in the anti-hijack program one of "guidance, advice and catalytic leadership."[43]

Even the federal money spent on the sky marshal program is being reduced. General Davis who is now assistant secretary

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[40]Marcus Wright, Chief, FAA Security, Houston Area, private interview, February 17, 1972.

[41]Aviation Week and Space Technology, February 23, 1970, p. 27.

[42]Aviation Week and Space Technology, September 21, 1970, p. 30.

[43]James P. Woolsey, "Cost of Anti-Hijacking Measures to be Borne Mainly by Airlines," Aviation Week and Space Technology, November 9, 1970, p. 29.

of Transportation for Security and Consumer Affairs told newsmen that spending in the sky marshal program is to be cut from $37 million this year to $27 million for the next fiscal year, starting July 1. This involves reduction of the 1,500 man sky marshal staff to about 500. This will be accomplished at the rate of about 60 a month for the next year.[44]

In a letter to the author, dated 7 February, 1972, V. L. Krohn, Chief, Operations Laison Staff, Office of Air Transportation Security, stated that,

> The Sky Marshal Program was designed to be a stop-gap measure to allow the air carriers and airports time to develop and implement effective ground security measures. These are progressing well and are designed to prevent potential hijackers from ever boarding the planes. As these ground security programs are progressively put into effect, the air security aspects can and are being decreased.[45]

The Effectiveness of the Security Program

The effectiveness of the ground screening can be seen in the case of Eastern Airlines who has not had a hijacking of any flight where ground screening was employed. The airline had seven hijackings from February, 1969, when it began field-testing

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[44] Security Systems Digest, February 2, 1972, p. 2.

[45] Krohn, Letter, February 7, 1972, p. 2.

screening procedures to May 4, 1970. None of these flights were screened.[46]

Eastern Airline in 1969 and 1970 screened 75 per cent of the more than 2 million passengers it carried monthly. In a twelve-month period, Eastern had denied boarding to 112 persons. This included a total of 40 persons who were arrested. Of these, 36 were apprehended on federal law violations by U. S. Marshals for a variety of charges including transporting narcotics, carrying guns and knives, and being AWOL from the military services.[47]

Another measure of the effectiveness of Eastern's system is the number of weapons found in flower pots and shrubbery in boarding areas where screening has been effected or where carry-on luggage spot checks have been announced. Pistols, knives and bullets are some of the items left behind.[48]

Until February, 1972, the use of weapons detection systems and behavioral profiles to thwart hijackers was on a voluntary basis and usually a random basis. However, in view of the recent wave of airline hijackings, five since the first of the year, an "emergency

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[46] Aviation Week and Space Technology, May 4, 1970, p. 34.

[47] Aviation Week and Space Technology, November 9, 1970, p. 32.

[48] Aviation Week and Space Technology, May 4, 1970, p. 34.

situation" has been declared. The federal government has ordered the nation's airlines to set up mandatory passenger screening systems at all airports. Under the original mandatory screening rule, airlines would have had to put into effect a system which included use of at least one of the following: a weapons detection device, the psychological profile, "a body search" of passengers, if the need is indicated, or a system of requiring passengers identification on demand.[49] However, this rule has been tightened to require that all passengers be subjected to the behavioral screening test. In addition, the FAA hinted that it may also require electronic metal detection devices at all airports.[50]

In a second action, the FAA urged the Federal Communication Commission to block radio and television stations from broadcasting radio transmissions from an airliner while a hijacking is in progress. During the course of three recent hijackings, a number of "broadcasters and print media monitored radio transmissions between the crew of a hijacked airliner and the police and tower officials. These transmissions could contain instructions to the crew on how to thwart the hijacker. The disclosure of any details

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[49]Security Systems Digest, February 2, 1972, p. 3.

[50]Ray Waldrep, "Nearly all Airline Passengers Under Some Kind of Surveillance," Houston Chronicle, February 6, 1972, Sec. 4, p. 5.

of the techniques used to abort this type of crime could seriously hinder law enforcement activities, thereby endangering the lives of the passengers and crew.[51]

Additional Measures

Rewards:

Additional measures that have been instituted to prevent hijackings include rewards. The Air Transport Association and the Air Line Pilots Association are offering a reward of $25,000 for information leading to the arrest and conviction of hijackers. Industry groups have been concerned that the size and scope of a reward program not become over-ambitious. They have not offered a larger reward, nor made the reward applicable to the apprehension of a hijacker while an aircraft is in flight, partly because of their concern that such action might induce would-be recipients of the reward to take extreme measures aboard the aircraft and jeopardize its safety.[52]

The Department of State has also given consideration to the proposal that a cash reward be made to the Cuban Government for the return of hijackers. No such offer has been made, however.

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[51] Security Systems Digest, February 2, 1972, p. 3.

[52] U. S. Congress, House, Report, House Doc. 91-33, 1969, p. 6.

The Department of State feels that this measure would not be effective.[53]

ICAO Actions:

The ICAO has urged that the following security measures be adopted in order to lessen the dangers of skyjacking:

(1) The protection of aircraft on the ground--all airports should be fenced and boundaries subjected to periodic surveillance.

(2) Crew should be able to lock the cockpit door, a closed circuit television system should be installed to enable the crew to monitor the passenger compartment, and a discreet alarm system should be used for attendants to warn the flight crew.

(3) When a hijacked aircraft lands, recommendations of the pilot in command should be followed, with the overriding consideration in such cases being the safety of passengers and crew.[54]

Codes:

In September of 1970, Secor D. Browne, Chairman of the Civil Aeronautics Board proposed that training programs be adopted for flight crews in the containment of a hijacker once he reaches

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[53] Ibid.

[54] Edward Kolcum, "IATA Chief Spurs Anti-Hijack Program," Aviation Week and Space Technology, December 7, 1970, p. 32.

the cockpit. Browne believes that a well briefed crew, acting in a coordinated manner can help prevent a hijacker from attaining full success. He also proposed the creation of special ground crews, consisting of carrier and government personnel who are trained specifically to take over the ground control of a hijacked aircraft. These crews would use specially developed codes in communicating with the crew while a hijack is in progress.[55] There is evidence that these codes are now in use. In 1970, Eastern Airlines was working with the FAA on the development of special signal codes, without voice communication, so that a hijacked pilot could tell the ground crew how he wants the situation handled. Such codes have been reported to include the message "fuel us and let us continue."[56]

Mr. Browne also suggested that a task force of specialists, experts in aviation law and international relations, should be formed to insure that a hijacker is prosecuted to the fullest under the varying laws covering air piracy throughout the world.[57]

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[55] Aviation Week and Space Technology, September 14, 1970, p. 32.

[56] Aviation Week and Space Technology, November 9, 1970, p. 32.

[57] Aviation Week and Space Technology, September 14, 1970, p. 32.

Public Recommendations

The public has made numerous suggestions to the FAA concerning methods of controlling hijacking. The ten most frequently submitted suggestions are:

1. Provide free transportation to Cuba for those persons desiring to leave the United States.

2. Have armed guards stationed aboard each U. S. air carrier passenger flight.

3. Offer a substantial reward to the Cuban Government for the return of hijackers to the United States.

4. Build a simulated Havana airport in Florida, man it with U. S. military personnel disguised as Cuban militiamen to deceive and apprehend hijackers.

5. Bulletproof the pilot's compartment and only have communications one way--from the cockpit to the cabin.

6. Search every passenger either physically by X-ray or fluoroscope or through the use of metal detectors.

7. Have the pilots depressurize the aircraft until everyone goes to sleep or expel a sleeping gas throughout the cabin to put everyone to sleep. The crew would go on oxygen and later disarm the hijacker.

8. Equip all crewmembers with Mace which would be used to immobilize the hijacker.

9. Equip guards or crewmembers with a tranquilizer dart gun similar to that used on "Daktari" to put animals to sleep so that they can be captured.

10. Require an identification card or air passport of people that wish to buy tickets on U. S. scheduled air carriers. Applications for identification cards would be thoroughly screened prior to being issued the card.[58]

The important point that must be stressed is that little can be done or indeed, in the interests of safety, should be done while a hijacking is in progress. What measures might be attempted will be discussed in the following chapter.

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[58]John A. Volpe and John T. Stewart, "Aircraft Hijacking: Some Domestic and International Responses," Kentucky Law Journal, LIX (Winter, 1970), 283-284.

CHAPTER V

COMMENTS AND RECOMMENDATIONS

This chapter will present the author's comments and recommendations along with a discussion of the most recent hijacking incidents. It should be evident that a panacea for skyjackings has not and probably will not be found. This chapter is not an attempt to establish one, rather it is an attempt to encourage those responsible for airline policy to develop and administer a more consistent security program based on existing FAA guidelines. Perhaps with such a program the problem of skyjacking can be reduced.

"Hijackings mostly for political purposes appears to be fading. We're now confronted with something else, probably even more dangerous--extortion. We're in a new and very dangerous phase," this ominous and prescient prediction by FAA Administrator John Shaffer came all too true in March 1972.[1]

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[1] "Holding up an Industry," Time, March 20, 1972, p. 17.

The Evolution of Aircraft Hijacking

The crime of skyjacking has slowly evolved through four phases. Originally, it began in Europe when individuals from Communist bloc nations hijacked aircraft in order to flee to the West. The policy of the United States was to grant political asylum to these "freedom fighters" who were generally treated as heroes.

When Castro came to power, these incidents spread to Cuba. Again when these individuals entered the U. S. they were treated well and granted political asylum.

Then much to the dismay of the United States the traffic reversed itself and individuals began fleeing to Castro. In the second phase of this evolution these individuals included "homesick Cubans, fleeing felons and political terrorists."[2] Phase three quickly followed this trend and involved those persons who did not have a "cause" but were rather the mentally disturbed, who were attracted by the publicity given the others.

At this time in response to a rash of hijackings the U. S. fell into the errors of reasoning sometimes known as "response ambiguity" and "legislative removal of a problem." That is, Congress, in order to solve this complex problem of skyjacking, enacted Public Law 87-197 that authorized the death penalty for skyjacking.

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[2]Robert J. Samuelson, "Stop Hijacking Campaign Flounders in Conflict," Houston Chronicle, March 12, 1972, p. 8.

Granted, at the time, there was a lack of national law regarding jurisdiction in this type of crime. However, it seems that the more pressing problem was one of prevention rather than punishment. How could we prevent hijackers from gaining control of our aircraft?

The argument that the death penalty would serve as a deterrent is not upheld by the sharp increase in the crime in 1968 and 1969. In fact, some individuals like Dr. Hubbard propose that the "elimination of the death penalty and the certainty of protracted incarceration" would decrease the number of hijackings because it would deflate the notion that one was "gambling with fate."[3]

The latest phase of the problem is the criminal phase or extortion phase predicted by John Shaffer. This phase had its commencement on November 24, 1971, when "D. B. Cooper" successfully extorted $200,000 from an airlines and parachuted to freedom. This incident was quickly followed by six more attempts at hijack extortion, however they all proved unsuccessful.

It is too early to determine if because of these hijack failures this phase will evolve into an even more dangerous phase of extortion bombings of aircraft that occurred during March 1972.[4] However, the most recent hijack attempts in the U. S. seem to have

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[3]Hubbard, Skyjacker, p. 231.

[4]Time, March 20, 1972, p. 17.

regressed to the standard phase two and three types. These hijackings occurred in the wake of the successful extortion of $5 million by Palestinian guerrillas from the West German government for the release of a hijacked plane and its passengers, including the eldest son of the late Senator Robert F. Kennedy.[5]

The Role of the Media

The International Air Transport Association on March 6, 1972, warned its 120 member airlines that more hijackings may happen following that successful hijacking.[6] Two days later, in Miami, two men armed with shotguns and revolvers shot and wounded a pilot and an airline mechanic and hijacked a two-engine seaplane to Cuba.[7] The same day U. S. Marshals apprehended a 14 year old youth at Tampa International Airport after he allegedly tried to hijack a National Airlines 727 jetliner to Sweden.[8]

These latest incidents seem to validate the position that epidemics of hijackings feed on the inordinate publicity which accompanies nearly every incident. Normally, the foreign incident would not have received extensive publicity in the U. S. However,

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[5]"Skyjacking a Kennedy," Newsweek, March 6, 1972, p. 42.

[6]Houston Post, March 7, 1972, Sec. A, p. 6.

[7]Houston Post, March 8, 1972, Sec. A, p. 8.

[8]Ibid., Sec. A, p. 1.

the fact that a Kennedy was aboard the plane resulted in sensational and disproportionate publicity, along with the usual coverage, spot bulletins interrupted television programs to keep the American people up to date. These bulletins may have also encouraged the two gunmen who escaped to Cuba as well as the 14 year old youth who was persuaded by the Airline pilot to give up his attempt to hijack a plane to Sweden.

The impression the news media often gives is that these skyjackers are modern day Robin Hoods. However, evidence seems to indicate that these individuals are often times mentally disturbed criminal types.

The media also fails to give equal space or time to the consequences involved in these hijackings, i. e., the court sentences or the poor treatment afforded hijackers in Cuba. It is therefore strongly recommended that in the future the news media demonstrate a high degree of journalistic responsibility in their handling of air hijacking incidents.

However, it is not only the news media that has a great influence upon the public. The motion picture industry is currently filming a full length feature entitled "Skyjacked."[9] One can only wait and see what repercusions this film will have.

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[9]Spotlight, Houston Post, March 12, 1972, p. 22.

The International Situation

The international law situation despite the Tokyo and The Hague Conventions remains unsatisfactory. The recent incident involving Joseph P. Kennedy III is proof of this fact, inasmuch as the leftist government of South Yemen, where the hijacked plane was diverted to, let the five skyjackers off scotfree.[10] The situation will not be satisfactory until the crime of air piracy is "expunged from the airways by the same combination of economic self-interest and moral abhorrence codified in international law that swept piracy from the high seas."[11]

To bring about this combination it is recommended that the International Air Transport Association or other such international airline organizations employ the tactic of total air service boycotts. The employment of this tactic may bring countries such as South Yemen to their "economic senses." Any boycott by a single airline or nation is useless, the boycott to be effective must be total and this is best accomplished on an international level.

This recommendation is made in view of the fact that this measure might create undesirable precedents for the future. This, at least, seems to have been the view of members of the "Institut de

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[10] Newsweek, March 6, 1972, p. 42.

[11] Robert Hotz, "Murder on the Airlines," Aviation Week and Space Technology, March 23, 1970, p. 9.

Droit International" who considered the application of such measures recently and who preferred, instead, recourse to more traditional legal forms of social control.[12]

The National Situation

On the national scene recent extortion events have caused the President to instruct the FAA to set forth new security guidelines.[13] FAA Administrator John Shaffer said that each of the 521 U. S. airports served by a scheduled airline must provide for FAA approval a master security plan. This plan, which must be submitted by June 6, 1972, must include concrete measures for the tighter guarding of airport areas and provisions for a more thorough screening of passengers. Officials of the FAA and the ALPA agree that a universal use of the behavioral profile should significantly reduce hijackings.[14]

As for the new wave of extortions it is recommended that the airlines adopt a public policy of not paying any ransoms. The facts seem to indicate that the payment of ransoms only encourages others to attempt the same crime. In fact, it seems that if the

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[12] Edward McWhinney, "New Developments in the Law of International Aviation: The Control of Aerial Hijacking," American Journal of International Law, LXV (September 1971), 73.

[13] Houston Post, March 11, 1972, Sec. A, p. 11.

[14] Houston Chronicle, March 12, 1972, p. 8.

airlines do not take this action it is quite possible that the Congress might enact legislation prohibiting the airlines from paying ransom to hijackers.[15]

In conclusion, it should be said that the government and the airline industry have made substantial progress in their fight against aircraft hijacking. As General Davis stated in a recent speech, "We are winning the battle. Potential hijackers are getting the word that it is not easy for them to get on board an airplane and--should they get on board--most likely, they will wind up arrested rather than safe in a place of refuge."[16]

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[15] Houston Post, March 11, 1972, Sec. A, p. 11.

[16] Benjamin O. Davis, "DOT Security," Industrial Security, February 1972, p. 34.

APPENDIX A

HIJACKING CASES INVOLVING U. S. AIRCRAFT
1 MAY 1961 - 1 MARCH 1972

TOTAL NUMBER OF INDIVIDUALS - 171

CONVICTIONS - 35

Aircraft Piracy - 1

Bendicks, Leonard S. (7/12/68) - 10 years (3/4/71)

Aircraft Piracy and Interference with Flight Crewmember - 1

Riggs, Glen E. (6/4/71) - 2 concurrent 20-year sentences (1/7/72)

Attempted Aircraft Piracy - 1

Funjek, Anton (1/6/70) - 25 years (7/31/70)

Aircraft Piracy and Kidnapping - 5

Healy, David Thomas (4/13/62) - 20 yrs + 1 yr (11/12/64)
Oeth, Leonard Malcolm (4/13/62) - 20 yrs + 1 yr (11/12/64)
Truitt, Alben Wm. Barkley (10/23/68) - 20 yrs + 20 yrs (8/13/69)
Ervin, Lorenzo Edward, Jr. (2/25/69) - Life (7/7/70)
Crawford, J. C. (7/27/69) - 50 yrs (9/14/70)

Kidnapping - 2

Boynton, Thomas J. (2/17/68) - 20 yrs (5/12/70)
Jessie, Willis (8/4/68) - 10 yrs (6/26/69)

Interference with Flight Crewmember - 8

Washington, Thomas George (12/19/68) - 2 yrs (3/24/70)
McPeek, Kenneth Carl (1/12/69) - 15 yrs (7/31/69)
Fergerstrom, Harry F. (8/31/65) - Juvenile, correctional institution
Peparo, Michael A. (2/3/69) - Custody of Attorney General under Youth Correction Act

Fitzgerald, Tasmin R. (2/3/69) - Custody of Attorney General under Youth Correction Act
Anthony, Ray (6/28/69) - 15 yrs (9/70)
Paterson, Chappin S. (2/26/71) - 10 yrs (6/11/71)
Marston, Thomas K. (3/8/71) - Sentenced 11/8/71 to indefinite custody of Attorney General under Youth Correction Act.

Attempted Kidnapping - 1
Irwin, Donald B. (9/15/70) - 12-1/2 yrs (11/23/71)

Assault - 1
Robinson, Thomas H. (11/17/65) - Juvenile, correctional institution. Currently on probation.

Conveying False Information Concerning an Attempt to Commit Air Piracy - 2
Denis, Carlos (12/19/70) - 5 yrs (2/9/71), subject to mental examination
*White, Bobby (6/18/71) - 5 yrs (9/14/71)

Armed Assault and Illegal Possession of Firearms - 1
Britt, Bruce McRae (7/31/61) - 20 yrs (1961)

Interruption of Air Commerce on Threat of Violence - 2
Bearden, Leon (8/3/61) - 20 yrs (1961)
Bearden, Cody (8/3/61) - Juvenile, committed to correctional institution, released (date unknown)

Escape - 1
Morris, John Hamilton (7/4/68) - 5 yrs (6/16/69)

Court Martial (USN) - 2
Heisler, Laurence D. (10/11/65) - 4 yrs confinement, dishonorable discharge. (Sentence completed.)
Boyd, Richard K. (10/11/65) - 4 yrs confinement, dishonorable discharge. (Sentence completed.)

Carrying Weapon Aboard Aircraft - 2
Pastorrich, Roger C. (11/2/68) - Juvenile delinquent. Probation.
Mathews, John M., Jr. (3/31/71) - Suspended sentence. Three years probation (6/7/71).

Foreign - 5

Cadon, Albert C. (8/9/61) - Mexico - Robbery and illegal possession of firearms - 8 yrs. 9 mos. sentence - released on completion of sentence.

Minicheillo, Raphael (10/31/69) - Italy - 7-1/2 yrs, reduced to 2-1/2 yrs - released 5/1/71.

Belon, Christian R. (1/8/70) - Lebanon - 9 mos - released.

Jackson, Robert L. (7/2/71) - Argentina - 5 yrs (12/16/71)

Sanchez-Archilla, Ligia (7/2/71) - Argentina - 3 yrs (12/16/71)

PENDING CASES - 16

Trial Pending - 4

Hurst, Billy E., Jr. (1/12/72) - indicted for aircraft piracy

Donovan, David W. (9/22/70) - indicted for aircraft piracy - custody

Bohle, Ronald T. (1/9/69) - original sentence (25 years) reversed

Holt, Everett L. (12/24/71) - indicted for aircraft piracy, kidnapping, intimidation of flight crew and assault with intent to commit murder.

Charged - 2

Wallace, Bobby W. (10/9/71) - aircraft piracy

Coleman, Donald L. (12/26/71) - aircraft piracy

Custody, Mental Examinations - 3

Sandlin, Robert (3/17/69) - indicted for aircraft piracy

Bennett, James (5/28/71) - indicted for aircraft piracy and kidnapping

White, Gregory L. (6/12/71) - found incompetent to stand trial for murder in State Court 10/7/71

Custody - 5

Thomas, Dale L. (10/18/71)

Borges-Guerra, Juan (9/3/71)

Pliskow, Barbara (9/24/71)

Jackson, Brenda (9/24/71) Co-conspirator with B. Pliskow

McAlroy, Patrick H. (1/26/72)

Trapnell, Garrett B. (1/29/72)

Released on Bond - 2

Anile, Francisco (4/21/71) - Charged with aircraft piracy. Released on bond 5/25/71

LaPoint, Richard C. (1/20/72) - Charged with aircraft piracy. Released on bond 1/25/72.

DROPPED CASES - 17

Acquittal - 3

Medina-Perez, Luis (10/26/65) - aircraft piracy and assault (insanity)

Helmey, Robert M. (1/11/69) - aircraft piracy (insanity)

Pinkney, James (2/11/69) - aircraft piracy and interference with flight crewmember. NOTE: Non-U. S. aircraft engaged in U. S. air commerce.

Dismissed, Committed to Mental Institutions - 10

Lopez-Morales, Victor (12/21/70)

Labadie, Robert Y. (/24/70)

Richards, Oran D. (7/12/68) - released 1/10/70

McCreery, John S. (8/5/69)

**Little, Lynn (4/6/70)

Rhodes, Lawrence M. (2/21/68

Dickery, Douglas A. (3/19/69)

Niemeyer, Torrence (5/30/69)

Gonzalez-Medina, Jose L. (9/10/69) - released 12/71

Barkley, Arthur (6/4/70)

Dismissed, Death - 2

Divivo, John (3/17/70)

Shorr, Larry (10/21/69)

Dismissed, Other - 1

Clark, William L. (2/9/68) - aircraft not engaged in U. S. air commerce.

Prosecution Declined - 1

Booth, David L. (11/10/69) - remanded to custody of local juvenile authorities.

STATUS UNKNOWN - 3

*Wagstaff, Joseph A. (4/23/70)

*Huber, Johan (8/3/70) - aircraft not engaged in U. S. air commerce

Xhaferi, Hexhi H. (6/22/70) - originally in custody in Egypt; possibly released.

KILLED/SUICIDE - 4

Austin, Tyronne (1/2/69) - killed during bank holdup 4/22/71
Obergfell, Richard (7/23/71) - Killed during hijacking.
Giffe, George (10/4/71) - apparent suicide during hijacking.
Von George, Heindrick (1/26/72) - killed during hijacking.

FUGITIVES - 100

RECAPITULATION

Convictions	35 1/
Pending	16
Dropped	17
Fugitives	102
Unknown	3
Killed	4
TOTAL	177

1/ Five (5) foreign convictions
* Not considered as hijacker by Department of Justice
** Not considered as hijacker by FAA

APPENDIX B

A SUMMARY OF AVERTED AND INCOMPLETE HIJACKING ATTEMPTS 1 MAY 1961 - 1 MARCH 1972

Date	
7/31/61	Subdued by co-pilot and passengers prior to take-off after shooting pilot and passenger agent; also shot at passengers.
8/3/61 Incomplete	Border Patrol Officers shot out tires and engines prior to take-off; hijackers were eventually disarmed.
10/11/65	Captain used flare pistol to disarm one man; a ramp agent using a shotgun apprehended the second man; aircraft not in flight.
10/26/65	Captain knocked gun from hijacker with fire axe (during flight). Captain and Flight Engineer subdued individual.
11/17/65	Sixteen year old high school student after firing nine shots was disarmed and subdued by crew; aircraft was in flight.
2/9/68	Details not known. Marine Private attempted to hijack Pan Am Flight from Saigon to Hong Kong; aircraft did not depart.
7/4/68	Convict in custody of U. S. Marshals threatened stewardess and ordered pilot to fly to Mexico; pilot pretended compliance but landed at Las Vegas, Nevada.
7/12/68 Incomplete	Flight crew engaged gunman in conversation; persuaded him to give up hijacking attempt.
11/2/68	Co-pilot diverted gunman's attention; Captain wrested shotgun from would-be hijacker; aircraft not in flight.

1/13/69 Stewardess ran into the cockpit and locked the door after being confronted by a hijacker with a shotgun. Plane was on final approach and landing was completed. Hijacker was taken into custody while sitting quietly in his seat with the unloaded shotgun at his feet.

2/3/69 Crew convinced 21 year old hijacker and his 18 year old female accomplice that refueling was necessary at Miami. Flight originated in New York. Ground crew became suspicious at Miami and alerted police. Pilot persuaded very sensitive and disturbed hijacker to relinquish the knife and aerosol spray type can which he was carrying.

3/19/69 Incomplete Hijacker was conviced of the necessity for refueling in New Orleans. While on the ground, he was persuaded to allow passengers to deplane. An FBI Special Agent (passenger) wrestled the gun from the hijacker and placed him under arrest. One shot was fired from the hijacker's gun, but no injuries resulted.

5/30/69 Two prisoners who were being transported by law enforcement officers handed a note to the stewardess indicating that they had a hand grenade, and unless the plane was flown to Cuba, they would explode the grenade. The aircraft was on final approach and the pilot landed without incident. The prisoners were taken off the plane after landing by law enforcement officers. The prisoners did not have a hand grenade or any other type of weapon.

8/5/69 Seventy-four year old man attempted to hijack aircraft while in flight. He was armed with a five inch straight razor and a pocketknife. Pilot convinced him refueling was necessary in order to fly to Cuba. Hijacker commented he would be apprehended if a refueling stop was necessary and returned to his seat. He was taken into custody at original destination.

9/10/69 Subject grabbed a stewardess and said "I want to go to Cuba." He returned to his seat after failing to unlock the cockpit door with keys provided by the stewardess. He was then subdued by passengers and taken into custody at San Juan.

11/10/69 Fourteen year old boy boarded aircraft without ticket using an 18 year old girl as a hostage. He held a butcher knife against the girl's back and demanded to be taken to Sweden. When told the plane was not capable of such a long flight (DC-9) he requested it be flown to Mexico. The youth was persuaded to surrender as the plane taxied about the runways.

1/6/70 A male passenger, armed with a knife, attempted to hijack the aircraft while holding a stewardess as a hostage. The incident occurred shortly before a scheduled landing. The hijacker lost his balance, after the landing, when the pilot made a tight turn and reversed the engines. The hijacker was overpowered by passengers and crew members.

3/17/70 Incomplete Armed male entered cockpit and demanded that aircraft be flown out to sea. Stated he wanted to be notified when only 2 minutes of fuel remained. When captain turned aircraft in the direction of U. S. mainland, hijacker began shooting at the captain and co-pilot. Co-pilot, although mortally wounded, succeeded in shooting the hijacker twice with hijacker's revolver. Captain, who had been shot in both arms, landed plane at original destination. Hijacker recovered.

4/23/70 An armed male adult hijacked a bus and forced the driver to take him to the airport. He then proceeded to use the driver as a hostage, as he boarded an air carrier aircraft which was boarding passengers. Michigan State Police overpowered the individual after responding to a call for assistance from the crew.

6/4/70 Incomplete Gun-wielding male entered cockpit and demanded to be flown to Washington, D. C., and that 100 million dollars be ready and fuel truck meet the aircraft upon landing at Dulles Airport. Later further requested that an internationally qualified pilot also meet the aircraft at Dulles. The aircraft landed at Dulles. The new pilot picked up the bag of money ($100,000) and boarded the hijacked aircraft. It took off and flew around with no destination imposed by the hijacker, who was dissatisfied with

	the amount of money. The aircraft returned to Dulles to supposedly pick up more money. Fake money bags had been placed on the landing field. As the aircraft rolled to a stop, its tires were shot out. Vehicles blocked any further movement of the aircraft. The passengers deplaned via emergency doors and chutes. The FBI and crew overpowered and captured the hijacker in the process of which the hijacker was wounded slightly and the original pilot was wounded in the abdomen.
8/3/70	Male armed with starter pistol shouted to stewardess to have aircraft diverted from Munich/West Berlin to Budapest. Pilot dissuaded him from hijacking aircraft. Met by police as he deplaned at Berlin.
9/15/70 Incomplete	Hijacker armed with pistol handed a note to the chief stewardess stating he wished to go to North Korea. Hijacker remained in his seat. Aircraft landed at San Francisco for refueling at which time 35 women, children, and military were allowed to evacuate. Hijacker was then shot by a Brinks guard who had been a passenger on the aircraft.
9/22/70	A Federal prisoner, who was being transported from Boston, Massachusetts to San Juan, P. R., locked himself in lavatory and threatened to burn airplane if plane was not diverted to his destination of choice. He was overpowered and forcibly subdued by two escorting U. S. Marshals.
12/19/70 Incomplete	Hijacker handed a note to a stewardess stating that he had a gun and directing flight to Cuba. Hijacker permitted landing at Tulsa to allow passengers to deplane. Crew deplaned with the passengers, stranding the hijacker in the aircraft. Police boarded the aircraft and arrested the unarmed hijacker who was hiding in a washroom.
12/21/70 Incomplete	Hijacker stated he had bomb and wanted to go to Mexico. Crew convinced him of necessity to return to San Juan (Point of departure) to refuel. Hijacker was overpowered by the crew after landing at San Juan.

3/8/71 Incomplete — Hijacker armed with .38 cal. pistol. Initiated hijack attempt while aircraft on gound loading for departure to New Orleans. Other passengers deplaned and flight departed for Montreal, Canada. When in vicinity of Knoxville, Tenn., crew persuaded hijacker to abandon hijack attempt and divert to Miami. FBI agents surrounded the aircraft as it stopped on the ramp and took the hijacker into custody.

3/31/71 — Fourteen year old hijacker enplaned without ticket at Birmingham airport. Armed with pistol, held hostess as hostage. Demanded to go to Cuba. Allowed passengers and other hostesses to deplane. Hostess convinced him to abandon the hijacking.

4/21/71 — Hijacker searched prior to boarding. Prior to arrival at Miami, hijacker claimed he had a gun and grenade, would permit aircraft to land Miami, but wanted to go to Italy. Pilot called bluff. Aircraft landed Miami. Hijacker arrested. He carried no weapons.

5/28/71 Incomplete — Hijacker who boarded at Miami threatened stewardess with fake acid, threatened to blow up aircraft with fake explosives, ordered the aircraft to fly to LaGuardia Airport, N. Y. (original destination), and that his wife and son be at the airport. Upon arrival he permitted the passengers and stewardesses to deplane. His wife and son did not arrive. After 1-1/2 hours the hijacker ordered the plane to take off. Once aloft he demanded to be flown to Nassau, that 1/2 million dollars be placed on the runway there and that he be met by the N. Y. representative of the Irish Republican Army. Upon deplaning at Nassau, the hijacker was captured.

6/4/71 Incomplete — Hijacker armed with pistol commandeered aircraft 10 minutes after take-off and demanded to be flown to Israel. When told the aircraft did not have enough fuel for trip, hijacker allowed landing at Dulles and permitted passengers and stewardesses to deplane. After 3 hours on the ground, hijacker went to get a drink of water leaving pistol on seat. Hijacker taken into custody.

6/12/71 Incomplete — Twenty-three year old Negro, armed with pistol, forced his way on board aircraft, held stewardess hostage and demanded to be flown to North Vietnam. He killed one passenger who got in the way, then allowed passengers, body and hostess (except hostage) to deplane. During this pause, a deputy U. S. Marshal sneaked aboard the aircraft. The aircraft took off for New York, ostensibly to change to an aircraft with longer range. During the flight, several shots were exchanged between the crew, marshal and hijacker. When plane landed at JFK, the crew and marshal escaped. The hijacker was wounded and captured by the FBI.

6/18/71 — Hijacker boarded aircraft after termination of flight. Claimed to have explosive and acid. Demanded to go to Cuba. Captain informed would-be hijacker that aircraft needed fuel and additional crew. While second pilot was enplaning, he overpowered hijacker.

7/2-3/71 Incomplete — Hijacker boarded at Mexico City accompanied by girlfriend. Near San Antonio he passed a note to the pilot threatening harm unless his demands were met. He diverted the flight to Monterey, Mexico to pick up $100,000 he extorted from the airline. There he allowed the passengers to deplane. He then, over the next 24 hours, directed the plane to Lima (Peru), Rio de Janeiro (Brazil), and Buenos Aires (Argentina), seeking an Algerian representative to arrange political asylum. He surrendered to authorities at Buenos Aires.

7/23/71 Incomplete — Hijacker held stewardess as hostage and demanded to be flown to Milan, Italy. Crew informed him that aircraft did not have the necessary range and convinced him to return to origin to switch to longer-range aircraft. While waiting to board new aircraft, hijacker was shot and killed by FBI.

9/3/71 — Hijacker threatened stewardess with ice pick and demanded to be flown to Cuba. Dead heading crew sensed somethin amiss, intervened, and with passenger assistance, overpowered hijacker.

9/24/71 Hijacker, armed with pistol and high explosives, planned to threaten to blow up aircraft to effect the release of two Black Panthers from prison and then fly them to Algeria in hijacked aircraft. Authorities tipped off. Passengers, including hijacker, deplaned prior to take off under pretext of mechanical difficulties. Hijacker apprehended in terminal following threat to shoot arresting officer and to blow up explosives.

10/4/71 Incomplete Chartered aircraft en route Nashville-Atlanta diverted by 2 armed men to Jacksonville for refuel and supplies and further flight to Bahama. FBI agent shot out tires at Jacksonville. One hijacker, his wife and pilot killed. Co-pilot safe. One hijacker captured.

10/18/71 Incomplete Scheduled B-727 flight from Anchorage to Bethel, Alaska, was hijacked by a lone armed man shortly after departure. The stewardess convinced the hijacker to return to Anchorage to discharge the passengers. The hijacker then ordered the flight to Vancouver, B. C., where the aircraft was refueled for an onward flight to Mexico City and Cuba. An hour or so out of Vancouver, B. C., the hijacker ordered the aircraft to return in order to switch to a larger aircraft. A Royal Canadian Mounted Police Inspector boarded the B-727 when it landed. An hour later, the hijacker permitted the crew to deplane, and he surrendered to the RCMP.

12/24/71 Incomplete Scheduled B-707 flight from Minneapolis/St. Paul to Chicago was hijacked by a lone armed man shortly after departure. He fired revolver shots into the bulkhead and ordered the stewardess to inform the captain that he had just killed a man and that he wanted $300,000 ransom. The flight landed at Chicago and the money was delivered. The hijacker allowed all but two passengers to deplane. While the hijacker was counting the money, the cockpit crew escaped. While the hijacker went to the lavatory, one of the three stewardesses escaped. The aircraft was surrounded and spot-lighted. The two remaining stewardesses and one of the passengers

	jumped from the aircraft. The hijacker then threw out the money and surrendered.
12/26/71 Unsuccessful	Scheduled B-707 flight from Chicago to San Francisco diverted to Salt Lake City when intoxicated male brandished a plastic replica of a pistol. Hijacker stated he had a pressure type bomb on his person set to explode if aircraft descended through 2,500 feet. He was subdued by a stewardess and a passenger. Personal effects and statements made following his arrest indicated that he wanted to prove that any person could hijack an air carrier.
1/12/72 Incomplete	Scheduled B-727 flight from Houston to Dallas hijacked 30 miles south of Dallas by lone armed male claiming to have dynamite in briefcase. Flight continued to Dallas and made normal landing. Hijacker permitted all (94) passengers to deplane, but kept all (7) crew on board. Hijacker demanded survival gear, 10 parachutes, 1 million dollars and a .357 magnum pistol. Simulated problems delayed departure. Hijacker traded his .22 cal. pistol to crew for inoperative .357 magnum at which time the crew evacuated the aircraft. The hijacker was then taken into custody. Briefcase did not contain a bomb.
1/20/72 Incomplete	Scheduled DC-9 flight from Las Vegas to Reno hijacked on the ground at Las Vegas by a lone male armed with an alleged bomb. Hijacker demanded and received $50K extortion money, two parachutes and a crash helmet. Hijacker allowed the passengers and two stewardesses to deplane. He then directed the flight to the vicinity of Denver where he parachuted from the aircraft carrying the $50K. He was captured on the ground by law enforcement officials directed and guided to the drop area by USAF and FAA aircraft.
1/26/72 Incomplete	Scheduled F-27 flight from Albany to New York (LaGuardia) hijacked en route by lone male armed with pistol (which turned out to be a starter pistol) and an alleged bomb. Flight diverted to Westchester Airport where passengers allowed to deplane. Hijacker demanded and received $200K ransom.

	Flight then directed to Pittsfield, Mass., where it circled, then to Poughkeepsie, N. Y., where it landed. Hijacker demanded an automobile and police escort off the airport. Hijacker, with stewardess hostage, transferred to automobile when he was shot and killed by the FBI.
1/26/72 Unsuccessful	Lone armed male attempted to commandeer a helicopter from the Berkeley, Calif., helipad to San Francisco. He demanded that a fully equipped jet be ready at San Francisco to transport him to Cuba. Berkeley P. D. waved off all incoming helicopters and surrounded hijacker who surrendered.
1/29/72 Incomplete	Scheduled B-707 flight from Los Angeles to New York (JFK) hijacked en route by a lone male armed with a pistol. Flight landed at JFK where passengers allowed to deplane. Hijacker demanded $306,800 in recomepnse for a yacht allegedly taken away from him by court action. Also demanded the release of Angela Davis from prison, to talk with President Nixon, the release of a prisoner from the Dallas County Jail and to be flown to Europe. Hijacker forced the pilot to take off and circle JFK for an hour. He then permitted a change of crew. An FBI agent masquerading as a crewmember shot the hijacker twice, ending the incident.

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