AIRCRAFT HIJACKING
MAY 1961 - JANUARY 1974

Thesis for the Degree of M. S.
MICHIGAN STATE UNIVERSITY
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ABSTRACT

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By

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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 effect of this incident has been 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 there were a total of 27 per year and 31 in 1972. As of January, 1974, there have been 2 skyjackings, making a grand total of 161 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 officals. Aviation journals and security journals were reviewed in an attempt to ascertain the technical problems that skyjacking 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.

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A THESIS

Submitted to
Michigan State University
in partial fulfillment of the requirements
for the degree of

MASTER OF SCIENCE

School of Criminal Justice

Approved by:

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ACKNOWLEDGMENTS

I wish to sincerely acknowledge my indebtedness to the many who helped make this thesis possible. To my employer, the United States Army, I extend a special thanks and deep appreciation for the trust and confidence shown me by making this graduate education possible.

I would also like to express my sincere appreciation to the members of my thesis committee, Mr. Zolton A. Ferency, Mr. David B. Kalinich, and particularly to the Chairman Dr. Leon Weaver, for the inspiration, encouragement, advice, and hours of personal assistance which he provided during the conduct of this study.

Most of all, I wish to thank my wife, Dion, who with my son Christopher made by far the greatest sacrifices during the preparation of the thesis. Without their confidence, encouragement, patience, preseverance this thesis would not have been possible.

TABLE OF CONTENTS

LIST OF TABLES

CHAPTER I

INTRODUCTION

Statement of the Problem

Aerial hijacking is a relatively [redacted] 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 there were a total of 27 per year and 31 in 1972. As of

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[1] New York Times, May 2, 1971, p. 1.

January, 1974, there have been 2 skyjackings, making a grand total of 161 skyjackings since 1961.[2] (See Table 1).

TABLE 1

SUMMARY OF HIJACKINGS INCIDENTS INVOLVING
U. S. REGISTERED AIRCRAFT
(MAY 1961-JANUARY 1974)

	I	S	U	T	I	S	U	T	I	S	U	T
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	14	8	6	28	0	2	1	3	14	10	7	31
1973	1	0	0	1	0	1	0	1	1	1	0	2
TOTAL	31	86	28	146	1	13	1	15	32	99	30	161

s - Successful = hijacker controls flight and reaches destination or objective.

U - Unsuccessful = hijacker attempts to take control of flight but fails.

I - Incomplete = hijacker is apprehended or killed during hijacking or as a result of "hot pursuit."

[2]Letter from Lowell L. Davis, Chief, Civil Aviation Security Division, Office of Air Transportation Security, Office of the Secretary of Transportation, Washington, D. C., February 25, 1974, (hereinafter referred to as FAA Statisics, January 2, 1974).

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 thesis 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 preboarding screening process and the latest development in electronic detection devices.

Methodology

The major procedure used to gather the information for this study was an extensive review of the pertinent literature. Government documents, 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 Detroit, Michigan.

Definitions

"Hijacking" applies to the seizure of a private commercial vehicle or vessel with the intent of theft of its load or cargo.

"Aircraft hijacking or skyjacking" consists of a taking or conversion to private use of an aircraft as a means of transportation and forcibly changing its plan to a different destination.[3]

"Air piracy" consists of any of the following acts:

(1) Any illegal acts of violence, dentention or any act of depredation, committed for private ends by the crew or the passengers of a private aircraft, and directed:

(a) On the high seas, against another aircraft, or against persons or property on board such aircraft;

(b) Against, aircraft, persons or property in a place outside the jurisdiction of any state.

(2) Any act of voluntary participation in the operation of an aircraft with knowledge of facts making it a pirate aircraft.[4]

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

Organization of Thesis

Chapter II discusses the latest statistics on skyjacking, type of aircraft, type of weapons, and the hijacking process.

Chapter III discusses the legal aspects, both national and international, related to skyjacking.

Chapter IV, the personality and emotional nature of the skyjacker is examined.

Chapter V examines the preventive measures instituted by the government and the airline industry. Included in this discussion are the skymarshal program, the pre-board screening process and the use of electronic detection equipment.

Chapter VI presents the author's comments and recommendations along with a discussion of the most recent hijacking incidents.

CHAPTER II

AIRCRAFT HIJACKING

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,[1] kidnapping citizens of an enemy state in an aircraft registered in a third state,[2] dropping political leaflets on the capitols of two countries, Lisbon[3] and Caracas,[4] and fleeing from Communist to non-communist nations,[5] 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.[6]

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[1] New York Times, November 3, 1979, p. 1.

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

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

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

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

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

The human dimensions of skyjacking have grown considerable; 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.[7]

The danger to the aircraft, passengers, and crewmembers was described in the testimony of the Acting Administrator of the Federal Aviation Administrations 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 in 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

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

> 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 fir 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.[8]

Danger, ever present in aviation, is magnified many times when the control of the plane is under the direction of probably nervous and perhaps derranged person who is unlikely to be professionally qualified to make operational decisions.[9] 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.[10] 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).[11]

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

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

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

[11]Ibid.

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 Easter 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 radio contact, it is suggested you 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 Airpaort, 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.[12]

The dangers involved in aircraft hijacking are out of all proportion to the number of incidents. Apart from the navigational 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.[13] 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.[14] Refueling has been used by the flight

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

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

[14]Ibid.

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.[15]

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.[16]

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[15]Ibid., p. 702.

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

Insurance

Air piracy exploded into a world problem in September, 1970, when four aircraft were successfully hijacked and destroyed by Arab guerillas. This upsurge of air piracy by Arab guerillas forced a boost in premiums on insurance covering hijacking. Hijacking insurance was now placed in the same category as war risk insurance.[17]

Until then, hijacking was treated by insurance groups in the same class as standard null 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 Transportations 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."[18]

The United States government's entry as a major aviation insurer was based on existing congressional

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

[18]Ibid., pp. 33-38

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 to the present situation . . . ."[19]

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.

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

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

[20]Ibid.

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 from this domestic policy. This exclusion has been typically war risk coverage, with hijacking not excluded.[21]

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,"

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[21]Ibid., p. 24.

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 manner as to create an unreasonable risk of permanent loss . . . ." Presumably, recovery could be obtained for theft if the hijacked aircraft were not returned by Cuba.[22] This same inssue 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.[23]

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."[24]

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

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

[24]Ibid.

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.

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 Date 1970 rates for London war-risk insurance were about 1/2-3/4 the Transportation Department's rate.[25]

National Law

In May of 1961, when an armed Cuban named Antulio Ramirex 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.[26]

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[25] Ibid.

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

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) 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, such as piracy, and those affecting the security or credit of the state.[27]

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[27]Ibid., p. 34.

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 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.[28]

Then in 1961, a drunken passenger, who boarded a non-stop 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 in flight.[29]

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[28] Ibid.

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

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 hijacking of U. S. aircraft.[30] In the House, Representative John Bell Williams of Mississippi introduced a bill, which, after various amendments, became Pulbic 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."[31]

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

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

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

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.[32] The Bearden's were charged with "Interruption of Commerce by Threats" (18 U.S.C. Sec. 1951) and subsequently found guilty, the father was sentenced to 20 years, and the son went to reform school.[33]

Public Law 87-197 gave the United States the power to try such incidents as interference with the aircrafts crew, carrying wapons 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 and with wrongful intent, of an aircraft in flight in air commerce.[34]

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

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

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

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.[35]

They also charge the Federal Bureau of Investigation with the investigation of these crimes.[36]

Incidents of Aircraft Hijacking

Since 1961, there have been approximately 192 persons involved in the 161 hijackings of U. S. registered aircraft and of one foreign aircraft engaged in U. S. air commerce.[37] Of these 218 persons 112 are still listed as fugitives by the Department of Justice, and there have been 35 convictions to date.[38] (See Appendix A)

Those convicted have had a wide variety of sentences imposed upon them. 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."[39]

In addition, disparity of laws among nations, lack of extradition authority in many areas and abuse of political

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[35]Ibid., Sec. 111. [36]Ibid., Sec. 902(n).

[37]FAA Statistics, January 2, 1974.

[38]Ibid.

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

asylum practices imply favorable odds in escaping rigid punishment for acts of air piracy.[40] 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 building in Miami. Federal District Judge William O. Mehrtens sentenced Thomas James Boynton to 20 years for commandeering a private aricraft 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 Eastern Airlines transport carrying 151 persons on December 19, 1968. In order to get around the Federal Aviation Act that required a penalty not less than 20 years, Washington was not charged with air piracy but rather with "interfering with the crew of an aircraft."[41]

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

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[40] Ibid.

[41] Ibid.

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 judgement of dismissal. The Court held "inter alia," that the act of kidnapping is illegal 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.[42] The two offenders, David Healy and Oeth Leonard, were convicted and sentenced to 20 years for air piracy and one year for kidnapping.[43]

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.[44]

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

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

[44]FAA Statistics, January 2, 1974.

Is there any definite pattern to the 161 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 hijacking.[45]

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 reasonable 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.[46] This aspect of political asylum will be discussed in detail in Chapter III.

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

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

[46]Ibid.

some incidents have involved the return to Cuba of Cuban agents working in the United States.[47]

The second significant common denominator of the U. S. hijackings is that they have been cyclical and have occurred in flurries. 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 as the "Black Panthers."[48]

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."[49]

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."[50]

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[47] Ibid.

[48] Ibid.

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

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

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 tended to encourage publicity seeking offenders and mentally disturbed persons.[51] 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 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.[52]

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.[53] Both government and industry have leveled an

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[51]Stephen, "Going South," p. 434.

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

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

obverse criticism at the news media for giving insufficient publicity to the drastic federal criminal penalties for aircraft piracy.[54]

A third feature of U. S. hijackings is that a large proportion of them involve mentally-disturbed persons and persons in 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.[55] There have been forty-six unsuccessful or incomplete hijackings since 1961.

There have been seventeen hijackers committed to mental institutions, five of these have been since released.[56] A detailed discussion of the psychological aspects of hijacking will be presented in Chapter IV.

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,[57] (See Table 2) and almost every type of weapon, from the most popular, the firearm, to acid and ice picks, has been

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

[55] Ibid.

[56] FAA Statistics, January 2, 1974.

[57] Ibid.

TABLE 2

SUMMARY OF TYPE AIRCRAFT INVOLVED
IN HIJACKING INCIDENTS
(MAY 1961-JANUARY 1974)

Air Carriers		General Aviation	
Jets	133	Jets	0
Prop-Jets	7	Prop-Jets	0
Propeller Driven	6	Propeller Driven	13
	146	Helicopter	2
			15

Type Aircraft	Number of Incidents
B-747	4
B-727	54
DC-8	28
B-707	15
DC-9	17
B-720	3
DC-3	3
DC-6	1
Convair 880	4
Convair 440	1
Piper Apache	3
Lockheed 188	2
Fairchild F-27	1
Cessna Twin	2
Cessna 182	1
Cessna 177	1
Cessna 172	2
Convair 600	1
Heron	2
B-737	7
Cessna 402	1
Aero Commander	1
U/I Helicopter	1
Grumman G-73	1
FH-277	1
Cessna 206	1
Bell 47-G5 Helicopter	1
Total	161

used.[58] (See Table 3) These are the circumstances that make aircraft hijacking such a difficult crime to control.

TABLE 3

SUMMARY OF TYPES OF WEAPONS INVOLVED IN HIJACKING INCIDENTS (MAY 1961-JANUARY 1974)

Type	Number of Incidents*
Firearms (Alleged and Real)	117
BB Gun	1
Knives	24
Bombs, Explosives (Alleged and Real)	48
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

[58] Ibid.

internal communication system.[59] In some instances, especially in chartered aircraft, an attack is made directly on the pilot. In a 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.[60]

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 notified about the incident and either informs the Czech Embassy at Washington, representing Cuban interests in the United States, or the Swiss Embassy arranges for exit clearances for the aircraft, passengers and flight crew and pays for any charges arising from the stopover.[61] 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 Airlines over $100,000.[62]

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

[60] New York Times, March 8, 1972, sec A, p. 8.

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

[62] Letter from Lowell L. Davis, February 25, 1974.

The Swiss Government is reimbursed by the Department of State which, in turn, is reimbursed by the carrier.[63] En 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.[64]

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 veiw 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 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

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

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

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 III

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 bout 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

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

United States. There would be 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

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

bring the reader up to date on the international conventions and other actions that have been 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 of 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 of property in a place outside the jurisdiction of any state.

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

> (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]

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 calssical 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

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[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.

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

[6]Ibid., p. 4.

"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 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 privat 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,--

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[7]Ibid., p. 7.

[8]Ibid., p. 7.

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

that is to say, 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 "jurisdiction" 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"

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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.

is essential to the control of crime aboard aircraft, but the suppression of the problem of hijacking requires an internationally-agreed system of "jurisaction" 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 Cenvention was drafted by ICAO and its members to provide a clear international agreement of 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 face, the Tokyo Cenvention 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

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

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

as a separate category until 1962. This is why the United States, which was the 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

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

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

Certain Other Acts Committed on Board Aircraft, signed in Tokyo on September 14, 1963.[17]

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 Cenvention 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 Airlines

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[17]Ibid.

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

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 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]

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

[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.

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 of those traveling 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 Isreal. 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 Israli 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

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[24]Ibid.

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] 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 Airliner 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

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

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

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

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 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 the Convention.[31]

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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.

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

The worst record for a 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 of June 30, 1968, of a plane

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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.

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 grounds for regarding Prellezo as a Cuban national. The Cuban government subsequently 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 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,

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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.

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 score, the obligations created by the Tokyo Convention are of little signifance.[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 temporary detention of the hijacker, and this only if the state of landing is satisfied that "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]

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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.

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 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]

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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.

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 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 Arabain 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

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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.

actions that conformed with ASTA's requests, leaving the other four on the group's boycott list.

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 Trough Law Center, a suggested approach to the problem. The essence of the draft proposal for a model treaty was that each contrasting 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 of 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]

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

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

In October of 1970, U Thant proposed the establishment of an international tribunal to try hijackers. This proposal was 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 has 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 sixty-one hijackings between January 1, 1961 and January, 1974, where an intended destination can be determined, nearly all were to places from where the hijacker could reasonable expect not to be sent back. Eight-five 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

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

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

[52] FAA Statistics, January 2, 1974.

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

months by Mexican officals.[54] Since then, Cuba has 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

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

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

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

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

the states from which they fled. In the case of 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]

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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.

This problem 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 extratition 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 Soviet 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,

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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 Hijackings: The Role of Values and Interests," American Journal of International Law, LXV (September, 1971), 84.

ten to twenty years for hijacking resulting in injury or illness, and life imprisonment 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

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[65] Ibid.

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

his political opponents is not likely to receive an impartial hearing.[67] 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

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[67] Ibid.

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

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

(PFLP), an organization claiming responsibility for various hijacking cases.[70] In such cases, the hijacker 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]

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

[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.

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 purpose of extradition the concept of a political offense seemed not to be an objective notion, and the problem of determining such offenses depend on psychological 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 grand 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:

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[74] Ibid.

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

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

> 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 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 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 our general policy on political asylum; but we think the risks involved in the hijacking fo commercial aircraft are great enough so that neither we nor others should treat hijackers--whatever their motivation--as simple political offenders.[80]

In this 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

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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.

matter, a political 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 a 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 seem hazardous to maintain that the possible political

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[87]Ibid., 14-15.

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

freedom on 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 effect 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]

The Palestinian guerrilla organization responsible for the September 1970 hijackings, the PFLP, was expelled

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

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

[91]Ibid., p. 51.

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 the widespread realization of the dangers, to persons and states, which will eventually allow states to subordinate rights of political asylum to the need of 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 aircraft hijacking in a bilateral

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

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

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 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]

Cuba will enter only bilateral agreements concerning hijackings. It has been speculated that Cuba's desire for

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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, p. 10.

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. 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]

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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.

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

Just what therse measures are 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 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

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

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

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

international convention delaing 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]

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

The United States position that vigorous international action is necessary to bring hijacking under

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[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.

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

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 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 1969, the Soviet delegate to the United Nations accused Western proponents of action against hijacking of "unsavory political purposes."[110]

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

[109] Ibid.

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

However, on November 14, 1970, the Soviet Union became an official member of the International Civil Aviation Organization (ICAO). Since joining 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 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

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[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.

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

The Hague Convention

Following this rash of worldwide incidents, those countries who rejected the United States' earlier proposals

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[113] Ibid.

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

[115] Ibid.

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]

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]

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

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

[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).

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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 continuted 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:

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).

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

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

An Eastern Airline 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 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 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 aperson in custody and a certain flexibility is

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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.

[124]Ibid., Art. 6.

required. For example, the case of "D. B. Cooper," the individual who successfully extorted $200,00 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 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]

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[125]FAA Statistics, January 2, 1974.

[126]The Hague Convention, Art. 6.

[127]Ibid., Art. 8.

[128]Ibid., Art. 7.

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]

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

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[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.

[133] The Hague Convention, Art. 6.

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 hijacking 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]

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

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[134]Ibid., Art. 11.

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

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

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 or the International Court that a state has violated the Convention, the question of enforcement of such a decision is left open.[138]

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 multiphase 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

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

[138]Ibid.

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]

It would seem 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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[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. 84.

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

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

CHAPTER IV

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]

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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.)

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

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

[4]Ibid.

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

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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.

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

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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.

psychotics. Those who fail in their effort--who are disarmed or talked out of hijacking while actually on the plane--tend to be more 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 basicaly 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 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.

Political Implications.

The unfortunate passengers & air crew members have all too frequently been used, by the hijackers & by the governmental officials on the ground in the countries to which the hijacked aircraft have been forcibly diverted, as helpless pawns in games of political blackmail & pressions of a trans-national character

EM p 18

Dr. Greenson says, "With the temporily 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 grad 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 this 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 this 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 the 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, partically. 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 stayed 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 the false imprisonment). I hadn'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 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 kinds' 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 paroles. 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 to 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 the 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 this 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 contribution 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 dominace 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 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

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

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 along, 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 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 speaces 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 V

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 ones. Of twenty-five airline hijackings attempted in 1971, eleven met with success. In 1972 out of twenty-eight airline hijackings attempted, eight met with success. In 1973, out of two airline hijackings attempts, one met with success. This compares with seventeen of twenty-six in 1970 and thirty-three of forty in 1969.[2]

FAA Administrator John H. Shaffer 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." Shaffer added,

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

[2] FAA Statistics, January 2, 1974.

> 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 the future 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 in an attempt 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 fully 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

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

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

concern about methods of protection aboard aircraft in flight. At first members of the United States Border Patrol were ordered to accompany flights along the sourthern 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 aricraft. 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 knockdown 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 involved

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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.

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

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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.

the Transportation 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

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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.

federal hijacking laws. These arrest powers apply 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 ahijacker. They also receive indoctrination in the hijacker behavioral profile system to assist in spotting potential hijackers.[22]

To the end of November 1973, sky marshals made 3828 arrests, twenty-one in connection with threatened hijackings. Another three-hundred-twenty arrests were made in connection with bomb threats and similar offenses. Four-hundred-eighty-two persons were arrested for firearms violations and security offenses and 1474 persons were arrested for possession of narcotics.[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]Army Times, March 6, 1974, p. 37.

Deterrence

Two major means of deterring hij's by international agreement. 1= extradition.
other - punishment by states in which the hij's are apprehended.

EM p. 120

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 develop practical answers to the problem.[24]

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.[25]

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.[26]

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

[25] Ibid.

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

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]

In as much 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, 328 F. Supp. 1077 (E.D.N. Y. 1971) the District Court of the Eastern District of New York concluded that the Fourth Amendment "does not render inadmissible non-weapon evidence found in federal marshals' frisk of would-be airline passengers based on Federal Government's hijacker-detection system."[29]

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

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

[29] Livingston Hall, Yale Kamisar, Wayne R. LaFave, and Jerold H. Israel, Modern Criminal Procedure-Basic Criminal Procedure, (St. Paul: West Publishing Co., January 1973 Supplement), pp. 121-124.

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." However, if the passenger becomes uncooperative a search is conducted by a deputy U. S. Marshal stationed nearby. In most cases, Steel said, passengers detected carrying "sufficient masses of metals" are not asked to step aside

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

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

because the visual observations of the passenger did not reveal the tell-tale traits.[32]

Statistically only .05 per cent of the 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 clothing." The defendant sought to exclude from evidence a pistol uncovered by this search. The Supreme Court held the search proper:

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[32]Ibid.

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

[34]Ibid.

> (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 reasons he found that the profile enables the marshals to meet the

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

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

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 the metal is located.[40] The magnetic detection device used by most

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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.

[40]Letter from Lowell L. Davis, February 25, 1974.

of the airports 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 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 of Transportation for Security and Consumer Affairs told newsmen that spending in the sky marshal program was cut from $37 million in 1972 to $27 million for

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[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.

the next fiscal year.[44] The sky marshal is now scheduled to be phased out by the end of this year.[45]

According to Lowell L. Davis, Chief, Civil Aviation Security Division, Office of Transportation Security:

> 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.[46]

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 screening procedures to May 4, 1970. None of these flights were screened.[47]

Eastern Airlines 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

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

[45] Army Times, March 6, 1974, p. 37.

[46] Davis, Letter, February 25, 1974.

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

violations by U. S. Marshals for a variety of charges including transporting narcotics, carrying guns and knives, and being AWOL from the military services.[48]

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 carryon luggage spot checks have been announced. Pistols, knives and bullets are some of the items left behind.[49]

Unitl 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, on December 5, 1972, at the direction of the President, the Secretary of Transportation announced a strengthened aviation security program designed to protect air travelers against threats and acts of violence by air hijackers. In accordance with the Secretary's instructions, the Federal Aviation Administrator issued an emergency order and published amendments to existing regulations governing aviation security. Since January 5, 1973, air carriers have been required to electronically screen all enplaning passengers as a condition of boarding or reboarding. If a passenger

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

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

activates the electronic weapons detector and is unable to satisfactorily explain the presence of metal on his person, the airline must refuse boarding privileges unless he consents to "frisk" or exterior clothing patdown. The air carriers are also required to inspect all carry-on items, including hand luggage, purses and packages, to insure that weapons, explosives and other dangerous articles are not carried aboard the aircraft.[50]

The airport operators have also been given added responsibilities. Under an emergency order effective February 16th, they are required to insure that armed local law enforcement officers are stationed at passenger checkpoints throughout the passenger screening process. The law enforcement officer must remain at the passenger checkpoint until the aircraft has taxied away from the boarding area and he must return to his station in the event the aircraft returns to the boarding area prior to takeoff. The local law enforcement officers have orders to support airline and airport security measures and to act in the event of suspected or actual unlawful activities.[51]

In a third action, the FAA urged the Federal Communication Commission to block radio and television stations

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[50]"Skyjacking: Problems and Potential Solutions," Symposium, Villanova University Law School, Villanova, Pennsylvania, February 23, 1973.

[51]Ibid.

from broadcasting radio transmissions from an airliner while a hijacking is in progress. During the course of three hijackings, a number of boradcasters 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 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.[52]

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.[53]

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[52] Security System Digest, February 2, 1972, p. 3.

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

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. The Department of State feels that this measure would not be effective.[54]

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) The 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.[55]

Codes: In September of 1970, Secor D. Browne, Chairman of the Civil Aeronautics Board proposed that a training program be adopted for flight crews in the containment of a

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[54]Ibid.

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

hijacker once he reaches 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 the hijack is in progress.[56] 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."[57]

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 extent under the varying laws covering air piracy throughout the world.[58]

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

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

[58] 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 Havan airport in Florida, and man it with U. S. military personnel disguised as Cuban militiamen to deceive and apprehend hijackers.

5. Bulletproof the pilots compartment and only have communication one--way from the cockpit to the cabin.

6. Search every passenger either physically by X-ray or fluroscope 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.[59]

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

CHAPTER VI

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 predication by FAA Adminsitrator John Shaffer came all too true in November 1971.[1]

The Evolution of Aircraft Hijacking

The crime of skyjacking has slowly evolved through four phases. Originally, it began in Europe when individuals

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

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 enter 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 "home-sick Cubans, fleeing felons and policitacl 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. 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

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[2]"Stop Hijacking Campaign Flounders in Conflict," Time, March 12, 1972, p. 18.

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 followed by twenty-one more attempts at hijack extortion; however only three proved to be successful.

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 regressed to the standard phase two and three types.

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[3]Hubbard, Skyjacker, p. 231

[4]The State Journal, December 2, 1973, Sec. A p. 4.

The Role of the Media

On 21 February 1972, Palestinian guerrillas successfully hijacked a West German airliner extorting $5 million from the West German government for the release of the hijacked plane and its passengers, including the eldest son of the late Senator Robert F. Kennedy.[5] The International Air Transport Association on March 6, 1972, warned its 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 incidents seem to validate the position that epidemics of hijackings feed on the inordinate publicity which accompanies nearly every incident. Normally, the foreign incident wouldnot have received extensive publicity; along with the usual coverage, spot bulletins interrrupted television programs to keep the American

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

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

[7]FAA Statistics, January 2, 1974

[8]Ibid.

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 often gives is that these sky jackers 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.

The International Situation

The international law situation despite the Tokyo and The Hague Conventions remains unsatisfactory. The incident involving Joseph P. Kennedy III was proof of this fact, inasmuch as the leftist government of South Yemen, where the hijacked plan was diverted to, let the five sky-jackers off scotfree.[10] The situation will not be satisfactory until the crime of air piracy is "expunged from the

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

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 organizations employ the tactic of total air service boycotts. The employment of this tactic may bring countries such as South Yemen and Kuwait 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 recommendations 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 Droit International" who considered the application of such measures and who preferred, instead, recourse to more traditional legal forms of social control.[12]

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

[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.

The National Situation

For the wave of extortions involving U. S. registered aircrafts it is recommended that the airlines adopt a public policy of not paying 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 airlines do not take this action it is quite possible that the Congress might enact legislation prohibiting the airlines from paying ransom to hijackers.

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 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."[13]

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

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APPENDIX A

FEDERAL AVIATION ADMINISTRATION - OFFICE OF AIR TRANSPORTATION SECURITY

CHRONOLOGY OF HIJACKINGS OF U.S. REGISTERED AIRCRAFT

LEGEND

A = Arab
B = Black
I = Incomplete
L = Latin
O = Other
# = Probably Met Profile
S = Successful
U = Unsuccessful
+ = Met Profile
- = Did not Meet Profile
* = Profile not Applicable
W = White

DATE	HIJACKER(S)	AIRLINE FLT.#/OTHER	INCIDENT OCCURRED ON FLT. FROM: (HIJACKER BDG.PT.)	TO: (NEXT SCHED.STOP)	HIJACKER DESTINATION	I	U	S	HIJACKER STATUS
				1961					
5/1/61	Ramirez-Ortiz L +	NA 337 CV 440	Miami STOP: Marathon	Key West	Cuba			Cuba	Fugitive
7/24/61	Oquendo L +	EA 202 L-188	Miami	Tampa	Cuba			Cuba	Fugitive
7/31/61	Britt W *	PAC 62 DC-3	Chico, Ca. (Ground)	San Francisco	Unknown		X		Convicted, 1961: 20 yrs. Wounded pilot & ticket agent.
8/3/61	Bearden (Sr.) W +	CO 54 B-707	Phoenix	El Paso	Cuba	X El Paso			Convicted, 1961 20 yrs.
	Bearden (Jr.) W +								Juvenile detention, released.
8/9/61	Cadon W +	PA 501 DC-8	Mexico City	Guatemala City	Cuba			Cuba	Deported to Mexico; convicted 8 yrs. 9 mos.; released
				1962					
4/13/62	Healy W * Oeth W *	Charter Cessna 172	Miami	Local	Cuba			Cuba	Deported to U.S. 4/20/62; convicted 11/13/64: 20 yrs.
				1964					
2/18/64	Hernandez L * Lopez-Rodriguez L *	Charter PA-23	Miami	Local	Cuba			Cuba	Fugitives

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DATE	HIJACKER(S)	AIRLINE FLT.#/OTHER	INCIDENT OCCURRED ON FLT. FROM: (HIJACKER BDG.PT.)	TO: (NEXT SCHED.STOP)	HIJACKER DESTINATION	I	U	S	HIJACKER STATUS
				1965					
8/31/65	Fergerstrom W +	HA 358 DC-3	Honolulu	Kauai	Honolulu			Honolulu	Juvenile detention. Paroled 11/3/67.
10/11/65	Heisler W * Boyd W *	TS 755 F-27	Molokai, Hi. (ground)	Honolulu	Unknown		X		Court martial - 4 yrs dishonorable discharge. Sentence completed.
10/26/65	Medina Perez L +	NA 209 L-188	Miami	Key West	Cuba		X		Acquitted - insanity
11/17/65	Robinson W +	NA 30 DC-8	Houston	New Orleans	Cuba		X		Juvenile detention Parole. Conviction set aside 9/2/69.
				1967					
11/20/67	Babler W *	Charter	Hollywood, Fla.	Bimini, B.W.I.	Cuba			Cuba	Fugitive.
				1968					
2/9/68	Clark W *	PA Mil. Charter DC-6	Saigon (ground)	Hong Kong	Unknown		X		Case dismissed. Forced way aboard aircraft.
2/17/68	Boynton W *	Private	Marathon, Fla.	Miami	Cuba			Cuba	Returned to U.S. via Canada 11/1/69. Convicted 5/12/70. 20 yrs.
2/21/68	Rhodes W +	DL 843 DC-8	Tampa	West Palm Beach	Cuba			Cuba	Surrendered to U.S. authorities in Spain 2/10/70. Case dismissed. Confined in mental institution.

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5/10/68	Carrazana y Gonzales L + Arrenteros L + Donato Martin L +	NA 28 DC-8	Tampa	Miami	Cuba			Cuba	Fugitives.
6/29/68	"Carter" B # (alias)	SL 101 DC-3	Marathon, Fla.	Key West	Cuba			Cuba	Fugitive.
7/1/68	Velazquez Fonseca L #	NW 714 B-727	Chicago	Miami	Cuba			Cuba	Fugitive.
7/4/68	Morris W -	TW 329 B-727	Kansas City	Las Vegas	Mexico		X		Convicted 6/16/69. 5 yrs.
7/12/68	Sendicks W *	Charter	Key West	Miami	Cuba			Cuba	Deported to U.S. 9/68. Convicted 3/4/71. 10 yrs.
7/12/68	Richards W +	DL 977 CV-880	Baltimore	Houston	Cuba	X Miami			Case dismissed. Mental institution. Released 1/10/70.
7/17/68	Hernandez Leyva L -	NA 1064 DC-8	Los Angeles	New Orleans	Cuba			Cuba	Fugitive.
8/4/68	Jessie W *	Private	Naples, Fla.	Local	Cuba			Cuba	Returned voluntarily to U.S. via Mexico 1/10/69. Convicted 6/.3/69. 10 yrs. Paroled 7/2871.
8/22/68	"McBride" W * (alias)	Private	Nassau	Georgetown, Bah.	Cuba			Cuba	Fugitive.
9/20/68	Suarez Garcia L +	EA 950 B-720	San Juan	Miami	Cuba			Cuba	Fugitive.
10/23/68	Truitt W *	Private	Key West	Dry Tortugas Isl.	Cuba			Cuba	Returned via Canada 2/69. Convicted 8/13/69. 20 yrs.
11/2/68	Pastorich W #	EA 224 DC-9	Birmingham (Ground)	Chicago	South Vietnam		X		Probation 7/18/69.

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				1968 (cont'd)					
11/4/68	Johnson B +	NA 186 B-727	New Orleans	Miami	Cuba			Cuba	Fugitive.
11/23/68	Suarez Garcia L+ Mayor Velasquez L+ Arroyo Quintero L+ Mendoza Viera L+ Rodriguez Rodriguez L+	EA 73 B-727	Chicago	Miami	Cuba			Cuba	Fugitives.
11/24/68	Rios Cruz L+ Pena Soltren L+ Castro Cruz L+	PA 281 B-707	New York	San Juan	Cuba			Cuba	Fugitives.
11/30/68	Montesino-Sanchez L +	EA 532 B-720	Miami	Dallas	Cuba			Cuba	Fugitive.
12/3/68	"Cantera" L - (alias)	NA 1439 B-727	Tampa	Miami	Cuba			Cuba	Fugitive.
12/11/68	Patterson B + Patterson B +	TW 496 B-727	Kansas City STOPS: St. Louis, Nashville	Miami	Cuba			Cuba	Fugitives.
12/19/68	Washington B #	EA 47 DC-8	Philadelphia	Miami	Cuba			Cuba	Returned via Canada 11/69. Convicted 3/24/70. 2 yrs.
				1969					
1/2/69	Austin T. B+	EA 401 DC-8	New York	Miami	Cuba			Cuba	Killed during bank holdup 4/22/71
	Austin L. B+								Fugitive.
1/9/69	Bohle W*	EA 831 B-727	Miami	Nassau	Cuba			Cuba	Returned via Canada 11/1/69. Custody. 20 yrs. 7/6/72
1/11/69	Helmey W+	UA 459 B-727	Jacksonville	Miami	Cuba			Cuba	Returned via Canada 5/5/69. Acquitted.

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				1969 (cont'd)					
1/13/69	McFeek W #	DL 297 CV-880	Detroit	Miami	Cuba		X		Convicted 7/31/69: 15 yrs.
1/19/69	Navarro Payano L +	EA 9 DC-8	New York	Miami	Cuba			Cuba	Fugitive.
1/24/69	"Ayre" W + (alias)	NA 424 B-727	Key West	Miami	Cuba			Cuba	Fugitive.
1/28/69	Booth B + Smith B +	NA 64 DC-8	Los Angeles STOPS: Houston, New Orleans	Miami	Cuba			Cuba	Fugitives.
1/28/69	"Brooks" B + "Mason" B + "White" (alias) B+	EA 121 DC-8	Atlanta	Miami	Cuba			Cuba	Fugitives.
1/31/69	Sheffield W #	NA 44 DC-8	San Francisco	Tampa - Miami	Cuba			Cuba	Fugitive.
2/3/69	Feparo W + Fitzgerald W +	NA 11 B-727	New York	Miami	Cuba		X		Juvenile detention. Paroled 12/7/70.
2/3/69	Hernandez Garcia L + Babin Estrada L +	EA 7 B-727	Newark	Miami	Cuba			Cuba	Fugitives.
2/10/69	Alvarez de Quesada L +	EA 950 DC-8	San Juan	Miami	Cuba			Cuba	Fugitive.
2/25/69	Ervin B +	EA 955 DC-8	Atlanta	Miami	Cuba			Cuba	Surrendered to U.S. authorities Prague, CSR, 9/69. Convicted 7/7/70. Life.
3/5/69	Bryant B +	NA 97 B-727	New York	Miami	Cuba			Cuba	Fugitive.
3/17/69	Sandlin W +	DL 581 DC-9	Atlanta	Augusta	Cuba			Cuba	Returned via Canada 11/1/69. Committed to mental institution 2/1/72. Released on a second 18-month furlough 12/5/73.

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				1969 (cont'd)					
3/19/69	Dickey W +	DL 918 CV-880	Dallas	New Orleans	Cuba	X New Orleans			Case dismissed. Committed to mental institution.
3/25/69	Frese L +	DL 821 DC-8	Dallas	San Diego	Cuba			Cuba	Fugitive.
4/13/69	Courouneau Sanchez L+ Vargas Agueros L + Diaz Claro L + Ramirez Castaneda L +	PA 460 B-727	San Juan	Miami	Cuba			Cuba	Fugitives.
5/5/69	Charrette W + Allard W +	NA 91 B-727	New York	Miami	Cuba			Cuba	Fugitives.
5/26/69	Parra Zamora L - Romero Gracial L - Bolivar Samon L +	NE 6 B-727	Miami	New York	Cuba			Cuba	Fugitives.
5/30/69	Niemeyer W -	TT 669 CV-600	Alexandria,	New Orleans	Cuba		X		Case dismissed. Committed to mental institution.
6/17/69	Brent B +	TW 154 B-707	Oakland	New York	Cuba			Cuba	Fugitive.
6/22/69	Esquivel Medrano L #	EA 7 DC-8	Newark	Miami	Cuba			Cuba	Fugitive.
6/25/69	Marques L #	UA 14 DC-8	Los Angeles	New York	Cuba			Cuba	Fugitive.
6/28/69	Anthony W -	EA 173 B-727	Baltimore	Miami	Cuba			Cuba	Returned via Canada 11/69. Sentenced 10/6/70: 15 yrs.

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				1969 (cont'd)					
7/26/69	Crawford B +	CO 156 DC-9	El Paso	Midland Texas	Cuba			Cuba	Returned via Canada 11/1/69. Sentenced 9/14/70 to 50 yrs.
7/31/69	Perry W -	TW 79 B-727	Pittsburgh STOPS: Indianapolis, St. Louis	Los Angeles	Cuba			Cuba	Fugitive.
8/5/69	McCreery W -	EA 379 DC-9	Philadelphia	Tampa	Cuba		X		Case dismissed. Committed to mental institution. Discharged 9/15/71.
8/14/69	Torres-Diaz L + Perez L +	NE 43 B-727	Boston	Miami	Cuba			Cuba	Fugitives.
8/29/69	Essawai A # Khaled A #	TW 840 B-707	Rome	Athens	Syria			Syria	Fugitives.
8/29/69	Carballe Delgado L #	NA 183 B-727	Miami	New Orleans	Cuba			Cuba	Fugitive.
9/7/69	Peterson-Coplin L #	EA 925 DC-8	New York	San Juan	Cuba			Cuba	Fugitive.
9/10/69	Gonzales Medina L +	EA 929 DC-8	New York	San Juan	Cuba		X		Mental Institution. Released 12/71.
9/24/69	Hernandez L +	NA 411 B-727	Charleston	Miami	Cuba			Cuba	Fugitive.
10/9/69	Rivera-Perez L #	NA 42 DC-8	Los Angeles	Miami	Cuba			Cuba	Fugitive.
10/21/69	Shorr W +	PA 551 B-720	Mexico City	Merida, Mexico- Miami	Cuba			Cuba	Case dismissed. Suicide in Cuba.
10/31/69	Minichiello W #	TW 85 B-707	Los Angeles	San Francisco	Italy			Italy	Convicted: 2½ yrs. Released 5/71.
11/10/69	Booth W *	DL 670 DC-9	Cincinnati	Chicago	Sweden, Mexico		X		Juvenile detention. Forced way aboard aircraft.

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				1969 (cont'd)					
12/2/69	Hamilton B -	TW 54 B-707	San Francisco	Philadelphia	Cuba			Cuba	Fugitive.
12/26/69	"Martinez" (alias) L #	UA 929 B-727	New York	Chicago	Cuba			Cuba	Fugitive.
				1970					
1/6/70	Funjek W +	DL 274 DC-9	Orlando	Jacksonville Atlanta	Switzerland		X		Convicted 7/31/70: 25 yrs.
1/8/70	Belon W #	TW 802 B-707	Paris	Rome	Beirut			Beirut	Convicted Lebanon & France 3 yrs & 8 mos Released 4/18/71.
2/16/70	Lopez del Abad L +	EA 1 B-727	Newark	Miami	Cuba			Cuba	Fugitive.
3/11/70	Stubbs B +	UA 361 B-727	Cleveland	Atlanta	Cuba			Cuba	Fugitive.
3/17/70	Divivo W *	EA 1320 DC-9	Newark	Boston	None(suicide)	X Boston			Suicide in prison. Co-pilot killed. Pilot wounded.
4/22/70	Meeks B * McKinney B *	Charter	Gastonia,N.C.	Local	Cuba			Cuba	Fugitives.
*4/23/70	Wagstaff W *	NC 945 DC-9	Petoskey, Mich. (ground)	Sault St. Marie	Detroit		X		Forced way aboard aircraft. Committed to mental institution.
5/25/70	Quesada L -	DL 199 CV-880	Chicago STOP: Atlanta	Miami	Cuba			Cuba	Fugitive.
5/25/70	Molina L -	AA 206 B-727	Chicago	New York	Cuba			Cuba	Fugitive.
6/4/70	Barkley W +	TW 486 B-727	Phoenix	St. Louis	$125K extortion 100Mil.demanded	X Dulles			Acquitted (temp.insanity) 11/16/71, mental institution.
6/22/70	Xhaferi W #	PA 119 B-707	Beirut	Rome	Cairo			Cairo	Arrested in Los Angeles, Ca.2/15/73. Sentenced to 15 yrs. 6/8/73.

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INCIDENT OCCURRED ON FLT.

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				1970 (cont'd)					
7/1/70	Lopez L +	NA 28 DC-8	Las Vegas STOP: N. Orle.	Tampa	Cuba			Cuba	Fugitive.
8/2/70	Rivera Rios L +	PA 299 B-747	New York	San Juan	Cuba			Cuba	Fugitive.
*8/3/70	Huber W #	PA	Munich	West Berlin	Budapest		X		
8/19/70	Arrue-Martinez L + Ramos-Cobas L + Torres-Llurdan L +	TC 401 DC-8	Newark	San Juan	Cuba			Cuba	Mental institution. Released 11/13/70. Fugitives.
8/20/70	Graves B -	DL 435 DC-9	Atlanta	Savannah	Cuba			Cuba	Fugitive.
8/24/70	Labadie W +	TW 134 B-727	Chicago	Philadelphia	Cuba			Cuba	Deported 9/24/70. Case dism. Ment. Ins.
9/6/70	Khalil A# Ali A # Ibrahim A #	PA 93 B-747	Amsterdam	New York	Beirut,Cairo			Cairo	Fugitives.
9/6/70	"Vasques" A#(alias) "Lapez" A#(alias)	TW 741 B-707	Frankfurt	New York	Jordan			Jordan	Fugitives.
9/15/70	Irwin W #	TW 15 B-707	Los Angeles	San Francisco	North Korea	X San Fran.			Convicted in State Court 11/23/71: 12½ yrs., attempted kidnapping. Wounded.
9/19/70	Witt B +	AL 730 B-727	Pittsburgh	Philadelphia	Cairo, Cuba			Cuba	Fugitive.
9/22/70	Donovan W -	EA 945 DC-8	Boston	San Juan	Not stated		X		Custody. To be tried for unrelated murder charge.
10/30/70	"Rosas" L# (alias)	NA 43 DC-8	Miami	Tampa	Cuba			Cuba	Fugitive.

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				1970 (cont'd)					
11/1/70	Larrazolo L #	UA 598 B-727	San Diego	Los Angeles	Cuba			Cuba	Fugitive.
11/13/70	"Jones" B + (alias)	EA 257 DC-9	Raleigh-	Atlanta	Cuba			Cuba	Fugitive.
12/19/70	Denis B +	CO 144 DC-9	Albuquerque	Tulsa	Cuba	X Tulsa			Convicted 2/9/71: 5 yrs.
12/21/70	Lopez Morales L #	PQ 157 Heron	San Juan	Ponce	Mexico	X Ponce			Complaint dismissed. Committed to mental institution.
				1971					
1/3/71	Wilson B + Graves B + White B # White B #	NA 36 DC-8	Los Angeles	Tampa	Cuba			Cuba	Fugitives.
1/22/71	Grant B +	NW 433 B-727	Milwaukee	Detroit - Washington	Algeria, Cuba			Cuba	Fugitive.
2/4/71	"Abdalah" B + (alias)	DL 379 DC-9	Chicago	Nashville	Cuba			Cuba	Fugitive.
2/25/71	Paterson W -	WA 328 B-737	San Francisco	Seattle	Cuba, Canada			Canada	Deported to U.S. 3/8/71. Convicted 6/11/71: 10 yrs.
3/8/71	Marston W *	NA 745 B-727	Mobile	New Orleans	Canada	X Miami			Sentenced 11/8/71 to indef. term (YCA)
3/31/71	Mathews W *	DL 400 DC-9	Birmingham (ground)	Chicago	Cuba		X		Convicted 6/7/71. Suspended sentence. 3 yrs. probation.
3/31/71	Ramirez L +	EA 939 DC-8	New York	San Juan	Cuba			Cuba	Fugitive.
4/5/71	Hernandez-Tranha L *	Charter	Key West	Miami	Cuba			Cuba	Fugitive
4/21/71	Anile W +	EA 403 DC-8	Newark	Miami	Italy		X		Convicted 2/15/72. Suspended sentence. 3 yrs. probation.

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				1971 (cont'd)					
5/28/71	Bennet W +	EA 30 B-727	Miami	New York	New York, Nassau Ireland	X Nassau			Deported to U.S. 5/29/71. Custody - mental exam.
5/29/71	Garcia Landaeta L *	PA 442 B-707	Caracas	Miami	Cuba			Cuba	Fugitive.
6/4/71	Riggs W -	UA 796 B-737	Charleston, W. Va.	Newark	Israel	X Dulles			Sentenced 1/7/72- 20 yrs.
6/11/71	White, G. B *	TW 358 B-727	Chicago	New York	75K extortion North Vietnam	X New York			Forced way aboard aircraft. Mental inst. Killed pax.
*6/18/71	White, B. W *	PI 25 B-737	Winston-Salem (ground)	None	Cuba		X		Sentenced 9/14/71. 5 yrs. T18USC35(b)
7/2/71	Jackson W - Sanchez-Archila L -	BN 14 B-707	Mexico City	San Antonio	100K extortion Brazil, Argentina, Algeria	X Buenos Aires			Jackson: 5 yrs. Sanchez-Archila: 3 yrs. - 12/16/71 in Argentina.
7/23/71	Obergfell W +	TW 335 B-727	New York	Chicago	Italy	X New York			Dead.(Killed by FBI)
7/24/71	Guerra-Valdez L +	NA 183 DC-8	Miami	Jacksonville	Cuba			Cuba	Fugitive.
9/3/71	Borges Guerra L +	EA 993 DC-9	Chicago	Miami	Cuba		X		Sentenced 20 years 3/16/72.
9/24/71	Pliskow W -	AA 124 B-727	Detroit	New York	Algeria Pris. Release		X		Released on bond 10/18/73.
10/4/71	Giffe W *	Charter	Nashville	Atlanta	Bahama	X			Dead.(Suicide)
	Wallace W *					Jack-son-ville			Killed pilot & wife. Acquitted 6/22/72

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				1971(cont'd)					
10/9/71	Dixon W *	EA 953 B-727	Detroit	Miami	Cuba			Cuba	Fugitive. Forced way aboard aircraft.
10/18/71	Thomas W +	WC 15 B-737	Anchorage	Bethel	Cuba	X Vancouver B.C. Canada			Deported to U.S. 10/19/71. Sentenced to 20 yrs. 5/12/72
10/25/71	Lugo Casado L -	AA 98 B-747	New York	San Juan	Cuba			Cuba	Fugitive.
11/24/71	"Cooper" (alias) W +	NW 305 B-727	Portland	Seattle	$200K extortion 4 parachutes			Unknown-Parachuted en route to Reno	Fugitive. Parachute jump.
11/27/71	Finney B * Goodwin B * Bill B *	TW-106 B-727	Albuquerque (Ground)	Chicago	Cuba - avoid apprehension			Cuba	Fugitives. Forced way aboard aircraft. Goodwin drowned in Cuba 3/4/73.
12/24/71	Holt W +	NW-734 B-707	Minneapolis/ St. Paul	Chicago	$300K extortion 2 parachutes	X Chicago			Committed to mental institution 6/21/72.
12/26/71	Coleman W -	AA-47 B-707	Chicago	San Francisco	$200K extortion		X		Convicted 6/5/72. Sentenced to 10 yrs. 7/28/73.
				1972					
1/7/72	Sims B * Robinson B *	PS-902 B-727	San Francisco	Los Angeles	Africa/Cuba			Cuba	Fugitives
1/12/72	Hurst W+	BN-38 B-727	Houston	Dallas	$1M - extortion 10 parachutes	X Dallas			Custody. Sentenced to 20 yrs. 2/2/73.
1/20/72	La Point W+	RW-800 DC-9	Las Vegas	Reno	$50K - extortion 2 parachutes	X vic. Denver			Captured following parachute jump. Sentenced to 40 yrs. 5/12/72
1/26/72	St. George W+	MD-452 FH-227	Albany	New York	$200K - extortion 4 parachutes	x Poughkeepsie			Killed.

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1/26/72	McAlroy W*	SFO Helicopter Co.	Berkeley (Ground)	San Francisco	Cuba		X		Captured while attempting to hijack helicopter. Committed mental institution 9/15/72.
1/29/72	Trapnell W+	TW-2 B-707	Los Angeles	New York	$306,800 extortion. Prisoner release. Dallas/Europe.	X New York			Shot and captured by FBI,N.Y. Sentenced to life imprisonment 7/20/73.
3/7/72	Brewton B* Bennett B*	Charter G-73	Miami	Bahama	Cuba			Cuba	Fugitives. Wounded pilot, mechanic and bystander. Forced way aboard.
3/7/72	McKee W*	NA-67 B-727	Tampa	Melbourne, Fl.	Sweden		X		Forced way aboard aircraft. Charges dismissed 7/25/73.
3/19/72	Jennings W* Reed W*	Charter Cessna 206	Key West	Tortugas Isl.	Cuba			Cuba	Fugitives.
4/7/72	McCoy W+	UA-885 B-727	Denver	Los Angeles	$500K Ext. 6 parachutes	X			Parachute jump. Sent.45 yrs.7/10/72
4/9/72	Speck W*	PSA-942 B-727	Oakland	San Diego	$500K Ext. 4 parachutes	X			Committed to mental institution 12/19/72. Discharged 6/14/73.
4/13/72	Chavez-Ortiz L+	FL-91 B-737	Albuquerque	Tuscon	Mexico	X			Life imprisonment 7/24/72. Reduced to 20 years 11/29/72
4/16/72	Ojeda Perez L*	PQ-179 DH-114	Ponce	San Juan	Unknown		X		Overpowered by boarding pass. and mechanic. Sent. to 2 yrs. 8/18/72.
4/17/72	Smith B*	AS-1861 B-727.	Seattle	Ketchikan -Sitka, Juneau, Alaska	Cairo		X		Forced way aboard aircraft. Released from mental hospital 7/10/73.
4/17/72	Greene W-	DL-952 CV-880	W. Palm Beach	Chicago	$500K Extortion. Nassau	X			Surrendered at Chicago. Sentenced to 20 yrs. 9/25/72.
5/5/72	Hahneman W+	EA-175 B-727	Allentown, Pa.	Washington, D. C.	$303K Ext. Central America 6 Parachutes			Honduras	Parachute jump. Surrendered in Honduras on 6/2/72. Sent to life imprisonment 9/29/72. Ransom recovered 5/73.

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5/5/72	Hansen W+	WA-407 B-737	Salt Lake City	Los Angeles	Hanoi, Cuba			Cuba	Fugitive.
6/2/72	Holder B- Kerkow W-	WA-701 B-727+ B-720	Los Angeles	Seattle	Algeria $500K Extortion-5 parachutes.			Algeria	Fugitives. Granted Algerian political asylum. Ransom returned 6/28/72
6/2/72	Heady W*	UA-239 B-727	Reno	San Francisco	$200K Extortion	X			Captured after parachute jump. Sent. to 30 yrs. 8/25/72. Forced way aboard acft.
6/23/72	McNally W- Petlikowsky W*	AA-119 B-727	St. Louis	Tulsa	$502K Extortion-5 parachutes.			Peru, In.	Parachuted. Captured 6/28/72. McNally sentenced to life 12/14/72. Petlikowsky sentenced to 10 yrs. for aiding 5/18/73.
6/30/72	Carre W+	RW-775 DC-9	Seattle	Portland	$50K Extortion 1 parachute.		X		Custody. Committed mental institution 7/5/72.
7/2/72	Nguyen O-	PA-841 B-747	Honolulu Stops: Guam, Manila	Saigon	Hanoi		X		Killed-Saigon.
7/5/72	Smith B*	AA- B-707	Buffalo	None	Out of U.S.		X		Released. Sentenced to 5 years probation 7/18/73.
7/5/72	Peichev W* Alexiev W* Azmanoff W*	PS-710 B-737	Sacramento	San Francisco	$800K Extortion 2 parachutes Russia	X			Peichev was not on acft. Sent. 12/21/72 to Life + 20 yrs. for aiding. 2 hijackers, 1 passenger killed. 2 passengers wounded.
7/6/72	Goodell W*	PS-389 B-727	Oakland	Sacramento	$455K 1 parachute	X			Custody. Sentenced to 30 yrs. 2/12/73.
7/12/72	Fisher W+	AA-633 B-727	Oklahoma City	Dallas	$550K Extortion Parachute	X			Surrendered - Sent. to life imprisonment 9/28/72
7/12/72	Green B+ Tesfa B+	NA-496 B-727	Philadelphia	New York	$600K Ext. - 3 Parachutes	X			Custody. Green convicted 6/19/72.

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7/31/72	McNair, M. McNair, J. Wright Brown Tillerson	B+ B+ B+ B+ B+	DL-841 DC-8	Detroit	Miami	$1 million Extortion Algeria			Algeria	Fugitives. Ransom returned 8/23/72. 3 children who accompanied hijackers returned to U.S. 12/72.
8/18/72	Sibley	W*	UA-877 B-727	Reno	San Francisco	$2 million	X			Forced way aboard aircraft. Shot and captured by FBI at Seattle. Sentenced to 30 years 2/28/73.
10/29/72	Tuller, C. Tuller, B. Tuller, J. Graham, W.	W* W* W* W*	EA-496 B-727	Houston	Atlanta	Cuba			Cuba	Fugitives. Killed ticket agent, wounded ramp serviceman. Forced way aboard.
11/10/72	Jackson, H. Cale, L. Curd, M.	B+ B+ B+	SO-49 DC-9	Birmingham	Montgomery 10 parachutes Cuba	$10 million			Cuba	Fugitives. Copilot shot and wounded.
					1973					
1/2/73	Wenige	W+	PI-928 YS 11A	Washington, D.C. (DCA)	Baltimore	Toronto	X			Custody. Surrendered before leaving Baltimore. Sentenced to 20 years 2/16/73.
7/11/73	Clark	W*	Charter Helicopter	Gainesville, Texas	Local (photo flight)	Wichita Falls, Texas			Wichita Falls, Texas	Custody. Captured in Dallas, Texas, 7/13/73.

APPENDIX B

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A SUMMARY OF LEGAL STUTUS OF HIJACKERS

There have been approximately 218 persons involved in 161 hijackings of U. S. registered aircraft. These data have been coordinated with the Department of Justice files and, as best can be determined, the legal status of these individuals is as follows:

Convictions 1/		59
U. S.	54	
Foreign	3	
Acquittals		3
Mental Institution 2/		18
Dismissals		3
No Prosecution		1
Killed/Suicide		10
Pending		4
Fugitives 3/		120
TOTAL		218

1/ Includes one not considered as hijacker by Department of Justice Foreign convictions include one in Mexico, one in Lebanon, and one in Italy--convicted, imprisoned, and released and two in Argentiana currently serving sentences.

2/ Includes two not considered as hijackers by Department of Justice.

3/ Includes a number of passive companions indicted along with active hijackers.

TOTAL NUMBER OF INDIVIDUALS - 218

CONVICTIONS - 59

Aircraft Piracy - 14

Bohle, Ronald T. (1/9/69)* - 20 years (7/6/72)*
Thomas, Del L. (10/18/71) - 20 years (5/12/72)
LaPoint, Richard C. (1/20/72) - 40 years (5/25/72)
McCoy, Richard F. (4/7/72) - 45 years (7/10/72)
Heady, Robb D. (6/2/72) - 30 years (8/25/72)
Chavez-Ortiz, Ricardo (4/13/72) - Life (7/24/72) Reduced to 20 years (11/29/72)
Greene, William H. (4/17/72) - 20 years (9/25/72)
Fisher, Melvin M. (7/12/72) - Life (9/28/72)
Hahneman, Frederick W. (5/5/72)
Sibley, Frank (8/18/72) - 30 years (2/28/73)
McNally, Martin J. (6/23/72) - 2 Life terms (concurrent) (12/14/72)
Hurst, Billy E., Jr. (1/12/72) - 20 years (2/2/73)
Trapnell, Garrett B. (1/29/72) - Life (7/20/73)
Green, Michael S. (7/12/72) - Convicted 6/19/73) awaiting sentence

Aircraft Piracy and Kidnapping - 5

Healy, David Thomas (4/13/62) - 20 years (11/12/64) Paroled 12/15/69
Oeth, Leonard Malcolm (4/13/62) - 20 years (11/12/64) Paroled 12/16/68
Truitt, Alben Wm. Barkley (10/23/68) - 20 years (8/13/69) Paroled 9/11/72
Ervin, Lorenzo Edward, Jr. (2/25/69) - Life (7/7/70)
Crawford, J. C. (7/26/69) - 50 years (9/14/70)

Aircraft Piracy and Interference with Flight Crew Members - 2

Riggs, Glen E. (6/4/71) - 2 X 20 years (concurrent) (1/7/72) Convict. 11/29/71
Coleman, Donald L. (12/26/71) - 2 X 10 years (concurrent) (7/28/73)

Aircraft Piracy and Using a Firearm to Commit a Felony - 1

Goodell, Francis (7/6/72) - 25 years + 5 years to run consecutively (2/12/73)

Attempted Aircraft Piracy - 1

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

Kidnapping - 3

Boynton, Thomas J. (2/17/68) - 20 years (5/12/70)
Jessie, Willis (8/4/68) - 10 years (6/26/69) Paroled 7/28/71

Bendicks, Leonard S. (7/12/68) - 10 years (3/4/71) 3 years parole (6/27/72)

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

Custodial Interference (State Kidnapping Statute) - 1
Smith, Charles E. (7/5/72) - 5 years probation (7/18/73)

Interference with Flight Crew Member - 11
Fergerstrom, Harry F. (8/31/65) - Juvenile detention - Paroled 11/3/67
Washington, Thomas G. (12/19/68) - 2 years (3/24/70) Released 6/4/71
McPeek, Kenneth C. (1/13/69) - 15 years (7/31/69)
Peparo, Michael A (2/3/69) - Juvenile detention - Paroled 12/7/70
Fitzgerald, Tasmin R. (2/3/69) - Juvenil detention - Paroled 12/7/70
Anthony, Raymond (6/28/69) - 15 years (10/6/70) Released 4/23/73
Paterson, Chappin S. (2/25/71) - 10 years (6/11/71)
Marston, Thomas K. (3/8/71) - Juvenile detention
Anile, Francisco (4/21/71) - 3 years (suspended) (2/15/72)
Borges Guerra, Juan (9/3/71) - 20 years (3/16/72)
Xhaferi, Haxhi H. (6/22/70) - 15 years (6/8/73)

Aiding and Abetting Air Piracy and Conspiring to Interfere with Commerce by Extortion - 1
Peichev, Lubomir (7/12/72) - Life + 20 years (concurrent) 12/21/72

Aiding and Assisting One Sought for Air Piracy - 1
Petlikowsky, John (6/23/72) - 10 years (5/18/73)

Assault - 1
Robinson, Thomas H. (11/17/65) - Juvenile detention, Conviction set aside 9/24/69

Assaulting a Federal Officer and Interstate Transportation of a Stolen Weapon - 1
Wenige, Charles A. (1/2/73) - 20 years (2/16/73)

Conveying False Information concerning an Attempt to Commit Air Piracy - 3

Denis, Carlos (12/19/70) - 5 years (2/9/71)
White, Bobby (6/18/71) - 5 years (9/14/71)
Ojeda Perez, Uriel (4/16/72) - 2 years (8/18/72)

Armed Assault and Illegal Possession of Firearms - 1

Britt, Bruce McRae (7/31/61) - 20 years (1961)

Interruption of Air Commerce on Threat of Violence - 2

Bearden, Leon (8/3/61) - 20 years (1961)
Bearden, Cody (8/3/61) - Juvenile detention.

Escape - 1

Morris, John Hamilton (7/4/68) - 5 years (6/16/69)

Carrying Weapon Aboard Aircraft - 2

Pastorcich, Roger C. (11/2/68) - Juvenile detention, released 12/23/70

Mathews, John M., Jr. (3/31/71) - Suspended sentence, three years probation (6/7/7.)

Foreign - 5

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

Minichiello, Raphael (10/31/69) - Italy - 7 1/2 years, reduced to 2 1/2 years - released 5/1/71 - Fugitive from U. S. charges.

Belon, Christian R. (1/8/70) - Lebanon - 9 months - Released - Fugitive from U. S. charges.

Jackson, Robert L. (7/2/71) - Argentina - 5 years 12/15/71

Sanchez Archilla, Ligia (7/2/71) - Argentian - 3 years (12/15/71)

Acquittals - 3

Medina-Perez, Luis (10/26/65) - insanity
Helmey, Robert M. (1/11/69) - insanity
Wallace, Bobby W. (10/4/71) - not guilty (6/22/72)

Committed to Mental Institution - 18

Rhodes, Lawrence M. (2/21/68)
Richards, Oran D. (7/12/68) - released 1/10/70
Sandlin, Robert (3/17/69) - released on second 18 month furlough 12/5/73
Dickey, Douglas A. (3/19/69)
Niemeyer, Torrence (5/30/69)
McCreery, John S. (8/5/69) - Discharged 9/15/71
Gonzales-Medina, Jose L. (9/10/69) - released 12/71
Wagstaff, Joseph A. (4/23/70)
Barkley, Auther (6/4/70)
Huber, John (8/3/70) - Berlin, Germany - released 11/13/70
Labadie, Robert Y. (8/24/70)
Lopez Morales, Victor (12/21/70)
White, Gregory L. (6/11/71) - committed 10/7/71
Carre, Daniel B. (6/30/72)
Holt, Everett L. (12/24/71) - committed 6/12/72
Speck, Stanley H. (4/9/72) - committed 12/19/72 - discharged 6/14/73
Smith, Kenneth L. (4/17/72) - committed 5/4/72 - released 7/10/73
McAlory, Patrick H. (1/26/72) - committed 9/15/72

Dismissed - 3

Clark, William L. (2/9/68) - aircraft not engaged in U. S. air commerce
Donovan, David W. (9/22/70) - Federal charges dropped in favor or unrelated state murder charge
McKee, Edmond M. (3/7/72) - charges dismissed 7/25/73 placed under state supervision no charges brought by state

Prosecution Declined - 1

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

Killed/Suicide - 10

Austin, Tyronne (1/2/69) - killed during bank holdup 4/22/71
Shorr, Larry (10/21/69) - suicide in Cuba 9/28/70
Davivo, John (3/17/70) - suicide in prison 10/31/70
Obergfell, Richard (7/23/71) - killed during hijacking
Giffe, George (10/4/71) - apparent suicide during hijacking
St. George, Merlyn L. (1/26/72) - killed during hijacking
Nguyen Thai Binh (7/2/72) - killed during hijacking

Alexiev, Dimitz K. (7/5/72) - killed during hijacking
Azmanoff, Michael D. (7/5/72) - killed during hijacking
Goodwin, Ralph L. (11/27/71) - drowned in Cuba 3/4/73

Pending Cases - 4

Tesfa, Lulseged (7/12/72) - Co-hijacked with M. Green
Bennett, James E. (5/28/71) - Acquitted on 12/29/71 of Air Piracy and Interference (lack of Criminal Responsibility). May be tried for kidnapping.
Pliskow, Barbara (9/24/71)
Clark, Daniel (7/11/73)

Fugitives - 120

Year of Hijacking	Number of Hijackers	Number of Fugitive Hijacker
1961	6	2
1962	2	0
1963	0	0
1964	2	2
1965	5	0
1966	0	0
1967	1	1
1968	31	21
1969	54	37
1970	33 1/	21
1971	34 2/	15
1972	48 3/	21
1973	2	0
	218	120

1/ Includes two not considered as hijackers by Department of Justice.

2/ Includes one not considered as hijacker by Department of Justice.

3/ Includes two who assisted active hijackers but were not on board hijacked aircraft.