

INTERFERENCE WITH CREWMEMBERS IN THE PERFORMANCE OF THEIR DUTIES

A LOOK AT INCIDENTS AND ACTIONS

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INTRODUCTION

The increase in the number of incidents of interference with flight crewmembers in the performance of their duties is a growing concern for several airlines and for the Government agencies responsible for investigating these incidents. During the last few years, amidst public dismay over the severity of some of the incidents, many professional associations, company executives, and Government representatives have joined forces to develop standard methods to deal with incidents of interference with flight deck and cabin crewmembers. While there are countless incidents of passengers' rude or disruptive behavior, the focus of the consolidated efforts have been and future legislative initiatives should be concentrated on eliminating the incidents of disruptive behavior where severe passenger misconduct interferes with crewmembers in the performance of their duties - incidents that all too often result in physical injury.

The scope of this paper is limited to a discussion of some of the causes or factors that contribute factors to specific incidents and the roles of various organizational elements in dealing with the incidents. The involvement of the various organizational elements will cover a range from first contact and a prevention opportunity to the final phase of adjudication of an incident by the legal system. The incidents discussed go well beyond rude or disruptive behavior and actually constitute interference with cabin crewmembers' or cockpit crewmembers' assigned duties. While disruptive or rude behavior is not acceptable in air travel, it may not be defined well enough to warrant an attempt at regulating such unwanted behavior. Incidents of actual interference are better defined and usually are more successfully prosecuted.

BACKGROUND

While the actions of passengers who interfere with crewmembers' assigned duties are prohibited by Federal Aviation Regulations (Title 14 of the Code of Federal Regulations part 91.11), there is, in the opinion of many, a dramatic growth in the number of these incidents. Violations of the Federal regulations may result in assessments of a civil penalties (monetary fines) against the violators. The increase in the number of occurrences is a major concern; equally alarming is the increase in severity of many of those incidents. The act of a passenger who interferes with the duties of a crewmember by

assaulting or intimidating that crewmember while the aircraft is operational is prohibited by criminal statute (Title 49 of the United States Code, section 46504). Criminal prosecution leading to a conviction under this statute may result in a criminal fine (under title 18) and imprisonment for not more than 20 years or both. If a weapon is used, imprisonment may be for any number of years, or for life.

The increase in incidents, despite the possibility of fines and/or imprisonment for violations of the regulations and statutes, indicates the need for organizations and agencies who must share the responsibility for improving the safety of the work environment for crewmembers to address the problem quickly and effectively.

A LOOK AT SOME SPECIFICS

While many organizations maintain data bases of incidents, there are apparent differences in the information compiled for retention, and those differences affect the usefulness of the information itself. To collect information about incidents of rude and disruptive behavior, that behavior must be defined to the same standard for all who are collecting the information in order for the numbers to be effectively shared and understood by the various groups involved in the process. The obvious lack of a definition for “rude and disruptive behavior” precludes effective data collection efforts unless the collectors have established a clear and understandable definition. Legislation to prohibit such behavior is not a simple task, and the enforcement role is more complex.

Incidents used as a basis for comment and recommendations within this paper are not taken from a large data base but rather from a special report of incidents defined by narrow parameters not common to other organizational collections of incident reporting. The parameters, used for these incidents likely will not be sufficient for real statistical purposes but the sampling does provide some interesting observations. To address appropriate actions in dealing with the problem, we should first look at some of the details involved in what I will characterize as typical among the serious incidents. The incidents selected for discussion meet the following narrowly defined set of criteria:

DATE: Incident took place on or between January 1, 1997, through June 30, 1998.

AIRLINE: Incidents reported for U.S. and non-U.S. air carriers.

SEVERITY OF INCIDENT: Category Three
(as defined by Federal Aviation Administration Advisory Circular 120-65)

LOCATION: Incident reported and investigated upon aircraft arrival at west coast major airport or east coast major airport participating in FAA test program.

Date covers 18 month-period that allows for reports from routine traffic and seasonal peaks.

Airlines include all major U. S. carriers and several non-U.S. airlines that operate scheduled routes into the United States to cities covered by this review. Of all incidents reported, 74 per cent were onboard US air carriers and 26 per cent were on foreign carriers.

The severity of the incidents is important to this discussion, since only those incidents that met the definition of Category Three Misconduct as defined in FAA Advisory Circular (AC) 120-65, dated October 18, 1996, were reviewed. The AC lists as examples of Category Three incidents: (1) when crewmember duties are disrupted due to continuing interference, (2) when a passenger or crewmember is injured or subjected to a credible threat of injury, (3) when an unscheduled landing is made and /or restraints such as handcuffs are used, or (4) if operator has a program for written notification and passenger continues disruption after receiving written notification.

Airport locations for cases reviewed for this paper include only four west coast airports and three east coast airports where civil aviation security agents responded to incidents as part of a test program to increase FAA involvement in investigating serious incidents.

Other interesting observations include the involvement of alcoholic beverages in approximately one third of the incidents. This includes an incident where a cabin crew served at least five drinks to a passenger and other incidents where gate personnel believed passengers to be intoxicated prior to boarding the aircraft.

The gender of the disruptive passengers was a surprise to some individuals reviewing these incidents. The assumption that female passengers were never a problem was proved to be false, since slightly over one third of the offending passengers causing these incidents were female.

Many other factors were reviewed such as seating, length of flight, origin, destination, departure and arrival times, etc. While these areas may be of interest to a specific research project, none showed relevant impact that would cause a more detailed review in addressing the general topic of interference with crewmember duties.

SEQUENCE OF EVENTS -

In discussing incidents of interference with crewmembers, one may follow an avenue of the sequentially structured approach reviewing the actions and participation of individuals

as the events unfold. In many incidents there were opportunities for involvement at earlier stages that may have prevented escalation. In other incidents, greater involvement by the crewmembers would have enhanced prosecution. Other cases saw diminished results that might have been reversed with earlier involvement by law enforcement personnel.

- PREVENTION

Clearly, it is more desirable to prevent an incident than to attempt to manage or resolve it. The opportunity to prevent an incident may present itself to the first airline contact person, usually the customer service representative at the ticket counter or the agent at the gate. If a passenger is obnoxious at the point of initial contact - the ticket counter or the check-in desk at the gate - AND other factors are present, such as slurred speech and the obvious smell of alcoholic beverages, an opportunity exists for action that may well prevent a serious incident onboard the aircraft. Dealing with such a situation is a delicate issue and must combine considerations for customer service for that passenger, the potential for conflict on the spot, the comfort of other passengers on the flight, and most importantly, the safety of the other passengers and crewmembers after the flight has departed. If, in the opinion of the customer service representative present at the time, a passenger is intoxicated or otherwise, likely to cause a problem, early intervention may actually be prevention of an incident onboard the aircraft. The passenger is likely to become irate at the desk but it is much better to deal with an embarrassing situation in a public area of an airport where law enforcement response is certain and in most cases, quick than for a crew to have to deal with the situation with possibly greater negative consequences when it could have been kept off the aircraft. Appropriate training for all customer service station personnel should be a company priority. Effective and efficient responses from airport law enforcement officers and support by management are essential for the prevention phase to produce measurable results.

- INTERVENTION

Generally, the only persons available to intervene in a situation in progress onboard an aircraft are the crewmembers. In some cases, support from uniformed off-duty crewmembers and passengers is a possibility. Intervention is the phase in which an incident has begun and a member of a crew is drawn into the action. This may occur either because a passenger's earlier action was admonished by the crewmember (e. g., smoking in the lavatory) or, in other cases, activities between two passengers escalated to the point where involvement by a crewmember was required (e. g., an

argument over seat assignments or the inconsiderate conduct of a passenger). Regardless of the original activity, incidents of this type take the time and attention of one or more crewmembers and may interfere with their required duties.

The intervention may be early recognition of a potentially explosive situation and an attempt to diffuse it. While this takes time, it also takes skill in problem recognition and conflict management. Tactful and strategic handling of potential problems by attentive and skilled crewmembers has prevented situations from becoming more serious and resulting in diversions or other costly delays. Airlines should provide adequate initial and recurrent training in conflict management for all crewmembers as one of the elements in reducing the number of interference problems.

If a problem has escalated to the point that physical involvement is required; i.e., actual restrains to immobilize a passenger, caution should be taken to minimize the potential for injury to the crewmembers, other passengers and the offending passenger, of course. Once the details of an incident are understood by the captain and a decision has been made to physically restrain a passenger, assistance may be solicited from off-duty uniformed airline personnel on the flight or other passengers in close proximity who are willing and physically able to assist. A law enforcement officer may be traveling as a ticketed passenger and identified to a crew by the airlines form presented upon boarding. If so, he or she might be a “willing, trained, and equipped volunteer” who could effectively deal with the situation by restraining the passenger until the aircraft arrives at its destination. If a law enforcement officer is not present and the crew is left to its own resources, having proper restraining devices is a significant benefit. While a belt, shoe laces, handkerchief, or tape might be used as an improvised measure, plastic handcuffs specifically made for the job and stowed onboard the aircraft are great assets. The use of items other than handcuffs may injure the passenger and increase the potential for injuries to crewmembers and passengers during the process of applying the restraining devices.

For a situation where a captain has made a decision to divert to an alternate airport, quick notification to the airport should be made, and that notification should include information about the situation to include the request for law enforcement response to the gate. The alternate airport chosen for diversion may be smaller than the scheduled destination and less likely to have Federal law enforcement support at the time that the aircraft lands. [The jurisdictional issue will be addressed in a later section of the paper.] It should be recognized that criminal prosecution of the airborne offense may require the cooperation of crewmembers and passengers - initial written statements to law enforcement officers and the likelihood of returning to provide court testimony during a trial if needed. If a decision is made that there is no time for statements and the ultimate goal is to depart as quickly as possible, this reduces the likelihood of successful criminal prosecution due to the absences of victims, witnesses, and supporting statements.

- INCIDENT RESPONSE

As the aircraft approaches the destination (or airport chosen for a diversion), there are a number of possibilities as to who may respond to take action in resolving or investigating the incident. Once a decision is made that law enforcement presence is desired at the gate, early notification will help to ensure adequate and appropriate response when the aircraft lands. Most airports within the United States, have airport police departments that are part of their normal airport operations or have a bureau or detachment of the city or county police from the governmental jurisdictions in which the airports are located. In any case, this law enforcement element is comprised of sworn law enforcement officers who are uniformed, equipped and trained to provide a full range of law enforcement services to the airport. These officers have the authority to make warrantless arrests for crimes committed in their presence that are cognizable under the jurisdictions by which they are employed and in most cases, crimes cognizable under the jurisdiction of the state in which they are sworn to duty. An officer in this category will take immediate action when circumstances support a criminal violation of a local ordinance or state statute. The officer may also detain for questioning, a person suspected of violating other laws and in some cases, may detain until other authorities arrive. However, local officers, in most airports, lack the jurisdiction to make arrests for incidents that occurred in the aircraft at 35,000 feet. Should a passenger continue obnoxious behavior that constitutes disorderly conduct, disturbance of the peace, public drunkenness, or assaulting a police officer, then of course, the local officer can make an arrest for a crime against a local ordinance committed in his/her presence.

An incident that constitutes interference with a crewmember in the performance of his or her duties occurring during the time the aircraft is operational is a violation of federal regulations and statutes and must be investigated and processed by a federal officer. Within the United States, the jurisdiction for investigation of criminal offenses aboard aircraft rests with the FBI. At most major airports, there is an FBI agent assigned to the airport or at least to local field offices that support the airports. For an aircraft arrival at an airport where the agent has to drive from a downtown office or from his or her residence after normal duty hours, early notification is essential. Local police and the FBI will provide mutual support for responses and the processing of cases that are criminal violations. Do not expect an arrest by a law enforcement officer for a passenger's conduct that is rude, disruptive, or otherwise unwelcome if that conduct is not a violation of a criminal code. Regardless of the agency or department that provides initial law enforcement response, the crew must be able to identify the suspect, the victim, and, if possible, several witnesses. The more information that can be obtained by the crew prior to landing, the faster processing will go after the aircraft lands. Involvement of the crew is essential for the successful prosecution of the offense. If the crew does not have time to provide written statements, then law enforcement efforts are significantly hampered and will likely not be successful.

- POST-INCIDENT ACTIONS

Coordinated follow up actions are imperative for successful prosecution of passengers who have interfered with crewmember(s) in the performance of duties while aircraft are in operation. Follow up goes beyond providing statements at the time of an incident. A local officer may ask an injured crewmember to file formal charges for an arrest to be effected immediately if the officer does not observe conduct that warrants an arrest and if the incident does not meet the parameters of a Federal violation. The efforts of the law enforcement element involved are only as good as the support provided by the crewmembers of the flight on which the offense occurred.

After processing an incident is finished and formal charges are filed, a decision must be made by a prosecuting attorney (Assistant U.S. Attorney for Federal violations) as to whether the evidence collected supports the charges filed and whether the incident warrants the court's time. Where appropriate law enforcement response takes place but offenses are not prosecuted, attention and actions should focus on the prosecutors office for explanations as to why no charges were filed, why charges were dropped, or why pleas bargaining allowed a serious incident to be treated so casually.

At the next level in the judicial process, the judge is the person who decides whether charges are dismissed with no conviction or if a passenger receives an appropriately severe sentence. Some judges seem to think that this is a part of air travel and they do not take the incidents seriously while others sentence convicted passengers to time in prison and prohibit air travel for specified periods of time.

Serious incidents of interference with crewmembers in the performance of their duties need publicity for increased public awareness. When a person is convicted and sentenced to 5 years in prison for assaulting a flight attendant, news media can reinforce the idea that such conduct is not acceptable and will be punished. Conversely, when such an assault results in a \$50 fine and nothing more, information about the judge should be published to create public outrage at such a lax sentence.

CONCLUSION

After a look at some of the details of many serious incidents, we conclude that there is no single cause for incidents of interference with crewmembers in the performance of their duties and there might be a long list of varying contributing factors in these incidents. Since no single cause for these incidents is identified yet, we should look at those elements of early recognition of potential problems with a view toward dealing with those problems in the airport instead of inside the cabin of the aircraft. Additionally, crewmembers and corporate executives alike should focus on enhanced training that

would address de-escalation of conflicts, confrontation management, effective intervention techniques, and incident follow up. Crewmembers and airport law enforcement officers need to be aware of jurisdictional limitations and recognize that an expanded program of mutual support will benefit the overall efforts to successfully charge disruptive airline passengers who have violated regulations and criminal codes.

Prosecuting attorneys at the local and Federal levels, as well as judges who hear the cases, should work diligently to support the collective efforts of all those who have a role in getting the case into the court system and recognize that the published results of severe sentences handed down for conviction of serious incidents will change the tide in this growing problem. Airline passengers have a right to travel without the nuisance of disruptive passengers and crewmembers have a right to a work environment free of obnoxious behavior, intimidation and assault!

An Abstract

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This paper makes recommendations and comments for several organizational elements that should be involved in addressing the problem of interference with crewmembers in the performance of their duties. The basis for the recommendations and comments is a review of interference incidents that occurred enroute to selected U.S. airport over an 18 month period and involved serious disruption of crewmember duties. Many of the incidents resulted in physical injury to crewmembers and in some cases injury to the disruptive passengers as well.

A review of responsibilities among the individuals and organizations involved highlights the fact that actions may be required at any one of several points along the way to prevent or respond effectively to an incident of interference. Just as there is no single cause for such incidents, there is no single office or organization that can unilaterally end the increase of disruptive incidents. This paper identifies the need for a cooperative effort to improve the work environment for all crewmembers by reducing the number of disruptive incidents.