

June 2014

Is Aviation Security Attainable?



INTER-UNIVERSITY CENTER
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TERRORISM
STUDIES



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THE INTER-UNIVERSITY CENTER FOR TERRORISM STUDIES

Is Aviation Security Attainable? (Past Lessons and Future Outlook)

The mystery of Flight MH370 continues to raise critical questions regarding the future outlook for aviation security. While total safety in the skies cannot be achieved, are all the parties involved—governments, airlines, and the public—motivated sufficiently in devising improved strategies to reduce aerial human and technological risks?

A panel of experts from the public and private sectors will examine the challenges and opportunities in the aviation environment.

Date: **Wednesday, April 9, 2014**
12:00 Noon to 2:00PM

Place: The Potomac Institute for Policy Studies
901 N. Stuart Street, Suite 200
Arlington, VA 22203
(Ballston Metro Station, Orange Line)

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Selected Speakers: **Dr. Anthony Fainberg**
Former official at the Federal Aviation Administration and the Transportation Security Administration. Currently writes on aviation security matters

Francis J. Duggan
President, Victims of Pan Am Flight 103, Inc.

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Dr. Anthony Fainberg

Former official at the Federal Aviation Administration and the Transportation Security Administration. Currently writes on aviation security matters

Thank you very much, Yonah, for your introduction. I am not going to talk, of course, about the Malaysian 370 issue because we don't know enough about it. I would recommend if you have some interest in some technical things that could be done for the next time; there is a very nice online article by Les Abend, who is a Triple 7 pilot, on CNN yesterday, where he talked about some communications that could be used if something like this were to happen in the future, at least to track far better than possible now, where an aircraft goes in areas not covered by radar.

I could also point out that recent advances in radar satellites that are commercially available now would make it possible, if one wanted, to continually take, essentially, pictures of areas that are not covered by radar, then archive them for a day or two, so that one could go back and look when needed. Those radar satellites can detect the presence of aircraft at night. You may have seen an attempt at crowdsourcing that was tried with optical satellite images during the event. The problem was that there was nothing applicable in the archives because optical pictures are not generally taken at night which is when one had to look.

Let me go to the topic of where have we been in aviation security and where I think we are currently not succeeding all that well and also discuss where we might go in the future. The history I want to start with very quickly is the famous Bojinka Plot, for those of you who remember, in 1995. There was a small group of people that later turned out to be al-Qa'ida-connected who were planning to bomb something like 11 or 12 incoming, inbound United Airlines and other air carrier flights to the United States coming from East and Southeast Asia. That plot was never carried out because there were a couple of hitches along the way experienced by the people who were planning it, one of whom was Khalid Sheikh Mohammed's nephew. But they did – in one of their dry runs, that was not quite dry – smuggle some explosives on one flight in Southeast Asia and the explosive was set off. One person was killed who was in the nearest passenger seat and the plane was brought down safely through heroic means by the pilot. But that I believe was the last of the tests they were going to do before they were going to try to run explosives on twelve flights, more or less simultaneously.

The point that I want to make right now is that back then, this was 1995, there was clear planning by somebody, we did not really know who at the time, who wanted to attack United States civil aviation. Interestingly enough, it was on flights coming in to this country, not flights taking off from this country. At that time, some of us who were in government, and I was at the Federal Aviation Administration (FAA) then for a couple of years, were trying to persuade the industry and, in fact, the country to deploy certain means to detect explosives in checked baggage. At that time the air carriers were in total denial and they kept telling us that there was no domestic threat: this was in 1995-1996. There was no domestic terrorist threat to US air carriers. I remember something that was said, which was absolutely disgraceful but nevertheless, did occur. I was not there but my friend and colleague Fred Roder was there, This was in the halls of the FAA, our boss Irish Flynn, who was the director of Civil Aviation Security at the time, was told by the head of security of one of the major US air carriers that there is no

domestic threat of terrorism to the United States; and beyond that the only threat to US air carriers, was Irish Flynn and the United States Government. I still think that was absolutely disgraceful and I do not want to single out this one person, whose name I have not mentioned, because this was the general feeling among virtually all the US air carriers at the time. We said hey, look, there was the Bojinka Plot that happened. We know many of the details about that plot. Somebody wants to attack US aircraft, and they said absolutely not, we do not believe it. After 9/11 however, there was a kind of a paradigm shift. After 9/11 the whole government, is almost entirely focused on the domestic threat. And because the government is paying for it, industry is has not opposed this shift so much, Nevertheless, since 9/11, there have been many attempts on aircraft having to do with the United States, and please correct me if I am wrong, but I believe that every single one that we are aware of that has been carried out (and most of them that have not been carried out) were on inbound flights – that is, flights coming into this country. So my concern and my issue is the following. If all or almost all of the attempts to bomb US aircraft and other aircraft inbound into the United States originated overseas and not domestically, why are we not spending a hell of a lot more effort, resources, and money on those inbound flights, and a hell of a lot less effort on flights, say, from Wichita to Denver, which are not going to be the target of international terrorists? We are spending billions of dollars per year, and have been spending billions of dollars, and are inconveniencing US passengers to an incredible degree for flights on which the threat is far less and we are not putting nearly enough interests and emphasis in areas where the threat is far greater.

I have written a little bit about this -- and I do not mean to toot my own horn at all, many other people have noticed this too. I wrote about it in the *Journal of Homeland Security Affairs* in 2009 and I said, “Look, there has been a whole series of events. There were explosives on a flight from Morocco to France, for example. Nothing happened but explosives were there. They found them on a passenger’s seat.” There were several other events that occurred between 9/11 and 2009, when I wrote the article. Almost all of them included flights overseas, some of them coming into the United States. They included almost entirely the scenario of passengers carrying explosives onto the passenger compartment.

So I said maybe we ought to pay attention to this and do something about it and I suggested a couple of things. The reviewers, some of them were rather unhappy about what I said. I think one of them must have come from TSA and they said, well look, nothing has happened in the last six or seven years, why is he bringing all of this up? This was before December of 2009, when Captain Underpants, because I can never remember the name, Umar Farouk Abdulmutallab made his attempt. The Australians call him that and I think that was quite amusing. He failed only because of his incompetence and the heroic behavior on part of the passengers and crew. But TSA was sitting there not doing anything for the eight years since 9/11, when they should have been focused on that area – inbound flights.

What could you do? Well, one thing you could do that is obvious: when you have passengers coming into the United States, you swipe them down with trace chemical detectors. And you know what, if you have a bomb in your underpants and you have been flying for twelve hours or even six hours, one knows it is probably a good idea to swap the guy’s hand or pockets and see if there are traces of explosives there.

It turns out that in one of these cases, going back a little bit further just after 9/11, there was the famous Shoe Bomber. And the Shoe Bomber, carried stuff in his shoe, and he put his shoe on the aircraft wall, trying to ignite the bomb. This also failed due to incompetence. Well, at that time, I was at TSA and I said, “Well why don’t we see if there is any residue on the airplane?” Now the airplane had been cleaned twice and it was three weeks later before I could get to it. I swiped down the wall of the aircraft where the guy was sitting, and I swiped twenty other places on the plane; and the one place that rang really strongly for the explosive that was there was the sample taken on the wall of the aircraft, where he put his shoes on and put the shoe up against it.

So my argument is at least this particular technology might work for inbound overseas flights. When you have someone who is as suspicious as the Shoe Bomber was – so suspicious that they kept him for a day in Paris and did not let him fly until the next day -- if they would have swiped down his shoes and his hands they might have found something. Nothing like these measures have been taken since, to my knowledge, except right after the Captain Underpants affair.

By coincidence I had been flying overseas a couple of times from Sydney around that time, and they were suddenly starting to take such measures for at least a little while. In Sydney, Australia, on flights coming in the direction of the U.S., they were starting to use trace detection on passengers, which I thought was really great. A little bit later, I flew from Hong Kong to Tokyo, and very little was done. There was some desultory probing in people’s backpacks, looking for something for about three seconds and that was it.

Now up to the present, I just want to point out that two weeks ago – and I am totally out of touch now, I have no secret information about this at all – two weeks ago in the press, you saw on CNN and elsewhere the word that some terrorist threat, something like a shoe bomber, may occur again and we are going to start use trace detection devices on overseas flights coming into this country. Well gee, isn’t that interesting, I am glad they are doing it now, but my God what have they been doing for the last ten years?

The problem is this, back before 9/11, the popular wisdom was, that there was no domestic threat. So yes, we will look a little bit overseas but there is no domestic threat. Now the popular wisdom, for whatever reason, is that the only threat is domestic, when in fact there has not been a domestic attack for a long time. Why? Because it is very difficult now that the U.S. is on alert – we were not on alert before 9/11 – now that we are looking, it is very difficult for terrorists from across large oceans to do us damage. They have to accomplish a whole lot of logistics, which can be detected at many stages. However, they can more easily attack us from flights from other countries coming directly in.

There is a simple view of this situation that can be adduced, using risk analysis and risk assessment, a very simple version of it. The risk is supposed to be the product, to make it simple, of the probability of an attack, of the vulnerability to the attack, and the consequences of an attack. Well, the consequences are the same wherever a large aircraft is blown up. So in principle, you should apply your resources where the threat of an attack is greater and you should try to reduce your vulnerability in those areas; we are doing exactly the opposite. We are putting

almost all our resources domestically, where the vulnerability is low, and putting almost none of our resources overseas, where the vulnerability is high. I do not think people are doing this on purpose of course, but my God, how silly.

Well, I have talked to people at TSA and there are some very intelligent people – not the leadership necessarily, but some very intelligent people working at TSA – who are totally aware of this. They are doing the risk assessment and what you and I can do on the back of an envelope, they have done very seriously. What they told me is that well, Congress is going to insist that we put all of the resources that we have domestically that we need to screen everybody, everywhere here. There has only recently been a little blowback on that and the main reason for the blowback is that the methods have become a little too draconian. I will point out, if you are wondering about shoe bombers, people always have to take off their shoes domestically, at least until age 75 (so I have a few more years to go, not many). If you want to be a shoe bomber, what you then do is go to any country in the world that flies to the United States and depart from there, because in no other country is one required to take off one's shoes, at least as far as I have seen. Maybe some places do, but I have not seen them.

So what is the purpose of this approach? Are we worried about the flight from Wichita to Denver? Are we worried about small, or even half-continent domestic flights and not worried about the international flights? I mean, what on earth is going on?

Most of the attacks nowadays that we are aware of have been planned either from the passenger compartment or from cargo. By the way, there is a reason why recent flights or recent plans have not emphasized checked baggage. And the reason is that twenty years ago, Fred Roder, who had worked for twenty years previously on the problem devised the CAT-scan x-ray and mechanical equipment, which can check baggage very effectively for explosive quantities of the type in which we are interested. If you put technology in the right place, it will work; but it does not work if you only scan checked baggage and you only scan it domestically really well and you do not scan it overseas as well, and you do not use other equipment like chemical detectors.

Anyway, I am afraid I have gone a little bit too long. I have finished most of what I wanted to say. The emphasis on primarily short-haul flights in the United States – because most of our flights are short hauls – is really misguided. One should look at the long-haul flights within the United States, but even more on flights coming into this country, because that is where the threat is. We need to devote many more resources there.

Some people in this government are lazy; they say well, it is too difficult to make these arrangements with other countries. That is absolutely not true. The FAA had arrangements –not as serious as this but almost as serious — with other countries in the 1980s and 1990s. The whole mechanism was and is in place in terms of agreements; they just need to be updated a little bit. There are issues, but not serious issues. Anyway, this is what I have to say: we have to worry about inbound flights and we still have not been doing that properly since the Shoe Bomber, and I cannot believe it.

Francis J. Duggan
President, Victims of Pan Am Flight 103, Inc.

Thank you, good afternoon. I am not a techie; I don't even know what a "transquater" is or whatever that thing was. I also am not a family member, they made me the President of this family group [Victims of Pan Am Flight 103, Inc.] several years ago against my wishes because I said that I am not family and they said yes you are. I am honored that they do that and like George said most of us in this business think about the people a lot, who they were and what they did.

This is a book with the pictures and a short article about every one of them. This was originally funded by the families, they did it themselves. The second and third editions were done by the Justice Department; they set up an office, which is now called the Office of Victims for Overseas Terrorism. The woman who ran it was a woman named Kathryn Turman who is now with the FBI doing basically the same job working with victims. But they paid for hundreds and hundreds of these and we put these on the desk of every FBI officer, everyone who was investigating that case, every house and senate committee member. We wanted to make sure that there was a face of all these names. This tie belonged to a guy one the plane. I did not know him but his wife, his widow asked me to wear it every now and then . I have been wearing it for twenty-five years.

I was trying to think of what I was supposed to talk about here. I first thought about some takeaways of the plane that crashed from Malaysia but there really are not that many take away's.

The Lockerbie plane crashed in an English speaking country of wonderful people who were really cooperative, who wanted to help us in every way, and we were able to find literally everything. Hundreds and hundreds of people scowred the landscape and brought in every single thing they could find and that's how we wound up solving this case. You probably have read that it was eventually solved by finding a timer no bigger than a thumbnail. It was a timer that was used on the bomb and the timer was one of a batch of twenty of these made by a company that sold only to Libya. That's when the investigation turned to Libya. Prior to that point, I and most of us thought it was Iran or Syria. The bombing was December 1988. A presidential commission was formed that went from about September the following year until May of the following year. I was not a Commissioner, I was Liaison to the Families, the title they gave me, but they said this is the most important job here because if the families do not believe you then they will not believe us.

The commission is something you will never have with the plane like then one that went down with the Malaysian Airlines. The passengers were not Americans and it was not a US airline. Our commission had a lot of heavyweight people on it but no legal authority. We had no subpoena power for example, but we had a series of hearings here and in Europe. We heard from witnesses, talking about "techies," all the widget makers who existed at that time in terms of detecting equipment. It is obviously a lot more sophisticated now but even then we knew what was the state-of-the-art stuff. We also knew everything that El Al was doing, in terms of security.

I just flew on El Al two weeks ago. We talked about what the American public will do and put up with, they would not put up with what El Al was doing, stopping you two or three times in the parking lot before you even get into the airport.

At one point, we thought the best thing to use was dogs. Of all the detecting devices, the best for detecting that kind of a bomb was a dog. But we just did not see Republican women in mink coats standing there while some dog sniffed her. The American public was not going to do that; they were not going to put up with a lot of the things that it took back then.

Our commission was over around May or so the following year, and our report is on the internet, we made sixty-one recommendations, sixty of which were enacted into law. And the family group has continued, trying to assure that this would not happen to other families. They were not only able to get these laws enacted but they got economic sanctions passed against Libya. The strongest in the history of the United Nations we got done. With 60 of us sitting in the gallery at the UN. It happened at a time when the French were not helpful and the Russians were mad at the Libyans we were able to get this thing passed without their usual veto.

We also got a law passed that amended the Foreign Sovereignty Immunities Act. Every country has a law that in effect says you cannot sue their sovereign. Most of the stuff that we did, and I am not a government basher at all, we had to do over the objections of the government. Someone always found some reason that we could not do what we wanted to do. In that case, for example, there was the issue of Comity - if we are going to be able to sue their foreign sovereignty, they will be able to sue us if we do something wrong. Well, so we do something wrong I don't have a problem with that.

We got this law amended was not only over the objections of the U.S. government; the State Department. The Israeli lobby, for example, was opposed to it because the original sanctions were just against Iran. Israel viewed Iran as a threat as it clearly was and not Libya because back then people did not know much about Libya. Anyway we got that done. Over the objections of the Army we had a cairn, a monument in Arlington, erected. It is massive. I have never heard the word before. A cairn is a Scottish monument and the Scots sculpted 270 stones that would fit in kind of a conical shape that with massive stones hundreds of pounds each. The Cairn is over 15 feet high. It represents the 270 people. And the Army said you cannot have it in Arlington; that is only for soldiers. Anyway we got it done. We got another law passed to get it erected.

Every year we have a ceremony at Arlington, partly because of what these families have been able to do and partly because of the reservoir of good will that most Americans still have for this case—and it is not over, it is still being investigated—and partly just because we force politicians to come and keep the issue alive. We have had as a speaker the last couple of years John Brennan twice, once when he was the terrorism czar and now the head of the CIA, we've had Eric Holder come every year, we've had the head of the FBI, Robert Mueller who just retired, we've had John Pistole of the TSA. I am not a TSA basher by the way. They are doing the best that they can and I know that they know that there is a problem with bombs coming in from other airports, not that they haven't thought about that.

We have had excellent relations with these government agencies. I can honestly say that none of them will do anything until they run it by us because we are very nasty and noisy. There was a book written by Ron Suskind and it had a separate paragraph in the back about a bunch of these Pan Am 103 people. One of the reasons that it took so long to get rid of the sanctions was the State Department was not going to get rid of them until Qadhafi made whole with the families. It was never the question of money; it was the question of justice. He would not admit he did and he had to admit that he did it and turn over his weapons of mass destruction and cooperate in the future. Finally he did that and only then the families wrote a statement. It was troublesome. We said that Qadhafi had murdered our wives, our children, our husbands. We do not forgive him and we will not forget it but if it is in the interest of our government to get rid of something like these sanctions at the time and if that would help, for example, with North Korea when we were trying to make North Korea to give up its weapons of mass destruction, then at least we would not oppose it. There was a period there we were all cozying up to Qadhafi but those things would not have happened without the involvement of these family members.

Our investigation was masterful. As I said it started off going on the wrong track. If you look at the internet there are still all kinds of people who say it was not Libya, it was Iran and it was a Palestinian terrorist group, the Popular Front for the Liberation of Palestine – General Command (PFLP-GC) who had made bombs. Iran clearly had motive. If you recall, we had a US Navy ship that shot down an Iranian airliner. A horrible, horrible mistake; which killed hundreds. The Iranians vowed vengeance and they said they were going get even but there was never a shred of evidence that they were involved with that bombing. We really tried to find it because they said they were going do it. But motive is not evidence; and intelligence reports are not evidence.

It was not until we found this timer and the investigation turned towards Libya that the whole thing changed. If you look on the internet, there was a deal made with George Bush and Margret Thatcher to take the heat off Syria and similar nonsense. Of the thousands of law enforcements officers who worked on this case ,if there was any kind of a conspiracy, if anybody was told to pull in their wings a little bit, somebody would have said something in twenty-five years. Obviously it is preposterous, that never happened.

The fact is that the investigation is still going on. We had to wait for help from a new government in Libya, and there's still no functioning government in Libya, we've been through three of these transitional groups already. The government is being run by militias and tribes, which is the way Qadhafi wanted it, Qadhafi kept the country that way because he wanted it to be off balance and fight with one another. Nevertheless Bob Mueller, the FBI Director, has gone back there again and the Scottish Lord Advocate Frank Mulholland has also gone back there again and they pledged with the new Libyan government to continue this investigation to find other people involved. The FBI had their eye on six people all together but this was twenty-five years ago. If they are around, probably some of them have been whacked because that is what they use to do with witnesses, but the families still want to know who else was involved. This not out of vengeance, and no one wants any more money. I hate the word closure but this investigation is still out there and, as I said, these families are going to continue to operate because we are now into the third generation of people in these families. They continue to meet regularly. We've even had a marriage; one of the sons married one of the daughters they met at a

family meeting. It is a wonderful, wonderful group.

I have done a lot of stuff in government. I'll have a good obituary—Irishmen love obituaries—but of all the stuff I have done the most important is this thing. I do not know how to describe it other than it is not over, it was a horrible thing that happened to our fellow Americans, and we have had tremendous support from everybody, the public and the media. The media here, that is, not the tabloids in Britain for example.

While we were on that commission, I'm not sure if you would remember this but there was a horrible accident in New York City involving a dance club of Hispanic immigrants, probably mostly illegal, that burned to the ground and 100 people were killed. Some guy was mad at his girlfriend and he started a fire and the windows were all bared from keeping people from coming in and they all died. And all I could think of was these Pan Am family members, parents who were pretty much upper middle class people, they had the money to send their kids to Europe on a trip, they knew how to work the system. But these poor Hispanics could not go to *Occupational Safety and Health Administration* (OSHA) and get rules changed to say you cannot have bars on windows anymore, nothing would ever happen, because they were afraid of making waves.

But we've had a tremendous amount of support, that's all I can say, and love. I am really grateful that you think were worthwhile to come and talk to with a bunch of techies. I have learned a little bit in twenty-five years but all I can really talk about is the families. We often say we wish we never meet because of what brought us together but these have truly become great friends, thank you.

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Established in 1994, the activities of IUCTS are guided by an International Research Council that offers recommendations for study on different aspects of terrorism, both conventional and unconventional. IUCTS is cooperating academically with universities and think tanks in over 40 countries, as well as with governmental, intergovernmental, and nongovernmental bodies.

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