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Pepto-Bismol: giving the lawmakers an upset stomach

by Philip Baum

Like many Europeans, I took a vacation this summer and had a wonderful two weeks trying to “get away from it all” in Rhode Island and Iceland (highly recommended). Early in the morning of my first day back, I was brought swiftly back to reality when it emerged that two men had been arrested on their arrival in Amsterdam off a United Airlines flight from Chicago. The benefits of my trip to the beach at Narragansett and the Icelandic geysers, waterfalls and thermal pools were short lived!

Admittedly prior to establishing the full facts of the case, my blood pressure rose as the initial story broke. One of those arrested, Ahmed Mohammed Nasser al Soofi, had been identified as warranting further examination as he checked in for his trip in Birmingham, Alabama. His heavy clothing worn in the height of the summer and his behaviour resulted in his being subject to search. Within his checked luggage screeners found a strange item consisting of a mobile phone taped to watches and a bottle of Pepto-Bismol.

This was yet the latest example of passenger profiling identifying a potential threat to a flight whilst screening machines, or their operators, had failed. Let’s face it, aside from aviation security instructors and red teams testing the effectiveness of security measures for industry purposes, why should any passenger carry such an item in their baggage? Furthermore, it was a passenger who also carried the unusually large sum of \$7000 in cash on him...and a knife and box-cutter! All credit to the behaviour detection officer who decided al Soofi warranted further inspection.

The Pepto-Bismol device did not test positive for explosives so al Soofi was permitted to continue with his check-in process and board his flight to Chicago, with the Pepto-Bismol device in the hold. Carrying quantities of cash and strange-looking objects are not criminal acts but the decision to let such an item fly, whilst we are continuing to confiscate gallons of obviously harmless liquids from patently law-abiding individuals at

“...the decision to let such an item fly, whilst we are continuing to confiscate gallons of obviously harmless liquids from patently law-abiding individuals at checkpoints, is indefensible...”

checkpoints, is indefensible. How much more so, when the passenger’s routing was to The Netherlands and onwards to Yemen?

And how often are such ill-judged decisions reached? We only know about this incident because al Soofi ended up being separated from his bag in Chicago. He was supposed to fly to Amsterdam via Washington-Dulles yet was put on a direct flight to Amsterdam when he missed his flight to Dulles, allegedly due to a gate change. His bag continued as tagged and it was only when al Soofi

didn’t board the United flight in Washington that alarm bells started to ring, his bag re-searched and the Dutch authorities notified. Mr al Soofi and the passenger seated next to him, Hezzam Abdullah Thabi al Murisi, who had also missed his flight to Washington-Dulles were to be met on arrival.

Call me cynical, but I sense that had the situation been in reverse, and the Dutch had called the Americans, the flight in question might have been turned back!

It seems that al Murisi did not know al Soofi at all and their sitting together under similar circumstances was only a coincidence. And, both the Dutch and the Americans later decided that neither of them should face charges. How could they? They had done nothing wrong.

The wrongdoings were on our side. What if, as some suspect, this had been a dummy run? How would the test report read? And even if this was a totally innocent occurrence and the blue-taped Pepto-Bismol, mobile phone and wristwatch combo just a way of keeping all the items together, after all there are odd people out there, what message does the subsequent reporting send out to those who really do have ill intent? Hardly the demonstration of the robust aviation security system our politicians espouse.

Indeed, on the political front, just as the Pepto-Bismol story broke, a diplomatic conference on aviation security convened in Beijing under the auspices of the International Civil Aviation Organisation to debate and adopt two air law instruments (culminating in the “Convention on the Suppression of Unlawful

Acts Relating to International Civil Aviation" – what will, henceforth, be referred to as the Beijing Convention - and the "Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft")



The 400 participants from more than 80 States and international organisations recognised that existing treaties criminalising (and ensuring prosecution for) acts of hijacking and sabotage were no longer sufficient to respond to our ever-more creative adversaries.

Finally the international community was formally criminalising the act of using civil aircraft as a weapon, and of using dangerous materials to attack aircraft or other targets on the ground. In other words, providing the Beijing Convention is ratified, acts of laser illumination and, worse still, using a chemical, biological, radiological or nuclear weapon will become crimes and both the perpetrators and the organisers of such attacks will be punishable.

Having the necessary legal framework is all very well, but I'm not sure that terrorists are at all worried about being prosecuted. Their only concern about being caught is that their plot will have failed. So we need to make sure that our screening process ensures that the crimes of yesteryear and those covered by the Beijing Convention never reach the

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stage of prosecution – that would be too late.

The real legal challenge is to find a way, whilst ensuring civil liberties, to prevent certain items or people boarding aircraft in the absence of proof of being an actual threat. I'm delighted that the screeners in Birmingham tested the Pepto-Bismol combo for the presence of explosives but, just as an example, did they even consider, as our lawmakers have, that it could have been a CB device? ■

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