



ASOS Research Request: What procedures should be taken if pilots overseas find that their aircraft has been tampered with?

ASOS Research Brief

ASOS Research Response:

The first steps to aircraft security begin before arrival to the destination airport. Measures to ensure the aircraft is adequately secured should be taken once on the ground. If it's discovered the aircraft has been tampered with overseas, the proper authorities must be notified, starting with the local agencies. In our research, we contacted the FBI (Federal Bureau of Investigation), TSA (Transportation Security Administration), and FAA (Federal Aviation Administration).

Upon initial contact with the FAA, they did not have a response, however, two different inspectors would later contact us with an answer. We then contacted the FBI because according to the Department of Justice, you must inform the FBI of aircraft sabotage in the U.S. Any intentional aircraft tampering construed as a crime becomes an FBI issue if the aircraft is in the U.S. The FBI, however, stated you must contact the TSA if the tampering occurs overseas. Upon contact with the TSA, they stated you must contact the FAA about aircraft tampering/ sabotage overseas.

So after coming full circle with the issue, we finally received a more detailed response from the FAA. They stated contact with U.S. agencies depends on the severity of the situation. They stated first, you must notify the local authorities since they have jurisdiction, followed by the aircraft operator (Refer to our Road Security brief for a listing of international emergency numbers). Then you notify the foreign government/ agency responsible for the jurisdiction in the area you are in. For example if you are in Canada, Transport Canada. For the next step, we received two different responses from two different representatives of the FAA about notifying the U.S. Embassy/ State Department. The consensus, is that notification of the U.S. embassy depends on the severity of the situation. *The political relationship of the U.S. varies with each country so it is difficult to make a general statement about a definitive best course of action for every situation.* For obvious threats such as an explosive device, its logical you would want to notify the U.S. Embassy/ State Department. In the FAA response, we also are able to assume that in a minor incident where the aircraft has been cleared by the local authorities/government as safe with no evidence of tampering/ sabotage, you are not necessarily required to notify a U.S. agency. As for FAA notification, they stated you only are required to notify them if there is a suspected unapproved part. We can only

conclude the operator must use their best judgment for each situation. Local government laws always apply first because you are not in the jurisdiction of the U.S. government.

In short:

For an “N” registered aircraft:

1. Notify local authorities/ agency
2. Notify the operator.
3. Notify U.S. Embassy/ State Department depending on the severity.
4. If it's a suspected unapproved part, notify the FAA.

The FAA stated they would return to us with a full response within a few weeks.

Tampered Aircraft

Upon discovery of a tampered aircraft, you must first assess the possible danger posed due to the tampering. Every situation should be approached with caution and do not take tampering lightly. After careful inspection of what exactly was tampered with, then a decision may be made as to how to handle the situation. Two worst case scenarios present themselves. *First*, the possibility exists there has been sabotage to the aircraft. *Second*, the possibility exists there may be an explosive device. A proper assessment of possible threats to the company and threats at the airport should be made prior to arrival at the airport. This will help to determine the likelihood of a hostile act to your company and it may require the assistance from a security company. In essence, everyone is at risk to terrorism due to the current world events and the recent warning issued by the TSA (Referenced in our Road Security Brief). Performing a threat assessment on the company prior to a tampering incident will help to determine possible risks to the company.

If an explosive device is suspected, follow your company's protocol for the particular situation. The company should have an emergency response manual clearly outlining the procedures for responding for such an event. Employees must know what to do in the event a bomb is suspected. Immediate notification of the local authorities is required.

If sabotage is suspected, careful inspection of the components that were possibly affected must be performed. Ascertain assistance from a qualified maintenance technician to help identify any affected parts. The maintenance technician must be FAA certified to perform any repairs to an aircraft even if you are overseas.

The importance of preventative security is critical prior to operating anywhere. Devices such as intrusion detection systems installed on accessible areas of the aircraft are invaluable especially if you are operating in areas suspect to criminal activity. For example, an intrusion detection device alarm went off while the pilots of a corporate jet were waiting for their next flight. The pilots received warnings from the aircrafts' alarm system around the landing gear. They initially thought it was an animal producing a false

alarm, but after repeated alarms they investigated. Upon arrival, the pilots did not see any immediate signs of tampering, however, they decided to check some systems in the aircraft. It was revealed a hose used for hydraulic fluid on the landing gear was missing. They later found out a mechanic had “borrowed” a hose from the aircraft to fix the landing gear on another aircraft. This is just one example of how preventative security will greatly increase safety.

We recommend consulting with a security company such as Air Security International if you believe you are at risk for intentional aircraft tampering or sabotage. Companies such as Air Security International will perform a threat assessment for your company and your areas of operation. They will also tailor corporate aviation security training to meet the needs of your company. For more information or any questions regarding security, please contact:

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U.S. Department of Justice

It is a federal offense for a person to commit an act that may endanger an aircraft. It is also illegal for someone to make a threat to destroy or damage an aircraft as well. It has to be determined the threat will be carried out according to the law to pursue the threat legally. According to the U.S. Department of Justice:

2 Aircraft Sabotage (18 U.S.C. § 32)

Amendments to 18 U.S.C. § 32 enacted in 1984 expand United States jurisdiction over aircraft sabotage to include destruction of any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated or employed in interstate, overseas, or foreign air commerce. This statute now also makes it a Federal offense to commit an act of violence against any person on the aircraft, not simply crew members, if the act is likely to endanger the safety of the aircraft. In addition, the United States is authorized under the statute to prosecute any person who destroys a foreign civil aircraft outside of the United States if the offender is later found in the United States or, effective as of April 24, 1996, a national of the United States was aboard such aircraft (or would have been aboard if such aircraft had taken off) or a national of the United States was a perpetrator of the offense. See [USAM 9-63.221](#), *et seq.*

9-63.221 Prosecutive Policy for 18 U.S.C. § 32(b)

Authorization shall be obtained from the Assistant Attorney General of the Criminal Division before an indictment is returned alleging a violation of 18 U.S.C. §

32(b), the Aircraft Sabotage Act. This is consistent with the policy for 49 U.S.C. 46502(b) (formerly 49 U.S.C.App. § 1472(n)), which relates to acts of air piracy committed against foreign civil aircraft which are outside the special aircraft jurisdiction of the United States. See [USAM 9-2.136](#) and [USAM 9-63.181](#).

9-63.231 Prosecutive Policy for Threats to Destroy Aircraft

Subsection (c) of Title 18, section 32 prohibits the willful imparting or conveying of threats to do anything to destroy or damage aircraft or aircraft facilities which would violate paragraphs (1) through (5) of subsection (a) or paragraphs (1) through (3) of subsection (b). The threat must be made "with an apparent determination and will to carry the threat into execution."

As with the offense of communicating false information regarding aircraft piracy (See [USAM 9-63.171](#)), if there is no reason to believe that the individual has the motivation or ability to carry out the threat, there is no reason to expend the resources of the Federal government in criminally prosecuting such an individual. If, however, the threat is issued under circumstances where a reasonable person would believe that it would be carried out and the threat involves an action that would likely endanger the safety of the aircraft, such conduct should be prosecuted vigorously.

9-63.181 Prosecution Policy for Aircraft Piracy Outside the Special Aircraft Jurisdiction of the United States (49 U.S.C. § 46502(b))

No United States Attorney may initiate a criminal investigation, commence grand jury proceedings, file an information or complaint, or seek the return of an indictment in matters involving overseas terrorism without the express authorization of the Assistant Attorney General of the Criminal Division. See [USAM 9-2.136](#) Once an approved indictment is returned, any disposition thereof shall be governed by the same criteria as that for a 49 U.S.C. § 46502(a) offense. See [USAM 9-63.135](#)

9-63.200 Destruction of Aircraft and Motor Vehicles and Related Offenses (18 U.S.C. § § 31 - 35)

The Federal Bureau of Investigation (FBI) investigates incidents involving possible violations of Chapter 2 of Title 18, United States Code. The Terrorism and Violent Crime Section (TVCS) supervises offenses involving 18 U.S.C. §§ 31-35. Appropriate attorneys in TVCS can be reached at (202) 514-0849.

1419 Aircraft Piracy Outside the Special Aircraft Jurisdiction of the United States -- 49 U.S.C. 46502(b)

In order to fully implement the Hague Convention for the Suppression of Unlawful Seizure of Aircraft, the Antihijacking Act of 1974 (Pub. L. 93-366) created a new provision (former 49 U.S.C. App. § 1472(n)) whereby persons who commit acts of air piracy **outside** the special aircraft jurisdiction of the United States may be punished if they are subsequently found in the United States.

Prior to 1996, the only limitation to this provision was that the place of take-off or

actual landing of the aircraft on which the prohibited act was committed must have been outside the territory of the state of registration of that aircraft. The effect of the limitation was to exclude prosecution in the United States of a hijacker who should more properly be prosecuted in the country of the aircraft's registration. On April 24, 1996, the limitation was removed by section 721(a) of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104-132, 110 Stat. 1214, 1298, because it was determined to be a misreading of the Hague Convention. See 141 Cong. Rec. S 2517-18 (daily ed. Feb. 10, 1995). See also this Manual at 1404.

Section 721(a) of the Antiterrorism and Effective Death Penalty Act of 1996, *supra*, also expanded the extraterritorial scope of § 46502(b) of Title 49 to cover any hijacking of a foreign civil aircraft (which is outside the special aircraft jurisdiction of the United States) when (1) a national of the United States is a perpetrator of the offense or (2) a national of the United States is on such aircraft. Section 46502(b) continues to cover those extraterritorial hijackings of foreign civil aircraft not involving a national of the United States when the offender is subsequently "found" in the United States.

The extraterritorial jurisdiction of §46502(b) has been upheld by the courts when the defendant was subsequently "found" in the United States following his forcible rendition. See *United States v. Yunis*, 681 F.Supp 896 (D.D.C. 1988), *aff'd*, *United States v. Yunis*, 924 F.2d 1086 (D.C. Cir. 1991). See also *United States v. Rezaq*, 134 F.3d 1121, 1130-33 (D.C. Cir. 1998) (government did not unlawfully manufacture jurisdictional element that defendant be "found in the United States" when it forcibly brought the defendant to the United States).

Following are recommended procedures for aircraft security:

Aircraft Security

1. Preflight checks are required to be conducted for the lavatories baggage compartments and all cavities for unauthorized people or objects prior to every flight.
2. When servicing aircraft at home base it is required that a flight department member be present all times (fueling, catering, etc).
Other than home base, see destination facilities.
3. Unattended Aircraft recommendations: (*enter the security devices you have*)
 - a) Install anti-theft devices on and/or within the aircraft when not in use
 - b) Install devices to sock aircraft flight control surfaces when not in use
 - c) Remove the keys to the aircraft, if applicable, and lock all doors when not in use
 - d) Install other lockable devices to secure the aircraft to the ground
 - e) locking doors on aircraft storage hangers at all times when not in use
 - f) Use of security tape is recommended in addition to the locks and alarms. Visually inspect the tape and/or locks for tampering. It is suggested that manufacturer door

locks be replaced with unique locks that are not conforming to the make/model aircraft.

4. It is suggested to avoid having company signs and logos on the company aircraft.

5. Be aware of pilots who may appear under control by other persons.

These are the basic, but most important steps you can take to protect your investment in the event it is stolen or burglarized.

1. LOCK THE AIRCRAFT WHEN YOU PARK.

2. DO NOT LEAVE THE LOG BOOKS IN THE AIRCRAFT AT ANY TIME.

In many cases, the logs are more valuable than the aircraft.

3. TAKE A PICTURE OF THE PLANE NOW AND HAVE COPIES MADE FOR USE IF THE PLANE IS STOLEN OR DESTROYED.

Exterior & interior; photograph your control panel.

4. MAKE A LIST OF SERIALIZED PARTS INCLUDING YOUR INSTALLED ELECTRONICS. KEEP IT WITH YOUR AIRCRAFT PICTURES.

This means your engine, props, moving parts, avionics, ELT, etc.

5. SEND A COPY OF THE LIST AND AIRCRAFT PICTURES TO YOUR INSURANCE AGENT OR THE INSURANCE OFFICE YOU DEAL WITH.

If your aircraft is stolen, the information will be immediately available to law enforcement and your insurance company. The recovery can then begin immediately.

Aircraft Inspection

- Check lavatories, baggage compartments and all cavities for unauthorized people or objects prior to every departure
- A flight crewmember must be present at all times when the aircraft is being serviced (fueling, catering, etc.) at locations away from company aviation facility
- A flight department member must be present at all times when the aircraft is being serviced (fueling catering, etc.) at home
- Use the aircraft's security system (locks and alarms) whenever it is unattended away
- Consider removal of company identification, logos and the American flag insignia.
- Do not publicize the aircraft itinerary.
- Use the aircraft's security system at every stop, no matter how brief.
- Be very cautious when hiring local guards; local contacts can assist in making arrangements for theft.
- Assume that one terrorist act signals the presence of another. If the aircraft is violated in one area, verify that other areas have not been violated.
- Ask for help from local authorities, even if terrorist activity is suspected without solid evidence.
- Consider alternative means of transportation if sabotage is suspected.
- Verify that no stowaways are aboard, especially in the lavatories or the baggage compartments.

- Share any terrorist activity only with company officials, the Federal Bureau of Investigation (FBI) and other appropriate government agencies.
- Use security tape on all access panels and doors when parking overnight.
- Make sure only the shift manager has access to keys if they are given to the FBO. Keys should only be returned to the aircraft captain. If the log books are in the aircraft, ensure they are secured while the plane is on site. Remember, [the logs can be more valuable than the aircraft itself.](#)
- Receiving a suspicious phone call regarding the aircraft requires taking immediate measures to secure the plane. Then contact the police/airport security for assistance. This might be the opportunity for the police to apprehend the thieves.
- Contact your insurance broker to check your insurance coverage and limitations regarding aircraft left in your care, custody, or control for safe keeping, storage, service or repairs. Know your liability and exposure and plan for the worst. If you do become a victim, you'll be better prepared to deal with the situation.
- Check with your attorney and discuss your legal position relating to your insurance coverage and possible liability regarding theft from your facility.
- Question strangers who seem to be kicking tires, nosing around, or just hanging out. This is exactly how thieves case your facility. And be wary of unidentified phone calls asking about your hours, security, or other strange questions. If you get this kind of call, contact airport security or the police agency that has jurisdiction at the airport. Observe and be aware of suspicious activities or persons. Don't try to apprehend suspicious individuals yourself. Instead, contact the local Law Enforcement Agency, identify your concerns, and be ready to cooperate with the investigation.