

# UFOs AND COMMERCIAL AIR TRAFFIC

Probable allocation of liability after a UFO-caused crash

By DAVID BROBECK Jr.

## Part I — A Hypothetical case

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JOHN DOE boarded defendant American Airline's 727 jet, Flight 211, at approximately 1.45 p.m. on March 21, 1969, for a flight from San Diego, California, to Las Vegas, Nevada. At 12.15 p.m. on that same day, defendant Airline's chief flight dispatcher at their San Diego facility monitored a series of radio transmissions between a Federal Aviation Agency Air Traffic Control official in Los Angeles and the pilot of American Airlines Flight 186, then en route from Las Vegas, Nevada, to San Diego, California. The pilot of this flight reported encountering two unidentified flying objects, commonly termed "UFOs", over an area of the Mojave Desert near the town of Ludlow.

Flying in formation, the objects approached the plane head-on at high speed from the north-east; the pilot reported that he was forced to take immediate evasive action, and the plane made a rapid descent of approximately 3,000ft. Several passengers were injured, though none seriously, and ambulances were requested and utilised when the flight arrived in San Diego. The unusual objects were also reported to ATC by two other commercial flights that crossed the same area minutes after Flight 186; in each case, the unknowns had made rapid head-on approaches, veering away at the last possible moment.

American Airlines, in view of the continued encounters with the UFOs over that area of the Mojave Desert, and the scheduled departure of Flight 211, contacted the Federal Aviation Agency (FAA) headquarters in Los Angeles and Las Vegas. Officials at these offices had previously consulted by telephone with members of the staff of Project Blue Book, the official U.S. Air Force UFO investigation with headquarters at Wright-Patterson Air Force Base, Dayton, Ohio. Subsequent to these communications, defendant American Airlines was notified by the FAA facility in Los Angeles that the unidentified objects represented no threat to any aircraft which might pass over the area in question.

At approximately 2.05 p.m., the pilot of Flight 211 contacted the Air Traffic Control (ATC) facility in Las Vegas and reported the visual sighting of a pair of unknown craft, apparently metallic, closing fast from the north-west at the approximate distances of four miles and elevation of 30,000ft.—the same altitude at which Flight 211 was then proceeding. Las Vegas ATC advised that although there were no other known aircraft in the area, their radar showed two slow-moving blips approaching the plane from the north at a distance of approximately five miles. The pilot then reported that one of the objects had turned to the north-east, but that the other appeared to be rapidly accelerat-

ing toward the plane. Radio communication was suddenly broken off, and when the flight became overdue at the Las Vegas terminal, a ground-air search was instituted. Thirty minutes later the wreckage was spotted from the air, and the initial rescue teams on the scene reported no signs of life in the scattered wreckage.

In the official Civil Aeronautics Board Report on the crash, the cause was not specifically attributed to the UFO, although the flight recorder indicated a collision was imminent. Investigators reported that there was clear evidence of a mid-air collision due to the wide separation of the two concentrations of wreckage; a mid-air explosion was ruled not to have been the cause for such a divergence, since the rear-fuselage and tail section had apparently been sheared off. When located, these portions of the plane showed no signs of explosion or fire. There was also convincing evidence that the main portion of the craft did not burn until it impacted on the ground.

Mary Doe, the surviving wife and sole heir of passenger John Doe, filed a complaint in the United States District Court located in the city of San Diego, naming American Airlines, the United States Government, and Pacific Fidelity Insurance Company as co-defendants.

Article IV of that complaint charged the U.S. Government with extreme negligence in prematurely deciding that the UFOs represented no threat to any aircraft, and for providing assurances to the defendant Airline Company of that belief. It read in part as follows:

"At said time and place defendants, through the acts of their employee then within the scope of his official duties, wilfully and intentionally demonstrated wanton disregard for the safety and welfare of the passengers and crew of said commercial airplane in failing to investigate the unknown objects before concluding that they were a mere misrepresentation of some conventional phenomenon . . . and, as a direct and proximate result of such assurances as aforesaid, any by reason of the resulting crash and fire, decedent suffered injuries which resulted in his death."

The circumstances of this hypothetical disaster and subsequent litigation are not as improbable or remote as they might at first appear. Unidentified flying objects have been sighted on a world-wide basis in increasing numbers over the past 22 years, and many of the best documented and most detailed accounts can be found in the official reports filed by experienced pilots who have encountered the strange phenomena. Military and airline pilots are among the most experienced observers of the sky. Their occupation requires them to spend hundreds of hours in the air, a fact which makes it necessary for them to possess a practical knowledge

of other aircraft, weather conditions, and various atmospheric phenomena. It should also be noted that professional pilots are generally trained in rapid identification of anything which may endanger a flight.

Before turning to a discussion of the legal implications arising from my hypothetical case, it seems first of all necessary to substantiate the possible occurrence of such a series of events.

### Recorded close encounters

The first and most obvious questions that one might ask are, "Have UFOs actually made rapid head-on approaches toward aircraft, and if so, has there been any evidence that such encounters represented a threat to the plane or its occupants?" The answer to both questions is a definite "yes", and undoubtedly the first such case on record occurred in 1947—the same year that UFOs made their initial mass appearance in the United States. The incident took place on July 8 of that year, and Major Edward J. Ruppelt, the former head of Project Blue Book, mentioned it in his fine book, *The Report on Unidentified Flying Objects*.<sup>1</sup> An Air Force pilot, whose name was officially deleted, was flying near Los Angeles, California, in his P-51 when he was approached by a flat, round object which reportedly reflected the sunlight as it passed above his fighter. Approximately one year later, the first close encounter with a commercial airliner occurred in the vicinity of Montgomery, Alabama; it is regarded as one of the "classic" UFO cases of all-time.

At 2.45 a.m. on July 23, 1948, Eastern Airlines pilots C. S. Chiles and J. B. Whitted saw a brilliant object swoop up toward their DC-3, hurtling head-on toward them. The object then dived and veered to the right of the airliner, emitted a reddish-orange exhaust blast, and accelerated vertically into the clouds above. The pilots later described the UFO as cigar-shaped, with brightly-lit "windows" along the side; its size was estimated at approximately 100ft. This case seems especially relevant to my hypothetical situation of a UFO-caused crash because the big Eastern Airlines plane was reportedly "rocked" when the UFO climbed away; this fact appears in the Air Force Project "Sign" Report taken from the witnesses' original accounts.<sup>2</sup>

On October 5, 1950, a California Central Airlines plane was approached head-on by a UFO with body lights over San Fernando, California. Captain Cecil Hardin and his first-officer Jack Conroy watched the object suddenly dip and pass below their plane, and Captain Hardin later described it as wing-shaped and without any fuselage; bands of blue light were visible across its width.<sup>3</sup>

A bright light was observed on January 20, 1951, from the control tower at the Sioux City, Iowa, Airport. Chief controller John Williams alerted a Mid-Continent DC-3, which has just taken off, asking them to investigate. Before they could do anything, pilots Lawrence Vinther and James Bachmeier saw the brilliant light closing on them very rapidly. The light flashed past, and they saw a clear silhouette of a cigar-shaped object behind the light. The object then reversed direction, paced the airliner for a moment, and shot straight up and disappeared.<sup>4</sup>

### A British incident

Only one of a dozen known foreign reports of airplane UFO near-misses took place over Essex, England, on October 4, 1954. An RAF pilot, F/Lt. J. R. Saladin of the 604th Fighter Squadron, was flying his Meteor jet out of North Weald, Essex, when he had a near-collision with a strange object. It appeared metallic and of tremendous size, and was shaped like two saucers pressed together (double-convex). At the last possible moment it allegedly tilted on one side and swooped past at fantastic speed. Two other UFOs had been reported speeding between two other Meteor jets a short time earlier in the same vicinity.<sup>5</sup>

Returning to the United States, a Pan American Airways plane en route from Miami to New York City was approached by two UFOs flying in formation. Captain J. King stated that the two objects were reddish-green in colour, and shot past the airliner at close range.<sup>6</sup>

### Evasive action by pilots

The final three cases which deserve mention all have two things in common—the pilots of each airliner, fearing a mid-air collision, took sudden evasive action, and in each instance a number of passengers were injured. The first of these incidents took place on October 19, 1953, when an American Airlines DC-6, 15 minutes out of Philadelphia for Washington, D.C., encountered a shining object hovering in and out of the thin clouds ahead. The co-pilot spotted it first, and called it to the attention of Captain J. L. Kidd. Both men agreed that it did not resemble a plane, and that it carried no running lights as required. Captain Kidd cut back his airspeed and switched on the landing lights as a warning. It was then he realised that the object was approaching him at high speed. There was no time to warn the passengers, only time to jam the wheel forward and put the airliner in a steep downward arc. Passengers without seat belts fastened were thrown upward and then down when the plane levelled off. The pilot immediately contacted National Airport and was informed that there were no other planes in the area. The *Washington Post* reported the near-miss the next day, confirming the fact that ambulances took some passengers to hospitals, but that first aid was all that was necessary.<sup>7</sup>

Six months later, a similar incident occurred, again here in California, over the city of Long Beach. Just before midnight on April 14, 1954, an unknown object loomed out of the blackness and narrowly missed a United Airlines plane. The pilot, Captain J. M. Schiedel, stated that the object had no running lights until it was directly in front of the plane; at that moment a bright red light flashed on the side of the object to Captain Schiedel's right, and fearing a collision, he yanked back on the wheel and the plane climbed abruptly. A stewardess suffered a broken ankle, and a passenger identified as C. Barber was thrown down the aisle so violently that his left leg was broken; other passengers were tossed about and suffered skin abrasions and bruises. The official CAB report states that there was a near-miss with an "unidentified craft" at 5,000ft. in clear sky over Long Beach.<sup>8</sup>



A Pan American Airways Douglas DC6A en route from New York City to San Juan, Puerto Rico, was flying west of the customary course to avoid a storm; the date was March 9, 1957. At 3.30 a.m. Captain Matt Van Winkle was approximately 150 miles east of Jacksonville, Florida, when an intensely brilliant beam of light appeared to his right and below the plane. He immediately pulled the big plane into a steep climb to avoid a collision. A number of passengers were injured, and the plane was met by ambulances at the San Juan airport. To further substantiate the report, four other plane crews in the same general area had seen the same or a similar object within a few minutes of this Pan Am case; it was uniformly described as a glowing thing with a brilliant light on the front and a reddish glow or exhaust on the rear. The eventual Air Force "explanation" was that the pilots had seen only a shooting star, or meteorite. This conclusion seems unlikely since Van Winkle and at least one other pilot reported the object below the horizon.<sup>9</sup>

### The Calcutta Comet disaster

Although there have been at least three military pilots killed while pursuing UFOs,<sup>10</sup> to date the best evidence for a UFO-caused airliner crash is purely circumstantial, the best example being the disaster near Calcutta in May of 1953. A British-built Comet jetliner mysteriously crashed, and although the pilot had not reported sighting a UFO, that particular month was one of the most heavily saturated ever with UFO sightings on a world-wide basis. The first investigator to reach the crash site was experienced in this kind of work. After examining the wreckage he reportedly told newsmen: "The Comet struck some sort of heavy solid object while in flight." This analysis was immediately denied by the British authorities, many of whom suggested lightning as the probable cause. The official Indian Government investigation expressed the belief that the wide divergence in the wreckage occurred when the port wing came off and sheared the tail section from the main fuselage. Still unexplained, however, is the fact that much of the upper front portion of the main cabin, including the pilot's compartment, was also apparently sheared off and found some distance from the main wreckage.<sup>11</sup>

### Pilots' procedure for reporting UFOs

It is important at this point to note what procedures would be followed when an airline pilot makes a sighting of an unidentified craft. In talking with a number of FAA controllers I learned that the exact procedure is not clearly defined; most agreed that the pilot's report would be relayed from their Air Traffic Control (ATC) room to the nearest military airfield, not necessarily an Air Force installation.<sup>12</sup> Here in San Diego, for instance, the ATC headquarters is located in the main operations building at the Miramar Naval Air Station, and all aircraft flying below 23,000ft. in a specified "block" of airspace are within the control of this ATC unit. This particular jurisdiction extends from the Mexican border north to El Toro Marine Air Station, east to Julian, and west to a point some 30 miles from the coastline. Planes flying above the 23,000ft. level are handled by the much larger Los

Angeles ATC facility, as were the flights mentioned in the imaginary case. Airport control tower operators generally communicate with planes at or near their respective terminals, whereas the ATC may be in continuous communication with a flight, providing information on nearby air traffic, weather conditions, and other pertinent data. Planes approaching an airport do not switch to the tower frequency until the ATC controller has directed them to within approximately six miles of the runway.<sup>13</sup>

It should also be noted that all commercial airline companies have their own private communication links between their airport ground stations and all of their planes aloft. This is known as the air-radiotelephone system, and, as in my hypothetical case, the company's dispatcher could monitor communications between ATC personnel and their pilots.

Assuming a military installation other than an Air Force base received a UFO report from an ATC facility, they are required to relay the information immediately to the nearest Air Force Base.<sup>14</sup> The commander of that base is then required by Air Force Regulation 200-2 to "report all information and evidence of UFO sightings, including information and evidence received from other services, Government agencies, and civilian sources. Investigators are authorised to make telephone calls from the investigation area direct to the Foreign Technology Division (FTD) of the Air Force Systems Command, Wright Patterson Air Force Base, Ohio. . . . The purpose of the calls is to report high priority findings."<sup>15</sup>

### Secrecy in U.S. Air Force investigation of UFOs

One section of the order is especially noteworthy in connection with an aspect of the Air Force UFO investigation I intend to discuss later in greater detail, namely, their policy of secrecy on the subject of UFOs. This provision reads as follows:

"In response to local inquiries regarding any UFO reported in the vicinity of an Air Force base, the commander of the base concerned may release information to the press or general public *only after positive identification of the sighting as a familiar or known object.*"<sup>16</sup>

A brief historical outline of the Air Force's UFO investigation is important at this point in the analysis for several reasons, all of which are likely to affect the probable outcome of my hypothetical lawsuit. For years, critics have charged that the Air Force practises an intolerable degree of secrecy in matters regarding UFOs, and there is abundant evidence to support charges of inadequate investigations and even deliberate "cover-ups". If, in my hypothetical case, the staff of Project Blue Book neglected to make a recommendation as to the possible danger of the UFOs, or failed to order an immediate investigation, some degree of liability would seem to be theirs if the crash occurred as I have stated; this result would also follow if they informed the ATC officials to use their own judgment in advising the airlines or their pilots, or where they summarily concluded that the objects represented no threat.

Despite a large number of reported encounters with UFOs by reliable commercial airline pilots, it is doubtful whether the Air Force recognises the threat, or even the reality of the occurrences. Undoubtedly

the foremost authority on UFOs—not only in this country but around the world—is Dr. J. Allen Hynek, director of the Department of Astronomy at Northwestern University. He has held the position as chief scientific consultant on UFOs for the Air Force for over 18 years, and has investigated personally many of the most remarkable, and still unexplained, sightings. I recently received a most interesting letter from Dr. Hynek in which he expressed his own views as to the Air Force's position on airliner-UFO cases. Dr. Hynek seems to support my view as to what the Air Force reaction would be if the events I proposed took place:

"The Air Force would most assuredly say from their data to date that the reported objects do not represent any threat to air flights. . . . The Air Force might figure that there is more danger to an air flight from a meteor or a re-entering satellite than there is from a UFO."<sup>17</sup>

One of Dr. Hynek's final remarks will provide an excellent example of the attitude taken by the Air Force in this area:

"I believe it would be fair to say that to the present the Air Force does not recognise as valid any reported encounter of an airline with a UFO, although a few pieces of that sort have been listed as unidentified."<sup>18</sup>

It seems unlikely that Air Force policy would undergo a radical "about-face" if Project Blue Book received a series of reports from the ATC of airline pilots' close

encounters. Although this does not necessarily mean that an investigation would not be ordered, an order for the cancellation of flights seems unlikely: Dr. Hynek concurs with me in this regard also.<sup>19</sup>

#### NOTES

- <sup>1</sup> Ruppelt, Edward J., *Report on Unidentified Flying Objects* (Doubleday, 1956), p. 161.
- <sup>2</sup> *Flying*, July 1950; *Saturday Evening Post*, May 7, 1949.
- <sup>3</sup> *San Francisco Chronicle*, October 7, 1950; also reported in *The UFO Evidence*, published by the National Investigations Committee on Aerial Phenomena (NICAP), Richard H. Hall, editor, 1964, p. 34.
- <sup>4</sup> *Flying*, June 1951.
- <sup>5</sup> *RAF Flying Review*, July 1957; *FLYING SAUCER REVIEW*, Vol. 1, No. 1 (1955); *London Illustrated News*, December 2, 1954.
- <sup>6</sup> Keyhoe, Donald E., *Flying Saucer Conspiracy* (Henry Holt, 1955), p. 259.
- <sup>7</sup> *Washington Post*, October 20, 1953.
- <sup>8</sup> Edwards, Frank, *Flying Saucers—Serious Business* (Lyle Stuart, 1966), p. 37.
- <sup>9</sup> *Ibid.*, p. 38; *The UFO Evidence*, op. cit., p. 36.
- <sup>10</sup> *The San Diego Union*, May 19, 1967, p. A8.
- <sup>11</sup> Edwards, Frank, op. cit., p. 35; *Aviation Week*, July 13, 1953.
- <sup>12</sup> Opinions expressed by FAA Controllers R. Hinds and James R. Becker during interview and tour of facilities at Miramar ATC Center, April 12, 1968.
- <sup>13</sup> Statement of FAA Chief Controller W. Shaw of Miramar ATC Center, April 12, 1968.
- <sup>14</sup> Statement of Lt. Commander R. Stiles, base commander, Miramar Naval Station, April 13, 1968.
- <sup>15</sup> *Air Force Regulation* 200-2, "Intelligence Activities—Unidentified Flying Objects (UFO)," section 3 (a); Department of the Air Force, Washington, July 20, 1962.
- <sup>16</sup> *Ibid.*, section 8.
- <sup>17</sup> Letter from Dr. J. Allen Hynek, April 18, 1968.
- <sup>18</sup> *Ibid.*
- <sup>19</sup> *Ibid.*

## MAIL BAG

### From Aimé Michel

Sir,—In his letter of February 16, 1968, Mr. Llewellyn emphasises the great similarity between a detail concerning the Valensole case and your *Fantasy or Truth?* in FSR Vol. 13, No. 4. And he adds: "A little too arranged."

A pertinent question. It is in fact evident that the facts can only be either *incoherent* (and thus suspected of being unreal) or *coherent* (and consequently suspected of being "arranged"). Faithful to my rule of *thinking of everything and believing nothing*, I accept this dilemma. One must always suspend judgement on every detail deriving solely from the eyewitness's testimony; but on the other hand, it is always interesting to discover, among details that are even suspect, general structures and, if possible, statistics. The details are allegations, the structures are facts (for example, the structures put forward by Gordon Creighton and Jacques Vallée in the same issue of the REVIEW).

As regards the question of knowing whether these structures are real or fabricated by liars, this is a classic problem in scientific methodology—when one does not know if an experiment is significant, or calculation pre-

cise, one does the experiment and the calculation.

Aimé Michel. July 11, 1968.

### The Heflin Photographs

Sir,—In reply to the letter by Mr. Charles Gibbs-Smith, published in Vol. 14, No. 3 of the REVIEW, I would like to make certain observations from the Heflin photographs.

Examination of photographs 2 and 3 shows that in the latter, the UFO has a more northerly bearing (as viewed from the truck) than in the former. This means that the UFO reversed its direction of flight before photograph 3 was taken and not afterwards, as indicated by Heflin's sketch. In order to take the third photograph therefore, Heflin had to move either backwards or more likely sideways (to his right). This is clearly demonstrated by the apparent shift of the rear view mirror with respect to both the background and the foreground when photographs 2 and 3 are compared and explains why the image in the mirror changes.

As for photograph 4, I think it can be reasonably assumed that Heflin merely drove further up the road until he was opposite the smoke ring in the

Correspondence is invited from our readers, but they are asked to keep their letters short. Unless letters give the sender's full name and address (not necessarily for publication) they cannot be considered. The Editor would like to remind correspondents that it is not always possible to acknowledge every letter personally, so he takes this opportunity of thanking all who write to him.

sky before taking this final picture and not over the fields as Mr. Gibbs-Smith assumes.

Stuart Ackley, Mary Street, Bristol 2, July 11, 1968.

### Censorship and UFOs

Sir,—In the March/April edition of *FLYING SAUCER REVIEW* Ivan Brandt writes: "Even if the death of one man on this earth was definitely known and proved to have been caused by an alien from outer space—an authenticated act of hostility beyond a shadow of a doubt—can anyone believe that the presses of the world wouldn't be ringing with such news?"

Mr. Brandt assumes the presses of the world can print what they like quite freely: commonsense tells me otherwise.

Accepting that most governments suppress as far as possible information on UFOs, is it logical that newspapers are permitted to print what they wish? The answer is obviously, no.

In our own country the "D" notice system would serve admirably for censoring individual cases. The Ministry would simply phone the newspaper, tell them it thinks publication of the story might endanger national security