

OFFICE OF THE STATE ATTORNEY
ELEVENTH JUDICIAL CIRCUIT

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY



INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE
State Attorney

DATE: May 23, 2006

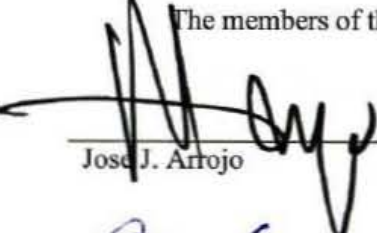
FROM: STAFFING/REVIEW TEAM

RE: POLICE SHOOTING
Case No.: 62/05/12/07/004
Victim: Rigoberto Alpizar

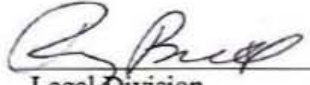
Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is the following:

The shooting officers were legally justified in their use of force and no criminal charges will be filed.

The members of the staffing/review team for this case are:


Jose J. Arrojo

Additional ASA


Legal Division


Abe Laeser

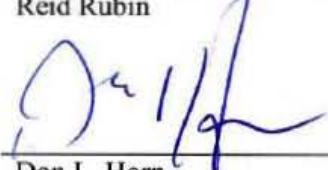
Responding Member of
Shooting Team

Additional ASA

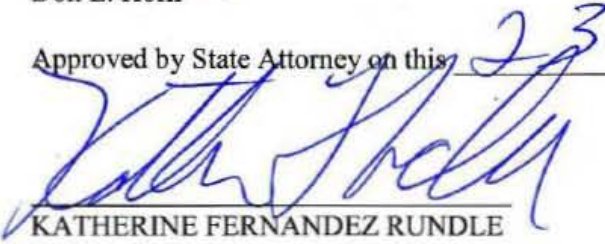

Reid Rubin

Responding Member of
Shooting Team

Additional ASA


Don L. Horn

Approved by State Attorney on this 23 day of May, 2006.


KATHERINE FERNANDEZ RUNDLE
State Attorney

OFFICE OF THE STATE ATTORNEY
ELEVENTH JUDICIAL CIRCUIT

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE:

FROM: Michael Gilfarb
Division Chief

RE: POLICE SHOOTING CLOSEOUT MEMO
Case # N/A

SUBJECT: 1, Federal Marshal and 2, Federal Marshal

VICTIM(S): Alpizar, Rigoberto

INJURIES: Death

DATE & TIME: December 7, 2005

LOCATION: Miami International Airport, Concourse D, Gate #42

WEAPON: Two (2) Sig Sauer P229 .357 Semiautomatics

LEAD: Detective Danny Rivers

CASE #: PD051208196327

SAO CASE #: None

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GENERAL BACKGROUND INFORMATION

On December 7, 2005, Mr. Rigoberto Alpizar and his wife boarded American Airlines Flight 924 from Miami International Airport to Orlando, Florida. Shortly thereafter, Mr. Alpizar abruptly traveled down the aisle toward the front of the plane passing Federal Air Marshals 1 and 2. The air marshals followed Mr. Alpizar onto the jetway. Federal Air Marshals 1 and 2 shot and killed Rigoberto Alpizar on the jetway connecting Gate #42 of Concourse D at Miami International Airport to an American Airlines airplane flight 924. Mr. Alpizar expired on the scene.

ITINERARY

Mr. Alpizar (44 years old) and his wife, Anne Buechner (43 years old) lived in Maitland, Florida. According to Ms. Buechner, on November 25, 2005, she and Mr. Alpizar traveled to Ecuador on behalf of The Council on Quality and Leadership to perform medical mission work for Faith Medical Mission by translating English to Spanish and *visa versa* for medical personnel. The couple worked in Ecuador for seven (7) days. The couple then traveled to Peru for pleasure.

After arriving in Lima, Peru, the couple traveled to Cuzco¹, Peru *via* airplane. After a day tour in Cuzco, the couple traveled by train to Machu Picchu, Peru. Mr. Alpizar unexpectedly, and without warning or leaving word, separated from his party and his wife and returned to Cuzco by train. His wife located him in Cuzco and joined him there the next day because travel was not immediately available.

Eventually, the couple traveled from Peru back to Ecuador. On December 7, 2005, the couple traveled from Ecuador to Miami International Airport intending to take a connecting flight back to Orlando, Florida. The fatal events under investigation here occurred after boarding the connecting flight from Miami International Airport to Orlando, Florida.

MEDICAL HISTORY

According to Mr. Alpizar's wife, Dr. Juan Balaguer provided psychiatric care to Mr. Alpizar for bipolar disorder, for which he prescribed lithium carbonate. Dr. Max Watzman acted as Mr. Alpizar's general physician. Ms. Buechner reports that prior to the events under investigation here, Mr. Alpizar never had a bipolar episode other than the initial episode resulting in evaluation, diagnosis and treatment over a decade ago.

¹ Spelling varies (e.g. Cusco, Quosqo)

PRE-SHOOTING OBSERVATIONS OF BEHAVIOR AND DEMEANOR

Ms. Anne Buechner

Wife of Victim

(43 years old)

Mr. Alpizar and Ms. Anne Buechner were married for 20 years. Ms. Buechner advised that her husband suffered from bipolar disorder. Ms. Buechner did not observe any unusual behavior by her husband at any time prior to leaving from the United States nor while they worked in Ecuador. What may be important later is that while in Ecuador, someone stole Ms. Buechner's fanny pack containing her passport and other personal effects, including cash, while it was unattended in a restaurant. Neither the couple nor law enforcement there was able to recover the pack or its contents. Ms. Buechner reports that her husband did not display any unusual behavior given the ensuing hassles as a consequence of trying to obtain travel documents to Peru for the vacation portion of their trip.

Ms. Buechner reports that Mr. Alpizar did not display any unusual behavior while traveling from Ecuador to Peru. During a tour on their second day in Peru, however, Mr. Alpizar told his wife that he did not feel well as a result a stomach ache. Ms. Buechner reports that Mr. Alpizar had difficulty in making basic decisions, e.g. what brand of bottled water to select from those available. Mr. Alpizar appeared apprehensive and felt that the altitude negatively impacted his health. Mr. Alpizar left the tour to return to his hotel advising that he would wait for his wife and others they traveled with for a late lunch. However, Ms. Buechner discovered upon her return to the hotel room some time later that her husband did not wait for her there as stated.

Mr. Alpizar did not leave any word regarding his whereabouts with anyone. After approximately three (3) hours, Ms. Buechner discovered that her husband bought a train ticket back to Cuzco. Tour personnel assisted Ms. Buechner and made radio contact with the train personnel and she was able to speak to her husband. At that time, he related that he did not feel well, that Machu Picchu was not good for him and that he needed to return to Cuzco. Ms. Buechner concluded that he was not mentally stable at this point. Tour personnel settled Mr. Alpizar into a hotel room and his wife reunited with him there the following day.

Once reunited, Ms. Buechner observed sporadic difficulty in her husband's basic decision-making ability. Ms. Buechner asked her husband whether he took his medication to which he answered affirmatively. Upon further questioning by investigators after the fatal events under

investigation, however, she advised that her husband only took two (2) of the three (3) lithium carbonate pills prescribed. Ms. Buechner speculates that her husband felt good as a result of this manic state and, therefore, did not feel the need to take further medication.

Ms. Buechner reports her husband continued to have difficulty making decisions while in Ecuador and was now concerned about their security. Perhaps this relates back to stolen fanny pack previously mentioned. She reports that he had “unrealistic thoughts.” He started to carry his backpack on his chest. Ms. Buechner provided her husband reassurances throughout the day, telling him that they would soon be home, eating their own food and sleeping in their own bed. As a result, the day proceeded without incident.

During the flight from Ecuador to Miami, Mr. Alpizar continued to express concerns over his wife’s safety and security. Mr. Alpizar wore his backpack on his chest after the plane landed and while going through U.S. Customs. Ms. Buechner expressed that her husband continued to exhibit indecisiveness, this time manifesting itself as repeatedly switching lines while waiting to clear U.S. Customs.

After clearing U.S. Customs, the couple passed through TSA Security to board American Airlines Flight 924 to Orlando, Florida. Ms. Buechner reports that Mr. Alpizar again demonstrated noticeable indecisiveness regarding which line to stand in for security clearance. The couple passed through TSA Security without incident. Ms. Buechner testified that her husband appeared disoriented and in need of reassurance as they waited at the gate to board their flight. He displayed some urgency to board the plane and tried to board at a time when the attendants called for another group to enter the aircraft.

Eventually, the couple entered the plane, found their seats and stored some luggage in the overhead compartments. Mr. Alpizar stored his backpack under the seat in front of him. Ms. Buechner states that her husband still displayed uncertainty about being on the flight and required further reassurance from her. He looked tense and had poor eye contact and stated he was scared.

Ms. Shane Carper
Gate Attendant
(36 years old)

Ms. Carper attended Gate 42 at Miami International Airport where American Airlines Flight 924 waited for boarding. She received a call from American Airlines in Tampa, Florida for

Ms. Buechner, Mr. Alpizar's wife. Ms. Buechner did not answer the first page. Ms. Carper received a second call from the same destination for the same person. Ms. Buechner responded to the page for the second call. Ms. Carper heard Ms. Buechner say into the telephone, "We're boarding. I'm already unnerved. I can't talk right now." Ms. Carper did not observe anything unusual about Mr. Alpizar who began boarding while his wife was on the phone. Ms. Buechner ended her telephone call and boarded the plane.

Dr. Kavi Davindra Capildeo

**Passenger
(37 years old)**

Dr. Capildeo waited to board American Airlines Flight 924 from Miami International Airport to Orlando, Florida, when he noticed Mr. Alpizar and his wife having an argument while they also waited to board the plane. Mr. Alpizar moved out of line and walked away. Ms. Buechner, Mr. Alpizar's wife, called him back and then they walked away together. Dr. Capildeo also noticed that Ms. Buechner answered a page and got on a telephone at or near the ticket counter. Dr. Capildeo eventually boarded the plane.

Mr. Ronald Hunter

**Passenger
(64 years old)**

Mr. Hunter waited to board American Airlines Flight 924 from Miami International Airport to Orlando, Florida when he observed Mr. Alpizar's wife respond to an overhead page to retrieve a phone call at the ticket counter. Mr. Hunter also noticed Mr. Alpizar and observed that he was apprehensive about getting on the flight. Eventually, the couple boarded the plane. Mr. Hunter also boarded the plane.

Ms. Ileana Weiner

**Gate Attendant
(46 years old)**

Ms. Weiner observed that an overhead page went out at Gate 42D for a passenger with a name that started with "B." A female responded and took the telephone and advised the person on the other end, "I can't talk to you right now. I'm very stressed out. I can't talk to you." She states that the woman also said, "He's not doing well" or "I'm dealing with it." The woman boarded after speaking on the phone.

Ms. Emmanuel Mendoza

Passenger

(27 years old)

Ms. Mendoza waited to board American Airlines Flight 924 from Miami International Airport to Orlando, Florida when she observed Mr. Alpizar and his wife. Mr. Alpizar stared at Ms. Mendoza and he appeared uneasy, disoriented and “a little edgy.” His wife told him, “There’s only one more flight to go, let’s go.” She also heard the woman tell him, “Come on, baby, it’s just one more flight. I know you’re tired.” However, Mr. Alpizar was nonresponsive.

Ms. Mendoza noticed that Mr. Alpizar appeared to fidget with his backpack, opening and closing it several times. She saw him retrieve a water bottle from his backpack, hand it to his wife, then take it back and return it to the backpack. Ms. Mendoza stood up to get in line to board even though the airline did not yet call her boarding group because Mr. Alpizar made her nervous and uncomfortable. Her anxiety heightened when Mr. Alpizar stood up with her and got in line behind her.

Ms. Mendoza said it appeared that Mr. Alpizar did not want to board the plane and was pacing back and forth. He looked disoriented and frustrated. Mr. Alpizar’s wife told him that she saw a passenger they traveled with earlier and that they could sit on the plane and speak with him. As a result, Mr. Alpizar looked ready to board the plane, but retreated from entering. Mr. Alpizar tried to board again, but was sent away by the ticket agent because they did not yet call his boarding group. Ms. Mendoza eventually boarded the plane.

Mr. John McAlhany

Passenger

(44 years old)

Mr. McAlhany waited to board American Airlines Flight 924 from Miami International Airport to Orlando, Florida, when he observed Mr. Alpizar acting nervously while waiting to board the subject flight. Ms. Buechner, Mr. Alpizar’s wife, was speaking with him. He observed Mr. Alpizar pacing back and forth prior to boarding. Mr. McAlhany left to smoke a cigarette and upon return did not observe Mr. Alpizar or his wife again. Mr. McAlhany boarded the plane.

Mr. George Borrelli
(43 years old)

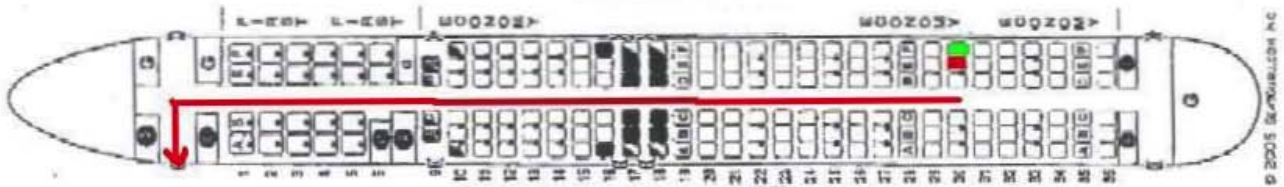
Mr. Borrelli waited to board American Airlines Flight 924 from Miami International Airport to Orlando, Florida when he saw Mr. Alpizar and his wife at the terminal seated behind him. Nothing appeared unusual at that time.

INCIDENT²

Ms. Anne Buechner

**Wife of Victim
(43 years old)**

Seat 30E but seated in 30F



Mr. Alpizar

Ms. Anne Buechner

Mr. Alpizar and his wife, Ms. Buechner, sat in the two inner seats of Aisle F, as indicated above. A third person occupied the aisle seat. After approximately five (5) minutes, Mr. Alpizar stored his backpack under the seat in front of him. Suddenly and without warning, Mr. Alpizar got out of his seat, grabbed his backpack, climbed into the aisle over the passenger seated next to him and ran down the aisle toward the front of the plane. Ms. Buechner immediately followed. She trailed behind him some ten (10) to fifteen (15) rows. She does not recall how he carried his backpack at that time. She yelled, “He’s sick,” several times as she followed him down the aisle.

Ms. Buechner observed her husband bump a female flight attendant as he ran down the aisle. Ms. Buechner did not see her husband exit the plane due to the distance between them. Ms. Buechner reached the cockpit area. Flight attendants were present and people came out of the cockpit. Ms. Buechner stepped onto the jetway and saw her husband at the far end of the jetway.

She observed two men on the jetway near the plane door with guns drawn approximately twenty (20) to twenty five (25) feet from her husband and heard them announce that they were federal marshals. Mr. Alpizar was facing them and her from the far end of the jetway. He motioned for her to join him and called her to him. However, as the two men continued to yell at him she heard her

² Police interviewed all passengers and flight personnel; however, not all those interviewed provided sworn statements. The summaries below are taken from sworn statements only. All other interviews are not summarized herein, but it should be noted that no un-summarized interviews add or detract from the representative information herein.

husband say, “Don’t get any closer,” or words to that effect. Additionally, Mr. Alpizar “threatened”³ that he had a bomb in his backpack, which she could see he was carrying on the front of his chest. She heard the two men ordering her husband, “Get down!” She said he did not comply.

Ms. Buechner testified that she again repeated, “He’s sick.” The two armed men ordered her off the jetway. Ms. Buechner complied and re-entered the plane and went to the back of the plane with the intention of gathering her belongings because “[she] knew [they] were in big trouble.” She heard gunshots while less than half way back to her seat. She tried to return to the jetway, but flight attendants and passengers restrained her.

Mr. Ardath Artze
Flight Attendant
(38 years old)



Mr. Alpizar

Mr. Ardath Artze

Mr. Artze was the flight attendant for the First Class section of the aircraft. He was speaking with a passenger seated in 6E when Mr. Alpizar, carrying a backpack strapped to his chest, abruptly pushed past him stating, “I got to get out of here! I got to get out of here! There’s a bomb!” Mr. Alpizar’s wife followed her husband. Mr. Alpizar exited the aircraft onto the jetway, but his wife did not. Federal Air Marshals 1 and 2 followed Mr. Alpizar out of the plane.

Mr. Artze followed the air marshals and observed one of the marshals draw his weapon and yell, “Sir, get down, stop!” He observed that air marshal also making hand signals relaying “stop.” Mr. Artze saw both air marshals draw their weapons. The air marshals told Mr. Artze to call Miami-Dade police. Mr. Artze saw that Mr. Alpizar did not comply with Federal Air Marshals 1’s and 2’s directives and actually started walking back toward them and the aircraft. Mr. Alpizar had his

³ Ms. Buechner used this word without further elaboration.

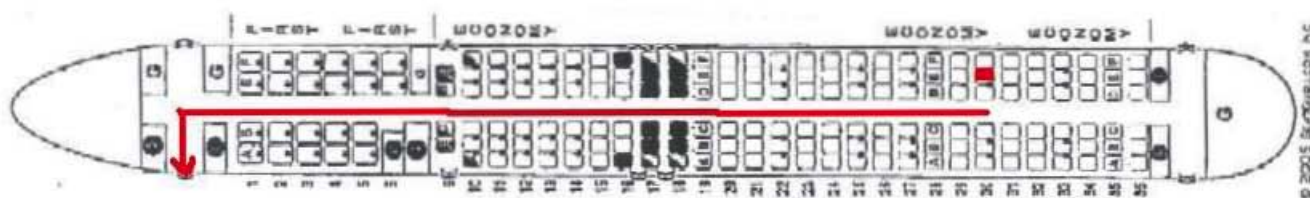
backpack on his chest and had one hand inside the backpack. Mr. Alpizar said, “Go ahead, just shoot me! Just shoot me!”

Mr. Artze saw Mr. Alpizar returning to the plane and Mr. Artze turned to go back to the plane himself when he heard approximately five (5) gunshots.

Ms. Athina Holmes

Flight Attendant

(40 years old)



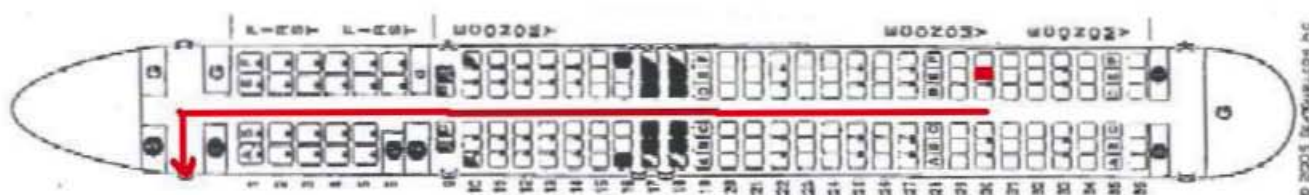
Federal Air Marshals 1 and 2 drew their weapons while continuing to tell the man to stop and comply with their orders. The man started back toward the airplane from the far end of the jetway. The air marshals continued to yell, “Get down! Put it down! Don’t do it!” Mr. Alpizar did not comply, but lunged toward the door. The air marshals moved backward in such a way as to protect the entrance to the plane and began to fire their weapons.

Ms. Holmes eventually returned up the aisle of the plane and when a man, who identified himself as a doctor, alerted her that he was holding down Mr. Alpizar’s wife.

Mr. Mark Harris

Pilot

(49 years old)



Mr. Alpizar

Mr. Mark Harris

Mr. Harris was in the cockpit of the plane when he noticed a commotion in the airplane. Mr. Harris turned and looked out of the open cockpit door and saw Mr. Alpizar exiting the plane with Federal Air Marshals 1 and 2 pursuing him. Mr. Harris heard the air marshals say, “Federal Air Marshals! Stop!” Mr. Harris heard Mr. Alpizar tell the air marshals that he had a bomb. Mr. Harris saw that the marshals were armed. He observed Mr. Alpizar run two-thirds the distance to the far end of the jetway and then turn back toward the airplane. Mr. Alpizar then said that he *had* a bomb.

Mr. Alpizar’s wife came down the aisle and said, “He’s sick, don’t hurt him,” or words to that effect. The air marshals continued to give Mr. Alpizar commands to “get down.” According to Mr Harris, both Mr. Alpizar and Federal Air Marshals 1 and 2 spoke English on the jetway.

Mr. Harris observed that Mr. Alpizar held a backpack with one hand and reached into it with the other. Federal Air Marshals 1 and 2 commanded that he not reach into the bag. According to Mr. Harris, the air marshals warned, “If you don’t take your hands out of the bag, we’re going to have to shoot you.” Mr. Alpizar responded, “Shoot me! Shoot me!” while repeating several times that he *had* a bomb.

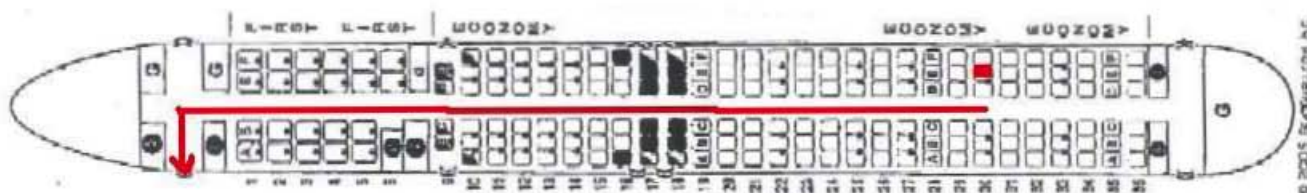
Mr. Alpizar continued to approach the plane and the air marshals, who again warned, “We’re going to have to shoot you if you don’t stop.” Mr. Harris stood directly behind the air marshals. Mr. Alpizar continued toward the air marshals and the plane and the air marshals fired two (2) shots at Mr. Alpizar. Mr. Harris saw Mr. Alpizar react as if the bullets did not strike him. According to Mr. Harris, Mr. Alpizar continued to approach the plane and was within four (4) to five (5) feet of Federal Air Marshals 1 and 2 when they continued to fire their weapons approximately five (5) or six (6) more times. Mr. Alpizar fell to the ground.

Mr. Harris stated that one air marshal remained with his gun pointed at Mr. Alpizar while the other air marshal went up the aisle of the aircraft. The air marshal pointing his gun at the man on the ground maintained his distance.

Mr. Paul Ware

Captain of American Airlines Flight 924

(50 years old)



Mr. Alpizar

Mr. Paul Ware

Mr. Ware was inside the cockpit of the airplane when a crewmember advised of a disturbance on board. At some point, a crewmember advised him there was a threat on board. Mr. Ware looked out of the cockpit door and did not see anything unusual, but did hear commotion, noise and some yelling. Mr. Ware left his seat to investigate the disturbance and saw and heard the air marshals yelling. At that point, he did not see at whom they were yelling. He noticed they had their firearms drawn and pointed toward the far end of the jetway. He heard them yelling, “Get down!”

Mr. Ware observed Mr. Alpizar’s wife come down the aisle saying, “He’s sick.” Mr. Ware then changed his vantage point and could see Mr. Alpizar at the far end of the jetway facing away turn around and begin walking back toward the plane. Mr. Ware noticed that Mr. Alpizar had a backpack on his chest, holding it with one or both hands. The air marshals continued to give commands as Mr. Alpizar approached. They continued to yell, “Get down. Put your hands up, put your hands up and

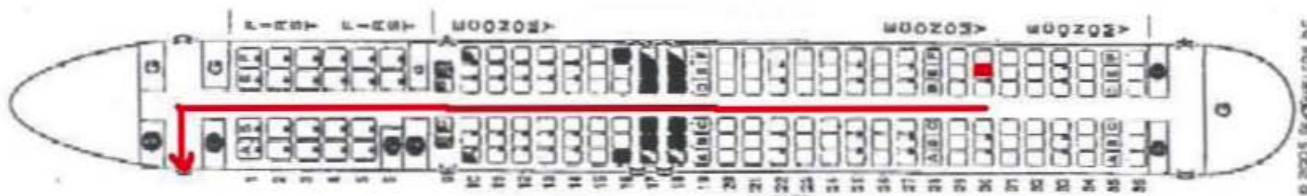
stop.” Mr. Ware then heard the air marshals say, “We will fire” or “We have guns” or words to that effect. Mr. Ware saw and heard Mr. Alpizar defiantly yell back, “Shoot me! Shoot me!” Federal Air Marshals 1 and 2 continued to say they would shoot, but Mr. Alpizar ignored them and continued to approach them and the plane. Mr. Ware observed that Mr. Alpizar appeared serious and considered him a threat. Mr. Ware then observed Federal Air Marshals 1 and 2 shoot Mr. Alpizar as he approached.

Mr. Ware states that Mr. Alpizar was approximately six (6) to seven (7) feet away from Federal Air Marshals 1 and 2 when they fired at him. Mr. Ware believes that the first shot entered the backpack on Mr. Alpizar’s chest because fluid from a container therein started to spurt out. Mr. Alpizar either stood still or took one more step forward and the air marshals continued to fire their weapons. Mr. Ware observed Mr. Alpizar fall to the floor. Mr. Ware returned to the cockpit and radioed in the incident.

Mr. Corey Staudacher

(29 years old)

Seat 1A



Mr. Alpizar

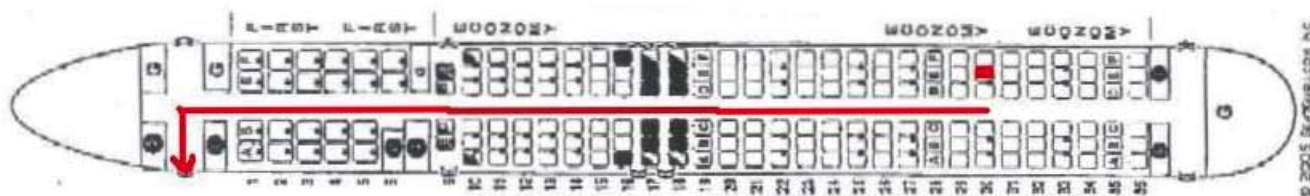
Mr. Staudacher

Mr. Staudacher heard Mr. Alpizar yell from the back of the plane, “I got to get off this plane. I *have* a bomb.” He then heard Mr. Alpizar’s wife scream, “He’s sick! He’s sick!” Mr. Alpizar passed Mr. Staudacher headed toward the exit of the plane in a hunched position with a bag in his hand. Mr. Alpizar’s wife followed Mr. Alpizar, but did not exit the plane. Mr. Staudacher left his seat and peered around the bulkhead and saw the back of a person who was talking to Mr. Alpizar.

The man with his back to Mr. Staudacher yelled, “Get down! Get down! I’ll shoot! Get down!” Mr. Alpizar’s wife stood approximately ten (10) to twelve (12) feet from Mr. Staudacher near where the first class section and coach class section meet and added that Mr. Alpizar had not taken his

medication. Mr. Staudacher could hear, but did not see, Mr. Alpizar on the jetway. A flight attendant directed Mr. Staudacher to take his seat and he complied. Shortly after sitting, he heard approximately six (6) to eight (8) gunshots in rapid succession.

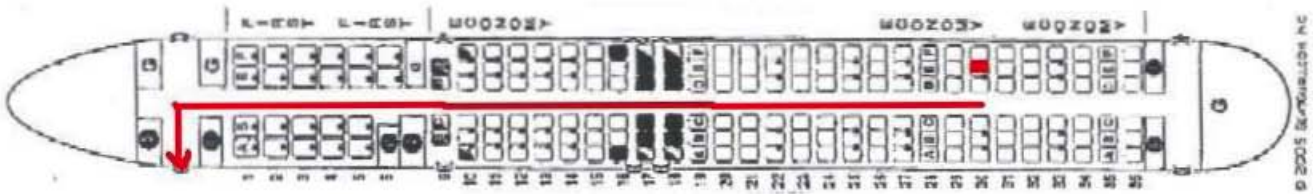
Ms. Michelle J. Gregg
Flight Attendant/ Commuter
(41 years old)
Seat 5B



Mr. John Lynch

(72 years old)

Seat 1F



Mr. Alpizar

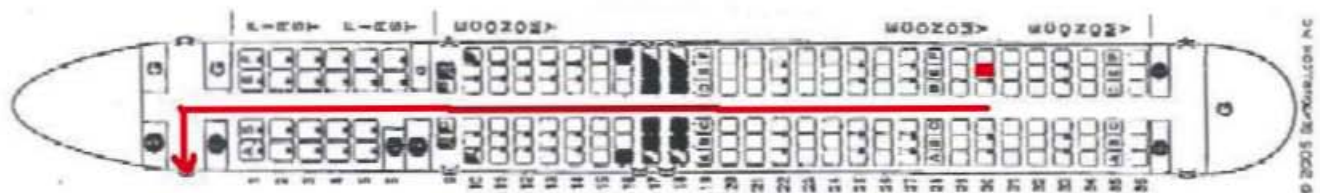
Mr. John Lynch

Mr. Lynch was in his seat reading a newspaper when Mr. Alpizar ran past him and exited the plane onto the jetway. He heard Mr. Alpizar say either, “I have a bomb” or “There’s a bomb on the plane.” Mr. Lynch did not see anyone follow Mr. Alpizar into the jetway. He heard screaming and shouting coming from the jetway. Mr. Lynch states that the word “bomb” was used frequently coupled with a fair amount of profanity. Approximately thirty (30) seconds later, Mr. Lynch heard about five (5) to six (6) gunshots on the jetway.

Ms. Michelle Andre

(43 years old)

Seat 3E



Mr. Alpizar

Ms. Michelle Andre

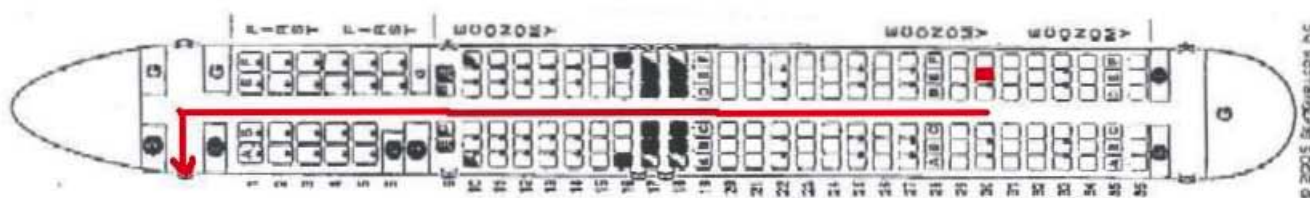
Ms. Andre heard Mr. Alpizar run by her as she sat in her seat and say, “I *have* a bomb.” She looked up and saw Mr. Alpizar run off the plane. She believes that he also said, “I got to get off, I *have* a bomb.” She looked down to unfasten her seatbelt and when she looked back up she saw a man near the cockpit yelling, “Sir, stop! Sir, stop! U.S. Marshal! Stop!”

Ms. Andre did not hear or see anything further while the activity occurred on the jetway until she heard gunfire some 30-60 seconds later. Ms. Andre explained that there was a short pause between the first shot and the remaining shots. She heard Mr. Alpizar's wife saying, "He's sick." She also heard her make comments after the shooting placing blame on herself for what transpired.

Mr. Victor Zonana

(65 years old)

Seat 2B



Mr. Alpizar

Mr. Victor Zonana

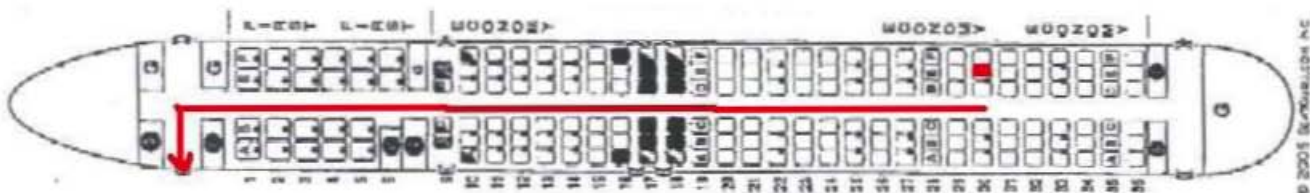
Mr. Zonana was the first person to board the subject flight. Approximately fifteen (15) minutes later, Mr. Alpizar ran past him down the aisle toward the front of the plane saying, "There's a bomb on board" or "I have a bomb." He observed Mr. Alpizar holding his backpack in front of him with both hands. Mr. Alpizar exited the plane. Mr. Zonana moved from his seat and positioned himself where the first class cabin and coach cabin meet.

Mr. Zonana observed Mr. Alpizar's wife come from the front of the plane going toward the back saying, "He's sick! He's sick!" Mr. Zonana asked whom she was referring to and she said, "My husband, he's sick." Mr. Zonana then heard some noises coming from the jetway followed by gunshots.

Mr. Dennis Zedrick

(29 years old)

Seat 6E



Mr. Alpizar

Mr. Dennis Zedrick

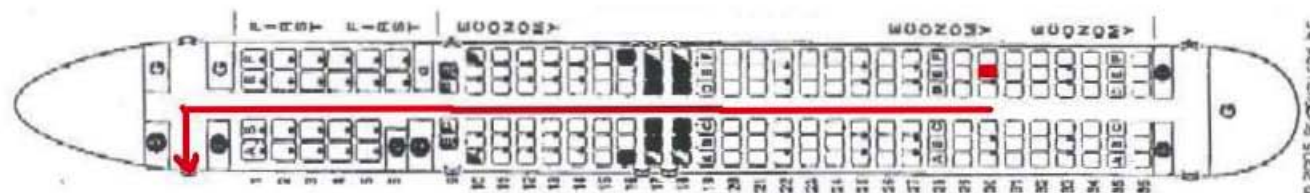
Mr. Zedrick states Mr. Alpizar came half jogging from the back of the plane. Mr. Zedrick heard Mr. Alpizar say either, “There’s a bomb on the plane” or “I have a bomb” as Mr. Alpizar reached the first class section of the plane. Mr. Zedrick noticed some passengers went to the back of the plane and some to the front, but he does not recall anyone following Mr. Alpizar off the plane.

Mr. Zedrick could hear three male voices screaming or arguing in the jetway but could not make out the conversation. However, Mr. Zedrick did clearly hear one man say, “Get down!” several times along with some cursing. This continued for approximately thirty (30) to forty five (45) seconds. After that, Mr. Zedrick heard five (5) to six (6) shots. Mr. Zedrick was then able to see one of the air marshals where the plane meets the jetway pointing a gun down the jetway.

Mr. George Borrelli

(43 years old)

Seat 9D



Mr. Alpizar

Mr. George Borrelli

Mr. Borrelli saw Mr. Alpizar run down the aisle toward the front of the plane, bumping people as he passed. He heard people talking, but could not make out what they said. Mr. Alpizar looked like

someone who was going to be physically ill. He then heard Mr. Alpizar's wife say, "He's sick. He needs to get off the plane."

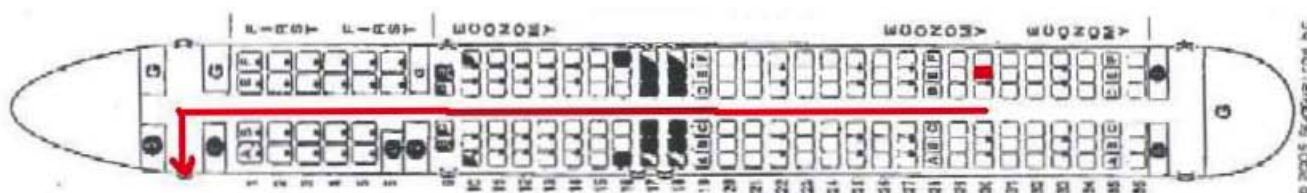
Mr. Borrelli saw one of the air marshals get up and run out after Mr. Alpizar and into the jetway. Mr. Borrelli states that he heard running and yelling, but then clearly heard a male voice say, "Stop!" He surmised the person who yelled that command was close to the plane door since he heard it clearly. Immediately thereafter, he heard between four (4) and six (6) gunshots. Mr. Borrelli saw the same air marshal at the front door of the plane where it meets the jetway with a gun in his hands.

A writer in an article in http://www.capitolhillblue.com/artman/publish/article_7792.shtml attributes the following quote to Mr. Borrelli: "I can tell you, he never said a thing in that airplane; he never called out he had a bomb." (But see summary of Mr. Steve Wheeler immediately below, who sat in seat 10D right behind Mr. Borrelli.)

Mr. Steve Wheeler

(54 years old)

Seat 10D



Mr. Alpizar

Mr. Steve Wheeler

Mr. Wheeler testified that he was one of the last, if not the last, person to board American Airlines Flight 924. He states Mr. Alpizar ran towards him as he was making his way to his seat (10D), bumped him and continued on toward the front of the plane. This occurred in the middle of the first class section.

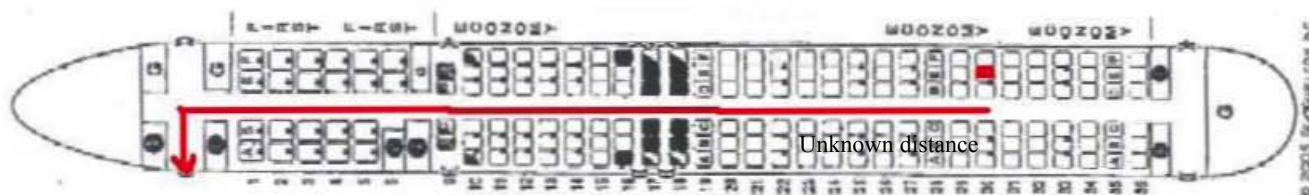
Mr. Wheeler did not get a good look at Mr. Alpizar and could not tell if he was carrying anything. Mr. Wheeler heard Mr. Alpizar speaking to himself and saying, "I got to get out of here. I don't want to be on here. I have to leave. I have to go." Mr. Wheeler states that he heard Mr. Alpizar say something about a bomb as the man was leaving the plane. Mr. Wheeler heard a commotion at the front of the plane, then noticed Mr. Alpizar's wife running after him. Mr. Wheeler continued on to his seat and began to accommodate himself when he noticed two men run into the open cockpit.

Mr. Wheeler believed that the plane was under attack and rushed to the front of the plane. Mr. Wheeler heard words exchanged coming from outside the plane, but could not distinguish anything in particular. Mr. Wheeler then heard approximately four (4) gunshots when he reached the middle of the first class section.

According to Mr. Wheeler, several flight attendants were gathered near the lavatory that borders the first class section. Upon hearing the shots, they yelled for everyone to “get down.”

Mr. Alpizar’s wife had returned to the back of the plane earlier and was now rushing back to the front saying, “That’s my husband. He’s bi-polar. He hasn’t been taking his medication.” Mr. Wheeler restrained her and prevented her from continuing onward. He pulled her down behind some seats. She continued to try to get up while yelling, “They killed my husband!” several times. She continued to state that he’s emotionally sick and had not taken his medication. Mr. Wheeler heard her say, “I tried to get him to take his medicine!”

Ms. Martha Garcia
Flight Attendant
(42 years old)



Mr. Alpizar

Ms. Martha Garcia

Ms. Garcia was at the rear of the plane when another flight attendant advised her that there was a problem in the forward section because two passengers ran off the plane. Hearing this, Ms. Garcia states she ran down the aisle to investigate when Mr. Alpizar’s wife boarded and said, “My husband is sick. He has to get off the plane. I need to get my bags. He’s just sick.” Ms. Garcia then heard approximately six (6) gunshots. Ms. Garcia yelled to passengers to unfasten their seatbelts and “stay down.” An unknown person made an announcement to sound the “all clear.”

Mr. John Albert Boivin

(60 years old)

Seat 15C

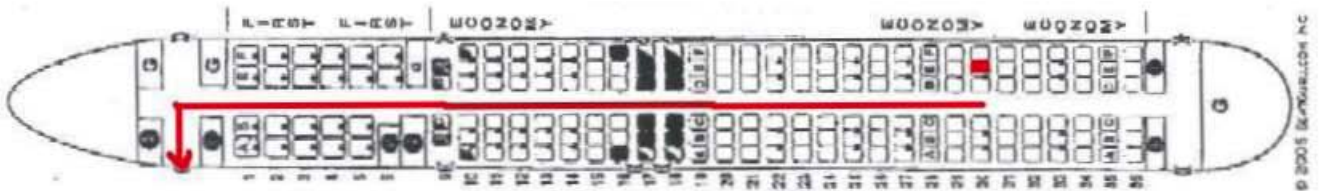


Mr. Boivin boarded with his wife, Barbara Boivin (15B) and seated themselves. Mr. Boivin reports that he then observed Mr. Alpizar run down the aisle toward the front of the plane. He observed that Mr. Alpizar's wife followed him saying that he was sick. Mr. Boivin tried to get the attention of a flight attendant to express concern when, approximately two minutes later, he heard approximately three (3) gunshots in quick succession followed by another five (5) to six (6) shots.

Mr. Jorge Robert

(60 years old)

Seat 27C



Mr. Alpizar

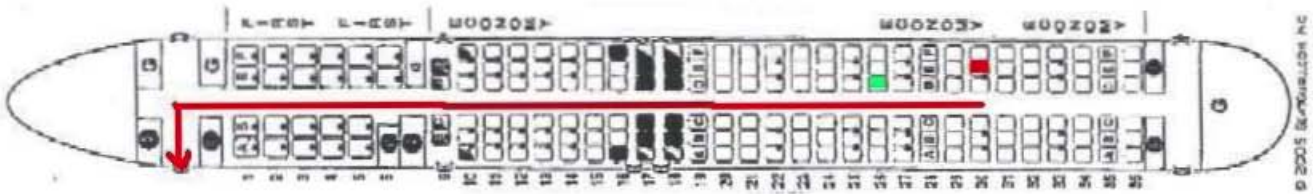
Mr. Jorge Robert

Mr. Robert saw Mr. Alpizar run down the aisle toward the front of the plane followed by Mr. Alpizar's wife. Mr. Robert states that Mr. Alpizar's wife made comments that Mr. Alpizar was sick or had health problems. He thought Mr. Alpizar was running off the plane or to a restroom because he was physically ill. Mr. Robert said that he then heard some loud noises coming from the front of the plane.

Mr. Henry Clay Walker

(39 years old)

Seat 26D



Mr. Albizar

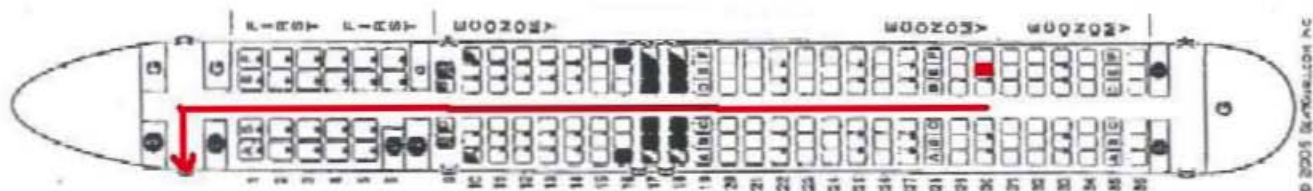
Mr. Henry Walker

Shortly after boarding, Mr. Walker observed Mr. Alpizar running down the aisle of the aircraft toward the front of the plane and almost knocking over a female flight attendant. He also observed Mr. Alpizar's wife follow him stating that he was sick. She reached the front of the plane then turned back and returned to her seating area and stated that she needed to get her bags and that she needed to get off the plane. Three (3) to five (5) shots rang out. Mr. Walker ducked behind his seat. Someone with a gun went up and down the aisles telling them to stay down.

Ms. Priscilla Brenes-Ware

(29 years old)

Seat 31A



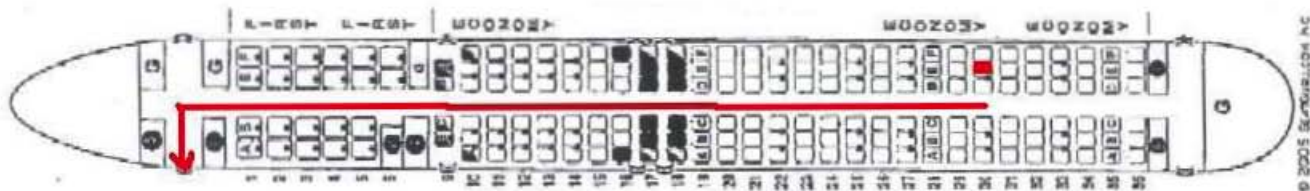
Mr. Alpizar

Ms. Brenes-Ware

Ms. Brenes-Ware traveled with her family and they occupied seats 31A through F. Mr. Brenes-Ware made eye contact with Mr. Alpizar as he sat in front of her. She described him as "crazy looking" with "bulging, very wide open eyes."

Ms. Brenes-Ware observed Mr. Alpizar suddenly run down the aisle toward the front of the plane with his wife following him. She then heard three (3) to five (5) gunshots and people started to yell to get down.

Ms. Karen Sherrouse
Flight Attendant/ Commuter
(59 years old)
Seat 17C

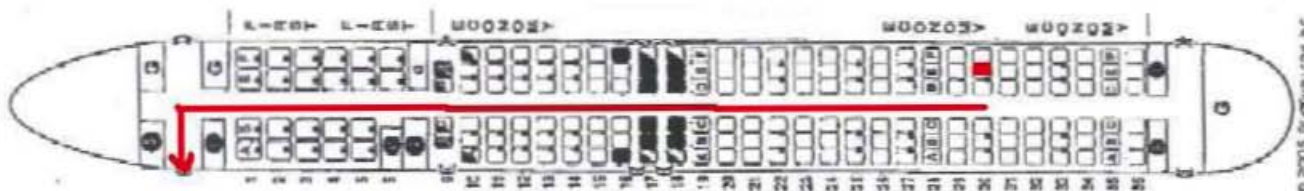


Mr. Alpizar

Ms. Karen Sherrouse

Ms. Sherrouse is employed by American Airlines, but was on board the subject flight as a commuter. She entered the lavatory at the back of the plane after putting her bag away at her seat. She heard a commotion at the front of the plane upon exiting the lavatory. She started up the aisle and then observed a man using both hands to point a gun. She heard the man giving loud commands. She then heard shots and retreated to the rear galley.

Mr. George Busby
(42 years old)
Seat 19C



Mr. Alpizar

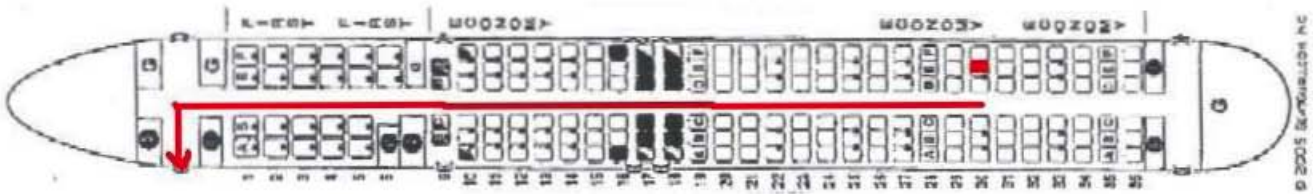
Mr. George Busby

Mr. Busby stated that Mr. Alpizar ran by him as he was standing in the aisle. Mr. Alpizar's wife followed him shouting to Mr. Busby, "Stop him! He's sick! He's my husband!" Mr. Busby said Mr. Alpizar was carrying something in front of him. Mr. Busby saw Mr. Alpizar exit the plane after reaching the cockpit. Mr. Busby states that flight attendants were holding Mr. Alpizar's wife when he heard five (5) to six (6) gunshots. Mr. Busby states that he took cover behind his seat, but was able to see a man at the front of the plane with a gun pointed toward the exit.

Ms. Lara Potter

(30 years old)

Seat 25D



Mr. Alpizar

Ms. Lara Potter

From her seat, Ms. Potter observed Mr. Alpizar run down the aisle toward the front of the plane. Mr. Alpizar held a bag close to his chest as he ran. Mr. Alpizar's wife ran after him. Ms. Potter asked her if the man was o.k. Mr. Alpizar's wife paused for a moment and responded that Mr. Alpizar was sick and ran after him again. After making her way forward, Mr. Alpizar's wife returned and said she need to get her bags, then five (5) to six (6) shots rang out.

Dr. Kavi Davindra Capildeo

(37 years old)

Seat 29D



Mr. Alpizar

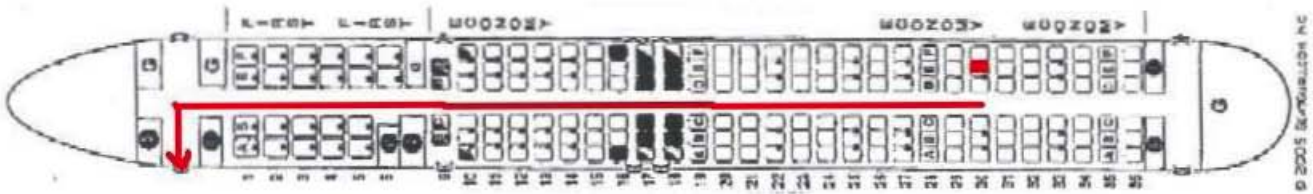
Dr. Capildeo

While on the plane, Dr. Capildeo heard running footsteps approaching from behind him where he was seated and observed Mr. Alpizar running toward the front of the plane, bumping a flight attendant on the way. Mr. Alpizar's wife followed him shouting something in his direction. Dr. Capildeo heard approximately five (5) gunshots shortly thereafter.

Mr. Howard Besears

(48 years old)

Seat 9C



Mr. Alpizar

Mr. Howard Besears

Mr. Besears saw Mr. Alpizar run down the aisle toward the front of the plane bumping people as he went. He saw Mr. Alpizar's wife following him. Mr. Besears saw Mr. Alpizar clutching a bag to his chest. He observed that Mr. Alpizar's wife made it as far as the first class section, turn around and then head back toward the rear of the plane. She was apologizing, "My husband is sick. I've got to get my bags." As Mr. Alpizar passed him, Mr. Besears saw a passenger get up and follow him.

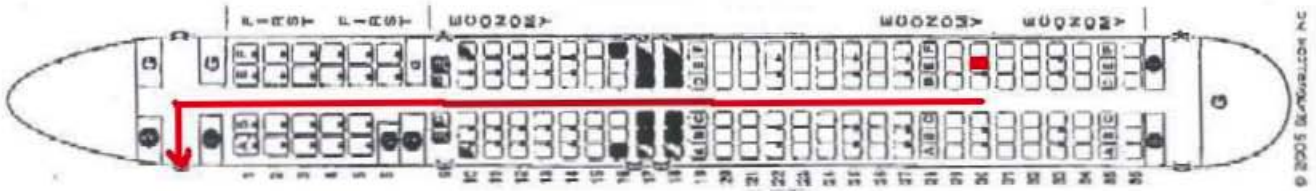
Mr. Besears heard loud yelling in the jetway and then he heard approximately six (6) gunshots. Thereupon, a flight attendant entered the plane and yelled for everyone to get down. Another passenger pulled down Mr. Alpizar's wife. He heard her say that she was sorry and that her husband was bipolar.

According to <http://www.foxnews.com/story/0,2933,178064,00.html>, Mr. Beshears said that Mr. Alpizar's wife said it was her fault, that he was bipolar and that she convinced her husband to get on the plane.

Ms. Angella Haehl

(57 years old)

Seat 14E



Mr. Alpizar

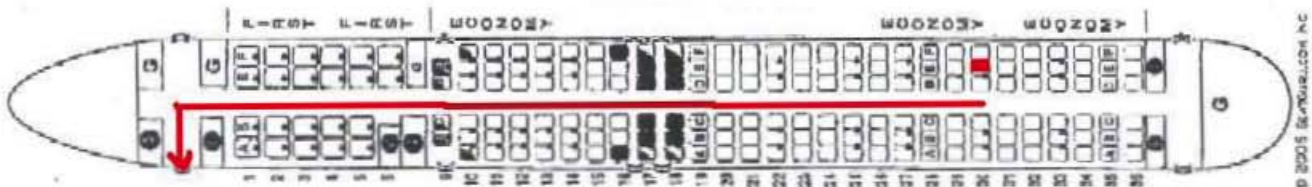
Ms. Angella Haehl

Ms. Haehl sat in her seat next to her husband, Wolf-Dieter Haehl in seat 14F, when she noticed Mr. Alpizar's wife walking from the back of the plane to the front, who, upon return, stated that she need to retrieve her bags, as if apologizing to the passengers for causing a delay. Suddenly, Ms. Haehl heard five (5) or six (6) shots gunshots and she and her husband ducked behind some seats. She then observed Mr. Alpizar's wife run back to the front of the plane while screaming something about her husband.

Mr. Ronald Hunter

(64 years old)

Seat 11D



Mr. Alpizar

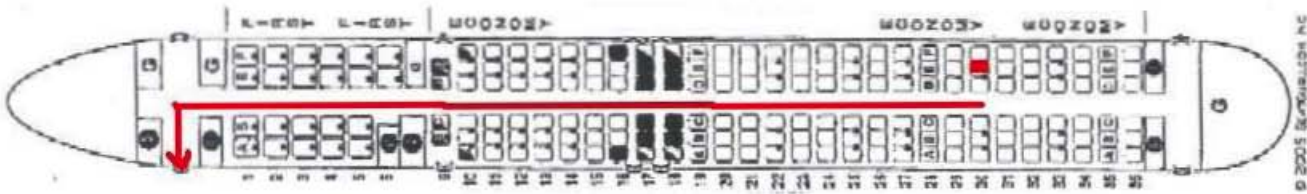
Mr. Ronald Hunter

Mr. Hunter noticed a commotion in the aisle, but did not see anything specific until he looked toward the front of the aircraft and saw a man standing there. Mr. Hunter commented to a fellow passenger that he believed the man was an air marshal. Mr. Hunter heard approximately five (5) to six (6) gunshots immediately thereafter. Someone then began yelling for everyone to get down. He later saw another man, who he surmised was another sky marshal, in the aisle. He also observed other passengers holding down Mr. Alpizar's wife. She was commenting that her husband was sick.

Mr. John McAlhany

(44 years old)

Seat 24C



Mr. Alpizar

Mr. John McAlhany

When interviewed by Miami-Dade Police on the date of the incident, Mr. McAlhany stated that shortly after taking his seat, he heard a woman's voice yelling something from behind him to the rear of the plane. He heard the woman say, "Calm down." Mr. McAlhany heard a male voice respond, "No way." Suddenly, he saw Mr. Alpizar run past him toward the front of the plane. He saw Mr. Alpizar bump a flight attendant on the way. He then observed Mr. Alpizar's wife running after him. She was yelling, "He's sick! He's ill!" Soon thereafter, Mr. McAlhany heard an authoritative voice giving commands followed by four (4) or five (5) gunshots. One of the flight attendants then yelled for everyone to get down.

Mr. McAlhany later gave an interview to Time Magazine.⁵ In the interview he said, "I never heard the word 'bomb' on the plane...I never heard the word 'bomb' until the FBI asked me did you hear the word 'bomb.' That is ridiculous." He also said "...even the authorities didn't come out and say 'bomb'..." Mr. McAlhany told Time Magazine that the FBI asked, "Did you hear anything about the b-word? That's what they called it."

Mr. McAlhany also told Time Magazine, "[Mr. Alpizar] was in the back...a few seats from the back bathroom. He sat down....I heard an argument with his wife. He was saying 'I have to get off the plane.' She said, 'Calm down.'" Mr. McAlhany continued that he saw Mr. Alpizar run down the aisle, with his wife close behind him. "She was running behind him saying, 'He's sick. He's sick. He's ill. He's got a disorder'....I don't know if she said bipolar disorder...she was trying to explain to the marshals that he was ill. He just wanted to get off the plane." This statement is different from what he told Miami-Dade Police on the date of the incident and after Mr. Alpizar's disorder was in the public domain.

⁵ <http://www.time.com/time/nation/article/0,8599,1138965,00.html>

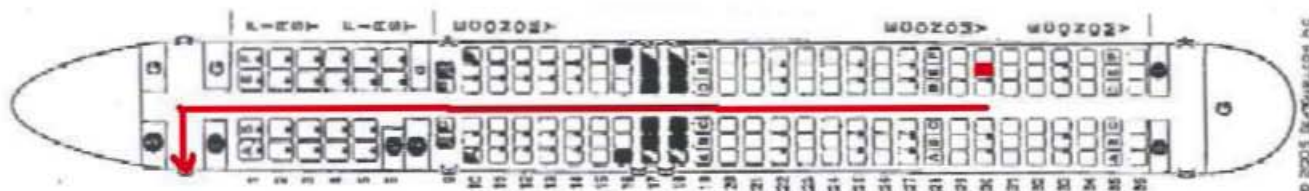
Mr. McAlhany described Mr. Alpizar as carrying a big backpack and wearing a fanny pack in front. He says it would have been impossible for Alpizar to lie flat on the floor of the plane, as marshals ordered him to do, with the fanny pack on. "You can't get on the ground with a fanny pack," he says. "You have to move it to the side." This observation is inconsistent with evidence that the fanny pack was on Mr. Alpizar's hip or on the small of Mr. Alpizar's back.

Mr. McAlhany told the Miami Herald⁶ that "[Mr. Alpizar] didn't look stable, " and that he hoped "[Mr. Alpizar] did not holler something stupid."

Mr. Michael Irizarry

(25 years old)

Seat 30D



Mr. Alpizar

Mr. Michael Irizarry

Mr. Alpizar and his wife sat next to Mr. Irizarry on the plane. He overheard them speaking in English and Spanish. Mr. Irizarry is fluent in both languages. Mr. Alpizar appeared agitated after some initial conversation, the contents of which are not of consequence herein. Mr. Alpizar suddenly stood up and said, "I have to get off the plane. I have to get off the plane." He appeared upset. Mr. Alpizar stepped over Mr. Irizarry and ran down the aisle to the front of the plane. His wife followed him saying, "Don't get off the plane, don't get off the plane." Mr. Irizarry recalls that Mr. Alpizar had on a small pouch at the time, but does not recall anything about a backpack.

Mr. Irizarry lost sight of the couple, but saw Mr. Alpizar's wife return up the aisle crying when he heard between twelve (12) and fifteen (15) gunshots. Thereafter, a flight attendant told everybody to get down. Eventually, he saw a person he assumed was an air marshal in the aisle.

⁶ <http://news.bbc.co.uk/1/hi/world/americas/4509516.stm>

Ms. Mary Gardner

(42 years old)

Seat 11F



Mr. Alpizar

Ms. Mary Gardner

When interviewed by police, Ms. Gardner stated that while on the plane, she saw Mr. Alpizar's wife following Mr. Alpizar down the aisle toward the front of the plane. Ms. Gardner lost sight of these individuals and seconds later heard four (4) to five (5) gunshots. She observed people holding down Mr. Alpizar's wife as she yelled that she needed to be with her husband. Ms. Gardner also recalls hearing her mention that her husband was bipolar.

However, according to <http://www.msnbc.msn.com/id/10367598/>, Ms. Gardner stated that Mr. Alpizar's wife was yelling, "That's my husband, that's my husband — I need to get to my husband!" According to that same cite, she said Mr. Alpizar's wife said, "My husband is bipolar. He didn't take his medicine." It is not clear from the cite whether, according to Ms. Gardner, Mr. Alpizar's wife said this before or after the shooting. If Ms. Gardner meant that Mr. Alpizar's wife made a statement prior to the shooting that Mr. Alpizar was bipolar and had not taken his medication it would be inconsistent with what she told police on the date of the incident.

In an interview on the Today Show, Ms. Gardner stated that a former pilot next to her identified the air marshals to her and then she announced to others that there were air marshals on board when she observed Mr. Alpizar running down the aisle toward the front of the plane waving his hands and screaming. She states that she then observed Mr. Alpizar's wife follow him. She told the Today Show that Mr. Alpizar exited the plane when suddenly she heard approximately five (5) gunshots. It should be noted that Ms. Gardner volunteered to Katie Couric that when this episode first transpired, as she was crouched down in her seat, she called her husband to say she was alright then she contacted the producer of the television show she was on earlier to report the incident. Ms. Gardner told WTVJ in Miami that Mr. Alpizar ran frantically down the aisle from the rear of the plane, arms flailing, and that

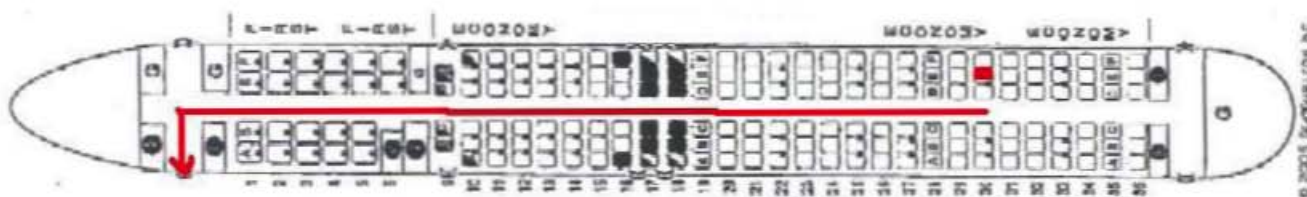
the woman accompanying him said that her husband was bipolar and had not taken his medication.⁷ Ms. Gardner's statement to WTVJ is inconsistent with what she told police on the date of the incident. According to the statement to police, Mr. Alpizar said that her husband was bipolar after the shooting.

On <http://transcripts.cnn.com/TRANSCRIPTS/0512/08/lt.03.htm>, an unidentified female (presumably Ms. Gardner based upon the content and context) reportedly stated: "I had seen them before we boarded the plane. They were definitely suspicious. The lady, the wife, had received a phone call right before we went on the air -- I mean right on the airline. And she was frantic. She was nervous. And we knew there was something going on back in the cabin and apparently they had an uproar. They had a fight and there was some sort of energy happening. And I identified with -- because there was an airline pilot sitting right next to me. He showed me that there was an air marshal on the plane right there. So we were kind of comforted. I was telling the passengers around, there's an air line -- or, you know, an air marshal right there." The portion of this statement relating to pre-boarding observations are inconsistent with what she told police on the date of the incident.

Ms. Emmanuel Mendoza

(27 years old)

Seat 19F



Mr. Alpizar

Ms. Emmanuel Mendoza

From her seat in 19F, Ms. Mendoza saw Mr. Alpizar and his wife enter the plane. She began to read a magazine when the couple passed them. Approximately one (1) minute later she noticed that Mr. Alpizar was running down the aisle toward the front of the plane, bumping people and screaming and yelling something as he did so. Mr. Alpizar had his backpack in his hand. She noticed Mr. Alpizar's wife running behind him. After passing her and going out of sight, Ms. Mendoza saw Mr. Alpizar's wife return and tell a flight attendant, "I need to get my bags. My husband is sick."

⁷ <http://www.cnn.com/2005/US/12/07/airplane.gunshot/index.html>; The Associated Press; cbs11tv.com/topstories_story342113901and nbc6.feedroom.com/iframeset.jsp?ord=807718

Suddenly, a woman screamed, “He’s got a gun!” and “Everybody get down!” In response, Ms. Mendoza hid near her seat and heard six (6) or seven (7) gunshots.

Ms. Ileana Weiner
Departure Agent/ Flight Attendant
(46 years old)

Ms. Weiner heard several “pops”, approached the jetway door and opened it with her security/ID badge. She thought it could be some kind of construction work or gunshots. She entered the jetway and saw a man pointing a gun at another man on the ground. The man standing yelled at her to get down, but she ran out screaming instead. She and other airline agents started to evacuate the area.

Ms. Shane Carper
Gate Agent
(36 years old)

Ms. Carper remained outside of the jetway after all the passengers had boarded the plane. She described hearing gunshots or firecrackers several minutes after everyone cleared the gate area. Ms. Carper observed another agent enter the jetway and then come out screaming, “There’s a man with a gun!” Ms. Carper evacuated the people in her area.

1
Federal Air Marshal
(30 years old)

Federal Air Marshal (F.A.M.) 1’s job is to protect the aircraft and ensure the safety of all passengers. He performs his job by posing undercover as a commuter on commercial airliners. On December 7, 2005, the service assigned F.A.M. 1 and F.A.M. 2 to American Airlines Flight 924 from Miami International Airport to Orlando, Florida.

F.A.M.s 1 and 2 boarded the airplane and took their respective seats in the First Class Cabin. Sometime after boarding, F.A.M. 1 noticed a commotion at the rear of the aircraft. F.A.M. 1 saw Mr. Alpizar running toward the front of the plane from the rear yelling that he had a bomb. Mr. Alpizar ran

past F.A.M.s 1 and 2 and exited the plane onto the jetway. F.A.M.s 1 and 2 followed Mr. Alpizar off the plane and onto the jetway. F.A.M. 1 noticed Mr. Alpizar's wife coming toward the front of the plane behind them.

F.A.M. 1 states that he and F.A.M. 2 followed Mr. Alpizar up the jetway a quarter ($\frac{1}{4}$) to half ($\frac{1}{2}$) the distance to the terminal. F.A.M. 1 states that F.A.M. 2 shouted commands to Mr. Alpizar in both English and Spanish. According to F.A.M. 1, Mr. Alpizar responded by stating in Spanish that he had a bomb and would detonate it.⁸ F.A.M. 1 also observed that Mr. Alpizar asked where his wife was located. F.A.M. 1 told Mr. Alpizar that she was behind him and that she was alright.

Mr. Alpizar moved forward from the far end of the jetway back toward the plane and F.A.M.s 1 and 2. Mr. Alpizar continued to advise that he had a bomb and would detonate it. F.A.M. 1 saw that Mr. Alpizar had a backpack that he carried on his chest. F.A.M.s 1 and 2 backed to within a foot or two from the plane door where it meets the jetway. Mr. Alpizar continued to approach and used one hand in such a way that it appeared to F.A.M. 1 that Mr. Alpizar was reaching into the backpack. Mr. Alpizar came within seven (7) to ten (10) feet of the aircraft door. F.A.M. 2 discharged his weapon once, however, Mr. Alpizar continued to approach. F.A.M.s 1 and 2 continued to discharge their weapons out of concern for the safety of the aircraft and the passengers still on board. Mr. Alpizar fell to the jetway floor. F.A.M. 1 entered and secured the aircraft. F.A.M. 2 stayed with Mr. Alpizar.

2

Federal Air Marshal

(31 years old)

Federal Air Marshal (F.A.M) 2's job is to protect the aircraft and ensure the safety of all passengers. He performs his job by posing undercover as a commuter on commercial airliners. On December 7, 2005, the service assigned F.A.M. 1 and F.A.M. 2 to American Airlines Flight 924 from Miami International Airport to Orlando, Florida.

From his seat, F.A.M. 2 heard a commotion toward the back of the plane and then saw Mr. Alpizar yell out "bomb" as Mr. Alpizar ran past him and off the plane onto the jetway. F.A.M.s 2 and 1 followed Mr. Alpizar off the plane. Mr. Alpizar wore his backpack on his chest. F.A.M. 2 ran two paces behind Mr. Alpizar and advised that he identified himself to Mr. Alpizar as "police officers"

⁸ F.A.M. 1 is fluent in Spanish.

and commanded him to “put [his] hands above [his] head. Stop.” Simultaneously with these commands, F.A.M. 2 armed himself.

Mr. Alpizar did not comply, but continued to “[run or walk]” away approaching the far end of the jetway nearing the boarding gate. F.A.M.s 2 and 1 followed Mr. Alpizar up the jetway reaching approximately the halfway point. Mr. Alpizar was approximately twenty (20) feet in front of them. F.A.M. 2 continued to command, “Get your hands up. Get on the floor. I’m a police officer.” However, Mr. Alpizar did not comply, but responded, “I have a bomb.”

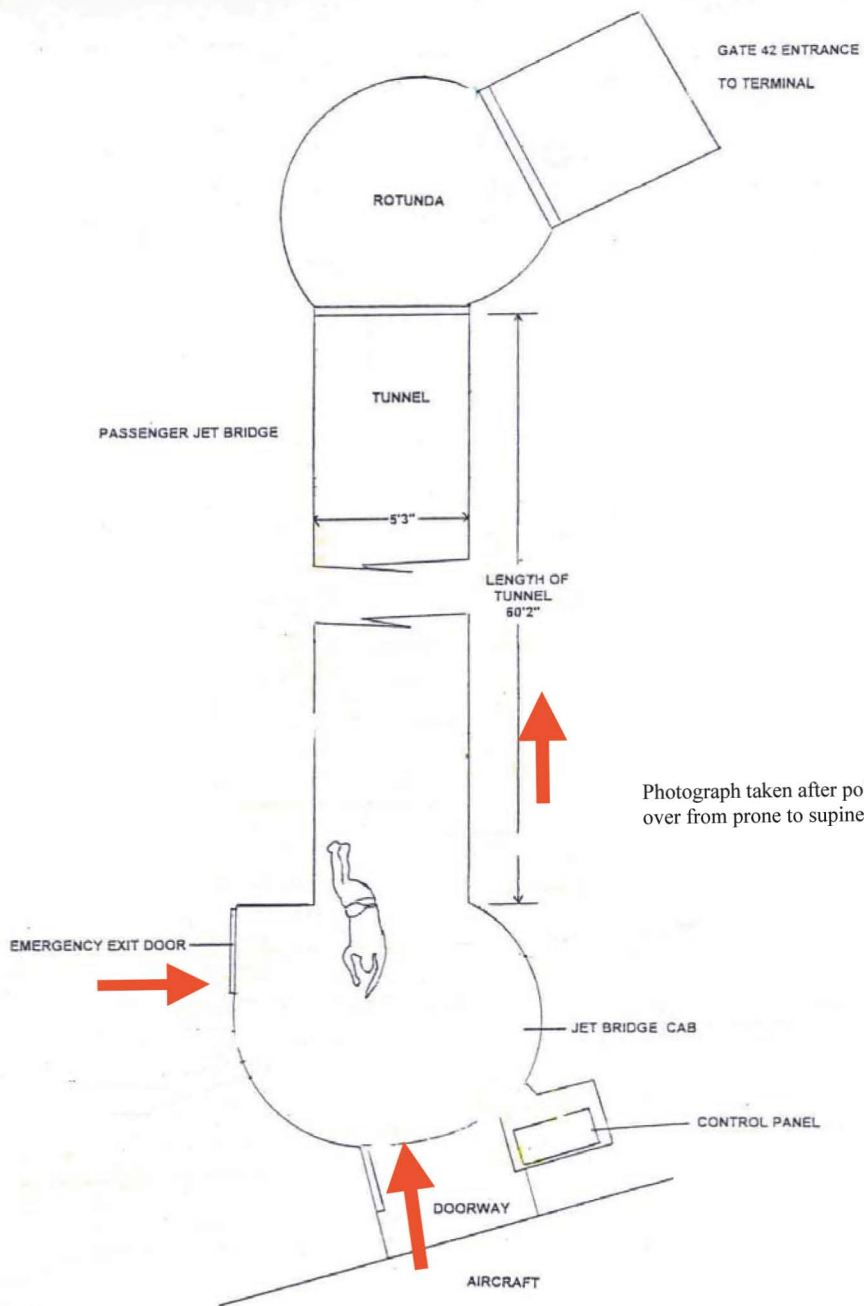
F.A.M 2 then addressed Mr. Alpizar in Spanish. Mr. Alpizar continued to speak incoherently, but continually mentioned the word “bomb.” Mr. Alpizar started approaching the aircraft and F.A.M.s 2 and 1 saying, “I’m going to blow up this bomb. I’m going to blow up this bomb. I’m going to show you.” F.A.M. 2 thought that the backpack contained the bomb to which Mr. Alpizar referred. F.A.M.s 2 and 1 backed up reaching the area where the aircraft door and the jetway meet. Mr. Alpizar then reached his hand into the backpack located on his chest. Fearing for the life of the passengers on board the plane as well as for the life of his partner and himself, he discharged his weapon once. However, Mr. Alpizar continued to approach. F.A.M. 2 fired additional shots. Mr. Alpizar fell to his knees then fell forward.

F.A.M.s 2 and 1 re-entered the aircraft to secure it. Later, Mr. Alpizar’s wife approached F.A.M. 2 to say she was sorry.

THE SCENE



First Class Cabin
(Point of View: front to back)



Photograph taken after police turned Mr. Alpizar over from prone to supine.

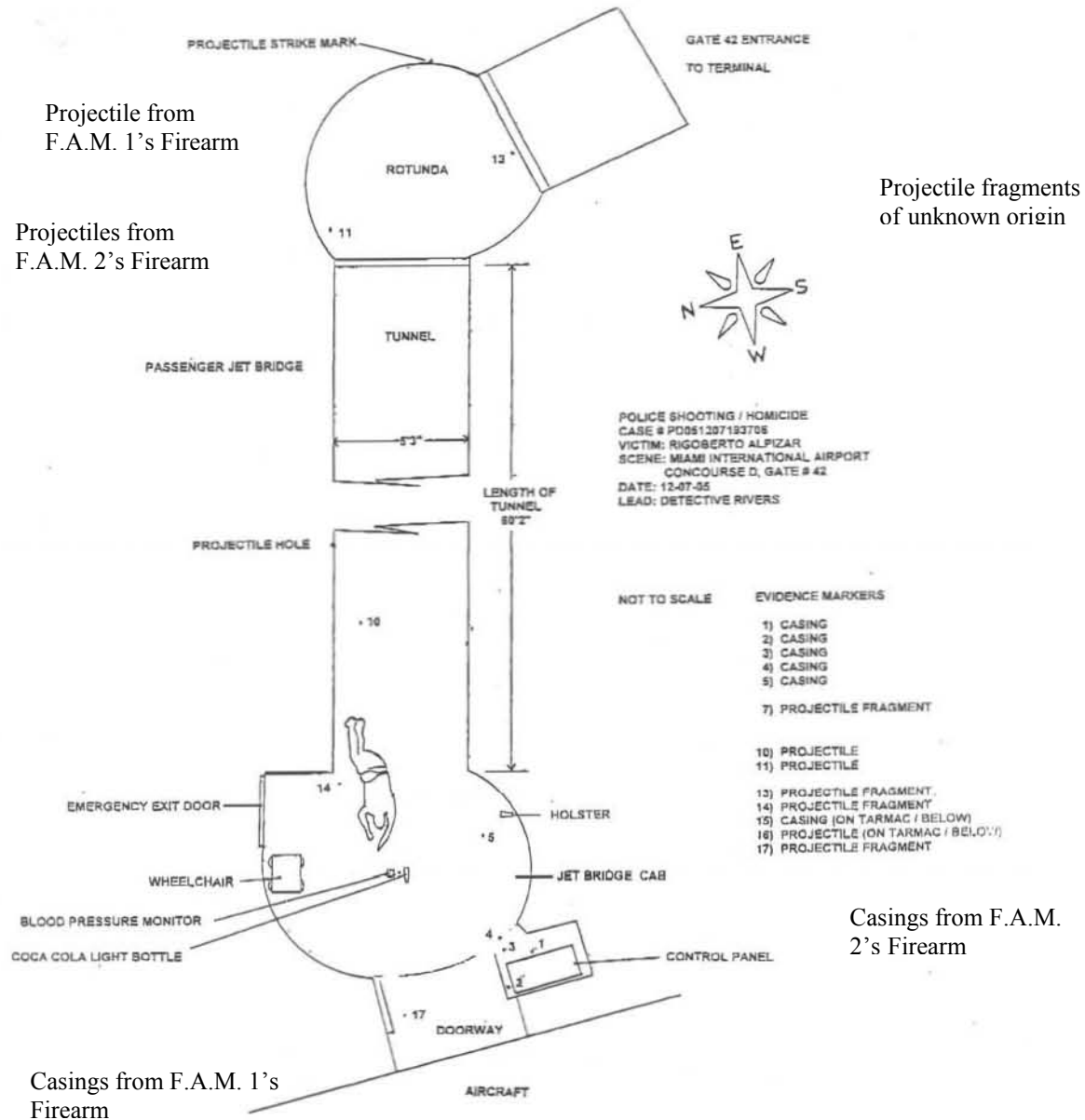
Upon arrival at the scene after the shooting, firefighters opened the jetway and Miami-Dade Police Officers M. Kirkland and G. Kral and other entered inside. Ofcs. Kirkland and Kral observed a man, later identified as an air marshal, pointing his gun at a man who was lying on the ground. Ofc. Kral pointed his gun at the man on the ground and the air marshal moved aside. Ofc. Kirkland and others entered and secured the plane and passengers.

Fire Rescue personnel Cynthia Beyer and Karl Hayden responded to the scene and also observed a man who later identified himself as an air marshal with a drawn gun on a person who was on the ground. Mr. Hayden responded to Mr. Alpizar and saw that his eyes were open with a fixed gaze. Mr. Hayden also checked Mr. Alpizar's pulse. The man with the gun, who identified himself by displaying a badge, stated to Mr. Hayden and Ms. Beyer that the person on the ground said he had a bomb. Mr. Hayden noticed a backpack partially on Mr. Alpizar's shoulder. One of the air marshals said the man lying on the ground said he had a bomb. Mr. Hayden and Ms. Beyer retreated to her vehicle and backed it away from the plane.

Sergeant Dougerty Sergeant Bryant entered the jetway and removed the backpack to the tarmac. Special response law enforcement teams arrived and further secured the scene. The bomb squad neutralized the backpack. The Miami-Dade Police Department assigned Det. Daniel Rivers as lead investigator for this law enforcement involved shooting. Crime Scene Technicians and members of the Medical Examiner's Office responded to the scene and documented same. Crime Scene Technicians impounded various items of evidence. Members of the Office of the State Attorney arrived as well under established protocol.

FORENSIC EXAMINATION

Ballistics



F.A.M. 1

-Sig Sauer P229, .357,
Serial #AL16437

-Full capacity = 13

-Loaded at full capacity: 12
rounds + 1 in the chamber

- Impounded with 9 rounds in
magazine
and 1 in chamber

-Fired total of 3 rounds

- 3 casings found on scene

- 2 projectiles found in Mr. Alpizar's body**

All projectiles and casings accounted

* Was not at full capacity *per* F.A.M. 2 statement

** Criminalist George W. Hertel, Jr., of the Miami-Dade Police Department made the above
mentioned analysis, comparisons and conclusions

*** There were numerous projectile fragments on the scene.

F.A.M. 2

-Sig Sauer P229, .357,
Serial #AL16418

-Full capacity=13

-Loaded with 12 rounds: 11 rounds
+ 1 in the chamber*

-Impounded with 5 rounds in
magazine and 1 in chamber

- Fired total of 6 rounds

- 6 casings found on scene

-2 projectiles found in Mr. Alpizar's body**

One projectile not recovered***

Medical Examiner

Dr. Wendloyn Sneed, of the Miami-Dade County Medical Examiner's Office, performed an autopsy upon Mr. Alpizar on December 8, 2005. The autopsy revealed:

- four (4) penetrating gunshot wounds, i.e. no exit point. Trajectory: Front to back
- three (3) perforating gunshot wounds, i.e. with exit. Trajectory: Front to back
- three (3) grazing gunshot wounds.

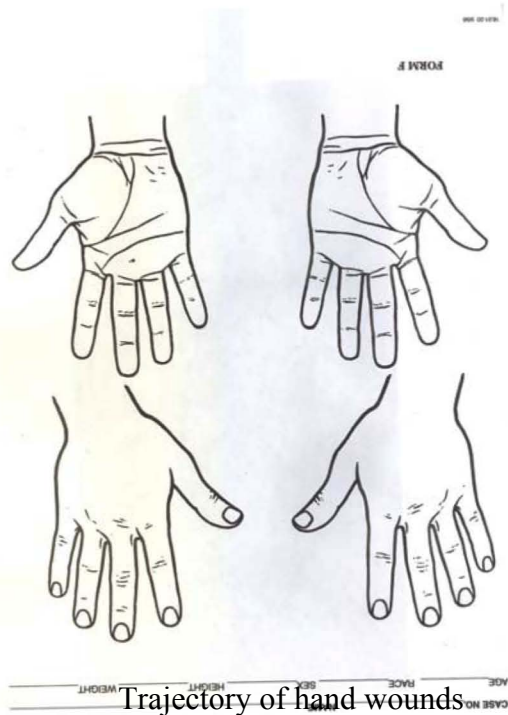
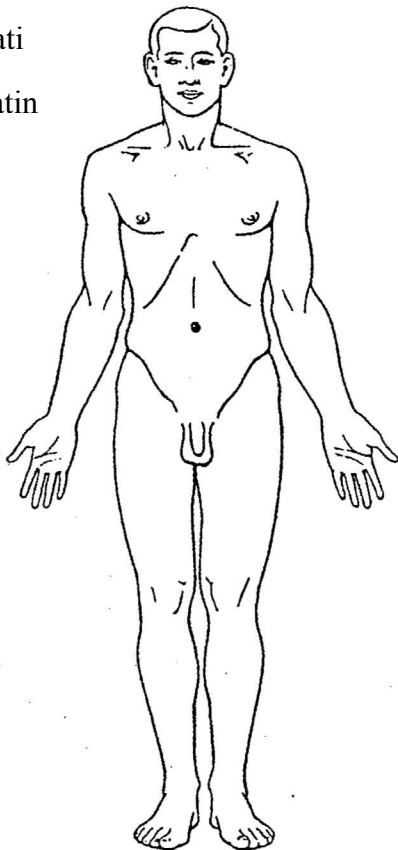
It should be noted that the amount of gunshot wounds mentioned above do not relate to the number of gunshots fired because one fired shot can cause several wounds.

The Medical Examiner discovered four (4) projectiles directly associated with the four (4) penetrating gunshot wounds, extracted and turned them over to the Miami-Dade Police Department.

Penetrati

Perforatin

Graze



NOTE: The above markings are those of the undersigned and are based on the Medical Examiners Report and crime scene photographs and are placed here in approximations for demonstrative purposes only. This diagram is not to scale.

If one positions Mr. Alpizar's right hand across his torso, with the palm toward the torso, the trajectory of the hand wounds are consistent with gunfire that entered from the front. This hand

position is consistent with the movements described by F.A.M.s 1 and 2. Likewise, if one positions Mr. Alpizar's left arm so that the left palm faces the torso, the trajectory of the grazing shot is also consistent with gunfire that entered from the front. Both arm positions are consistent with Mr. Alpizar holding a backpack on his chest.

The backpack and Mr. Alpizar's shirt each contain bullet holes consistent with each other. The soda bottle that Mr. Alpizar carried in his backpack has a bullet hole through it. The Medical Examiner discovered a piece of plastic consistent with the soda bottle imbedded in a penetrating gunshot wound in close proximity to a projectile. This evidence is consistent with the observation of an exploding soda bottle after the initial gunfire.

The Medical Examiner's Office also examined toxicology reports regarding Mr. Alpizar's blood. The report submitted by Jackson Memorial Hospital (JMH), where Mr. Alpizar first received treatment, states that Mr. Alpizar had a blood- lithium level of 0.30 mmol/L, with a reference range of 0.5-1.2 mmol/L. Dr. Wendloyn Sneed contacted Dr. Balaguer, Mr. Alpizar's treating physician, who stated he last saw Mr. Alpizar in May 2005. Dr. Balaguer stated that Mr. Alpizar was scheduled for visits approximately every six (6) months with his next visit due in November 2005. Dr. Balaguer stated that Mr. Alpizar never arrived for the November visit. Lithium levels undergo adjustments over time to provide the therapeutic result.

Dr. Balaguer also told Dr. Wendloyn Sneed that Mr. Alpizar was always very compliant with his medication, very polite and that he was surprised when he saw the news of the instant fatal shooting. Dr. Balaguer further advised that Mr. Alpizar's lithium levels throughout the last few years fluctuated between 0.3 mmol/L and 0.6 mmol/L. Dr. Balaguer advised that Mr. Alpizar was clinically stable for many years on the low level maintenance therapy of lithium prescribed and indicated that he thought it unusual for a patient on lithium to be stable for that long. Additionally, he stated that lithium levels should remain low to incur a positive clinical outcome because higher levels are very toxic to the patient.

Dr. Balaguer cautioned interpretation of post mortem lithium levels because laboratories vary from one to the other in reporting data. Furthermore, according to Dr. Balaguer, some laboratories have different limits of detection and they may report a very low level or a negative result as their low limit of detection. He also told the attending medical examiner that he briefly spoke with Mr. Alpizar's wife after the incident and that she advised him that Mr. Alpizar might not have taken the lithium while on their trip. It should be noted that a vial recovered from Mr. Alpizar and submitted to the Medical

Examiner's Office contained multiple pills identified by toxicology through the imprint number as lithium carbonate, but the vial had a label for a different prescription medication.

After speaking with Dr. Balaguer, Dr. Wendloyn Sneed spoke with Ms. Sandra Channey, the laboratory supervisor at JMH, where the blood test was performed. Ms. Sandra Channey advised that JMH uses an analyzer distributed by Ortho Clinical Diagnostic called the VITROS 950, which can detect a minimum level of 0.2 mmol/L of lithium (the lowest reportable value).

Given all the foregoing information, Dr. Wendloyn Sneed opined that Mr. Alpizar's post mortem lithium level of 0.3 mmol/L is within the level of lithium he had for the past few years according to his treating physician, and is, presumably, a therapeutic level. However, given that Mr. Alpizar's wife reported on several occasions that her husband did not take his prescribed lithium while abroad, that the lithium pills were discovered in a vial labeled for different medication and given the resulting bizarre behavior exhibited by Mr. Alpizar, it is reasonable to conclude that Mr. Alpizar was not properly medicated for his bipolar disorder on the incident date.

FACTUAL FINDINGS

The core factual findings are this:

Mr. Alpizar did not ingest his entire Lithium prescription to control his bipolar disorder while abroad. Mr. Alpizar demonstrated unstable and bizarre behavior abroad, in Miami International Airport's Gate #42 of Concourse D and aboard American Airlines Flight 924. F.A.M.s 1 and 2, seated in the First Class Cabin of the subject aircraft, had no knowledge of Mr. Alpizar's disorder or his unstable and bizarre behavior prior to observing him pass by them down the aisle from the rear of the airplane.

Mr. Alpizar used the word "bomb" in a sentence, at least once, as he ran through the First Class Cabin of American Airlines Flight 924. F.A.M.s 1 and 2 understood Mr. Alpizar to say that he *had* a bomb. Mr. Alpizar exited the aircraft onto the jetway. F.A.M.s 1 and 2 followed Mr. Alpizar onto the jetway and toward the entrance of the jetway from Gate 42. While on the jetway, Mr. Alpizar carried his backpack strapped to the front of his chest.

F.A.M.s 1 and 2 drew their firearms. F.A.M. 2 identified himself as law enforcement and gave Mr. Alpizar commands in both English and Spanish to "stop" and to "get down," which Mr. Alpizar ignored. Mr. Alpizar did not attempt to exit into the concourse but instead turned around and headed back toward the plane still clutching his backpack to his chest. Mr. Alpizar repeatedly stated that he had a bomb and that he was not afraid to use it or that he would detonate it. Additionally, Mr. Alpizar challenged F.A.M.s 1 and 2 to shoot him. All the while, Mr. Alpizar ignored commands to cease and drop to the ground. Mr. Alpizar's hands were on his backpack as he approached. F.A.M. 2 discharged his weapon but Mr. Alpizar did not stop approaching the plane. As a consequence, F.A.M.s 1 and 2 continued to discharge their weapons. Mr. Alpizar fell to the jetway floor and died.

LEGAL ANALYSIS AND CONCLUSION

The shooting death of Mr. Alpizar, while tragic, is legally justified in light of the surrounding circumstances presented to the air marshals. It should be noted that both air marshals demonstrated remarkable restraint in dealing with Mr. Alpizar.

Florida Statute §901.1505(2)(a) and (b) Federal Law Enforcement Officers; Powers, empowers federal officers engaged in the exercise of their federal duties to make a warrantless arrest of any person who commits a felony that involves violence. The statute further empowers them “[t]o use any force which the officer reasonably believes to be necessary to defend ... himself or another from bodily harm while making the arrest or any force necessary... in arresting any felon fleeing from justice when the officer reasonably believes either that the fleeing felon poses a threat of death or serious physical harm to the officers or others or that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.”

When Mr. Alpizar ran onto the jetway stating that he had a bomb and threatened to detonate it, given that he had a backpack strapped to the front of his chest and failed to comply with commands to stop and desist, the air marshals had probable cause to arrest Mr. Alpizar for violations of Florida Statute:

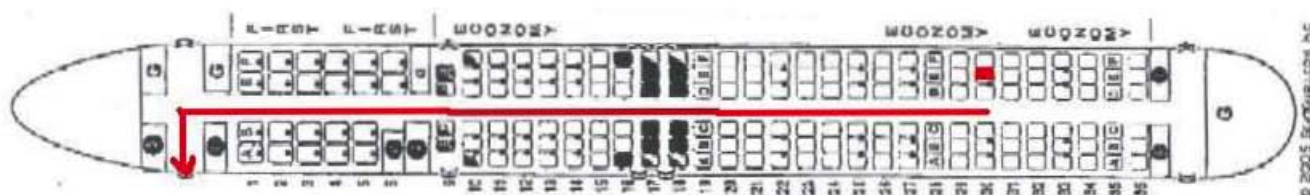
1. §782.04(1) and (2) and §782.051: The attempted murder of the crew member and/or every passenger aboard American Airlines Flight 924 and/or in relative proximity to him, including those in the airport terminal, through a) aircraft piracy and/or b) the unlawful throwing, placing or discharging of a destructive device or bomb and/or c) the murder of another human being and/or d) the commission of a felony that is an act of terrorism or is in furtherance of an act of terrorism, all of which are forcible felonies pursuant to §776.08.
2. §790.161: Making, possessing or throwing projectile. Placing, or discharging any destructive device or attempt so to do, a forcible felony pursuant to §776.08.
3. §790.162: Threat to throw, project, place, or discharge any destructive device, a forcible felony pursuant to §776.08.
4. §790.163: False report about planting bomb, explosive, or weapon of mass destruction.
5. §775.30: Terrorism, a forcible felony pursuant to §776.08.

Thus, under §901.1505 the air marshals could make a warrantless arrest of Mr. Alpizar because they reasonably believed he was committing, or would commit, multiple felonies involving violence

in their presence. As such, they could use the force they thought necessary to defend themselves and others from bodily harm while making the arrest or in preventing Mr. Alpizar from fleeing because he reasonably appeared to pose a threat of death or serious physical harm to the marshals and others.

In addition, under Florida Statute §776.012 Use of Force in Defense of Others, the air marshals could stand their ground and use deadly force because Mr. Alpizar's actions reasonably conveyed a threat of imminent death or great bodily harm to themselves and others and served to prevent said harm or the imminent commission of a forcible felony as enumerated above.

It is factually and legally irrelevant that some passengers did not hear Mr. Alpizar say anything about a bomb. It is clear that those persons toward the front of the aircraft did, as illustrated below.



Mr. Alpizar

Heard "bomb"

Did not hear "bomb"

Most notably, the person with the least motive to fabricate, Mr. Alpizar's wife, admits that her husband said he *had* a bomb. She also affirmed that her husband failed to comply with F.A.M. 1's and 2's repeated commands.

Furthermore, it is factually and legally irrelevant whether Mr. Alpizar actually had a bomb. The presence of a bomb would not convert an unjustified shooting into a justified one. Likewise, the absence of a bomb cannot convert a justified shooting into one that is unjustified. Under the same rationale, it is factually and legally irrelevant whether Mr. Alpizar actually suffered from a mental illness or whether he was suffering from an episode of said illness at the time of the shooting.

It is factually and legally irrelevant that the air marshals could assume that Transportation Safety Administration personnel cleared Mr. Alpizar to enter the subject concourse, and, thus, posed no threat to persons or aircraft. The air marshal service exists as a contingency in tacit acknowledgement that those with lethal contraband and/or illegal purpose and intent may succeed in boarding an airliner.

It is factually and legally irrelevant that Mr. Alpizar's wife expressed aloud that her husband was sick. There is no evidence that the air marshals ever heard this statement. In fact, those passengers that did hear such comments agree that she made these comments near where she and Mr. Alpizar were seated and/or only after the shooting, but never near the air marshals. Even if the air marshals did, or

should have heard, her statements, it would not alleviate the responsibility of the air marshals to deal quickly and decisively with the issue presented. In a post-September 11th and Madrid bombing world, the air marshals were faced with a man on an American Airlines flight clutching a backpack on his chest, claiming to have a bomb and threatening to detonate it while heading back toward the aircraft. Under these circumstances, there simply is no room for delay for the purposes of conducting the type of investigation that hindsight offers. Additionally, the statements by Mr. Alpizar's wife, if heard by the marshals, are also subject to various interpretations. "He's sick" is certainly not the type of statement that the ordinary person, given the circumstances, would automatically assume meant that Mr. Alpizar suffered from a mental illness. Furthermore, the air marshals could have interpreted the situation to be that the woman was acting in concert with the man to create the delay and indecisiveness necessary to accomplish their task.

It is factually and legally irrelevant whether F.A.M.s 1 and 2 complied with their department's policies and procedures. Whether the air marshals actions are justified or not in the State of Florida is independent of whether they abided by rules set by a federal agency. For this reason, the department's policies and procedures, if any, were not evaluated.

Prepared by:

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