

Mexican Law and the Smuggler:



Sad Tales from South of the Border

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■ In describing my most recent visit to Mexico in a general aviation plane [February PILOT], I devoted quite a bit of commentary to conditions in Mexico, as they affect AOPA members. But these comments dealt only with procedural matters: red tape, charges, *mordida*.

One subject was not mentioned: smuggling. In working on several cases for AOPA members, the U.S. State Department has given us a fairly detailed insight into the seriousness of smuggling, especially with general aviation aircraft. That's the purpose of this follow-up article, excerpts from which will also appear in AOPA's Mexican Flight Guide sent to requesting members by our Flight Department.

As almost everyone knows, all responsible U.S. agencies are fighting tooth and nail against illicit drugs. Contrary to the popular belief of some, marijuana is an illicit drug, just like heroin and all the rest. A lot of marijuana is grown in Mexico, and a lot of it has been—and is being—smuggled across the U.S. border.

Members have read reports about how U.S. Customs and the Drug Enforcement Administration have greatly stepped up their vigilance and enforcement along all our borders. But some people still don't seem to realize that the U.S. signed the United Nations 1961 Single Convention on Narcotics, as did a lot of other U.N. members—including

Mexico. Both the U.S. and Mexico have taken this responsibility seriously. Article 31, Section 2 of this Convention says, "Parties [signatory countries] shall exercise in free ports and zones the supervision and control as in other parts of their territories."

Mexico is taking this responsibility so seriously that it presently has 514 U.S. citizens in jails throughout the country, a substantial percentage of them apprehended while smuggling by air. They were arrested and jailed under Mexican law, and that is a lot rougher in many ways than U.S. law. If you're caught with "hard" drugs (heroin, hash, etc.) you can get from six to 13 years in prison. Just the possession of mari-

juana can get you four to eight years in jail.

Mexican law allows up to *one year* of pretrial confinement. Mexico also uses the Napoleonic Code: the trial does not include a jury. A trial in Mexico usually consists of the presentation of *only* written statements by the prosecution and the defense. The judge reads these statements and arrives at a decision. This treatment is the same as that given Mexican citizens.

Most Americans don't understand the marked differences between the Mexican and the U.S. legal systems. When U.S. citizens get in trouble in Mexico they usually end up with a standard accusation against our State Department: it's the responsibility of our embassy and consulates throughout Mexico to look out for the interests of North American (don't say "American"; it offends Mexicans because they're American too) citizens. That's correct—but Mexican law, which comes first in that country, says police can hold an arrestee *incommunicado* for an investigative period of 72 hours. Our embassy in Mexico City has tried vigorously to (1) find out about such arrests, and (2) get immediate consular access to arrested U.S. citizens.

There have been charges of unwarranted roughness by Mexican police, even torture. The U.S. ambassador sent a personal note, on July 2, 1974, to the Mexican Ministry of Foreign Affairs about repeated reports of torture, extortion, and mistreatment of U.S. prisoners. The ambassador later visited the minister to discuss the problem.

Again on October 21, 1974, the embassy sent the Mexican government detailed descriptions of arrest cases involving U.S. citizens, in which those citizens had reported various forms of mistreatment, including the forced signing of self-incriminating statements in Spanish, though the prisoners didn't understand the language.

One recent case AOPA was involved with concerned a member's DC-3, which was carrying a load of Christmas

presents from Texas to Guatemala City for employees of the Guatemalan branch of a large U.S. company. Although the pilots had plenty of fuel to overfly Mexico, they decided to land at a Mexican airport with which they were familiar—but which was not a legal airport of entry. They were taken into custody by troops of the Mexican army and interrogated at length with sacks over their heads. The DC-3 captain had a rib cracked when a Mexican soldier hit him with the butt of his rifle.

After being turned over to civil authorities and thrown into prison, the Americans were finally able to contact their home office. They were ultimately released, but the plane and its cargo are "on trial"—their fate was to have been decided upon in April—and the plane's owner has had to pay a bribe (not a fine) of some \$8,000 U.S. to get the case this far along. The Americans are accused of smuggling (landing that plane and cargo at an illegal airport).

Dishonest Mexican attorneys are enough of a problem so that the U.S. Embassy can and does take action against them with the Mexican government whenever the embassy hears of one. The embassy also supplies U.S. citizens in Mexican jails with a list of reputable, competent attorneys there.

Needless to say, the embassy and its consulates can have no part of any effort to bribe Mexican authorities; they discourage *mordida*, and warn citizens of many cases of bitter disappointment and great financial loss.

There's only one moral to all this: A pilot with any notions about such activities in Mexico, should forget them and stay home. If you decide to fly in Mexico on a tourist flight, check carefully with AOPA's Flight Department to be sure you have conformed carefully with all pertinent Mexican laws.

If anyone should think he can somehow still get away with it, but gets caught, the Mexicans will throw away the key, as the saying goes, and there won't be much of anything anyone in the U.S. will be able to do to help. □