

# Nixon Eases Stand on Death Penalty

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## Washington

The Nixon Administration formally backed off yesterday from Attorney General Richard G. Kleindienst's statement last week that a mandatory death penalty should be enacted to punish hijacking and other "cold-blooded, premeditated" Federal crimes.

Testifying before the Senate aviation subcommittee on an anti-hijacking bill, Assistant Attorney General Roger C. Cramton said: "Punishment that is too severe or too inflexible may interfere with, rather than enhance, effective law enforcement."

In a statement that had been cleared with top officials at the Justice Department, the White House and the Office of Management and Budget, Cramton told the Senators that the Administration actually prefers "legislation limiting capital punishment to certain well-defined situations of aircraft piracy and providing standards for its imposition."

### LIKELIHOOD

He said the "mechanism" most likely to be recommended by the Justice Department is a two-stage trial for defendants charged with capital crimes, one stage for

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determining guilt and the other for punishment.

In the second stage, the jury would consider "circumstances of aggravation and mitigation" to decide whether the death penalty should be imposed.

Cramton said that if the charge were hijacking, for example, an aggravating circumstance would be loss of life or the finding that "the crime had been committed in an especially heinous, cruel or depraved manner."

The death penalty would not be imposed, however, if the crime were mitigated by the fact that "the defendant was under the age of 18 or that he was under the influence of unusual and extreme mental or emotional disturbance."

### POSSIBILITIES

Cramton, the departing head of the Justice Department's office of legal counsel, added that a mandatory death penalty might be ineffective because it could create extradition problems with other nations and could lead a hijacker to believe "that he had nothing to lose by continuing a suicidal flight rather than surrendering."

The Justice Department has been weighing its position on capital punishment since last summer, when the Supreme Court ruled that as now imposed, on "a capriciously selected random handful" of people, the death penalty violates the Eighth Amendment ban on "cruel and unusual punishment."

Despite the ongoing controversy over the death penalty in hijack cases, most of the fireworks at Wednesday's hearing focused on the Nixon Administration's emergency regulations issued last month, requiring airlines to screen all passengers and directing airports to station a local law enforcement officer at passenger check points for each flight.

### REACTION

Subcommittee members from both parties excoriated retiring Transportation Secretary John A. Volpe for trying, as Senator Marlow W. Cook (Rep - Ky.) put it, "to enforce a program without paying for it."

"The American people are looking to their federal government — not to the local sheriff's office — for a program to insure that hijackings don't continue," Cook said.

Representatives of the Air Transport Association of America, the Air Line Pilots Association and the National League of Cities also testified that they preferred to have local airport security in the hands of federal officials, as provided in the Senate bill.

### PILOT

Lee Hines, the pilot of an Eastern Airlines jet hijacked last October in Houston and flown to Cuba, said that local law enforcement officers may "have a badge, a uniform and a gun, but they don't necessarily protect us."

Administration witnesses said, however, that apart from budgetary questions they were concerned about establishment of a new "federal police force" that, under the terms of the Senate bill, would be "an air transportation security - law enforcement force under the direction of the administrator of the Federal Aviation Administration."

As for the cost, Volpe said the administration favors passing it along to passengers in the form of higher plane fares.