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2022 Aviation Private Roundtable

# The Golden Hour: The First 60 Minutes After an Accident/Incident

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# Presented By



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# Overarching Priorities

- Protect people
- Protect property
- Protect evidence
- Notify and investigate
- Accomplish recovery



# Terminology

## NTSB Definitions (at 49 CFR § 830.2):

- **Aircraft Accident:** “[A]n occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and all such persons have disembarked, and in which any person suffers death or serious injury, or in which the aircraft receives substantial damage.”
- **Incident:** “[A]n occurrence other than an accident, associated with the operation of an aircraft, which affects or could affect the safety of operations.”

# Emergency Response Plan (ERP)

- Is the ERP up-to-date?
- Are all Company personnel responsible for emergency response activities identified? Current 24/7 contact information readily available?
- Are back-up personnel identified?
- Are all personnel with emergency response responsibilities (and their backups) fully trained?
- How often does the Company perform emergency response tabletop exercises?
- Does the ERP include contact information for outside entities, including NTSB, FAA, outside counsel, insurance brokers and underwriters?

# Notifications

## A. Company Response Team

- Ensure both investigatory and family assistance teams are notified
- Ensure logistics such as accommodations and transportation are arranged
- Coordinate with Public Affairs Department on initial communications
- Coordinate with inside and outside counsel for initial team briefings

# Notifications

## B. Corporate Security

- Corporate security personnel should be advised of the accident so they can ensure security at key corporate facilities. It is not unusual for the press to seek access to corporate offices and key personnel immediately after an accident
- Security at the “situation room,” the accident site and on-site facilities is especially critical

# Notifications

## C. NTSB

- The local field office of the NTSB must be notified of an accident “immediately and by the most expeditious means available,” which typically means by telephone (See 49 CFR § 830.5.)
- The aircraft operator may also report an accident or incident by calling the NTSB Response Operations Center at 844-373-9922 or 202-314-6290

# Notifications

## C. NTSB

- The notification must include, to the extent then available: the type, nationality and registration marks of the aircraft; name of the owner and operator of the aircraft; name of the pilot in command; date and time of the accident; last point of departure and intended point of landing; position of aircraft with reference to some easily defined geographical point; number of persons aboard, number killed, and number seriously injured; nature of the accident, the weather, and extent of damage to the aircraft; and a description of any explosives, radioactive materials and other dangerous articles aboard. (See 49 CFR § 830.6.)

# Notifications

## D. FAA

- The FAA Air Traffic Control System Command Center Duty Manager should be notified of the accident
- Notify your Principal Operations Inspector, Principal Maintenance Inspector, Principal Avionics Inspector as appropriate

# Notifications

## D. FAA

- Service Difficulty Reporting for Part 121 and Part 135 Certificate Holders (14 CFR § 121.703 and 14 CFR § 135.415 respectively (must be filed within 96 hours of the occurrence or detection of failure, malfunction, or defect).
- Each certificate holder must report the occurrence or detection of each failure, malfunction, or defect concerning: fires during flight and whether the related fire-warning system functioned properly; fires during flight not protected by a related fire-warning system; false fire warning during flight; an engine exhaust system that causes damage during flight to the engine, adjacent structure, equipment, or components; an aircraft component that causes accumulation or circulation of smoke, vapor, or toxic or noxious fumes in the crew compartment or passenger cabin during flight; engine shutdown during flight because of flameout; engine shutdown during flight when external damage to the engine or airplane structure occurs; engine shutdown during flight due to foreign object ingestion or icing; engine shutdown during flight of more than one engine; a propeller feathering system or ability of the system to control overspeed during flight; a fuel or fuel-dumping system that affects fuel flow or causes hazardous leakage during flight; an unwanted landing gear extension or retraction, or an unwanted opening or closing of landing gear doors during flight; Brake system components that result in loss of brake actuating force when the airplane is in motion on the ground; aircraft structure that requires major repair; cracks, permanent deformation, or corrosion of aircraft structures, if more than the maximum acceptable to the manufacturer or the FAA; aircraft components or systems that result in taking emergency actions during flight (except action to shut down an engine); and emergency evacuation systems or components including all exit doors, passenger emergency evacuation lighting systems, or evacuation equipment that are found defective, or that fail to perform the intended functions during an actual emergency or during training, testing, maintenance, demonstrations, or inadvertent deployments.

# Notifications

## E. Department of Defense

- Notify the Casualty Assistance Office of each respective service if any military or government personnel were aboard the aircraft.
  - Army: (800) 626-3317
  - Navy: (800) 368-3202
  - Air Force: (800) 433-0048
  - Marines: (800) 847-1597
  - Coast Guard: (202) 372-2100

# Notifications

## F. Department of State

- For civilian U.S. government personnel casualties in international flight, the Department of State Operations Center: (202) 647-1512
- If an accident occurs abroad, the airline is expected to notify the Foreign Service Post (U.S. Embassy or Consular Office) for the consular district in which the accident occurs, as well as the nearest office of the Civil Aeronautics Administration for the country in which the accident occurred. The State Department is required to notify next of kin.

# Notifications

## G. U.S. Postal Service

- The U.S. Postal Service should be notified if the aircraft was carrying U.S. mail

# Identify and Secure Key Documents

- The airline must retain “all records, reports, internal documents, and memoranda dealing with the accident or incident, until authorized by the NTSB to the contrary.” (See 49 § CFR 830.10(d).)
- The airline must permit an NTSB investigation to “inspection, photograph, or copy” of pertinent records, including medical records. (See 49 CFR § 831.9(a).)
- The airline should always retain the original records. There is no requirement that original records be given to the NTSB. In fact, it may be a violation of Federal Aviation Regulations if an airline does not maintain custody of certain documents.
- Create and maintain a document transmittal log that includes, at a minimum, document title or description, date of request, requested by, date delivered, person delivered to, and number of pages.
- Documents that are produced for the NTSB should generally be stamped “confidential” to ensure that proprietary information is protected. It is best to err on the side of marking documents confidential since the airline can always retract the confidential designation at a later date.
- Failure to preserve key documents is not only a violation of federal regulations but can also be construed as spoliation of evidence in any civil litigation or criminal investigation that may ensue.
- Access to the records should be limited to NTSB personnel, persons authorized by the NTSB to participate in the investigation, and legal representatives of the airline.

# Identify and Secure Key Documents

- The following documents, at a minimum, should be immediately identified and secured by the airline's general counsel's office:
  - Aircraft Maintenance Records. All maintenance records for the accident aircraft, including any that are not normally retained, should be immediately impounded and placed under lock and key. No one, including the NTSB and FAA, should be allowed to take these documents. The NTSB takes custody of the wreckage and cargo, but the operator is responsible for retaining the records. (See 49 CFR § 830.10(d).) **Do not lose control of these records!**
  - Operational and Maintenance Manuals. All manuals that are updated periodically should be "frozen" in the state of revision that existed on the day of the accident. These manuals include, but are not limited to, the Flight Operations Manual, Pilot Operating Handbook, Quick Reference Handbook, Aircraft Maintenance Manual, General Maintenance Manual, Flight Attendant's Manual, etc. Copies of the frozen manuals should be retained until the investigation and all litigation has ended.
  - Flight Records. Identify and secure all flight planning and release documents for the accident flight. (Flight plan, weather briefing, NOTAMS, aircraft maintenance history, current deferred items, planned and final weight manifest, ACARS/ARINC communications traffic.)

# Identify and Secure Key Documents

- The following documents, at a minimum, should be immediately identified and secured by the airline's general counsel's office:
  - Passenger Records – Passenger tickets and computerized passenger records should be identified and secured
  - Training Records – Flight and cabin crew training records should be identified and secured. If there seems to be a maintenance or dispatch issue, secure those records as well.
  - Personnel Records – Flight and cabin crew personnel records should be identified and secured. If there seems to be a maintenance, dispatch or ramp issue, secure those records as well
  - Passenger and Crew List – A list of passengers and crew on board the accident aircraft should be created and maintained
  - Company email messages that may be pertinent to the event
  - All documents related to any code share agreement that applies to the accident flight

# Preservation of Wreckage

- The airline is responsible for preserving aircraft wreckage, cargo and data recorders until the NTSB takes custody of it or issues a release. (See 49 CFR § 830.10(a).)
- The wreckage and cargo cannot be disturbed or moved except where necessary to remove persons injured or trapped, to protect the wreckage from further damage, or to protect the public from injury. (See 49 CFR § 830.10(b).)
- When it is necessary to move wreckage or cargo, sketches, descriptive notes and photographs shall be made, if possible, of the original positions and condition of the wreckage and any significant impact marks. (See 49 CFR § 830.10(c).)
- Prior to turning wreckage over to the NTSB, access should be restricted to emergency workers and airline personnel whose presence is necessary.

# Drug and Alcohol Testing

- Every employee serving a “safety-sensitive function” must be tested for drugs and alcohol if that employee’s performance either contributed to an accident or cannot be eliminated as a contributing factor to the accident. (See 14 CFR § 120.109 and § 120.217.)
- Drug tests must be accomplished as soon as possible, **but no later than 32 hours after the accident.** (See 14 CFR § 120.109(c).)
- Alcohol tests must be accomplished as soon as possible. **If not done within two hours, reasons for the failure to test must be documented.** If not done within eight hours, cease attempts at testing. (See 14 CFR § 120.217(b)(2).)

# Upcoming NTSB Training Center Course

- In person – TDA301 Transportation Disaster Response - Family Assistance
- Developed for commercial transportation officials, representatives of federal agencies, staff of non-governmental relief organizations and emergency managers, this course is instrumental in understanding how any organization involved in the accident response can most effectively support the family assistance efforts.
- NTSB Transportation Disaster Assistance specialists, clinicians and other professionals will present a variety of disaster response and family assistance topics. Learn from Safety Board responders who have developed partnership programs to manage disasters.
- Dates, Times and Location: **October 4-6, 2022**
- NTSB Training Center, 45065 Bles Park Drive, Ashburn, Virginia 20147
- \$950 early registration (by September 4, 2022)
- \$1,020 late registration (between September 5 and September 27, 2022)

# References / Resources

- Fox Rothschild LLP's [Aviation Emergency Response Handbook](#)
- Fox Rothschild LLP's [NTSB and Accident Investigations brochure](#)
- [Aviation Emergency Response Organization \(AERO\)](#)
- [NTSB Transportation Disaster Assistance Division](#) | (800) 683-9369
- For Aviation News and Analysis: [Plane-ly Spoken Blog](#)
- **Save the date: 2023 Aviation Symposium, Feb 7-9, 2023**

# Thank You

If you have any questions, please contact:



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