Plan for Disaster: Is Your Airport Prepared For An Airfield Accident?

Thursday, August 8, 2019
2:00-3:30 PM ET
Purpose
To discuss ACRP Web-Only Document 31 and Legal Research Digest 33.

Learning Objectives
At the end of this webinar, you will be able to:

• Describe the capabilities of the Aircraft Accident Management and Guidance Tool and how to access it
• Discuss the emergency management capabilities of some of the key airport stakeholders that reside outside of the airport boundaries
• Identify what the duties and standards of care are for airfield accident cases
• Identify the typical elements of negligence action cases and what preemption is and how courts apply it
Improving Stakeholder Engagement in Aircraft Accident Planning and the Aircraft Accident Management and Guidance (AAMG) Tool

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Futron Aviation Corporation
Kenneth P. Neubauer
Principal Investigator

✈ Technical Director – Aerospace Safety
  ▪ Airport SMS Development
  ▪ Airport Research

✈ Former US Navy Fighter Pilot

✈ Past Director – Naval School of Aviation Safety

✈ Past Director – Aviation Safety Programs, Naval Safety Center

✈ Principal Investigator
  ▪ ACRP Project 11-02/Task 36
  ▪ ACRP Project 06-08
Gary Mascaro – Scottsdale Airport, City of Scottsdale, AZ
Heidi Benaman – Faith Group
Scott Kimerer – Chief of Police City of Burien, WA (retired)
Carlos Lopez – Skywest Airlines
Geoff Nielsen – City of Phoenix (AZ) Fire Department
Dan Sprinkle – Denver International Airport
Marc Tonnacliff – FAA
Key Project Objectives and Products

- Research and create guidance for airports in identifying and engaging aircraft accident response stakeholders
- Develop educational and guidance materials airports can use
- Developed the Aircraft Accident Management and Guidance (AAMG) Tool
  - Downloadable from the TRB Website
  - Customizable by the airport or stakeholder user
- Researched where aircraft accidents occur in relation to airports
- Made available in January 2017
ACRP Web-Only Document 31
Research Team

- Ken Neubauer – Futron Aviation
  - Principal Investigator
- Dave Fleet – Faith Group (Futron Aviation)
  - Airport Safety SME
- Shawn Scharf – Futron Aviation
  - Emergency Response SME
- Jeff Spenser – LCE
  - Education and Training Development SME
Phased Project Approach

- Phase 1 – White Paper Development
  - Where do aircraft accidents occur?
  - Who are the stakeholders in response planning?
- Phase 2 – Follow-On Research and Guidance Tool Development
- Phase 3 – Pilot Studies and Final Deliverables
ACRP Web-Only Document 31
Process for AAMG Tool Development

Workshops for Research and Tool Testing

✈ Phase 1 Workshops – Stakeholder Research
  - Dallas – Fort Worth International Airport (DFW)
  - Norfolk International Airport (ORF)
  - Buffalo – Niagara International Airport (BUF)

✈ Phase 2 Workshops – Follow-On Research and Validation
  - Pittsburgh International Airport (PIT)
  - Boston Logan International Airport (BOS)

✈ Phase 3 Workshops – AAMG Tool Testing
  - Chennault International Airport (CWF)
  - LaCrosse Regional Airport (LSE)
  - Richmond Executive Airport (FCI)
### Where Aircraft Accidents Occur

**How far away to engage?**

<table>
<thead>
<tr>
<th>Miles from Airport Center</th>
<th>Number of accidents</th>
<th>Percent of accidents</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;= 10</td>
<td>2,970</td>
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<td>&lt;= 25</td>
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<td>&gt; 25</td>
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- The statistics are based upon analysis of NTSB data from 2005 to 2014.
- Distances are from the center of the airport (FAA data) and the recorded location of the accident (NTSB data).
- The data set was limited to flights operating under CFR Parts 91, 121, & 135.

**Recommendation:** Airports should use 25 miles from the airport along the extended centerlines of the primary runways as the starting point for stakeholder engagement.
ACRP Web-Only Document 31
AAMG Tool – Getting the Tool
Welcome to the Aircraft Accident Management and Guidance (AAMG) Tool

Aircraft Accident Management and Guidance (AAMG) Tool

Initial Response
Law Enforcement
Information

Key Stakeholders
- State Police
- Local Police Departments
- Local Sheriff
- FBI and State Bureau of Investigation

Points to Know
- Approaching the Crash Site
  - Approach the scene from the upwind side to avoid inhalation of hazardous smoke and airborne particles.
  - Newer aircraft manufactured with composite materials contain resins which bond the composites together. These are toxic.
General Information
Aircraft Accident Management and Guidance (AAMG) Tool

How do I...

- Create Contact Data?
- Delete Contact Data?
- Share Contact Data?
- Load National and Local Resources?
- Load and save Lessons Learned?
- Run the program from the command line?
- Run the program from my desktop?
- Share my progress with others?

Security Notice

The AAMG tool is for the Windows Operating System (XP, Win 7, Win 8, Win 10) only.

Navigation

A short video introducing the AAMG tool plays upon the launch of the program. A simple scrub bar with playing time appears when the user places the cursor over the video, which will disappear when the user moves the cursor off the video. The user may bypass the video by selecting the "Skip" button underneath the video. The user may elect not to view the video upon the next launch of the program via the "Remove Video from Startup" box (this may not function if cookies are disabled).

NOTE:

After the video is played or the user has selected the "Skip video" forward button, the program will automatically be displayed in full-screen mode. To exit full screen, the user may press the "Esc" key on the keyboard. To resume full-screen mode, press "Ctrl + F".

The "Home" Screen has four distinct areas as shown below:

1. Global buttons which include "Help," "Play Intro" (play introduction video), "Purpose" (general purpose of the tool), "Statistics" (export accident data), and "Lessons Learned" (for linking website and pdf data to the tool).
2. "Load Config" (loading a previously saved session), "Save Config" (for saving current session), and "Export PDF" (exporting an spreadsheet data points of events placed into the tool by the user).
3. Access into the content of any 21 subcategories found under "Initial Response," "Investigation," or "Recovery" categories.
4. Exit application (useful when in full-screen mode).
Aircraft Accident Management and Guidance (AAMG) Tool

- Initial Response:
  - Law Enforcement
  - Emergency Management
  - Health Services
  - Red Cross
  - Fire Fighting
  - Other Organization Resources

- Investigation:
  - Law Enforcement
  - Emergency Management
  - Health Services
  - Red Cross
  - Fire Fighting
  - Airline
  - FAA
  - NTSB

- Recovery:
  - Law Enforcement
  - Emergency Management
  - Health Services
  - Red Cross
  - Public Resources
  - Airline
  - Local Business
Aircraft Accident Management and Guidance (AAMG) Tool

How far away to engage?

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ACRP Web-Only Document 31
AAMG Tool – Using the Tool
Response Phase
Stakeholders
Aircraft Accident Management and Guidance (AAMG) Tool

Initial Response

Points to Know
- Hospital Notification
  - Inform facility that a crash has occurred as early as possible to allow the facility time to prepare for potential patients.
  - Planning should include responsible organizations and communication methods for informing local hospitals.

Key Stakeholders
- Local Hospitals
- Coroner/Medical Examiner
- Emergency Medical Services
- Ambulance Services
- Search and Rescue
- Mass Transportation (bus companies, school districts for school bus use)
Aircraft Accident - Help

Hospital Disaster Preparedness Self-Assessment Tool

This assessment tool was developed to assist hospitals in revising and updating existing disaster plans or in the development of new plans. The tool was originally used by a subject matter expert survey team to collect data for a Department of Homeland Security (DHS) grant so it is structured in a survey format. The data was then used to develop a specialized instruction program for that facility that addressed any areas needing improvements. We feel this assessment tool can also be utilized as a self-assessment format by the institution in the review of their current disaster preparedness plans.

Points of Contact

Planning should include responsible organizations and communication methods for informing local hospitals.

Other Organization Resources

- Hospital Notification
  - Information
  - Planning

- Other Organizations
  - Coroners
  - Emergency Medical Services
  - Ambulance Services

National Resources

Local Resources

v.1.170105
ACRP Web-Only Document 31
AAMG Tool – Using the Tool

Aircraft Accident Management and Guidance (AAMG) Tool

Adding Resources for Reference
Aircraft Accident Management and Guidance (AAMG) Tool

Recovery
Red Cross
Information

Key Stakeholders
- Clergy
- Volunteer Organizations

Points to Know
- Involvement with the Crash Victims and Families.
  - For crashes involving a high number of fatalities, family members who lost loved ones in the crash are likely to want to visit the site and perhaps conduct a memorial service at the crash site. The Red Cross is prepared to assist in these events.
- Lean on the Red Cross when organizing crash site visits for the families of victims.
  - This step in accident response is vitally important for families but often overlooked in response planning. The Red Cross can take the lead for this essential step in the grieving process or effected families.

Memorial service planning and conducting services is a responsibility of the Red Cross.

Clergy
Response Services
Aircraft Accident Management and Guidance (AAMG) Tool

Recovery
Red Cross - Response Services
National Resources

- Edit
- Delete

Points of Contact
v.1.170105

- Memorial service planning and conduct
- Clergy
- Response Services

National Resources
Local Resources
Aircraft Accident Management and Guidance (AAMG) Tool

Recovery
Red Cross - Response Services
National Resources

Select file to upload by localhost

Local Resources

Points of Contact
v.1.170105
Aircraft Accident Management and Guidance (AAMG) Tool

Recovery

Red Cross - Response Services
National Resources

Resource data is not permanent until the AAMG Configuration is saved!

OK
Aircraft Accident Management and Guidance (AAMG) Tool

Recovery
Red Cross - Response Services
National Resources

Victim Support: Mental Health

Victim Support Task 3 – American Red Cross - Family Care and Mental Health


1. An American Red Cross Critical Response Team (CRT) is deployed from the American Red Cross National Headquarters Disaster Operations Center (DOC) and serves as the functional leadership of family care and crisis intervention during the aviation accident. The CRT will support the local American Red Cross response and manage any spontaneous volunteers.

2. Assign a representative to the IFDOC to coordinate and address American Red Cross - related issues and family requests for assistance.

3. Coordinate and manage the numerous organizations and personnel offering counseling, religious, and other support services to the operation. Create a staff processing center, operated away from the DOC, to screen, monitor, and manage personnel (employee and volunteer staff). The staff processing center will also be responsible for developing an exclusive badge system for personnel, matching staff skills with organizational needs, assigning work schedule, briefing and debriefing of support staff, and planning for future activities.

   a. Qualified local resources should be integrated with American Red Cross personnel for crisis and grief counseling, food services, administrative assistance, and other support services to family members and support organizations.

   b. Crisis and grief counseling for family members who travel to the accident city should be coordinated with air carrier personnel.

4. Employ an accounting system to accurately record cost data in specific cost categories for reimbursement by the air carrier.

5. Assess the needs and available resources of other crisis support agencies, coordinate with them to
ACRP Web-Only Document 31
Process for AAMG Tool Development

Adding Points of Contact
Aircraft Accident Management and Guidance (AAMG) Tool

When an aircraft crashes away from an airport, Law Enforcement personnel will be among the first responders on the scene. The level of awareness regarding aircraft crashes will vary depending on the law enforcement organization. It is possible that State Police Officers may have received training in aircraft accident response procedures whereas a County Sheriff or Deputy may not.

Key Stakeholders
- State Police
- Local Police Departments
- Local Sheriff
- FBI and State Bureau of Investigation

Points to Know
- **Approaching the Crash Site**
  - Approach the scene from the upwind side to avoid inhalation of hazardous smoke and airborne particles.
  - Newer aircraft manufactured with composite materials contain resins which bond the composites together. These are toxic.

- **State Police**

- **Local Police & Sheriff**
ACRP Web-Only Document 31
Process for AAMG Tool Development
Save your session/configuration as an **XML** file.
ACRP Web-Only Document 31
AAMG Tool – Using the Tool

Renamed to AAMG-1-KN
ACRP Web-Only Document 31
Process for AAMG Tool Development

All Done . . . Exit
Improving Stakeholder Engagement in Aircraft Accident Response Planning

Search for:
ACRP Web Document 31 or ACRP 10-22
FOR ADDITIONAL INFORMATION

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ACRP LRD 33

Presenting information from:

LRD 33: Overview of Airport Duties and Standards of Care in Airfield Accident Cases

Jodi Howick, Howick Law, PLLC
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Airport law practitioner serving large and small airports, and previous airport in-house counsel

Past Chair, ACI-NA Legal Committee, past Steering Committee member, and current member

Author of five ACRP legal digest publications

Long-time Adjunct Professor of Aviation Law

Past service in different roles on the ABA Air and Space Forum
Things to keep in mind

• Most past cases are informational.
• They may not predict future results: every case is different.
• They may help when planning for emergencies:
  • Raise awareness
  • Point out research needs
  • Identify areas for proactive legal work
#### Basics: What is negligence?

<table>
<thead>
<tr>
<th><strong>Duty</strong></th>
<th>Under the circumstances, the law required acting with sufficient care to avoid a foreseeable harm.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard of Care</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Breach</strong></td>
<td>Failing to act with that degree of care.</td>
</tr>
<tr>
<td><strong>Cause</strong></td>
<td>The breach leads to harm.</td>
</tr>
<tr>
<td><strong>Harm</strong></td>
<td>Harm occurs.</td>
</tr>
</tbody>
</table>
Two Key Questions

• **Duty**: Did a law impose responsibilities on the airport?

• **Standard**: What care was required under the circumstances?
Premises Liability:

- **Duty:** Owner / possessor of land has legal responsibilities to care for people who are present.

- **Duty:** courts also consider:
  - Federal / local laws and standards
  - Applicable precedent
  - Other legal obligations

- **Standards of Care:** Methods to determine may differs.
Duties and Standards of Care

Examples:

• Ritchie, 356 P.3d 337 (premises liability duty to “maintain reasonably safe conditions for aircraft using the airport”).

• Ins. Co. of N. America, 574 F. Supp. 373 (after a bird collision, considering testimony and NOTAM (notice) requirements to determine duties and standards).
If requirements have the “force and effect of law” they can preempt a court from considering conflicting duties and standards of care.

- Statutes and regulations may contain mandates.
- Some agency decisions are binding.
- Not: agency guidance materials.
Example:

• Bethman, 265 Cal. Rptr. 539, (courts will not impose duties on airports to establish additional standards for navigational aids).
### Summing Up the Basics:

<table>
<thead>
<tr>
<th>Sources of Duties (who is responsible)</th>
<th>Premises Liability / Federal or State Obligations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sources of Standards of Care (what the responsible party should do)</td>
<td>Reasonable care / Consistent with federal standards</td>
</tr>
</tbody>
</table>
Sample Airfield Cases

General Principals*

*Future cases may differ
Can airports shift their duties to someone else?

Generally:

• Premises liability duties usually attach to the possessor of property.

• Duties assigned by law cannot be delegated.

Examples:

• Washburn, 720 F.3d 347 (airport lessees).

• Rogers, 602 P.2d 171 (airline agreement terms).
Generally:

- Inspections enforce and do not shift underlying duties.
- Actions that “increase the risk” may create duties.

Examples:

Do airport plans create negligence duties?

Generally:

- Federal approval doesn’t shift legal responsibilities.
- These may be evidence of a standard of care.

Examples:

Generally:

- What did the circumstances make foreseeable?
- What are the limits of foreseeability?

Examples:

- Moncur, 137 Cal. Rptr. 239 (bomb in locker).
- Fuentes, 82 P.3d 1175 (carjacking).
- 9/11 cases.
Other issues to consider

• Contract obligations
• Insurance provisions
• Local defenses
• Local negligence action elements
• Airport policies generally
• Etc.
Final Thoughts . . .

• Potential liabilities pose a risk: time, money operations.

• Proactive legal work can reduce risks. Consider:
  • Planning activities
  • Contracts / Insurance
  • Impact of local laws, like immunity
  • Risk assessment
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- Managed by TRB and sponsored by the Federal Aviation Administration (FAA).
- Seeks out the latest issues facing the airport industry.
- Conducts research to find solutions.
- Publishes and disseminates research results through free publications and webinars.
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Synthesis Report 45: Model Mutual Aid Agreements for Airports

Synthesis Report 50: Effective Cooperation Among Airports and Local and Regional Emergency Management Agencies for Disaster Preparedness and Response

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September 10
New Resources for Managing Small Airports

September 26
Capture the Data – Quantifying Airport Ground Access Vehicle Activity

October 8
Unclutter Your Processes – Simplifying Climate Risk Management at Airports
Today’s Speakers

• Heidi Ann Benaman, *Faith Group, LLC*, heidi@faithgroupllc.com

• Kenneth Neubauer, *Futron Aviation Corporation*, kneubauer@futronaviation.com

• Jodi Howick, *Howick Law, PLLC*, Jhowick@howicklawfirm.com
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2020

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