

Conflict or Cooperation

Safety and Judicial Investigation of an ATR 72 Accident in Taiwan

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 - *control of the accident site, ownership of the evidence, public communication, safety information protection*
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The opinions expressed in this presentation do not necessarily represent the view of organizations that authors work for.

The ATR 72 Accident

- On 4th February 2015, about 1054
- Shortly after take-off
 - *the aircraft number 2 engine propeller uncommanded auto-feathered*
 - *pilot flying shut down the operative engine number 1*
- 43 people were fatally injured



The Safety Investigation

Aviation Occurrence Investigation Act

■ Article 5

The objective of the ASC 's investigation of aviation occurrence is to prevent recurrence of similar occurrences. It is not the purpose of such investigation to apportion blame or liability.

The ASC shall carry out its duties independently. The parallel investigations and handling process conducted by other competent authorities concerned shall not impede the investigation of the ASC.

The Judicial Investigation

The Code of Criminal Procedure

■ Article 228

If a prosecutor, because of complaint, report, voluntary surrender, or other reason, knows there is a suspicion of an offense having been committed, he shall immediately begin an investigation.

■ Article 218

If a person dies or is suspected of dying from an unnatural cause, the public prosecutor having competent jurisdiction shall immediately examine him.

Accident Site – organizations involved

- Taipei City/New Taipei City
- Ministry of National Defense
- Ministry of Interior
 - *National Airborne Service Corps*
 - *National Fire Agency*
- Ministry of Health and Welfare
- Ministry of Transportation and Communications
 - *Civil Aeronautics Administration*
- NGOs
-
- Ministry of Justice
 - *Shihlin District Prosecutors Office*
- Aviation Safety Council



Seizure and Custody of the Evidence

Aviation Occurrence Investigation Act

■ Article 14

As the necessary measures to conduct an investigation into aviation occurrences, the ASC may have the priority to control and handle the aircraft, the aircraft wreckages, the FDR, the CVR, and other data and objects that may have a bearing on the occurrence.

The Code of Criminal Procedure

■ Article 133

A thing which can be used as evidence or is subject to confiscation may be seized.

Recorders



Recorders



Wreckage



Data Collection/ Interviews

- Flight plan/release information
- Flight crew personal information
- Flight crew training/check records
- Aircraft operation/maintenance documentations
- Safety policy/manual
- Interviews
- Component tests
- Flight simulator test
- Most prosecutors are rarely to be exposed to aviation accidents.
- Access to the safety investigation authority, regulators and other experts.
- Which to collect and whom to interview?

Safety Information Protection

ICAO Annex 13 5.12 & Appendix 2

- Safety information collected during occurrence investigation shall not be disclosed or used in criminal, civil, administrative or disciplinary proceedings.
- Judicial authorities investigate aviation occurrences should take steps to gather evidence to support their own investigations.

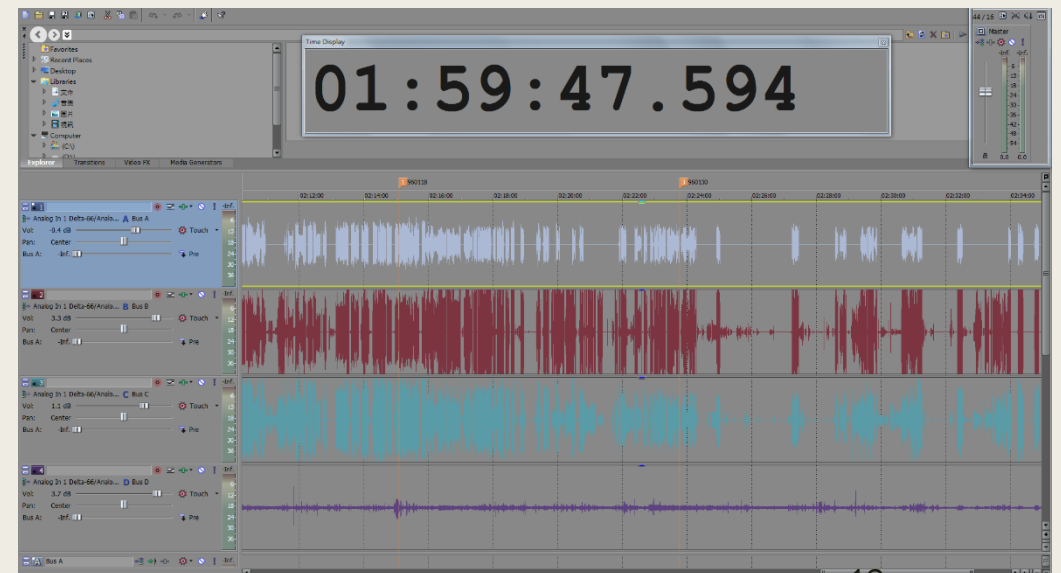
CVR Recording/ Transcript

Aviation Occurrence Investigation Act

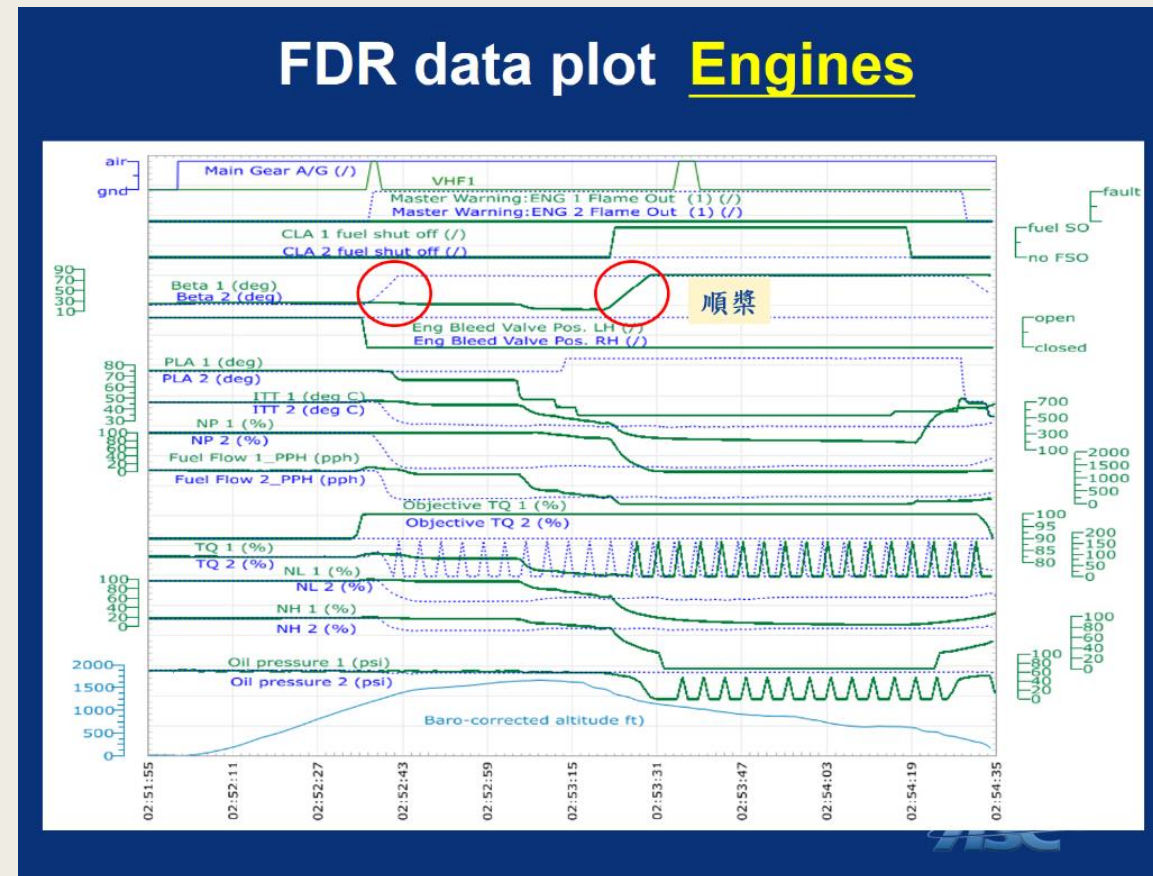
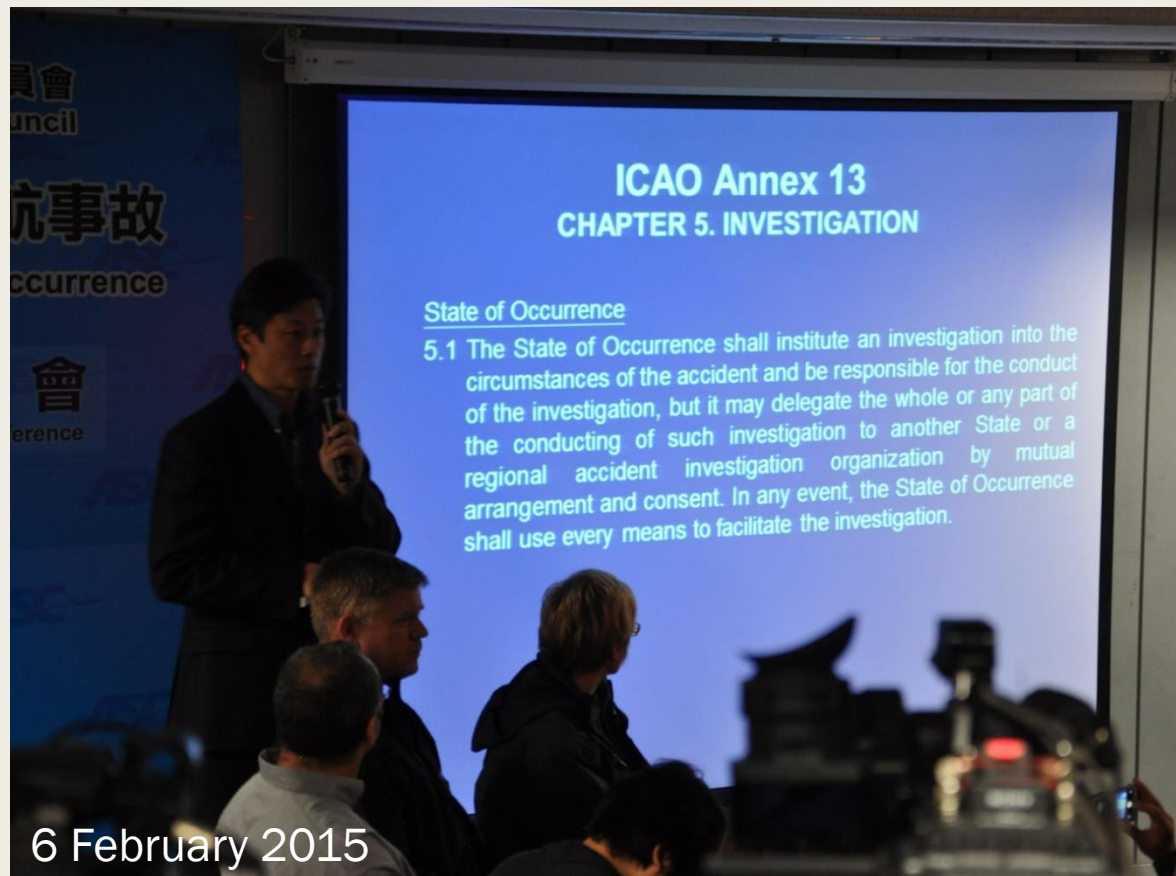
■ Article 22

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Recordings of the CVR, air traffic control communications, and interviews shall not be released to the public.



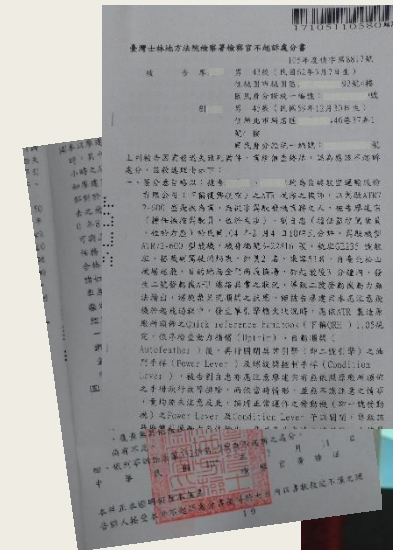
Public Communication - Press Release



No surprise to each other

Results of the Investigations

- After 16 months of investigation, the final report was published in June 2016.
- There are a total of 25 findings and 16 safety recommendations issued to the related organizations.
- The Shilin Prosecutors Office decided to dismiss the case 2 weeks after ASC released the Final Report.



Agreement between Aviation Safety Council and Prosecutor's offices on aviation occurrence investigation

飛航安全調查委員會與檢察機關辦理飛航事故調查協調聯繫作業要點

中華民國103年3月12日

飛安字第1030202019號函

法檢字第10304504710號函

會銜發布

- 一、飛航安全調查委員會（以下簡稱飛安會）與檢察機關間，為調查飛航事故與偵查刑事犯罪，建立協調聯繫作業機制，特訂定本要點。
- 二、飛安會與檢察機關進行飛航事故調查，應本平行調查之原則，尊重雙方之調查職權。
- 三、飛安會與檢察機關平時相互交換工作人員職銜名冊，隨時交換意見，並提供管轄區域及緊急聯絡方法。
進行飛航事故調查時，檢察機關應指定專責檢察官，飛安會應指定主任調查官，負責聯絡事宜。
- 四、檢察官為搜索、扣押證據，與主任調查官為搜尋、移動、戒護及保全證據時，雙方應於權限範圍內互相協助。

- 五、檢察官認有可為證據或得沒收之物，得扣押之。主任調查官為鑑定飛航事故原因，得向檢察官借用扣押物，並應於用畢後立即歸還；檢察官在處理上不得延誤。

Communication and Training



Conclusions

- The aviation professional should be held accountable for their decisions and actions. However, safety improvement with a view to preventing a recurrence should also be considered during judicial process.
- To avoid unnecessary interference and to build mutual trust and understanding, it is necessary to establish communication and training between the safety investigation agency and judicial authority.
- Making aviation expertise available to judicial authorities would facilitate the exercise of the judicial process, and lead to a stable and balanced interaction between aviation safety and the administration of justice.

CONCLUSIONS

What role should the Foundation consider in terms to further the state of understanding, awareness or implementation of the themes of this presentation?

1. Approach judicial authorities for initiating dialogues between aviation professionals and prosecutors.
2. Partner with ICAO or other international organizations to construct workshops for the communication between safety investigators and prosecutors in different regions.

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