INVESTIGATIVE METHOD

There are several Methods a litigator may choose to investigate an accident. He should be warned in advance that any method other than complete investigation will usually result in bad results for the client. In many instances the accident investigation done by the government is either incomplete or wrong, as examples:

1. A Dec 11,1970 Cessna 337 accident was put down as pilot error and a blood alcohol reading sufficient to cause impairment was recorded.....Later it was shown that the blood alcohol reading was in total error and it was removed....There was plenty of evidence that the error was "design Induced "

2. In another accident it was called pilot error as a tired pilot flew an MU2 into the ground while flying an early morning I.L.S. approach. It was deemed pilot error. By investigation it was found that two television stations were off the air. They were broadcasting a standard test pattern. These` two patterns would effect. This variety of I.L.S. receiver. 'The result was a fly down fly right signal. Still later filters were added to the I.L.S. receiver system so it could not be interfered with.

3. A General Aviation CESSNA 172 aircraft catches fire because an E.L.T. antennae shorted the battery. The conclusion was maintenance error. The report was totally devoid of questions like why did the planes interior burn like a World War II negative.

4. A Navy T-28 comes apart in mid air. The Navy said pilot error for entering a thunderstorm area. The airplane is not equipped with weather radar nor did the pilot get vectors from ground radar to avoid imbedded storms. What the Navy report failed to include was that the Air Force had strengthened the tail and the Navy hadn't.

5. In another series of cases the N.T.S.B. has failed to identify flutter accidents. This is because the average N.T.S.B. investigator does not have the capability to identify the fingerprints of flutter.

6. An F-16 crashes and the Air Force says pilot error and possible incapacitation due to misuse of the medicine Bactrim...The Air Force made no uses of the information that every flight instrument in the airplane was lying to him in a failed condition. A.D.I., H.U.D., standby A.D.I., H,S.I. and the actual inertial navigation platform. Only after lawyers reviewed the Boards work , did the USAF reconvene the full Safety Board and concluded a mechanical problem with the aircraft caused the accident.

7. A DC-8 crashes and the N.T.S.B. concludes pilot error and poor Cockpit resource Management. Interestingly this finding was announced in Toledo papers even before the wreckage was cleared. When analyzed the finding was so in error that it relied on impossible physics and aerodynamics. The N.T.S.B. relied on a computer and failed to test their theory either in a simulator or in a real airplane.

The number of wrong conclusions attributable to the N.T.S.B. is not large, but

the number of incomplete investigations is far greater. It is not an indictment of the system, but rather a warning to the litigator that the government's investigation may be flawed. Sam Taylor perhaps the worlds best investigator said it all.

"Pappy just cuz the government says it so don't make it true."

So how is an investigator to determine the validity and completeness of the investigation done by the government?

FIRST: Read it and see what the conclusions are.
SECOND: Determine what was happening on board the aircraft at the beginning of the incident.
THIRD: Determine what variety of accident it was.
Fourth: Determine what may have contributed to the cause.
FIFTH: See who participated as party and whether undue influence is detectable.

Having made these determinations it is time to go to the master investigation checklist and determine what need be accomplished beyond that done by the government. Simplifying the investigative check list is a simple procedure of reading through it and deleting portions that obviously do not apply. From what is left of the checklist an investigation should be initiated.

It is far better to do a too thorough investigation utilizing a philosophy of checking everything and eliminating cause potentials; if this method is followed the investigator comes to only one or a few possible causes. It verifies that nothing has been overlooked, and the veracity and completeness of an investigation is more difficult to impeach. (This method is time consuming and expensive), but well worth it in its results.

An accident investigation by the government may indeed be complete and accurate. When this occurs the investigator's job is simplified and much of the investigators checklist may be omitted.

Usage of the Checklists

An Investigator will find these checklists are helpful in insuring an investigation is complete. An experienced investigator will know almost immediately which lists may be omitted and which followed based on the type and variety of accident. For instance, if the weather is uniformly good and the accident occurred in daylight there is little need for a weather follow up checklist. The most amateur can determine that weather was not a factor. The converse is true when weather is suspected. When the weather is bad then it again is obvious. When the weather is marginal, then I suggest an investigation to determine exactly what the conditions were. An attorney will find the checklists helpful for many reasons:

1. Ask your own expert investigator, whether or not he considered all the various factors. When your own investigator says these checklist items were not considered

ask him why they were deemed inappropriate or unnecessary. Thus you will learn your own case and simultaneously learn why other scenarios are incorrect.

2. The checklists can be utilized to find out the depth the opposition has gone to in their investigation of the accident.

3. The checklist and the section on obtaining data can be used to word production discovery.

4. The checklist can help in F.O.I.A. requests.

A few of the World's best investigators, Sam Taylor, Gus Economi, Dr Al Diehl,C.O. "Chuck Miller", Norman Birch and others all taught that the very best way to investigate an accident was by the checklist exclusion method.

That methodology and protocol is somewhat adopted by the NTSB, THE USAF, ICAO annex 13. Here a checklist of data and things to do is disseminated to appropriate members of the Team or Board. Often entire sections can be completed in short time depending upon the circumstances.

As explained if the weather was good no weather data need be garnered. If an airplane caught fire and burned on the ground much data need not be collected. The checklist method is very good for so long as the checklist is all encompassing, easy to understand and use.

Sam said that when your investigation is completed using this methodology of Collecting all data, then excluding irrelevant data …That when you are finished you have one or more probable causation factors and everything else has been scrutinized and eliminated

Dr Aland Diehl summed it up in one saying. "Look before you buy a horse you look at the whole herd!"