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**Law**

**AIRCRAFT, MISSILE, NUCLEAR, AND SPACE  
ACCIDENT INVESTIGATIONS**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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This instruction implements AFD 51-5, Section B, *Military Legal Affairs*. It provides guidance and procedures for conducting investigations of aircraft, missile, nuclear, and space accidents. It describes when and how to conduct an accident investigation, how to prepare and distribute accident reports, and how to store and dispose of accident wreckage. This instruction gives information and guidance for conducting investigations pursuant to DoD Instruction 6055.7, *Mishap Investigation, Reporting, and Recordkeeping*, April 10, 1989 and Title 10, *United States Code*, Section 2254. See **Attachment 1** for references and definitions of terms.

**SUMMARY OF REVISIONS**

This revision incorporates IC 97-1 and provides guidance for forwarding Aircraft Investigation Board (AIB) documents to the Air Staff and Secretariat prior to releasing AIB reports to the public. Following approval of AIB reports regarding high-interest mishaps, this change requires the convening authority's SJA to immediately fax the following documents to AFLSA/JACT: (1) the approval action; (2) the Summary of the Facts; (3) the Statement of Opinion; (4) a proposed timeline for the release of the AIB report; and (5) any proposed press plan, including press releases and anticipated questions and answers. The documents that are faxed to AFLSA/JACT will be treated as "close hold" until the AIB reports are publicly released. In order to allow sufficient time for Air Staff and Secretariat review, convening authorities will delay public release of high-interest AIB reports until two duty days after the reports have been faxed to AFLSA/JACT. The entire text of IC 97-1 is at Attachment 6. A | indicates changed or revised material from previous edition.

**1. Accident Investigation Procedures.**

**Section A--General Procedures**

**1.1. When to Conduct an Accident Investigation.** You must investigate aircraft, missile, nuclear, or space accidents which involve one or more of the following:

- A Class A mishap as defined in AFI 91-204, *Investigating and Reporting Mishaps*, that results in a limited-use safety mishap investigation.
- A potentially fatal or permanently disabling injury to any person.
- Potential claims against the United States Government for more than \$200,000.00.
- Potential litigation against the United States, government contractors, or any third party.
- Generate significant public interest.

1.1.1. You may conduct investigations of other types of accidents, at the discretion of the convening authority.

**1.2. The Difference Between Accident and Safety Investigations:**

1.2.1. In accident investigations, you primarily gather and preserve evidence for claims, litigation, disciplinary and adverse administrative actions, and for all purposes other than mishap prevention.

1.2.2. In safety investigations, the safety investigation board (SIB) determines the cause of an accident to prevent future mishaps.

1.2.3. You must conduct accident investigations separately from safety investigations.

**1.3. Convening an Accident Investigation.** The same major command (MAJCOM) commander or designee who orders or would order a safety investigation under AFI 91-204, *Investigating and Reporting Mishaps*, also orders an accident investigation. The MAJCOM commander may delegate the authority to convene an accident investigation to the numbered air force (NAF) commander responsible for the accident vehicle. The Air National Guard (ANG) has the discretion to conduct an accident investigation for any mishap not investigated by the Air Force under this regulation.

1.3.1. The commander convenes an accident investigation by appointing, in writing, the investigators and all necessary advisors to assist in the investigation. One or more officers may be appointed to conduct an investigation, depending on the complexity of the accident.

1.3.2. When an accident involves aircraft or personnel from more than one MAJCOM, Air Force component, or from other branches of the military service, the convening authority must be sure that the investigation meets the requirements of all commands, components or services concerned.

1.3.3. The convening authority may request another MAJCOM commander with a unit nearer the location of the accident to convene the investigation.

**1.4. Accident Investigators and Advisors.** Do not choose investigators from the organization that experienced the accident or to which the accident aircraft, missile, nuclear device, space vehicle, or crew member is assigned.

1.4.1. SIB members will not act as accident investigators, technical advisors or witnesses in an accident investigation of the same mishap.

1.4.2. Officers currently performing safety duties cannot participate in accident investigations.

1.4.3. Accident investigators should be officers, preferably senior in grade to persons involved in the accident.

- For aircraft accidents, investigators should be experienced, rated officers, who are qualified and current in the aircraft involved. If there are no officers outside the mishap organization who meet these criteria, the convening authority should appoint an experienced, rated officer who has previously been qualified in the mishap aircraft, or who is qualified and current in a similar type of aircraft with a similar mission to that of the mishap aircraft. Depending on the qualifications of the investigator, the convening authority may appoint a rated officer, who is qualified and current in the mishap aircraft, as a technical advisor. This advisor can be from the mishap organization if there is no other qualified and current officer reasonably available.
- For missile, nuclear, or space accidents, investigators must have expertise and experience in the system involved.
- For aircraft accidents involving the ANG, the investigator may be an experienced and qualified ANG member. Contact the Staff Director, ANG Readiness Center, Andrews AFB, MD for assistance.

1.4.4. The convening authority appoints a legal advisor who ensures full compliance with this instruction. The legal advisor reviews all written material provided by the SIB president to make sure it doesn't include privileged information. Safeguard and immediately return privileged information accidentally received from the SIB.

1.4.5. The convening authority will appoint a technical advisor from the ANG for every accident investigation involving ANG aircraft, with the concurrence of the state adjutant general concerned. Contact the Staff Director, ANG Readiness Center, Andrews AFB MD for assistance.

1.4.6. The convening authority appoints technical advisors from a variety of specialties (such as maintenance, personnel, medical, operations), as necessary.

1.4.7. Legal and technical advisors, including ANG members, must not participate in or have any knowledge of the antecedent safety investigation.

### ***Section B--The Investigation***

#### **1.5. Accident Investigation Procedures in Relation to Safety Investigations:**

1.5.1. The safety investigation takes priority over the accident investigation. You must interview witnesses, obtain and analyze evidence, and inspect the scene of the accident after the safety investigation.

1.5.2. Conduct accident and safety investigations separately to protect part II privileged documents in the safety mishap report.

1.5.3. You may begin an accident investigation before the safety investigation is complete, but it must not interfere with the safety investigation.

1.5.4. Accident investigators can't attend SIB proceedings.

1.5.5. Accident investigators can't review or use privileged documents and privileged source information given to safety investigators.

1.5.6. The SIB president notifies the accident investigator in writing when releasing the wreckage.

**1.6. Summary of Facts and Statement of Opinion.** Accident investigators prepare a *Summary of Facts* and a fully supported *Statement of Opinion*, as described in **Attachment 4**.

**1.7. Restrictions on Accident Investigators.** Accident investigators can't interview members of the SIB or discuss with them their deliberations, findings, recommendations, or other privileged information.

**1.8. Procedures for Gathering Evidence in Accident Investigations.** Accident investigators:

- Obtain all non-privileged material gathered by the SIB from the president, including part I of the safety mishap report.
- Obtain originals of all documents when available.
- Ensure that documents and evidence obtained from the SIB do not include privileged information.
- Use the checklist in **Attachment 2** to guide accident investigations.
- Obtain a list of all witnesses interviewed by the SIB.
- Obtain all negatives and copies of all non-privileged photographs, aircraft videocassette recordings, and medical and personnel records. Accident investigators do not receive intracockpit voice recordings of aircrew members, as these are privileged.
- Obtain and review all relevant documentary medical evidence, including autopsy protocols, X-rays and toxicology reports. (Autopsy protocols are not included in the accident report.)

**1.9. Gathering Evidence from Witnesses in Accident Investigations.**

**1.9.1. Accident Investigators:**

- Tell all witnesses that their testimony might be used in potential adverse actions, litigation, or claims.
- Educate witnesses about the differences between accident and safety investigations.
- Use the guidelines in **Attachment 3** to advise witnesses suspected of criminal offenses of their rights against self-incrimination.

**1.9.2. Witnesses:**

- Can't testify in accident investigations until the SIB president releases them.
- Serving with or employed by the United States Air Force must appear when called and testify under oath or affirmation, unless they assert the privilege against self-incrimination.
- May provide the same factual information to both safety and accident investigators, but the accident investigators must obtain their information through independent questioning. They may not ask witnesses to reveal what testimony was given to the SIB.

1.9.3. Witnesses and technical advisors to the SIB must not reveal testimony, opinions, or recommendations given previously to the SIB. This restriction applies to any person who has access to privileged safety material and who may be called as a witness before other civilian or military proceedings.

**1.10. Legal Advisor's Role in Witness Interviews.** The legal advisor attends all witness interviews to make sure the advice and questions to the witnesses are proper.

**1.11. Transferring Accident Wreckage.** Accident investigators must transfer custody of the wreckage, in writing, to the supporting staff judge advocate (SJA) when they finish the accident investigation.

**1.12. Debriefing Convening Authority.** Accident investigators may debrief the convening authority.

### ***Section C--Handling the Accident Report***

**1.13. Preparing and Distributing Accident Reports.** You must complete accident reports within 30 days after the accident investigation begins, unless the convening authority grants an extension for good cause.

1.13.1. Organize the accident report according to the guidelines in **Attachment 5**. Assemble your completed report on letter-size paper.

1.13.2. Include originals of all available documents related to the accident, to include relevant portions of the maintenance records of the aircraft or missile involved in the accident, except:

- Internal agency communications containing conclusions, opinions, or recommendations.
- The original personnel or flight records of surviving crew members retained by the custodian of records. Use certified copies and note the location of the originals in the report.
- Original tape recordings of radio communications with Air Force air traffic control facilities which the chief, air traffic control operations secures and retains. Include a transcript of all relevant communications, certified by the custodian of the tape recordings in the format outlined in AFI 51-301, *Civil Litigation*.

1.13.3. Send the original and all copies of the accident report to the convening authority's staff judge advocate (SJA). Include all documentary evidence gathered during the investigation and all photographs received from any source, whether or not they are included in the accident report.

- The initial appointment order specifies the number of copies you should produce. You will always need at least 10 copies.

1.13.4. Destroy all accident report drafts and personal notes after the convening authority approves the final report.

**1.14. Responsibilities of the Convening Authority's SJA.** After receiving the report, the SJA:

- Reviews it for legal sufficiency and to make sure it complies with this instruction.
- Coordinates it with relevant staff agencies.
- Submits it to the convening authority with staff comments under separate cover.

**1.15. Distribution of the Report.** After the convening authority approves the report, the SJA:

- Retains the original report.
- Sends one copy of the Summary of Facts and Statement of Opinion to the Air Force Legal Services Agency, Tort Claims and Litigation Division (AFLSA/JACT), 1501 Wilson Boulevard, Room 835, Arlington VA 22209-2403. If the accident might result in litigation or a high degree of publicity, send a copy of the entire accident report.
- If the report concerns a high-interest mishap, then immediately after approval, fax the following documents to AFLSA/JACT for Air Staff and Secretariat review:

- The approval action signed by the convening authority.
- Summary of Facts.
- Statement of Opinion.
- Proposed timeline for the release of the report, including next-of-kin notifications and public release.
- Description of public, press, and congressional interest.
- Any proposed press plan, including the press releases and anticipated questions and answers.

High-interest mishaps include those that result in death or serious personal injury, significant civilian property damage, or are likely to generate high public, press, or congressional interest. In order to allow sufficient time for Air Staff and Secretariat review, delay public release of high-interest AIB reports until two duty days after the documents have been faxed to AFLSA/JACT. The documents that are provided to the Air Staff and Secretariat will be considered "close hold" until such time as the AIB report is publicly released.

- Sends one copy of the report to any MAJCOM involved in the accident.
- Sends one copy of the report to the Chief, National Guard Bureau (Attn: NGB-JA), 2500 Army Pentagon, Washington DC 20310-2500, for cases involving ANG aircraft or personnel, and one copy to the state adjutant general concerned.
- Sends two copies of the report to the responsible claims officer, if claims are anticipated.
- Sends one copy of the report to Headquarters, Air Force Safety Agency Legal Office (HQ AFSA/JA), 9700 Avenue G SE, Kirtland AFB NM 87117-5670.
- Sends one copy of the report to each affected wing of the Air Force, including those to which the accident aircraft, missile, nuclear device or space vehicle is assigned.
- Sends one copy of the report to any office that performs public affairs functions or answers media inquires concerning the accident.
- Sends one copy of the accident report to Headquarters, Air Force Materiel Command Office of the Staff Judge Advocate (HQ AFMC/JA), 4255 Logistics Avenue, Suite 23, Wright-Patterson AFB OH 45433-5762, for cases involving contractors subject to potential contractual liability as a result of the accident.
- Stores all Documentary materials gathered by the accident investigator, but not included in the report, including photographs.

**1.16. Responsibilities of the Convening Authority.** The convening authority:

1.16.1. Reviews the report and approves it or recommends further action.

1.16.2. Assigns the accident investigator or another appropriate individual to personally deliver a copy of the accident report to the spouse or next-of-kin of fatally or seriously injured military personnel. The convening authority may also deliver the accident report to the spouse or next-of-kin of civilians fatally or seriously injured in the accident.

- The convening authority chooses an individual who has similar qualifications to the deceased or injured person, and whose grade is equal or higher. The individual should explain the accident to the spouse or next-of-kin.

- Does not send any person who had access to the safety mishap report or to privileged messages or information regarding the same accident.

**1.17. Early Release of Factual Information.** The convening authority, upon request, can release unclassified tapes, scientific reports, and other factual information pertinent to an accident investigation to the public before releasing the accident report, if the convening authority determines:

- The accident report would contain the factual information or materials requested, and
- Releasing the requested material won't undermine the ongoing accident or safety investigations, and
- National security will not be compromised.

1.17.1. The guidelines in paragraph **1.18.** of this instruction do not apply to officials responsible for, or who are conducting a safety investigation about the same accident.

**1.18. Releasing Accident Reports.** The convening authority's SJA (or designee) decides when to release accident reports.

1.18.1. To process requests for copies of the report:

- Provide a copy free of charge to the spouse or next-of-kin of individuals fatally or seriously injured in the accident. On request, provide a free copy to anyone who suffered substantial property damage.
- Charge the fees specified in AFI 37-131, *Air Force Freedom of Information Act Program*, for requests made under the Freedom of Information Act.
- Apply the fees specified in Air Force Pamphlet 37-145, *Schedule of Fees for Copying, Certifying and Searching Records and Other Documentary Material*, for all other requests.

## **2. Post-Investigation Procedures.**

### ***Section A--Disposition of Wreckage***

**2.1. Disposition of Wreckage and Other Materials.** AFLSA/JACT coordinates the defense in all Air Force aircraft accident litigation against the United States, and retains wreckage in cases involving possible litigation or a high degree of publicity. AFLSA/JACT must approve all requests to release all or portions of the wreckage for reuse or disposal after approval of the accident report. Wreckage can't be released without AFLSA/JACT approval, even if an accident investigation wasn't conducted.

2.1.1. After AFLSA/JACT approves disposal of the accident wreckage, the convening authority's SJA can discard the documentary material gathered by the accident investigator, unless:

- Source agency requires its return.
- Other directives require its retention.

**2.2. Responsibilities of the Supporting SJA.** The supporting SJA:

- Retains and preserves the wreckage.
- Requests AFLSA/JACT approve disposal of wreckage, through the convening authority's SJA, before disposing of wreckage.

- Requests to dispose of wreckage may be made by letter, message, or telephone to AFLSA/JACT, and must include the following information:
  - Date and time of accident.
  - Type and serial number of aircraft, missile or space vehicle involved.
  - Location of accident.
  - Details and status of persons injured.
  - Short, factual summary of the accident, including a list of any parts that may be relevant to claims and litigation.
  - Estimate of the number, types, and dollar amount of claims anticipated.

**2.3. AFLSA/JACT Responsibilities.** AFLSA/JACT:

- Receives all eight-hour reports on flight mishaps.
- Maintains files on aircraft accidents by date and aircraft type to control wreckage disposal, and monitors claims and litigation after the accident investigation is completed.
- Approves requests to release wreckage in cases where no litigation or public interest is anticipated.

**2.4. Storing Wreckage.** The installation nearest the site of the accident is responsible for removing and storing the wreckage. If this installation does not have the capability, the MAJCOM to which the accident aircraft, missile or space vehicle is assigned assumes responsibility.

2.4.1. The gaining command assumes responsibility for removing and storing the wreckage of AFRES or ANG aircraft, missiles, or space vehicles when the unit can't handle it.

2.4.2. The MAJCOM or gaining command that assumes responsibility for the aircraft, missile, or space vehicle pays the cost of removing and storing the wreckage.

2.4.3. The MAJCOM or gaining command that assumes responsibility for the aircraft, missile or space vehicle cleans up the crash site and appoints a project officer in cases involving hazardous materials, fuels or other environmental contamination. The Air Force designates the project officer as the on-scene coordinator, as delegated by the President of the United States in Executive Order 12580, January 29, 1987. (See Title 40, *Code of Federal Regulations*, Part 300, "National Oil and Hazardous Substances Pollution Contingency Plan," 1992.)

BRYAN G. HAWLEY, Maj General, USAF  
The Judge Advocate General



## Attachment 1

### GLOSSARY OF REFERENCES, ABBREVIATIONS, ACRONYMS, AND TERMS

#### *References*

DoD Instruction 6055.7, *Mishap Investigation, Reporting and Recordkeeping*

10 U.S.C. 2254, *Use of Aircraft Accident Reports*

40 CFR 300, *National Oil and Hazardous Substances Pollution Contingency Plan*

AFI 13-203, *Air Traffic Control*

AFI 37-124, *The Air Force Information Collection Program*

AFI 37-131, *Air Force Freedom of Information Act Program*

AFI 37-132, *Air Force Privacy Act Program*

AFI 37-133 Vol II, *Disposition of Air Force Records-Records Disposition Standards*

AFI 51-301, *Civil Litigation*

AFI 90-302, *Inspector General Complaints Program*

AFI 91-204, *Investigating and Reporting Mishaps*

AFPAM 37-145, *Schedule of Fees for Copying, Certifying and Searching Records and Other Documentary Material*

#### *Abbreviations and Acronyms*

**AFLSA/JACT**—Air Force Legal Services Agency/Tort Claims and Litigation Division

**AFRES**—Air Force Reserve

**ANG**—Air National Guard

**DoD**—Department of Defense

**HQ AFMC**—Headquarters, Air Force Materiel Command

**HQ AFSA**—Headquarters, Air Force Safety Agency

**MAJCOM**—Major Command

**NAF**—Numbered Air Force

**NOTAM**—Notices to Airmen

**RCS**—Record Control Symbol

**SIB**—Safety Investigation Board

**SJA**—Staff Judge Advocate

**TCTO**—Time Compliance Technical Orders

**USAF**—United States Air Force

**U.S.C.—United States Code**

**Terms**

**Accident**—An unplanned, unsought, non-combat event resulting in injury, death, or property damage. It is synonymous with mishap as defined in DoDI 6055.7.

**Accident Investigation**—Investigation of an aircraft, missile, nuclear, or space accident conducted under this instruction.

**Accident Report**—A record containing documentary data and evidence gathered during an accident investigation conducted under this instruction. The formal title is *Aircraft (Missile or Nuclear or Space) Accident Investigation Report*. An accident report is not privileged and is fully releasable to the public.

**Convening Authority**—The individual who has the authority to order an accident investigation.

**Legal Advisor**—An experienced judge advocate assigned to provide advice to the accident investigator or board. The advisor should be appointed in writing, and should be from the convening authority's staff. The advisor should have no connection or role in the antecedent safety investigation.

**Mishap**—See definition of **accident**.

**Privileged Information**—Information that is exempt by law from disclosure outside the Air Force safety community and includes findings, conclusions, causes, recommendations, and the deliberative process of the SIB. This category of information also includes witness statements, contractors' reports, and recorded intracockpit communications given to the SIB pursuant to a promise of confidentiality. Consult AFI 91-204 for further guidance. Privileged information will not be included in an accident report.

**Safety Investigation**—Investigation of a mishap for the sole purpose of preventing mishaps.

**Safety Mishap Report**—A record containing findings, conclusions, and documentary evidence gathered by a safety investigation. The formal title is *Limited-use Safety Mishap Investigation Report*. Part I of the safety mishap report contains all the factual information and documents gathered during the safety investigation. Part II of the safety mishap report contains all the privileged information and documents obtained through promises of confidentiality. Limited-use safety mishap investigation reports are close hold, internal communications of the Air Force; their sole purpose is mishap prevention.

**Supporting Staff Judge Advocate (SJA)**—The SJA of the legal office that is providing direct, day-to-day support to the accident investigator or board. Normally, this is the legal office of the installation closest to the accident site. The convening authority will designate this SJA. This appointment need not be in writing.

**Technical Advisor**—An individual highly experienced in the function in question (for instance, medical, maintenance, or operations), who is appointed to assist the investigator or board. The advisor must have no relationship or connection with the antecedent safety investigation of the same accident. Advisors should be appointed in writing.

## Attachment 2

### CHECKLIST FOR ACCIDENT INVESTIGATORS

**A2.1.** Contact the convening authority's SJA for an initial briefing.

**A2.2.** Review AFI 51-503, *Aircraft, Missile, Nuclear, and Space Accident Investigations*; AFI 90-302, *Inspector General Complaints Program*; and AFI 91-204, *Investigating and Reporting Mishaps*.

**A2.3.** Contact the SIB president to:

- Determine the status of the safety investigation and decide when to proceed with your investigation.
- Obtain a list of the witnesses interviewed by the SIB.
- Find out if the SIB has released the witnesses you want to interview.
- Obtain a copy of part I of the safety mishap report. Also obtain all other non-privileged material gathered by the SIB and not included in part I of the safety mishap report. The legal advisor reviews this material when you receive it to make sure it doesn't contain privileged information. HQ AFSA/JA resolves questions about the privileged status of any of this material.
- Remove all **For Official Use Only** markings from documents. If AFI 91-204 **Privilege** markings appear on any document, contact the SIB to find out if it released that document by mistake. Do not remove the marking without approval of the SIB president. Delete all social security numbers and home addresses that appear on documents.
- Obtain release of the wreckage from the SIB president for use in your investigation.

**A2.4.** Ask the convening authority to detail technical advisors, as needed, to assist in the investigation.

**A2.5.** Begin compiling the accident report. Include all available documentary evidence and known facts about the accident so that commanders and their advisors can assess legal liability and determine if disciplinary or other actions are necessary. Use original documents when available. Do not write on documentary evidence or add any marks to it.

**A2.6.** Learn the procedures for advising, swearing, and interviewing witnesses.

A2.6.1. Have the legal advisor present during all witness interviews to make sure you follow proper procedures in questioning witnesses and advising them of their rights.

**A2.7.** Record and transcribe verbatim witness testimony, or get a signed statement from the witness. Do not include a witness' social security number on the statement. Package and label all audio tapes, stenographer notes, and any items used to record testimony. Send to the convening authority's SJA for storage.

**A2.8.** Limit the information you include in the accident report to material that is releasable to the public. If you have any questions in this regard, contact the legal advisor, AFLSA/JACT, or HQ AFSA/JA.

**A2.9.** Receive and review autopsy protocols from medical authorities or the SIB. Don't include the autopsy protocols in the accident report. Return the autopsy protocols and medical records of surviving crew members to the proper custodians.

**A2.10.** Obtain toxicology reports from the medical facility at the installation where the specimens were taken. (Toxicology tests are conducted after most flight accidents. Refer to AFI 91-204.)

**A2.11.** For ANG accidents, determine what type of duty orders applied to the crew members. Include this information and a copy of the orders in the accident report.

**A2.12.** Prepare at least one original and nine copies of your report on letter-size paper, following the procedures specified in **Attachment 5**. Distribute the report as outlined in paragraph 5.3. of this instruction. The convening authority may authorize additional copies.

**A2.13.** Consult your legal advisor frequently as you write your report.

**A2.14.** State your opinion about what caused the accident, following the guidelines in **Attachment 4**, paragraph **A4.3**. If you don't have enough evidence for an opinion, describe those factors, if any, that you believe substantially contributed to the accident. Contact your legal advisor for assistance. The legal advisor will review your statement for legal sufficiency.

**A2.15.** Tell the convening authority the results of your investigation.

**A2.16.** Provide the convening authority with a complete list of witnesses interviewed. Include full names, home addresses, telephone and social security numbers. Do not incorporate this list into the final accident report. If detailed, personally deliver a copy of the approved accident report to the spouse or next-of-kin of deceased military or civilian and seriously injured people. Be prepared to explain the facts and circumstances surrounding the accident.

## Attachment 3

### FORMAT FOR GIVING ADVICE TO WITNESSES

**A3.1. Script for Preparing Witnesses.** My name is \_\_\_\_\_. I am/We are investigating the aircraft/missile/nuclear device/space vehicle accident that occurred on \_\_\_\_\_, near \_\_\_\_\_. This investigation is separate and apart from the safety investigation conducted under AFI 91-204. The purpose of this investigation is to find and preserve evidence to use in claims, litigation, disciplinary actions, adverse administrative proceedings, and for all other purposes. A safety investigation is also being conducted on the accident. Any testimony you gave before the safety investigation board will be kept confidential and can be used only for mishap prevention purposes. However, your testimony to me/us may be used for any purpose that the authorities involved decide is proper, and can be released to the public. Do you understand the difference between the safety investigation and this accident investigation?

**A3.2. Advisement of Rights.** If a witness is suspected of a criminal offense, you must provide the following additional advice:

A3.2.1. Advisement of rights for civilian suspects: My name is \_\_\_\_\_. I am/We are investigating the aircraft/missile/nuclear device/space vehicle accident that occurred on \_\_\_\_\_ near \_\_\_\_\_. I/We have reason to suspect you of the alleged offense or offenses of \_\_\_\_\_. I advise you that under the Fifth Amendment to the Constitution, you have the right to remain silent, that is, to say nothing at all. Any statement you make, oral or written, may be used as evidence against you in a trial or in other judicial or administrative proceedings. You have the right to consult with a lawyer, if you desire, and to have a lawyer present during this interview. You may obtain a civilian lawyer of your own choosing at your own expense. If you cannot afford a lawyer, the military will give you reasonable assistance in finding one. However, the military will not provide you with a lawyer. You may request a lawyer at any time during this interview, and if you decide to answer questions without a lawyer present, you may stop the questioning at any time.

A3.2.2. Advisement of rights for military suspects: My name is \_\_\_\_\_. I am/We are investigating the aircraft/missile/nuclear device/space vehicle accident that occurred on \_\_\_\_\_ near \_\_\_\_\_. I/We have reason to suspect you of the alleged offense or offenses of \_\_\_\_\_. I advise you that under the provisions of Article 31 of the *Uniform Code of Military Justice*, you have the right to remain silent, that is, to say nothing at all. Any statement you make, oral or written, may be used as evidence against you in a trial by court-martial, or in other judicial or administrative proceedings. You have the right to consult with a lawyer, if you desire, and to have a lawyer present during this interview. You have the right to military legal counsel free of charge. In addition to military counsel, you are entitled to civilian counsel of your own choosing, at your own expense. You may request a lawyer at any time during this interview. If you decide to answer questions without a lawyer present, you may stop the questioning at any time.

A3.2.3. Questions to ask after advising individuals of their rights:

- Do you understand your rights?
- Do you wish to remain silent or will you answer my questions?
- Do you want a lawyer?

***NOTE:***

Whenever any witness requests a lawyer, refer the request to the supporting SJA and stop questioning.

**A3.3. Oath for Swearing of Witnesses.** Do you solemnly swear/affirm that the testimony you are about to give in the matter now under investigation shall be the truth, the whole truth, and nothing but the truth, so help you God?

***NOTE:***

If a witness chooses to affirm, do not say the phrase **so help you God** when administering the oath.

## Attachment 4

### PREPARING THE SUMMARY OF FACTS AND STATEMENT OF OPINION

#### **A4.1. The Statement of Authority and Purpose includes:**

A4.1.1. Reference to the letters appointing the accident investigator or board and any technical advisors by date and issuing headquarters, as well as reference to the authority for conducting the accident investigation under AFI 51-503, *Aircraft, Missile, Nuclear, and Space Accident Investigations*.

A4.1.2. A brief statement about the type and purpose of the investigation; the date and location of accident; the type of aircraft, missile, nuclear device, or space vehicle involved; and information about the type and number of casualties and the extent of property loss.

**A4.2. Summary of Facts.** The *Summary of Facts* presents a thorough overview of the facts relevant to the accident. Write the *Summary of Facts* in a narrative style. Avoid acronyms so that even readers with limited technical expertise can understand it. Make sure you cite relevant tab and page numbers to support any statements you include in the *Summary of Facts*. Use the following outline to help you structure your *Summary of Facts*:

#### **A4.2.1. History of Flight, Missile, or Space Vehicle Activity:**

- Describe where the flight started and ended and the course it took, including the time, date, and number of the flight.
- Identify significant facts leading to the accident.
- Tell which command handled questions about the accident.
- Describe news media involvement, if any.

**A4.2.2. Mission.** Describe the mission of the mishap aircraft or the purpose of the missile activity:

#### **A4.2.3. Briefing and Preflight:**

- Review the amount of crew rest received prior to the flight.
- Comment on the adequacy of the mission briefing.
- Comment on normalcy of procedures.
- Describe problems experienced or misunderstandings during the briefing or preflight and how they were corrected.

#### **A4.2.4. Flight, Missile, or Space Vehicle Activity:**

- Describe how the flight plan related to the mission of the mishap aircraft.
- Tell how missile activity related to the missile accident.
- Describe communications between the mishap aircraft or missile facility and flight control, ground control, or other communication participants.
- Identify known navigational difficulties, including terrain, weather, and similar factors.
- Describe the sequence of events, including the aircraft altitude and performance, until time of impact.

**A4.2.5. Impact.** Describe location, time, date, aircraft altitude, airspeed, angle of attack, and related facts at time of impact.

**A4.2.6. Egress System:**

- Indicate whether an ejection seat sequence was initiated. If so, was it within the performance envelope of the system?
- Note any deficiency suspected in egress system operation.

**A4.2.7. Personal and Survival Equipment:**

- Note whether personal and survival equipment inspections were up to date.
- Describe how the crew used the survival equipment. Note any difficulties experienced.

**A4.2.8. Rescue:**

- State the time of the crash.
- State the time and origin of the first rescue call.
- Identify the unit responding to the call and the time it found the injured people, fatalities, and wreckage.

**A4.2.9. Crash Response:**

- Describe the rescue effort from the time the initial rescue call was received. List equipment sent to the crash site.
- Explain any delays between the time the accident was discovered, the rescue call, and the time the rescue team left for the crash site.
- Identify difficulties experienced in the rescue effort, such as:
  - Weather,
  - Time of day,
  - Topography,
  - Civilians at the crash scene,
  - Local law enforcement.

**A4.2.10. Maintenance Documentation.** Review available documentation and report:

- Discrepancies you note in reviewing the Aircraft AFTO Form 781 Series or missile maintenance logs which may relate to the accident.
- Status of all Time Compliance Technical Orders (TCTO), including whether completed and discrepancies noted which may relate to the accident. Obtain approval from the Technical Content Manager before including TCTO in the accident report.
- Status of all scheduled aircraft or missile inspections, including whether satisfactorily completed and any discrepancies you note which may relate to the accident.
- Status of oil analysis records. Determine if pre-accident oil analyses were taken and note discrepancies.
- Status of time change requirements, including whether completed on time and discrepancies noted.



- Observations on the equipment review report, including whether component inspections were completed on time. Note any discrepancies you find. If the report reveals overdue times, determine whether depot maintenance or a civilian subcontractor was responsible. State if a civilian agency provided post-accident teardown work. Include all reports.
- Unscheduled maintenance performed on the aircraft or missile since the completion of the last scheduled inspection. Describe the work performed, noting any possible relationship between the unscheduled maintenance and the accident. Note any expendables or other items replaced, repaired, tested, or overhauled. List agencies, dates and places where removal, installation, and benchcheck/testing, repair, and overhaul were completed.
- Any maintenance procedure, practice, or performance that appears related to the accident--including work completed by civilian contractors.

**A4.2.11. Maintenance Personnel and Supervision:**

- Review preflight servicing of aircraft, paying attention to the quality of supervision provided to aircraft maintenance personnel, as well as to their performance.
- Determine if maintenance personnel had adequate training and experience to complete assigned tasks by reviewing:
  - AF Forms 623, *On-the-Job Training Record*.
  - AF 797, *Job Qualification Standard Continuation/Command JQS*.
  - Staff progress records.
  - Staff certifications.
- Note any maintenance practice or procedure that may be a factor in the accident.

**A4.2.12. Engine, Fuel, Hydraulic, and Oil Inspection Analysis:**

- Review engine inspection data for normalcy.
- Review fuel test report data for normalcy.
- Review hydraulic fluid test report data for normalcy.
- Review oil test report for normalcy.

**A4.2.13. Airframe and Aircraft, Missile, or Space Vehicle Systems:**

- Review the components and accessories of systems that completed operational testing or submitted teardown reports relating to the accident. Include reviews of at least the hydraulic, electrical, mechanical, avionics, and power plant systems.
- Identify any manufacturers of component or accessory systems who were contacted about the suspected system failure.
- Identify any repair station involved in overhauling, repairing, benchchecking, or testing component, accessory system, or unit suspected of failure. Determine whether the Federal Aviation Administration approved or certified that station.

**A4.2.14. Operations Personnel and Supervision:**

- Name the authority that authorized the mission.
- Identify the briefing officer and the briefing guide that officer used. Note whether squadron supervisory personnel attended the briefing. Comment on the thoroughness of the briefing.

#### **A4.2.15. Crew Qualifications:**

- Review the records of the aircrew members of the mishap flight to assess their training, performance, experience level, and overall qualifications.
- Summarize the experience of each flying officer involved in the accident by hours of flying time and include a 30-60-90 day breakdown.
- Describe the training each crew member completed, noting any deficiencies. Present this information chronologically.

#### **A4.2.16. Medical:**

- State whether crew members were medically qualified for flight or missile alert duty at time of accident.
- Review postmortem toxicology reports.
- Review post-accident medical examination records of survivors and state whether any results appear to relate to the accident.

**A4.2.17. Nav aids and Facilities.** Review local area notices to airmen (NOTAM) that appeared on the date of the accident to determine if any special circumstances on that date might have affected the mission.

#### **A4.2.18. Weather:**

- Completely describe the forecast weather for the date of the accident, including precipitation, cloud cover at various altitudes, and visibility.
- Review available witness testimony to verify actual weather on the date of the accident.

#### **A4.2.19. Governing Directives and Publications:**

- List all directives and publications that apply to the mission.
- State any known or suspected deviations from the directives or publications by crew members or others involved in the mission.

**A4.3. Statement of Opinion.** You need to prepare a *Statement of Opinion* according to federal statute, on a separate piece of paper. The *Statement of Opinion* can be released to the public. The *Statement* presents the accident investigator's personal opinion about either what caused the accident or substantial contributing factors, based on the facts gathered. The *Statement* must be clear and complete. The accident investigator should reference specific facts supporting any conclusions. The accident investigator's opinion will not be considered an admission of liability by the United States or of any person referred to in the accident investigator's conclusions or statements. The accident investigator's opinion may not be considered as evidence in any civil or criminal proceeding arising from the aircraft accident.

A4.3.1. Accident investigators give their opinion about what caused the aircraft accident only when clear and convincing evidence supports their opinion. **Clear and convincing** is a legal standard. The accident investigator consults with the legal advisor to determine if the available evidence meets the clear and convincing standard.

A4.3.2. Clear and convincing evidence enables the accident investigator to reach a conclusion without serious or substantial doubt. Any conclusion about what caused the aircraft accident must be supported by evidence that shows it is highly probable that the conclusion is correct.

A4.3.3. If there is insufficient evidence to meet the clear and convincing standard, the accident investigator describes the factor or factors, if any, that he or she believes contributed to, or caused the aircraft accident.

A4.3.3.1. A substantially contributing or causal factor is a factor that played an important role either directly or indirectly, in the sequence of events that led to the mishap.

A4.3.3.2. Any conclusion about such substantially contributing or causal factors must be based on substantial evidence. Substantial evidence is more than a trace of evidence and is that which a reasonable person would accept as adequate to support a conclusion.

A4.3.4. Include the following statement at the beginning of the *Statement of Opinion*: "Under 10 U.S.C. 2254(d), any opinion of the accident investigators as to the cause or causes of, or the factors contributing to, the accident set forth in the accident investigation report may not be considered as evidence in any civil or criminal proceeding arising from an aircraft accident, nor may such information be considered an admission of liability by the United States or by any person referred to in those conclusions or statements."

**A4.3.5. Signature.** Sign and date the *Summary of Facts* and *Statement of Opinion*, individually using the title **Accident Investigation Officer** or **Board President**.

## Attachment 5

### ORGANIZATION OF ACCIDENT REPORT

**A5.1.** The accident report should include a cover sheet, the *Summary of Facts*, *Statement of Opinion* and an index of tabs. Include the following tabs in the report.

	<b>TAB</b>
A5.1.1. AF Form 711, <b>USAF Mishap Report</b>	A*
A5.1.2. Preliminary Message Report	B
A5.1.3. AF Form 711b, <b>Aircraft Flight Mishap Report</b>	C*
A5.1.4. AF Form 711c, <b>Aircraft Maintenance &amp; Materiel Report</b>	D*
A5.1.5. Eliminated	E
A5.1.6. Eliminated	F
A5.1.7. Flight and Personnel Records	G
A5.1.8. AFTO Form 781 Series	H
A5.1.9. Product Quality Deficiency Reports	I
A5.1.10. Technical or Engineering Evaluations of Materiel (prepared by DoD agencies)	J
A5.1.11. DD Form 175, <b>Military Flight Plan</b>	K
A5.1.12. DD Form 365-4, <b>Weight and Balance Clearance Form F Tactical or Transport</b>	L
A5.1.13. Certificate of Damage	M
A5.1.14. Transcripts of Recorded Air-to-Ground and Aircraft-to- Aircraft Communications	N
A5.1.15. Any Additional Substantiating Data or Reports	O
A5.1.16. Statement of Damage to Private Property	P
A5.1.17. Orders Appointing the Safety Investigation President or Board	Q
A5.1.18. Diagrams of Accident Area	R
A5.1.19. Photographs	S
A5.1.20. Individual Flight Records	T
A5.1.21. Aircraft Maintenance Records	U**
A5.1.22. Witnesses Testimony and Statements	V
A5.1.23. Weather Observations	W
A5.1.24. Statements of Injury or Death	X***
A5.1.25. Documents Appointing Accident Investigation Officer or Board and Technical Advisors	Y
A5.1.26. Photographs Not Included in Part I of Safety Mishap Report	Z****

## **A5.2. NOTES:**

\*Carefully review AF Form 711, item 11, with the SIB president to make sure it doesn't include privileged information.

\*\*Include in Tab U significant maintenance documents not included in part I of the safety mishap report.

\*\*\*Include in Tab X only information that if released does not violate the provisions under AFI 37-132, *Air Force Privacy Act Program*, or constitute a clearly unwarranted invasion of personal privacy under AFI 37-131, *Air Force Freedom of Information Act Program*. Avoid detailed, gruesome descriptions which may offend the spouse or next-of-kin. Do not include the autopsy protocol.

\*\*\*\*Assure that no captions, overlays, or markings are on any photographs provided by the SIB that indicate conclusions regarding cause or that reveal the deliberative process of the SIB. Include in Tab Z significant photographs not included in part I of the safety mishap report at Tab S.

A5.2.1. Obtain part I of the safety mishap report from the SIB president and incorporate it verbatim into the accident report. Make the tabs in the accident report consistent with those used in part I of the safety mishap report. Part I and Tabs A-S of the accident investigation report will be identical.

A5.2.2. Any information or material developed by the accident investigation which is not included under Tabs T-Z may be placed under additional tabs beginning with Tab AA.

A5.2.3. Arrange and mark documents in numerical sequence, if more than one document is contained under a tab. (e.g., Testimony of Major John Doe, Tab V-1)

A5.2.4. State the location and custodial office of the original documents and materials if they are not included in the accident report.

## Attachment 6

### TEXT OF IC 97-1, 29 DECEMBER 1997

#### *SUMMARY OF REVISIONS*

This interim change (IC) 97-1 and provides guidance for forwarding Aircraft Investigation Board (AIB) documents to the Air Staff and Secretariat prior to releasing AIB reports to the public. Following approval of AIB reports regarding high-interest mishaps, this change requires the convening authority's SJA to immediately fax the following documents to AFLSA/JACT: (1) the approval action; (2) the Summary of the Facts; (3) the Statement of Opinion; (4) a proposed timeline for the release of the AIB report; and (5) any proposed press plan, including press releases and anticipated questions and answers. The documents that are faxed to AFLSA/JACT will be treated as "close hold" until the AIB reports are publicly released. In order to allow sufficient time for Air Staff and Secretariat review, convening authorities will delay public release of high-interest AIB reports until two duty days after the reports have been faxed to AFLSA/JACT.

1.15. Distribution of the Report. After the convening authority approves the report, the SJA:

- Retains the original report.
- Sends one copy of the Summary of Facts and Statement of Opinion to the Air Force Legal Services Agency, Tort Claims and Litigation Division (AFLSA/JACT), 1501 Wilson Boulevard, Room 835, Arlington VA 22209-2403. If the accident might result in litigation or a high degree of publicity, send a copy of the entire accident report.
- If the report concerns a high-interest mishap, then immediately after approval, fax the following documents to AFLSA/JACT for Air Staff and Secretariat review:
  - The approval action signed by the convening authority.
  - Summary of Facts.
  - Statement of Opinion.
  - Proposed timeline for the release of the report, including next-of-kin notifications and public release.
  - Description of public, press, and congressional interest.
  - Any proposed press plan, including the press releases and anticipated questions and answers.

High-interest mishaps include those that result in death or serious personal injury, significant civilian property damage, or are likely to generate high public, press, or congressional interest. In order to allow sufficient time for Air Staff and Secretariat review, delay public release of high-interest AIB reports until two duty days after the documents have been faxed to AFLSA/JACT. The documents that are provided to the Air Staff and Secretariat will be considered "close hold" until such time as the AIB report is publicly released.

- Sends one copy of the report to any MAJCOM involved in the accident.
- Sends one copy of the report to the Chief, National Guard Bureau (Attn: NGB-JA), 2500 Army Pentagon, Washington DC 20310-2500, for cases involving ANG aircraft or personnel, and one copy to the state adjutant general concerned.
- Sends two copies of the report to the responsible claims officer, if claims are anticipated.

- Sends one copy of the report to Headquarters, Air Force Safety Agency Legal Office (HQ AFSA/JA), 9700 Avenue G SE, Kirtland AFB NM 87117-5670.
- Sends one copy of the report to each affected wing of the Air Force, including those to which the accident aircraft, missile, nuclear device or space vehicle is assigned.
- Sends one copy of the report to any office that performs public affairs functions or answers media inquiries concerning the accident.
- Sends one copy of the accident report to Headquarters, Air Force Materiel Command Office of the Staff Judge Advocate (HQ AFMC/JA), 4255 Logistics Avenue, Suite 23, Wright-Patterson AFB OH 45433-5762, for cases involving contractors subject to potential contractual liability as a result of the accident.
- Stores all Documentary materials gathered by the accident investigator, but not included in the report, including photographs.