



ICAO

Doc 10053

Manual on Protection of Safety Information

Part I – Protection of Accident and Incident Investigation Records
First Edition, 2016



Approved by and published under the authority of the Secretary General

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Published in separate English, Arabic, Chinese, French, Russian
and Spanish editions by the
INTERNATIONAL CIVIL AVIATION ORGANIZATION
999 Robert-Bourassa Boulevard, Montréal, Quebec, Canada H3C 5H7

For ordering information and for a complete listing of sales agents
and booksellers, please go to the ICAO website at www.icao.int

First edition, 2016

Doc 10053, *Manual on Protection of Safety Information*
Part I — *Protection of Accident and Incident Investigation Records*
Order Number: 10053
ISBN 978-92-9249-987-7

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10053 PART I 2016

AMENDMENTS

Amendments are announced in the supplements to the *Products and Services Catalogue*; the Catalogue and its supplements are available on the ICAO website at www.icao.int. The space below is provided to keep a record of such amendments.

RECORD OF AMENDMENTS AND CORRIGENDA

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FOREWORD

In response to the Accident Investigation and Prevention (AIG) Divisional Meeting held in Montréal from 13 to 18 October 2008, the High-level Safety Conference held in Montréal from 29 March to 1 April 2010 and the 37th Session of the ICAO Assembly held in Montréal from 28 September to 8 October 2010, a multidisciplinary Safety Information Protection Task Force (SIP TF) was established to provide recommendations for new and/or enhanced ICAO provisions and guidance material related to the protection of safety information. The SIP TF developed recommendations for amendments to Annex 6 — *Operation of Aircraft*, Annex 13 — *Aircraft Accident and Incident Investigation* and Annex 19 — *Safety Management*.

During the 38th Session of the ICAO Assembly, held in Montréal from 24 September to 4 October 2013, the Council was instructed to take into account the findings and recommendations of the SIP TF, to take appropriate steps to ensure meaningful progress toward the development of new and/or amended provisions in Annex 13, other Annexes as appropriate and related guidance material, and to enhance the protection of certain accident and incident records. In April 2014, the Group of Experts on Protection of Accident and Incident Records (GEPAIR) was established with the objective of finalizing certain recommendations of the SIP TF, addressing Standard 5.12 and Attachment E to Annex 13; as well as the protection and use of flight recorder recordings in routine operations in Annex 6, Parts I, II and III. The new provisions on the protection of certain accident and incident investigation records were adopted by the Council on 22 February 2016. GEPAIR activities were integrated into the work of the Accident Investigation Panel (AIGP) which supported the development of this manual.

Existing challenges faced by accident investigation authorities in protecting investigation records, the multiplicity of parties, interests and agendas involved in accident and incident investigations called for an enhanced protective framework for investigation records. Thus, this new framework focuses on enhancing implementation of the protection of records generated or obtained during the conduct of an investigation instituted in accordance with Annex 13; provides a more practical and effective means to protect the records in the custody or control of the accident investigation authority; accommodates different legal systems; considers different methodologies and practices in implementing effective protection of investigation records; provides transparency on the possible use of investigation records; and aims to strike a balance between the objectives of the investigation and other public interests.

States are called upon to establish adequate provisions for the protection of investigation records within their national legal frameworks. Establishing the protections at this level is essential since information contained in these records, which includes information given voluntarily by persons interviewed during the course of an investigation, can be utilized for purposes other than aviation safety, inhibiting its continued availability.

This manual is intended to provide States with guidance material for the implementation of appropriate protection for investigation records with the aim of safeguarding accident investigation authorities' continued access to essential information during the course of an investigation.

Provisions for the protection and use of flight recorder recordings in routine operations (outside the scope of an Annex 13 investigation) are contained in Annex 6 and Annex 19.

Regular revision will ensure that the guidance remains both pertinent and accurate.

Comments concerning this manual should be addressed to:

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TABLE OF CONTENTS

	<i>Page</i>
Glossary	(ix)
List of acronyms	(xiii)
Chapter 1. Overview of the manual.....	1-1
1.1 Overview	1-1
Chapter 2. Accident and incident investigation fundamentals.....	2-1
2.1 Objective of the investigation.....	2-1
2.2 Main investigation responsibilities	2-1
2.3 Accident investigation authority	2-3
2.4 Types of records generated or obtained during an investigation	2-4
2.5 Reports.....	2-6
Chapter 3. Protection and use of certain accident and incident investigation records	3-1
3.1 Objective of protecting certain accident and incident investigation records.....	3-1
3.2 Records subject to protection	3-1
3.3 Scope, levels and limits of protection and use of the records	3-3
– Balancing test — general	3-3
– Designation of a competent authority	3-4
– Administration of the balancing test.....	3-5
– Effect of certain factors in the administration of the balancing test.....	3-11
3.4 Exchange of records between accident investigation authorities	3-14
3.5 Potential impact of the public disclosure of accident or incident investigation records or use of such records for other than safety-related purposes.....	3-15
3.6 Non-disclosure of audio and image recordings to the public	3-16
3.7 Implementation of international requirements on the protection of investigation records	3-17
Chapter 4. Interactions of accident investigation authorities.....	4-1
4.1 Interactions between the civil aviation authority and the accident investigation authority.....	4-1
4.2 Interactions between the judiciary and the accident investigation authority.....	4-1
4.3 Interactions between the media and the accident investigation authority	4-2
4.4 interactions between families of victims of accidents and the accident investigation authority.....	4-3

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GLOSSARY

When the following terms are used in this manual, they have the following meanings:

Accident. An occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which:

a) a person is fatally or seriously injured as a result of:

- being in the aircraft, or
- direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or
- direct exposure to jet blast,

except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

b) the aircraft sustains damage or structural failure which:

- adversely affects the structural strength, performance or flight characteristics of the aircraft, and
- would normally require major repair or replacement of the affected component,

except for engine failure or damage, when the damage is limited to a single engine (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome); or

c) the aircraft is missing or is completely inaccessible.

Note 1.— For statistical uniformity only, an injury resulting in death within thirty days of the date of the accident is classified, by ICAO, as a fatal injury.

Note 2.— An aircraft is considered to be missing when the official search has been terminated and the wreckage has not been located.

Note 3.— The type of unmanned aircraft system to be investigated is addressed in ICAO Annex 13, 5.1.

Note 4.— Guidance for the determination of aircraft damage can be found in ICAO Annex 13, Attachment E.

Accident investigation authority. The authority designated by a State as responsible for aircraft accident and incident investigations within the context of Annex 13.

Accredited representative. A person designated by a State, on the basis of his or her qualifications, for the purpose of participating in an investigation conducted by another State. Where the State has established an investigation authority, the designed accredited representative would normally be from that authority.

Administrative action. Action taken by a regulatory body responsible for aviation safety that may involve the revocation or suspension of privileges under licences, AOCs and other types of certification. It may also include the use of demerit points in relation to any of these privileges.

Adviser. A person appointed by a State, on the basis of his or her qualifications, for the purpose of assisting its accredited representative in an investigation.

Aircraft. Any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface.

Balancing test. The determination whereby the competent authority(ies) assesses competing public interests and decides which interest should prevail leading to the determination referred to in Standard 5.12.

Causes. Actions, omissions, events, conditions, or a combination thereof, which led to the accident or incident. The identification of causes does not imply the assignment of fault or the determination of administrative, civil or criminal liability.

Competent authority. The governmental entity(ies) that has the power and authority to administer the balancing test.

Civil Aviation Authority. The governmental entity or entities, however titled, that are directly responsible for the regulation of all aspects of civil air transport, technical (i.e. air navigation and aviation safety) and economic (i.e. the commercial aspects of air transport).

Contributing factors. Actions, omissions, events, conditions, or a combination thereof, which, if eliminated, avoided or absent, would have reduced the probability of the accident or incident occurring, or mitigated the severity of the consequences of the accident or incident. The identification of contributing factors does not imply the assignment of fault or the determination of administrative, civil or criminal liability.

Disciplinary action. Action taken by an employer in response to violations or breaches of rules and procedures by an employee. It may involve a withdrawal of employment entitlements and possible loss of income.

Flight recorder. Any type of recorder installed in the aircraft for the purpose of complementing accident/incident investigation.

Note.— See Annex 6, Parts I, II, III, for specifications relating to flight recorders.

Incident. An occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of the operation.

Note.— The types of incidents which are of main interest to the International Civil Aviation Organization for accident prevention studies are listed in ICAO Annex 13, Attachment C.

Investigation. A process conducted in agreement with Annex 13 for the purpose of accident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and/or contributing factors and, when appropriate, the making of safety recommendations.

Investigation records. All records listed in 5.12 of Annex 13.

Note.— Provisions on the use and protection of safety information and related sources other than accident and incident investigation records are included in Annex 19 — Safety Management.

Investigator-in-charge. A person charged, on the basis of his or her qualifications, with the responsibility for the organization, conduct and control of an investigation.

Note.— Nothing in the above definition is intended to preclude the functions of an investigator-in-charge being assigned to a commission or other body.

Judicial proceeding. A proceeding before a judicial authority involving a determination, including criminal, labour or civil liability.

Material fact in question. A legal term used to refer to a fact that is significant or essential to the matter at hand; that one party alleges and that the other controverts; and is to be determined by the competent authority administering the balancing test.

Occurrence. Any accident or incident associated with the operation of an aircraft.

Operator. A person, organization or enterprise engaged in or offering to engage in an aircraft operation.

Operational personnel. Personnel involved in aviation activities who are in a position to report safety information.

Note.— Such personnel include, but are not limited to: flight crews; air traffic controllers; aeronautical station operators; maintenance technicians; personnel of aircraft design and manufacturing organizations; cabin crews; flight dispatchers; apron personnel; and ground handling personnel.

Original Source. The entity or person that generated a record during the conduct of an investigation instituted in accordance with Annex 13.

Preliminary report. The communication used for the prompt dissemination of data obtained during the early stages of the investigation.

Safety recommendation. A proposal of an accident investigation authority based on information derived from an investigation made with the intention of preventing accidents or incidents and which in no case has the purpose of creating a presumption of blame or liability for an accident or incident. In addition to safety recommendations arising from accident and incident investigations, safety recommendations may result from diverse sources, including safety studies.

Serious incident. An incident involving circumstances indicating that there was a high probability of an accident and associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down.

Note 1.— The difference between an accident and a serious incident lies only in the result.

Note 2.— Examples of serious incidents can be found in ICAO Annex 13, Attachment C.

State of Design. The State having jurisdiction over the organization responsible for the type design.

State of Registry. The State on whose register the aircraft is entered.

Note.— In the case of the registration of aircraft of an international operating agency on other than a national basis, the States constituting the agency are jointly and severally bound to assume the obligations which, under the Chicago Convention, attach to a State of Registry. See, in this regard, the Council Resolution of 14 December 1967 on Nationality and Registration of Aircraft Operated by International Operating Agencies which can be found in Policy and Guidance Material on the Economic Regulation of International Air Transport (Doc 9587).

LIST OF ACRONYMS

ADREP	Accident/incident data reporting
AIA	Accident Investigation Authority
AIG/08	Accident Investigation and Prevention (AIG) Divisional Meeting (2008)
AIR	Airborne image recorder
ATC	Air traffic control
ATS	Air traffic services
CAA	Civil Aviation Authority
CVR	Cockpit voice recorder
FAA	Federal Aviation Administration
FDR	Flight data recorder
GEPAIR	Group of Experts on Protection of Accident and Incident Records
IIC	Investigator-in-charge
NOTAM	Notice to Airmen
RAIO	Regional accident and incident investigation organization
SARPs	Standards and Recommended Practices
SIP TF	Safety Information Protection Task Force

