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Security, Safety, and The Law: The Alpine Cable Accident

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Abstract. This article describes how legal issues pertaining to fatal aviation accidents with and without significant politico-military implications can contribute to or detract from security and safety phenomena leading to yet other fatal accidents.

It has been over a year since a United States (U.S.) Marine pilot flew into a ski lift cable in Northern Italy—the accident leading to the deaths of 20 people. Yet the legal proceedings dealing with the accident continue and are likely to go on for years.

What are the effects of legal proceedings on the probability of security and safety phenomena leading to yet other fatal accidents? One might posit that the probability might significantly decrease based on the following rationales. First, civil and criminal justice systems have been developed to contribute to human welfare. Since both have been activated reactive to the cable accident, human welfare will improve. Fatal accidents are contrary to human welfare. Thus, the probability of fatal accidents should decrease. Second, civil and criminal justice systems often result in significant sanctions against those found legally responsible for fatal accidents. These sanctions often induce material and/or psychological losses for those found legally responsible who often experience these losses as noxious. To avoid such losses in the future, the legally responsible often make extra efforts to minimize the security and safety phenomena that can lead to fatal accidents.

However, the temporal nature of legal proceedings may increase the probability of security and safety phenomena that can lead to future fatal accidents. For example, the long duration of legal proceedings may lead those who factually or mechanically (in the Aristotelian sense) caused an accident to refrain from making changes to minimize relevant safety and security phenomena. This would occur because the very attempt to make changes to affect the future could increase legal liability for fatal accidents that already had occurred. After all, if the changes were relevant to the probability of future accidents, why would they not be as relevant for accidents that already had occurred? A counter to this question might involve an impending or just-occurring change in what then needs to be changed, but such a counter might be difficult to understandably and credibly convey in legal proceedings. The key vulnerability would be to establish a clear threshold between acceptable and unacceptable risk.

A second example leading to an increased probability of security and safety phenomena leading to future accidents concerns outright fraud and deception. In attempting to avoid the legal responsibility and/or related sanctions, those factually and mechanically responsible would expend effort to cover up the relevant phenomena to the detriment of future security and safety. The key temporal and somewhat contradictory perspectives would include the overvaluing of financial profit and cost over human life, of careers over the viability of the organization, and of short-term over long-term gain.

All of the above would be salient in any fatal aviation accident. In accidents with significant politico-military implications, any and all combinations of the above would be fair game for the distortions of foreign policy and the storm and drang of political power machinations of formally constituted governmental authority. Examples of the latter are afforded in the many Italian responses that a

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travesty of justice has occurred with the acquittal of the U.S. Marine pilot even as Italian pilots were acquitted for a far more severe fatal accident at a U.S. air base in Germany in 1988.

It seems clear, then, that the social psychology of self-interest intrudes on that of altruism and concern for the other. Rarely do aviation and aerospace security and safety manuals contain prescriptions and proscriptions to minimize such a threat. (See Goldstein, M.K., Pennypacker, H.S. (1998). From candidate to criminal: The contingencies of corruption in elected public office. *Behavior and Social Issues*, 8, 1-8; McCafferty, F.L., & McCafferty, M.A. (1998). Corruption in law enforcement: A paradigm of occupational stress and deviancy. *Journal of the American Academy of Psychiatry and Law*, 26, 57-65; Stanley, A. (March 13, 1999). At NATO event, an Italian call for justice. *The New York Times*, <http://www.nytimes.com>; Violanti, M.T. (1996). Hooked on expectations: An analysis of influence and relationships in the Tailhook reports. *Journal of Applied Communication Research*, 24, 67-82; Wald, M.L. (March 13, 1999). U.S. maps become legal issue in Alpine cable accident. *The New York Times*, <http://www.nytimes.com>; Will, S., Pontell, H.N., & Cheung, R. (1998). Risky business revisited: White-collar crime and the Orange County bankruptcy. *Crime and Delinquency*, 44, 367-387.) (Keywords: Aviation, Law, Safety, Security.)