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Senate Standing Committees on Rural and Regional Affairs and
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31st August, 2019

Dear Committee

**Operation of the Australian Transport Safety Bureau, and in particular
its report on the June 2017 crash of a flight conducted on behalf of
Angel Flight Australia**

Please see my updated submission dated 31st August, 2019. This submission supercedes the submission lodged by myself dated 29th August, 2019. Please note this updated submission includes some minor corrections and additional commentary.

My submission relates to the recent findings of the ATSB and in particular its assumptions, base line statistics and subsequent findings with respect to the June 2017 crash of a Tobago TB10 at Mount Gambier.

My continuing experience within the aviation industry exceeds 30 years; I have previously part-owned and worked as a Director of an Australian airline operating under the auspices of the Civil Aviation Safety Authority. I continue to work within the aviation industry, providing specialised consulting services to major Australian aviation industry entities.

Furthermore, I am an active, experienced instrument rated pilot and maintain a Command Instrument Rating (> 15 renewals) and am the most active Angel Flight pilot, having flown over 1,150 sectors (over 490 missions) on Angel Flight missions since joining in 2003.

Please find following a brief overview of my concerns with respect to the specific findings of the ATSB investigation. In particular, my concerns are as follows:

- ATSB supporting evidence that strongly appears to have been manipulated to support a predetermined outcome;
- Independence of the ATSB from other regulatory bodies; and,
- ATSB report on a tragic incident seemingly concentrates on a third party, Angel Flight, with approximately 50% of the report content concentrates on Angel Flight rather than the pilot's actions.

Concluding, the intent of my response is to ensure that all stakeholders in the industry can operate in a safe environment, using substantiation that is fair, justified and appropriately supported, with the sole intent of accurate findings which in turn, can be used to improve safety to the Australian public and the aviation industry.

The accident in Mount Gambier was tragic and dreadful. There is little doubt that the outcome was undeniably awful to those affected directly and indirectly. In saying this, it is inherent that it belies those reporting on the accident provide accurate data, reporting methods and accurate findings so that we can prevent this type of accident from reoccurring.

Yours truly,

Shaun Aisen

Author's Background

Shaun Aisen

Total Time: 3000+ hours

Private Pilot

Command Instrument Rating (15 renewals)

Citation Jet (C525) rating

Gas Turbine / Pressurisation

Approx. 1500 hours Jet/Turbine experience

Approx. 120 hours relevant Turbine experience (TBM7/TBM8) within the last 12 months; Approx. 30 hours within the last 90 days.

Angel Flight's most experienced pilot, having flown since mission 151 in 2003; Conducted over 1150 individual flight sectors for and on behalf of Angel Flight passengers in over 490 individual missions across all states and territories (except WA and NT). This equates to approximately 6 individual flight sectors each month, since commencement or 8 trips around the world in general aviation aircraft.

Airline Operational Management and Director/Owner, including: flight planning, load control and specialised project management in excess of 30 years.

Commentary: My unique blend of relevant experience over 30 years across a broad spectrum of the aviation industry, not limited to, but including: airline management (including safety roles), flight planning functions, load control functions, dangerous goods acceptance (up to and including Class 1), in conjunction with his ongoing, active experience with Angel Flight since 2003 makes me well qualified to comment on the ATSB report, particularly with respect to the commentary on the Angel Flight organisation.

ATSB Report

I have identified areas in the report that I believe require substantiation and validation from the ATSB. Whilst understanding that the ATSB findings are not contestable in a court of law, the ATSB has a mandate to report the facts accurately and not to presume.

It is very apparent that the findings in this report appear to have been based on incorrect assumptions, supported by astonishingly inaccurate statistics. Without understanding the *modus operandi* of the ATSB, it seems that much of the statistical data has been 'created' to meet a predetermined outcome. In the words of a well recognised professor specialising in statistical data that was recently consulted *"The base line assumptions and the associated inconsistent parameters provided in the report, reflect the competence of an individual or individuals that would have struggled to complete Year 10 statistics"*.

I worked with the ATSB head, Mr. Hood, during the 2008 period when the organisation I worked with was seeking a high capacity Air Operator's Certificate with the Civil Aviation Safety Authority.

I have the utmost respect for Mr. Hood, but this cannot be said for his organisation. With a mandate to report the facts, recent 'high profile' ATSB findings have not reflected that of an organisation that is fair, equitable and appropriate in its findings. It appears that other interests may be hindering fair, equitable and appropriate findings.

I was at Essendon Airport on the morning of 21 February 2017, due to fly to Flinders Island when the tragic accident involving a Beech King Air 200 occurred where it crashed into the Discount Freight Outlets killing all onboard. The findings from the ATSB, AO-2017-024, continue to astonish a significant portion of the Australian aviation industry, in particularly well-qualified Beech 200 pilots.

Of significance to me, the report concentrated on the pilot's reputation, past occurrences and the findings of aircraft configuration issues. Surprisingly, the report did not address medical issues or potential medical issues. The bodies of the occupants could not be recovered. But, as the pilot maintained a Class 1 medical, it was 'assumed' that a medical occurrence could not have arisen?

Does this mean, if I have a Class 1 medical issued, that I should feel 100% confident that I am unlikely to have a cardiac event, stroke or other issue in the next 12 months?

Having had one of my closest friends, physically very fit, a pilot for a major airline, die from an unexplained cardiac death at the age of 47, I beg to differ. As I understand it, these issues continue, and have occurred in very recent times, with Australia's major airlines.

Furthermore, if one continues to concentrate on 'reputation' as the ATSB has concentrated on with its references to Community Service Flight fatality rates and its associated assumptions, the pilots of the Fine Air DC8 cargo jet that crashed at Miami on 7 August 1997 would have been 'roasted' by the NTSB. Thankfully, a Cockpit Voice Recorder was recovered, and even though the flight crew had 'a reputation', it was found that they did everything right on that flight and that the issues arising with the aircraft was completely out of their control.

The ATSB purports to report the facts, but based on the evidence assembled in the Mt Gambier finding and that at Essendon Airport, seemingly relies on assumption and presumption, whilst eliminating from consideration real and possible contributing issues. In the case of the King Air, without being able to recover any bodies and perform necessary post mortems, how could they eliminate a medical event as not being the prime cause of the accident?

The tragic accidents that have occurred with pilots conducting Angel Flights at both Mt Gambier and Nhill, the tragedies appear to have occurred as the result of poor decision making by the respective pilots.

It is imperative that the findings of the ATSB be factual, accurate and not creative, with the intent to provide findings and outcomes that improve safety to the aviation public as a whole.

With respect to the ATSB report at Mount Gambier, I intend to highlight several instances in the ATSB report:

“Safety Summary – What the ATSB Found”

Paragraph 2 asserts that the ATSB found private operations had a fatality rate 8 times more than charter and 27 times more than commercial passenger transportation (presuming this means Regular Public Transport operations). In addition, the ATSB asserts that CSF conducted by Angel Flight had a fatality rate over 7 times more than private flights, and continues to market this campaign to the wider community.

It appears the ATSB have deliberately planted a significant quantity of ‘justifying data’ in its appendices. The ATSB has creatively ‘concocted’ statistics to validate its report.

How so?

- A movement is defined as a take-off and a landing for each and every flight undertaken, irrespective of whether the aircraft is operating in the Regular Public Transport, Charter or Private Category.

For Angel Flight though, Angel Flight is credited with one take-off and landing for the passenger carrying flight only. All non-passenger carrying flights, which includes sectors when the pilots fly the aircraft home from a mission or on a flight to commence the mission has not been included.

This is ridiculous. Presumably, the ATSB expects that the aircraft will remain at the destination after completion of the Angel Flight without allowing it to return to home base. Presumably, there would be many displaced aircraft throughout Australia. The ATSB credits charter flights for each sector undertaken – whether carrying passengers or not.

In my case, I fly 2.35 sectors for each Angel Flight passenger carrying mission I undertake and as I understand it, the average is closer to 2.5.

Based on 2.5 sectors each, Angel Flight has only been credited for approximately 40% of the sectors flown, with the number of flights now exceeding 45,000.

It would appear that the ATSB does not think this is fair, as it has used Appendices C2 and C3 to highlight Angel Flight occurrences and incidents that have occurred on non-passenger carrying sectors. So, either, these incidents or occurrences simply did not occur or over 25,000 fatality free non-passenger carrying sectors credited to the Private Category Flight and not to Angel Flight, needs to be corrected.

Obviously, by not crediting the non-passenger carrying sectors to Angel Flight, whilst applying incidents and occurrences against Angel Flight, significantly skews the ATSB justifications to the detriment of Angel Flight.

- The ATSB has made reference to FAA/NTSB data in its justifications. The FAA/NTSB include data that refers to flight hours undertaken per mission, yet the ATSB appears to have neglected to include this statistic.

A significant portion of private category flying relates to circuit training and/or currency and short sectors (eg. Scenic flying, etc.). Angel Flight sectors in the vast majority of time exceeds 60 minutes and are often significantly longer. I remain curious why a worldwide standard of comparing flight hours completed by occurrence was ignored?

- Further reading of the statistical data, shows the ATSB has taken a 10 year 'snap shot' of Angel Flight operations from 2008 – 2017.

Angel Flight operations commenced in 2003 and with no fatalities during this period, it would appear that this is another instance of deliberate manipulation of data by the ATSB. I note that there have been no fatalities between 2017 – 2019 but accept that the report relates to an accident in 2017.

However, with only two fatal accidents in its 17-year history, the ATSB's "cherry picking" of a 10-year period instead of providing accurate data to Angel Flight's 15-year operation at the time accident, overstates occurrences by 50%.

Furthermore, when concentrating on comparisons from 2008 – 2017, it would be interesting to explain why the ATSB has only provided statistical data for the private category from 2008 – 2016 whereas with Angel Flight it provided statistical data from 2008 – 2017. With only 9 years of reporting on the private category, occurrences are overstated for Angel Flight by another 11%.

The indisputable facts are that Angel Flight has had two fatal accidents on passenger and non-passenger sectors during its 17-year history. With the occurrence rate being so low, further reduction of the statistical window from 15-years to 10-years, and 'surprise - surprise' include the two accidents, significantly manipulates the figures, resulting in a far higher occurrence rate due to the lower number of sectors completed.

I presume the ATSB use qualified statisticians to confirm their data and justification. If not, why not? If so, then it would appear that the ATSB has selectively used statistics to better justify their anticipated outcomes and findings.

"Safety Summary – What the ATSB Found"

Paragraph 3 and 4 asserts with "almost certainty" that Angel Flight operations and/or Community Service Flights have a higher occurrence rate due to inherent higher operational risks. Further assumptive commentary justifies the ATSB statement.

Presumably the 'almost certainty' is based on the ATSB statistical data. By now, I would strongly suggest based on the abovementioned observations, this justification can largely be ignored. The justifications from the ATSB are ill considered and wrong.

However, I feel it is important to identify some of the issues arising in paragraphs 4 – 7:

“The potential for perceived or self-induced pressure by taking on the responsibility of ill or unknown passengers in accordance with a schedule or predetermined appointments”

Prior to commencing my first flight in 2003 for Angel Flight, it was indoctrinated into its volunteer pilots that “if in doubt, don’t go”. This expectation remains current to this day. This expectation precedes the education policy of “don’t push it, don’t go”.

I compliment the ATSB for introducing this education and trust that it recognises and acknowledges Angel Flight for pushing this message for the past 16 years.

Furthermore, Angel Flight, took proactive measures to introduce mentoring programs to its new and lesser flying pilots with its more experienced mentor pilots with the intention to provide improved safety and awareness. Unfortunately, when the regulator issued its “CSF” regulations, its rules prevented the uplift of additional qualified flight personnel onboard the aircraft, thereby reducing the potential to improve safety standards through poorly considered regulation. Perhaps, this is a perfect opportunity for the ATSB to recommend this improved safety benefit to the regulator?

It is inherent for all stakeholders to ensure that all aviation operations, no matter what category of flight, are operated to the highest possible safety standards.

Personally, there have been several instances where I have cancelled Angel Flight operations. I fly under the IFR and will cancel flights if I have any doubt whatsoever. This is often for passenger comfort, and may relate to days where high winds, extreme heat and turbulence is forecast.

I am well aware that anyone travelling on an Angel Flight operation is fully briefed and has confirmed in writing, their understanding of how the operations are provided, including the possibility of last-minute changes.

In addressing flight continuance, preflight planning considerations would apply to anyone travelling with me, no matter what the purpose of the flight.

“Nearly two-thirds of the private flights conducted for Angel Flight had a commercial regular public transport option available.....”

Presumably, the ATSB are qualified to provide commentary with respect to medical specialist’s schedules, procedure durations and ensure that meet the needs and expectations of often irregular RPT services across Australia?

I was of the understanding that this report was supposed to refer to the tragic events that occurred at Mt Gambier. Unless the author of this report is a specialist medical provider and understands the intricacies of patient requirements and the specifics of RPT schedules by region, I do not see how the author can provide ill-conceived logistics solutions with respect to passenger transfers unless they have a holistic understanding of all requirements relating to the person travelling onboard the Angel Flight.

It is not for the ATSB to comment on when, where and how a passenger needs to travel by air, road, rail or any other method of transport.

“CASA did not have a system to differentiate between community service flights and other private flights.....”

With the release of the new “CSF” flight requirements by the regulator, it is surprisingly how similar the justification from CASA was noting the ATSB report had not been released.

The ATSB and CASA purport to work independently.

Presumably, the need to separate “CSF” flights has been justified based on the supporting statistical data provided by the ATSB. As highlighted earlier, the data appears to be very poor in quality and would, in all likelihood, not even go close to passing the ‘pub test’.

With over 70% of Angel Flight pilots operating under the IFR, a significant number of highly experienced pilots – including: current and recently retired airline, charter and other pilots, and accurately considered statistical justification, *it is highly likely that CSF flights are vastly safer than private category flights.*

Whilst completely agreeing with the need to continually improve safety standards, this justification and any subsequent regulatory introduction needs to be based on accurate and factual data.

ATSB Mandate and Findings

Detailed below is information drawn directly from the ATSB's website. In fact, when google searching the ATSB the following was identified:

[Australian Transport Safety Bureau \(ATSB\)](https://www.atsb.gov.au)

<https://www.atsb.gov.au>

The ATSB investigation has found that community service flights conducted on behalf of Angel Flight Australia have a fatal accident rate per flight that is seven times higher than for other private flights.

- [News](#) · [Investigation](#) · [Investigations & Reports](#) · [Aviation](#) · [Employment Opportunities](#) · [Rail](#)

Delving further into the site, the following data was obtained:

Overview of the ATSB

The Australian Transport Safety Bureau (ATSB) is an independent Commonwealth Government statutory Agency. The ATSB is governed by a Commission and is entirely separate from transport regulators, policy makers and service providers.

The ATSB's function is to improve safety and public confidence in the aviation, marine and rail modes of transport through excellence in:

- independent investigation of transport accidents and other safety occurrences;
- safety data recording, analysis and research; and
- fostering safety awareness, knowledge and action.

Significantly, the ATSB are using blatantly incorrect data to 'blow their own trumpets' and more importantly, create unnecessary alarm with respect to Angel Flight operations.

It is unfortunate, as it would seem that the specific report with respect to Mount Gambier has been a direct attack on Angel Flight, and not about the pilot errors that occurred, as highlighted by the web search.

When further exploring the ATSB report's Appendix C, the following ATSB information was used detrimentally against Angel Flight in their statistical justification.

Surprisingly data has been included from 2003-2007 (10 incidents) – a period not included in the ATSB's statistical consideration.

Allowing the ATSB benefit of the doubt here, the following incidents are highlighted. In all cases, these incidents were issues caused by third parties and not by Angel Flight pilots. Apart from further penalising Angel Flight statistically, what is the purpose of this inclusion?

200602983 – Angel Flight aircraft flying out on an IFR instrument departure (SID) *correctly* and conflicted by an aircraft that should not have been in the vicinity. ATSB has penalised Angel Flight;

200802722 – Angel Flight aircraft struck a bird in its landing roll at Bankstown. ATSB has penalised Angel Flight.

200800346 – Angel Flight aircraft had a bird strike at Bankstown airport whilst on approach. It appears obvious that the Angel Flight pilot deliberately flew into the bird? ATSB has penalised Angel Flight;

200804895 – ATC Clearance issues – non detection of incorrect level by ATC. For all clearance requirements, pilots are required to read back levels; If incorrect, this should be remedied by ATC. However, in this case, ATSB has penalised Angel Flight due to an ATC procedural error;

200807761 – Angel Flight pilot encountered a model aircraft that was not supposed to be in the airspace near Benalla. The pilot took appropriate evasive action. What was the pilot supposed to do? He did exactly what was expected of him. ATSB has penalised Angel Flight.

201103299 – ATC instructed the Angel Flight pilot to fly to a specific location that placed the pilot into restricted air space. The Angel Flight pilot followed the ATC instruction. The ATC error has been attributed to Angel Flight.

201103806 – ATC cleared a Citation Jet flown by an Angel Flight pilot resulting in a separation break down. The Angel Flight pilot followed the ATC instruction. The ATC error has been attributed to Angel Flight.

201407749 – Bird strike (refer to comments in 200800346).

201508190 – Angel Flight aircraft at 10000ft was flying exactly as instructed. ATC cleared the B200 to FL110 incorrectly. The ATC error has been attributed to Angel Flight.

Appendix C2 and C3 addresses safety occurrences that occurred on flights that operated *prior to or after* Angel Flight passenger operations.

These safety occurrences have been attributed to Angel Flight statistics, yet the ATSB does not credit Angel Flight for these flights being undertaken at all, and credits them to the private category. Suffice to say, the ATSB has deliberately omitted over 25,000 additional Angel Flight sectors.

Concluding, as a passionate philanthropist and as a pilot who prides himself in conducting all operations flown as safely as practicably possible, I am terribly disappointed in the outcome of this report which appears not to concentrate on addressing the failings at Mt Gambier but on the Angel Flight organisation as a whole.

Angel Flight has always placed safety as its priority consideration. Pilots, passengers, medical practitioners, social workers and other personnel are briefed specifically with respect to safety and in particular, the prerogative of the pilot not to proceed on any mission if there is any doubt whatsoever.

This education is continuing and with respect, should be supported by the ATSB and the regulator.

I cannot hide my disappointment in the ATSB findings. The supporting statistical data, including but not limited to: understatement of Angel Flight sectors completed, inclusion of occurrences on non-passenger carrying sectors without credit for these sectors, non-inclusion of the fatality free period between 2003-2007, and 10-year comparison window of Angel Flight data as against a 9-year comparison window of Private Category Flying, highlights the shortcomings of the data.

In particular, the “10-year window” appears spectacularly opportune to assist the ATSB in meeting a predetermined outcome.

The ATSB’s reputation and integrity is detrimentally affected by the supporting data – it is significantly skewed, blatantly incorrect and appears pre-conceived. This is deceitful, dishonest and inappropriate.

The statistics are contrived and ‘cherry pick’ best opportunity to substantiate the ATSB’s findings.

Improvements in safety can only occur if it results from the accurate provision and interpretation of available data. It is highly likely that it will be clearly found that Angel Flight operations are vastly safer than private category flying.

Ultimately, with nearly 50% of the report relating to Angel Flight operations, it appears that the report’s intent was nothing less than a ‘cheap kill’ or ‘witch hunt’ with the intent to hamper an organisation that directly and positively affects thousands of regional Australians each year.

The report devalues the lives of those directly and indirectly affected on that day by not concentrating on the accident and what could have been learnt directly from the occurrence.

What can we learn? To work collaboratively, using justified and appropriate data to improve aviation safety across Australia.