

The Lasting Message to Chief Legal Officers From the Challenger Disaster

The Challenger anniversary offers a substantive, practical message that is as relevant today as it was 35 years ago. And it's a message about the enduring importance of risk management and compliance processes; the value they bring to project development when thoughtfully structured, and the harm they can create when carelessly ignored.

By Michael W. Peregrine

January 28 is the 35th anniversary of the momentous loss of the space shuttle Challenger. For the general population, it is a cause for pause and reflection on the bravery of seven astronaut—including one school-teacher—who died in a fiery explosion a few seconds after launch.

But for Chief Legal Officers and their Chief Compliance Officer colleagues, the Challenger anniversary offers a more substantive, practical message that is as relevant today as it was 35 years ago. And it's a message about the enduring importance of risk management and compliance processes; the value they bring to project development when thoughtfully structured, and the harm they can create when carelessly ignored.

As the findings of both a **presidential review commission** and various **Congressional hearings**



On January 28, 1986, the Space Shuttle Challenger and her seven-member crew were lost when a ruptured O-ring in the right Solid Rocket Booster caused an explosion soon after launch. This photograph, taken a few seconds after the accident, shows the Space Shuttle Main Engines and Solid Rocket Booster exhaust plumes entwined around a ball of gas from the External Tank. Because shuttle launches had become almost routine after twenty-four successful missions, those watching the shuttle launch in person and on television found the sight of the explosion especially shocking and difficult to believe until NASA confirmed the accident. Credit: Kennedy Space Center via Wikimedia Commons

concluded, the primary cause of the Challenger's destruction was technical in nature: the hardware failure of seals that are intended to prevent hot gases from leaking through the

joint during the propellant burn of the rocket motor. This is the notorious "O-Ring" issue; a faulty design that was "unacceptably sensitive" to a number of environmental factors (including

cold temperatures) that existed on launch day.

But those findings also concluded that the contributing cause of the destruction was entirely human in nature: a serious flaw in the decision-making process that led up to the launch of the shuttle. And the extent of the process flaws was staggering.

For example, key launch decision-makers were unaware of the recent, troubling flight history of O-Ring problems. They were similarly unaware of a primary contractor's recommendation not to launch the shuttle at temperatures below 53 degrees (it was 36 degrees at the launchpad on January 28). Neither were they aware of the forceful opposition of the contractor's engineers, that continued after contractor management reversed its position and approved the launch decision. And they lacked an awareness of another major contractor's concern that the presence of ice on the launchpad threatened shuttle safety.

The commission observed that a well-structured and managed system emphasizing safety would have flagged the rising O-Ring concerns. It further noted that if these concerns had been clearly stated

and emphasized in the flight readiness, the launch would likely not have occurred when it did. In essence, according to the commission, the process was the byproduct of a once-extensive and redundant safety program that had been allowed to erode, perhaps due to management overconfidence prompted by a period of enormous success.

Chief Legal Officers and their Chief Compliance Officer colleagues can fairly use the Challenger example as a template from which to evaluate the decision-making processes of their own organization's leadership. Is the information flow sufficient? Are the right people involved in making the decision? Are the risks clearly identified to all involved? Are there checks and balances against conflict and bias? Are the risk evaluation standards reasonable?

As a thoughtful observer of the Challenger disaster noted, while **history does not repeat itself**, unfortunately people can repeat history. And that's the ultimate message to chief legal officers and their chief compliance officer colleagues. Project evaluation, risk management and compliance evaluation protocols succeed not only if they are thoughtfully prepared, but also if they are supported by

consistent monitoring and close attention to detail.

Some may choose to dismiss the Challenger's relevance—*it's so long ago; the technology was so primitive; we're so much smarter and aware now than they were then*. But keep in mind that the Challenger-era safety and decision-making processes were designed by the "best and the brightest"; careful, attentive engineers and scientists who had collaborated so spectacularly on the Apollo project.

These are, in a way, the people who actually invented risk management. But somehow, some way their processes became degraded. And the resulting procedural flaws that happened then, can most surely happen now without attention. That's why the Challenger anniversary offers such an important teaching moment for the Chief Legal Officer and the Chief Compliance Officer. Because it doesn't have to happen again.

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