

INSIDE

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ADRIFT

Last summer, 15 people died near Lockhart at the hands of a hot air balloon pilot flying on a cocktail of medications. The FAA was warned a tragedy like this could happen. But it did nothing.



Photos by Edward A. Ornelas / San Antonio Express-News

The morning of the crash near Lockhart, a weather briefer had told pilot Alfred "Skip" Nichols that clouds could be a problem.

By John Tedesco
STAFF WRITER

When 15 passengers boarded a hot air balloon last July and put their lives in the hands of pilot Alfred "Skip" Nichols, they might have taken for granted that the Federal Aviation Administration had made sure their pilot was drug-free and fit to fly.

They were horribly wrong. In the minutes before the deadliest balloon crash in U.S. history near Lockhart, Nichols was on a cocktail of medications that included Valium, Prozac and the painkiller oxycodone.

A recovering alcoholic, Nichols had served time in prison and wasn't even allowed to drive a car because of a string of DWI convictions — yet the FAA still allowed him to fly.

And on the morning of July 30, other balloon pilots in the area had called off their flights after learning the forecast



Photos, a baseball and roses were among items left at a makeshift memorial at the crash site. Sixteen people died when the hot air balloon struck high-voltage transmission lines. At right is an image of the balloon captured by Tamara Calhoun.

called for low-level clouds and fog.

Nichols decided to launch. "We just fly in between them," Nichols told a weather briefer who said clouds could be a problem. "We find a hole

and we go."

Regulators at the FAA had resisted years of efforts to strengthen oversight of the hot air balloon industry — creating a regulatory vacuum that al-

Balloon's continues on A20



Coming Monday

The investigation: Few safeguards exist for consumers drawn to the peaceful allure of a hot air balloon ride.

Online

To view videos, documents and other interactives with this report, go to ExpressNews.com/adrift

Race seen as fueling redrawing of districts

By Guillermo Contreras and Bill Lambrecht
STAFF WRITERS

Race, not partisan advantage, was the key to changes made in the maps of three Texas congressional districts, including two in San Antonio.

That was the conclusion of a federal judicial panel that invalidated the three Republican-drawn districts. In a 2-1 ruling, it said the 2011 changes diluted minority votes in violation of the U.S. Voting Rights Act.

However, the order doesn't explain how the invalidated maps should be corrected, though the plaintiffs have said in past hearings that the districts might have to be redrawn to how they were before 2011.

Included were District 23, which is held by U.S. Rep. Will Redrawing continues on A18

TIME CHANGE

Did you forget

to set your clocks ahead 1 hour for daylight saving time?

Associated Press

Will market for boar be poisoned?

By Lynn Brezosky
STAFF WRITER

DEVINE — Down a dirt road from cattle lolling on a feedlot, trucks pull into the Southern Wild Game plant carrying feral pigs that have been trapped from across the Lone Star State.

They are unloaded into holding pens and hosed down before being sent into the plant to be processed into steaks and chops, all under the watch of U.S. Department of Agriculture and European Union-licensed inspectors.

The meat leaves the plant boxed and ready for distribution to discerning diners overseas.

Wild hogs may be a nuisance to Texas' farms, ranches and, increasingly, cities. But in bistros and corporate lunchrooms across the Atlantic, the meat is **Market continues on A16**

WEATHER

HIGH **63** LOW **48** Mostly cloudy
Full report, B14

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FROM THE COVER



National Transportation Safety Board

The balloon and the burner that produces hot air rest in a field in the wake of the crash. There's no straightforward way to check the track record of a balloon pilot.

Balloon's pilot was on medications

From page A1

lowed Nichols to obtain and keep a license to pilot commercial balloons despite his record.

A San Antonio Express-News review of government documents, internal emails obtained under the Freedom of Information Act and testimony given at a federal safety hearing in Washington paint a bleak picture of missed opportunities that led up to the fiery balloon crash that killed Nichols and his 15 passengers.

Among the newspaper's findings:
 ▶ Despite the peaceful, romantic image of the sport, balloons suffer higher crash rates than other aircraft. But the FAA doesn't require balloon pilots to take drug tests or undergo medical evaluations like other pilots. It relies on an honor system that Nichols easily foiled.
 ▶ Pilot error is the top cause of balloon crashes in the United States. Of more than 140 private and commercial balloon crashes since 2005, more than half were blamed on mistakes made by the pilot, and nearly one in five incidents involved a power line, according to the newspaper's analysis of federal aviation accident reports. Falls, hard landings and collisions with high-voltage power lines injured or killed 70 balloon passengers and pilots.
 ▶ Commercial balloons are getting larger and larger to accommodate more high-paying customers, increasing the odds of a tragedy. The Kubicek balloon that Nichols piloted was more than nine stories tall and featured a huge gondola with five separate compartments that could fit 16 passengers and the pilot — enough to fill a small commuter plane.
 ▶ One of the first people to recognize the growing risk was an FAA safety inspector in Detroit who said oversight of the balloon industry was "minimal or nonexistent."

More than three years before the deadly crash, he proposed increasing regulations for balloon operators that included drug tests for balloon pilots.
 To this day, the FAA hasn't adopted his proposal.
 ▶ With minimal federal oversight of hot air balloons, it's ultimately up to customers to vet balloon pilots. It's not an easy task.

Even for passengers who take the initiative to research a balloon company, it's often an opaque process. Third-party brokers dominate web search results for balloon rides. The brokers don't tell customers who they're flying with until they pay for tickets, which can cost hundreds of dollars apiece.

There's no straightforward way to check the track record of a balloon pilot. And there's no requirement for the pilot to carry insurance if something goes wrong.

Even FAA inspectors have no comprehensive method of keeping track of commercial balloon operators — they have to rely on web searches to learn where operations are located.

"Ballooning may be more hazardous than some folks realize," said Chris Kilgore, a lawyer who represents the company that insured Nichols' balloon. "It has an uncontrolled element once the balloon is aloft. It's one of the reasons why I won't fly in one."

More than 40 minutes after Nichols and his 15 passengers lifted off from a private airfield near San Marcos at 6:59 a.m., their balloon struck high-voltage transmission lines 8.3 miles away near Lockhart.

An arc of 345,000 volts of electricity sheared the metal balloon cables. The balloon's wicker gondola plummeted 130 feet, landed in a rural field and burned up.

Officials had to rely on dental records to identify the people who had trusted Nichols to take them on the adventure of a lifetime.

"The public needs to be protected from someone like that," said Sue Rowan, whose son, Matt, and his wife, Sunday, were killed in the crash.

Rowan and family members of other passengers say their loved ones never would have flown with Nichols if they had any clue about his background. But more importantly, they say, Nichols shouldn't have been flying in the first place.

The National Transportation Safety Board, a federal agency that issues nonbinding recommendations to the FAA and other agencies to prevent future accidents, is investigating the crash.

The agency held a safety hearing Dec. 9 in Washington that revealed Nichols was on a "witches' brew" of prescription



Photograph of balloon taken before day of crash.

Heart of Texas crash chronology

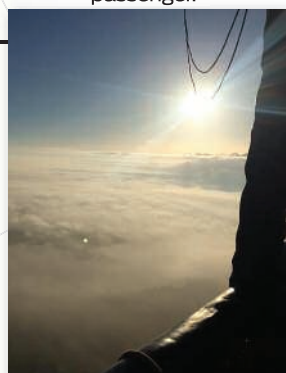
A look at the balloon crash on Saturday, July 30, 2016 in which 16 people were killed, making it the worst hot air balloon crash in U.S. history. The balloon was operated by Alfred "Skip" Nichols and took off from Fentress Airpark near Lockhart.



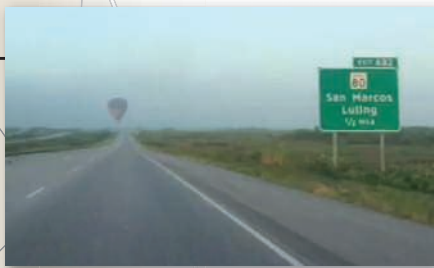
7:42 Balloon strikes transmission lines.



7:38 Photo taken by passenger.



7:09 Crossing Highway 130.



Saturday, July 30, 5:06 a.m. Pilot Alfred "Skip" Nichols receives weather briefing reporting a 1,200 foot ceiling. Such cloud cover can be a danger for hot air balloon operators who need good visibility to safely operate the craft.

- 1 6:59 a.m.** Conditions deteriorate to a 700-foot ceiling. Nichols' balloon takes off from Fentress Airpark.
- 2 7:09 a.m.** Crosses Highway 130.
- 7:26 a.m.** Nichols sends last report of position.
- 3 7:38 a.m.** Passenger photo shows thick cloudcover.
- 4 7:42 a.m.** High voltage lines struck.

7:44 a.m. A 911 call is made about a possible auto accident near Maxwell. When officers arrive, they find the burning balloon basket on the ground near a power transmission tower.

The balloon envelope is found about 1/2 mile away.

Source: NTSB

Mike Fisher/San Antonio Express-News

medications that morning. He had lied to the FAA about past DWI convictions. And he decided to fly on a day when other balloon pilots stayed grounded.

"Our lives are basically shattered," a tearful Sue Rowan said. "There's no recovery from it. You have to learn a new way of living, a new normal."

In a written statement to the Express-News, the FAA said there's no guarantee drug tests would have flagged Nichols' prescription medications — even if he had been required to be tested like other aircraft pilots.

Medical exams also could be circumvented, and the FAA said it can't physically monitor unhealthy pilots at all times to

make sure they never fly a balloon.

"Even if the pilot would have had his medical (certificate) revoked, the FAA has no mechanism to constantly watch pilots 24/7, and then physically restrain them from taking flight illegally," the agency's statement read.

Dean Carlton, president of the Balloon Federation of America, the primary trade group for balloon pilots, emphasized the overwhelming majority of balloon flights are carried out safely. He didn't challenge the newspaper's findings that balloons experience higher crash rates, but added that many accidents are survivable hard landings that passengers walk away from

with few injuries.

"We estimate nearly a half-million people flew safely in hot air balloons last year," Carlton said. "It's a very, very safe sport. But every once in a while, something happens. And something this dramatic hasn't happened since the Hindenburg."

Robert Sumwalt, an NTSB board member who served as chairman of the safety hearing, said the Lockhart crash was the worst ever in the U.S. involving a hot air balloon, and the worst U.S. aviation disaster since February 2009, when a plane crash in New York killed 50 people.

In an interview, Sumwalt was unusually blunt about the FAA's lack of oversight. When

FROM THE COVER



Edward A. Ornelas / San Antonio Express-News

Two days after the fatal balloon crash, Caldwell County Sheriff Daniel C. Law removes crime-scene tape that authorities had used to cordon off the scene.

asked if he believed that the FAA was doing enough to protect the public, he said the record speaks for itself.

"We have 16 people who are dead," Sumwalt said. "This pilot should have never been flying."

Minimal oversight

Three years before the tragedy, Wayne Phillips warned the FAA it could happen.

An FAA safety inspector in Detroit, Phillips was a licensed balloon pilot who had owned a sightseeing company before he joined the agency in 2004.

In recent years, Phillips noticed a trend in the commercial hot air balloon industry — some balloons kept getting larger. Some measured 11 stories tall and could carry two-dozen passengers.

The FAA later calculated that out of 4,390 registered hot air balloons in the United States, 134 are capable of carrying a dozen or more passengers.

Balloon sightseeing tours were popular in the United States. But to Phillips, the industry was nearly invisible when it came to oversight by the FAA.

In November 2012, Phillips wrote a proposal urging increased scrutiny of the industry.

"There may be a perception by the public and the FAA that commercial hot air balloon scenic tour operations are insignificant when compared to airplane and helicopter tour operations," Phillips wrote.

That simply wasn't the case. Noting the FAA had no method in place to keep track of balloon operations, he said industry websites showed commercial balloon rides were more common than helicopter tours. And some balloons were "behemoths."

"It may be of some surprise that the largest balloons carry more passengers than a Beech 1900 airliner," Phillips wrote.

The ability to carry more passengers puts even more financial pressure on balloon pilots to fly in risky weather.

"When 15 passengers pay \$250 each, there could be exceptionally strong motivation to launch a flight that is worth nearly \$4,000 in one hour," Phillips wrote.

Yet it was "exceptionally easy" to get a pilot's certificate to fly a commercial balloon — a private balloon pilot only needs 20 hours of flight time.

"In comparison to other forms of aviating, hot air ballooning is the most volatile," Phillips wrote.

Takeoffs and landings occur away from airports in areas with diverse topography, weather and obstructions.

With no engines, balloons essentially are "uncontrollable," he wrote, and fly at the mercy of changing winds. And they fly at low levels, putting them at risk of striking obstructions such as power lines.

Phillips examined two years



Edward A. Ornelas / San Antonio Express-News

Lisa Peralez of Nixon prays at the crash site the day after the fatal accident occurred.

of accident data involving balloons and found that, out of 29 accidents, half were smaller, private flights and half were commercial flights with professional pilots.

Phillips proposed putting commercial balloon pilots on par with sightseeing operations for airplanes and helicopters.

Balloon operators would have to obtain a "letter of authorization" that would, among other things, notify the FAA about the operation, increase the chances for inspections and mandate drug tests for pilots.

Phillips, who still works at the FAA, declined an interview request for this report. But emails obtained by the Express-News through the Freedom of Information Act show he sent his proposal to the FAA office in Albuquerque, New Mexico, the ballooning capital of the United States, for staff there to review.

From there it was sent on Dec. 12, 2012, to James Viola, manager of the FAA's Flight Standards Aviation and Commercial Division.

The FAA heavily redacted



Associated Press

Although he wasn't permitted to drive an automobile because of DWI convictions, Alfred "Skip" Nichols was allowed to fly.

sections of the emails it released, citing a FOIA provision that allows the agency to withhold "recommendations, opinions and analyses," so it's unclear how seriously the FAA considered Phillips' proposal.

But the emails show Phillips began corresponding with the NTSB about his idea.

By coincidence, NTSB inspector Bob Gretz had seen a need for stronger regulations after he investigated a commercial balloon crash on April 21, 2013, near Chester Springs,

Pennsylvania.

The balloon pilot had been trying to land on a windy day, but the gondola struck some trees and tipped on its side.

Someone — the pilot or a passenger — touched a propane burner switch, which caused a propane flash that burned three of the 10 passengers.

Gretz made a pitch to his bosses at the NTSB to recommend letters of authorization for balloon operators. The NTSB contacted the FAA to get

its initial opinion, NTSB spokesman Eric Weiss said.

"It turns out that Mr. Phillips was also working on a similar idea, and so they started working together after they found each other," Weiss said.

In 2014, the NTSB formally sent its own recommendation to the FAA to improve balloon oversight, and it mirrored Phillips' proposal to require letters of authorization and drug tests for commercial balloon operators.

"The potential for a high number of fatalities in a single air-tour balloon accident is of particular concern if air-tour balloon operators continue to conduct operations under less stringent regulations and oversight," NTSB chairwoman Deborah Hersman wrote in an April 7, 2014, letter to FAA Administrator Michael Huerta.

Agencies such as the FAA aren't required to adopt NTSB recommendations. But the NTSB's proposal triggered a formal review at the FAA and it had to decide, one way or the other, whether to require letters of authorization for commercial balloon operators.

The NTSB — and Phillips — finally got their answer on Nov. 6, 2015.

Huerta said increased oversight wasn't necessary.

A troubled past

While Phillips and the NTSB were urging the FAA to pay more attention to the industry, Nichols was making a new life for himself 1,200 miles away in Kyle, doing what he loved — flying hot air balloons.

It was a longtime passion that began when he was 15 years old and a hot air balloon landed on his street. Asked if he wanted to join the crew, Nichols signed up.

"It's a ton of fun," Nichols, 49, said in a San Antonio television feature that aired on May 15, 2015, on SA Live, a variety show on KSAT. "It's an adventure every time."

To many of his friends and customers, Nichols' jovial personality matched the emblem on his towering, nine-story-tall balloon: A sunny smiley face wearing shades.

The giant balloon was hard to miss. It held 300,000 cubic feet of air, about three times more than a typical hot air balloon. The larger envelope meant it could carry more passengers, making each ride more profitable.

Manufactured by Kubicek Balloons, a company in the Czech Republic, it featured a 750-pound gondola made of wicker and marine-grade plywood that could carry 16 passengers who usually paid \$199 apiece to Nichols for an hour-long flight. With a full gondola of adults, fuel tanks and gear, the balloon could lift close to 2 tons.

The smiley-faced balloon became a common sight to locals as Nichols flew peaceful sightseeing tours over the rural

Balloon continues on A22

FROM THE COVER



Edward A. Ornelas / San Antonio Express-News

Workers remove debris from the crash scene. Pilot Alfred "Skip" Nichols was being treated for ailments that included depression, chronic pain and ADHD.

BALLOON

From page A21

fields and hills of Texas.

But behind the smile, Nichols had a troubled past.

Nichols was being treated for ailments that included depression, chronic pain and Attention Deficit Hyperactivity Disorder — all of which could have disqualified him from flying if the FAA had known about his condition.

A recovering alcoholic, Nichols had been arrested in his home state of Missouri for a string of DWI, drug and traffic offenses beginning in 1985. In the most recent case, he was found guilty as an "aggravated" DWI offender on May 25, 2010, after a police officer spotted a Saab driven by Nichols weaving across lanes on a highway.

According to a police report about the incident, the officer pulled over Nichols, who had bloodshot eyes and smelled of alcohol, and asked if he had been drinking.

"Not too much," Nichols answered.

Already on parole for a past drug conviction, Nichols pleaded guilty and was sentenced to seven years in prison. But he was offered the chance to enter a "shock incarceration" program, which provides substance-abuse counseling and other services to prison inmates for 120 days. Nichols successfully passed the program and was released from prison in January 2012 after serving his sentence for the earlier drug case.

"I was shocked and floored we were able to get this deal done," said Jenna Glass, Nichols' defense lawyer in Missouri.

Completing shock incarceration was a clear sign that Nichols was trying to change, she added.

"He obviously did a good job with them and was cooperative," Glass said.

Legally, Nichols wasn't allowed to drive a car — his driver's license was suspended until 2020. Yet he still retained his FAA pilot's certificate.

Under federal regulations, Nichols was supposed to notify the FAA within 60 days of any convictions involving driving under the influence of drugs or alcohol. He also was supposed to tell the FAA about "reportable administrative actions" on his record, such as a revocation of his driver's license.

That never happened. From the time Nichols applied for a pilot certificate in 1992, it took two decades for the FAA to discover the truth.

In December 2012, after Nichols moved to Texas, the FAA's San Antonio office received a complaint from a balloon pilot in Austin named Joseph Reynolds who alleged that Nichols hadn't properly disclosed his drug and DWI offenses.

"The issue was unreported DWI," Reynolds told the NTSB in an email after the Lockhart



National Transportation Safety Board

The balloon's burner frame rests on the ground. The small flags are evidence markers.

crash. "We looked into his past."

FAA Special Agent Sonja King investigated the complaint and confirmed Nichols' past criminal violations and that he failed to report them to the FAA. But she didn't recommend revoking or suspending Nichols' license. The violations were "stale," she wrote, a regulatory term to describe violations that are more than six months old.

FAA officials said that if they had tried to prohibit Nichols from flying, he likely would have won any appeal. And they pointed out the stale-violation rule is a standard followed by the NTSB, which handles appeals filed by disciplined pilots.

But a case can't go stale if a pilot falsifies a record, according to past appellate decisions involving other pilots.

In the 1990s, Nichols had checked "no" on paperwork submitted to the FAA that asked if he had been convicted of alcohol or drug-related offenses. It's possible the FAA could have pursued those violations.

Patricia Morgan, the mother and grandmother of two victims from San Antonio, Lorilee and Paige Brabson, said the FAA should have grounded Nichols when it had the chance, pointing out there was no guarantee Nichols would have filed an appeal.

"They were aware of this man, and they did absolutely nothing," Morgan said. "Nothing. They could have. But they didn't."

King recommended issuing a warning to Nichols and allowing him to keep his license. The FAA agreed.

"We have decided not to take any enforcement action," Leshia Sloan-Thompson, manager of the FAA's regulatory investigations branch, wrote in a certified letter to Nichols dated July 29, 2013.

Sloan-Thompson told Nichols to accurately report his DWI arrests and convictions



Early in 2002, San Antonian Marcie Cook was burned when she came into contact with a power line during a balloon ride.

Bob Owen / San Antonio Express-News

the next time he applies for a medical certificate, a form required for most pilots to attest they're physically fit to fly.

There was just one problem — balloon pilots aren't required to obtain a medical certificate.

The FAA hasn't required them for balloon pilots since the 1930s.

High crash rates

In Washington, the NTSB didn't give up its efforts to increase oversight of the hot air balloon industry.

On May 18, 2015, the NTSB asked Phillips if he could look at recent balloon crashes that occurred after April 2014, when the NTSB recommended letters of authorization to the FAA.

"Sure will," he replied. "Give me a couple days."

The reply actually came later that day. Out of 25 balloon accidents since April 2014, 66 percent involved commercial operators, Phillips found, and 28 percent involved some form of injury or death.

Of particular concern was a horrific crash in Ruther Glen, Virginia, that killed three people in May 2014.

The balloon piloted by Daniel Kirk carried two staff members of the University of Richmond basketball team, Ginny Doyle and Natalie Lewis. During an attempt to land, the balloon struck a power line, sparking a fire in the gondola. The heat caused the balloon to rise. The flames consumed the gondola and the balloon. The

wreckage was found 6 miles away.

But the FAA wasn't budging from its initial decision to reject the NTSB's recommendation.

"Since the amount of ballooning is so low, the FAA believes the risk posed to all pilots and participants is also low given that ballooners understand the risks and general hazards associated with this activity," Huerta wrote in a letter to the NTSB.

Behind the scenes, some FAA officials had examined crash statistics for commercial balloons and didn't share Phillips' concerns.

At the NTSB hearing in Washington on Dec. 9, FAA inspector James Malecha testified that he was asked to review Phillips' proposal and examined a decade's worth of crash statistics.

"If you look at the number of commercial accidents that have occurred, it's actually fairly small," Malecha said. He said he found only four fatalities tied to commercial balloon crashes.

There's no question the vast majority of balloon flights are carried out safely. But deaths from balloon crashes aren't necessarily rare because balloons are inherently safer than other aircraft.

The NTSB used to publish annual reports about aviation accidents. The agency compared the safety records of different types of aircraft by examining crash rates — the

number of accidents per 100,000 flight hours.

It wasn't a perfect process. While the actual number of crashes was known, the number of flight hours were estimates. Despite that shortcoming, the crash rates for balloons were consistently higher than other aircraft during a period that spanned more than a decade.

From 1993 to 2006, the NTSB's reports showed the overall crash rate for hot air balloons, both private and commercial, was more than twice as high as general aviation aircraft, which includes private and corporate aircraft but not major airlines.

On average, the agency documented 15 crashes per 100,000 flight hours for balloons and other lighter-than-air craft, compared with seven crashes per 100,000 flight hours for all other aircraft during that period. The Express-News examined more recent federal data and found a similar pattern from 2012 to 2014 — the crash rates were nearly identical, and still twice as high for balloons.

The NTSB also published a report that compared the crash rate of air-tour operations for balloons, airplanes and helicopters from 2004 to 2009. Balloons had "very high accident rates" during that period, the report noted, that were higher than fixed-wing aircraft and helicopters.

San Antonian Marcie Cook was one of the victims in those statistics.

On Jan. 12, 2002, she and a friend were enjoying a hot air balloon ride near La Vernia that initially felt like something out of a fairy tale. Cook had waited 15 years to take a balloon ride, and she marveled at how peaceful it was. Passing over a farmhouse, a family waved to them. Cook and a friend couldn't stop giggling.

Then the wind picked up and her pilot, Steve Sprague, started looking for a place to land. It was too late when he saw power lines in their way.

Cook didn't see the danger or hear the pilot's warning to duck. One of the lines touched her head. The electric current surged through her body and exited through the calf of her leg, leaving burn wounds in its wake. She collapsed, barely breathing, and was airlifted to the burn unit at Brooke Army Medical Center.

Years later, Cook can't believe she survived.

"My life has never been the same," she said in an interview.

Cook soon learned some uncomfortable truths about the balloon industry.

She started digging into crash statistics and was surprised to find out balloons had higher crash rates. And Cook learned the hard way that some balloon crashes might not even be reported. Federal investigators don't travel to the scene of every balloon crash. Regulators rely on the honesty of balloon pilots to accurately report what

FROM THE COVER



Edward A. Ornelas / Associated Press

Kathy Stephens of Kyle pauses at a memorial at the crash site. Crew chief Alan Thomas "Bubba" Lirette said that the weather was "crystal clear" before the launch.

happened in a crash, which often happen in rural areas.

Sprague reported the incident but claimed it only resulted in minor injuries. Cook found that accident report and complained.

"They were so idiotic," she said. "The first report said nobody was hurt." The NTSB revised the report 36 months later.

The statistics showing balloons had higher crash rates than other types of aircraft went unmentioned at the safety hearing in Washington. But the FAA did provide an analysis to the NTSB showing a different rate — fatal accidents per 100,000 flight hours. From 2004 to 2014, the average rate was 1.3 fatal accidents per 100,000 flight hours.

That sounds reassuringly low. But the analysis didn't compare fatality rates for other types of aircraft.

In response to questions from the Express-News, the FAA later calculated the fatality rate for general aviation planes and helicopters during that time period. The average was similar — 1.13 fatal crashes per 100,000 flight hours. That comparison wasn't presented at the NTSB hearing.

But the main reason the FAA rejected the NTSB's recommendation was because officials saw no need to require drug tests for balloon pilots, according to an internal memo obtained by the Express-News that concluded drug testing is the "primary purpose" of letters of authorization.

"The FAA doesn't have a compelling reason to believe that unapproved medications have led to balloon accidents," wrote John Duncan, director of flight standards services, the branch of the FAA that analyzed the NTSB's recommendation and determined it was unnecessary.

But the memo didn't address confirmed cases of balloon pilots taking prohibited medications.

In a handful of fatal balloon crashes, toxicology tests later showed the pilots had been on prescription drugs that should have kept them from flying or that would have sparked greater scrutiny by the FAA — a fact first reported by the Austin American-Statesman last month.

The fatalities include a 2014 accident in Pennsylvania, where a pilot on anti-depressant and anti-anxiety drugs fell out of the gondola and was killed.

The NTSB couldn't definitely say whether the pilot's medications or health problems led to the fall. But a toxicology report confirmed he had taken the prescription drugs before the accident.

Such cases went unmentioned in Duncan's memo.

Panic mode

At 3:30 a.m. on July 30, Nichols woke up early, just like he always did before a balloon



Courtesy photo

Matt and Sunday Rowan of San Antonio had been married five months at the time of the crash.

ride. A flight with 15 passengers was scheduled at sunrise.

His crew chief and roommate, Alan Thomas "Bubba" Lirette, 59, knew Nichols had a "colorful" past but considered him a good man who had turned his life around.

Lirette woke up early with Nichols and prepared the customary Champagne and orange juice for passengers after the flight.

Nichols did the all-important task of checking the weather. At 5:06 a.m., he called Lockheed Martin Flight Service, which provides weather briefings for pilots. There was little difference between the temperature and the dew point that morning, a sign of possible fog or clouds.

"Those clouds may be a problem for you," the weather briefer said. "I don't know how low you want to stay but —"

"Well, we just fly in between them," Nichols replied. "We find a hole and we go."

Experts say flying through clouds in limited visibility is flat-out dangerous. Federal regulations stipulate that balloon pilots should only go air-

Nichols' crew chief thought he had turned his life around.

borne with at least a mile of visibility.

But it wasn't unheard of for Nichols to fly through clouds, said Michael McGrath, a balloon pilot who used to fly with Nichols. Sometimes, the air in clouds is colder, which causes the balloon to rise faster. That way, Nichols would "pop" over the cloud and continue the flight.

McGrath also told federal investigators that business wasn't as brisk in Texas as Nichols had expected. Nichols had lived in a large house for a while but had to downsize. Typically, 12 to 14 people would fly in the smiley-faced Kubicek balloon, McGrath said, but Nichols would try to "stuff it full" to make more profit.

Lirette didn't say whether he saw Nichols take any medication that morning. But federal

investigators learned after the crash that Nichols had a cocktail of medications in his system that included the painkiller oxycodone, the antidepressant Valium, and a muscle relaxant that's prohibited by the FAA.

At 5:45 a.m., Nichols and Lirette met their 15 passengers in the parking lot of a local Walmart.

The group — all adults, no children — was excited. For many of them, the balloon ride was a way to celebrate their lives together.

They included Matt and Sunday Rowan, a San Antonio couple who had married five months earlier. Sunday, who loved to travel and was known as the "cruise director" of family gatherings, had bought the tickets as a birthday present for her husband. They were devoted to Sunday's 5-year-old son, Jett.

For Lorilee and Paige Brabson, a mother and daughter who recently had moved to San Antonio from Colorado Springs, the balloon ride was a belated Mother's Day celebration. Paige bought the tickets for her mom. And Paige recent-

ly had become a mother herself. Her 11-month-old daughter was at home.

Brian and Tressie Neill from Helotes had been married 23 years and were celebrating their anniversary. Brian planned the sunrise balloon ride as a surprise for his wife. They had two daughters, ages 16 and 20.

"Up early heading out for the anniversary surprise Brian's had planned for months!" Tressie Neill wrote on Facebook that morning. "I'm super excited!"

The group drove to Fentress Airpark in Caldwell County, where skydivers often take off, and they noticed some patchy fog. Nichols launched a pilot — a small trial balloon to check the wind.

There was a tall pole in the distance that Nichols often checked before each flight. If he could see it, he figured the visibility was good.

That morning, he could see it. Lirette later told investigators the weather was "crystal clear" before the launch. They loaded everyone into the large gondola and the balloon took off at 6:59 a.m., slightly behind schedule.

As the balloon rose, the ground crew took a smoke break. They watched the balloon drift off with no problems. They filled one of the tires of Lirette's vehicle with air and set off to follow the balloon and pick up the passengers wherever they landed.

But fog started to roll in. Lirette saw the balloon descend to tree-top levels. It was getting so hazy, Lirette only could see the basket hanging under the low clouds. He couldn't see the balloon itself.

Fifteen minutes into the launch, they completely lost sight of the balloon.

Lirette tried finding it with a smartphone app called Glympse, which allowed Nichols and Lirette to track the balloon's position on a map. In the app, Lirette tracked the balloon heading north, but he stopped getting a signal. Lirette tried calling Nichols on his cellphone. It went straight to voicemail.

By now, the chase team members were panicking. They didn't know where Nichols was. Lirette tried calling passengers 35 minutes into the flight but got no answer.

In the air, passengers were taking pictures and videos of the stunning view. At 7:40 a.m., one passenger sent a picture of his vantage point over the clouds via text message to a relative.

"You see our shadow," the passenger wrote in the text, pointing out the balloon's shadow falling on the clouds.

The picture also showed a hole in the clouds.

Through the hole, the ground was visible — along with a transmission tower and high-voltage power lines.

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