The deadly midair collision over the Hudson River earlier this month raises serious questions regarding the responsibilities of pilots and air traffic controllers and the rules for aircraft traversing the busy airspace around Manhattan. The collision took place in the Hudson River Visual Flight Rules (VFR) corridor, a narrow area over the river limited by a ceiling of 1,100 feet. Pilots flying small planes and sightseeing helicopters use the corridor to operate underneath the huge domes of restricted airspace set aside for aircraft using the region’s three major airports. Pilots flying through the corridor need not check in with air traffic control and ordinarily do not receive traffic advisories or other assistance from government controllers. Rather, pilots are responsible to announce their position and altitude on a common radio frequency and use diligence to “see and avoid” other aircraft. Southbound planes head down the New Jersey side of the river, while northbound planes skirt the Manhattan shore.

The corridor route is popular because it offers amazing views and provides a helpful short-cut under restricted airspace, avoiding the need to obtain air traffic control clearance. Any licensed pilot can legally fly the corridor, and no special training or experience is required. On a sunny Saturday morning with over 20 visibility, a pilot operated by Liberty Helicopters planned a 12-minute sightseeing flight through the Hudson corridor. After take-off from the West 30th Street heliport, the helicopter crossed the river and turned to head south along the New Jersey side of the Hudson. According to the government investigators, the helicopter made a radio report of its position alongside Stevens Point in Hoboken and climbed to an altitude of 1,100 feet.

About three minutes prior to the collision, a private plane took off from Teterboro Airport, about five miles west of the George Washington Bridge, headed for Ocean City, N.J. The plane’s pilot apparently asked for “flight following” under which air traffic control provides traffic advisories on a “workload permitting” basis and can issue a clearance to pass through restricted airspace. The pilot requested an altitude of 3,500 feet for his flight, and the Teterboro tower controller instructed the pilot to fly at or lower than 1,100 feet for the time being and to intercept the Hudson River. Fifty-four seconds before the collision, the Teterboro controller radioed the plane and told the pilot to contact the Newark tower controller on a separate frequency for further assistance.

Either during or immediately after that transmission, 47 seconds before the collision, the helicopter appeared for the first time on the air traffic control radar screen at both the Teterboro and Newark towers. The helicopter was then at 400 feet above the Hudson and climbing. While the Teterboro controller (who investigators found was multitasking on a completely unrelated phone call) took no action, the Newark tower controller noticed a potential conflict between the private plane and traffic in the Hudson corridor and called the Teterboro controller, asking him to instruct the private plane to turn away from the river to the southwest to avoid the conflict.

The Teterboro tower controller then tried to reach the plane but was unsuccessful (probably because the pilot had switched off the process of exchanging with the Newark tower frequency as previously instructed). The plane never made contact with the Newark tower controller before the collision. Nor does it appear that the plane ever announced its position on the common radio frequency for the Hudson corridor.

Twenty seconds before the collision, the air traffic control system detected a conflict between the paths of the helicopter and the plane and set off an aural alarm and visual “conflict alert” for both the Teterboro and Newark tower controllers. The controllers made no attempt to issue a warning of the collision danger. The collision occurred at 1,100 feet as the helicopter completed its climb. Given the visibility available from the two aircraft and their flight paths, the view of both pilots may have been limited before the collision. The pilot was gaining altitude and almost certainly did not see the plane approaching from behind and above, and the private plane, a low-wing Piper, probably had restricted visibility of the climbing helicopter.

Despite the extremely high number of flights through the corridor route, the last midair collision in the vicinity occurred 26 years ago in 1983, when a float plane and police helicopter collided over Brooklyn on the air corridor that heads up the river and turned to head south along the New Jersey side of the Hudson. According to the government investigators, the helicopter made a radio report of its position alongside Stevens Point in Hoboken and climbed to an altitude of 1,100 feet.

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The Federal Aviation Administration (FAA) estimates that 10,000 to 15,000 aircraft fly through the corridor each year, including 2,000 to 3,000 small planes. In considering the risks of operating through the corridor, pilots should be aware of the increasing use of the corridor by sightseeing helicopters. Helicopters are especially difficult to detect in the radar screens because they do not transmit in the same frequency as planes.

Pilots’ Duty

Pilots have a duty to see and avoid. “[S]ee and avoid” is a fundamental of flying. The rule provides that “vigilance shall be maintained by each person operating an aircraft so as to see and avoid other aircraft.” A pilot may not “operate an aircraft so close to another aircraft as to create a collision hazard.” The pilot is the “final authority” over the operation of the aircraft,

Controllers’ Duty

Air traffic controllers have a duty to separate aircraft under their control. Under typical conditions, air traffic control provides traffic advisories on a “workload permitting” basis and can issue a clearance to pass through restricted airspace. The pilot requested an altitude of 3,500 feet for his flight, and the Teterboro tower controller instructed the pilot to fly at or lower than 1,100 feet for the time being and to intercept the Hudson River. Fifty-four seconds before the collision, the Teterboro controller radioed the plane and told the pilot to contact the Newark tower controller on a separate frequency for further assistance.

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2. 14 C.F.R. §91.113 (b).
3. 14 C.F.R. §91.113 (f).
4. 14 C.F.R. §91.3.
5. 14 C.F.R. §91.111.
6. United States v. Miller, 303 F.2d 703, 710 (9th Cir. 1962).
7. Id. at 711.
8. Robinson v. United States, 602 F.2d 1126, 1130 (9th Cir. 1979); Miller, 303 F.2d at 709.
9. 14 C.F.R. §91.113 (f).
10. 602 F.2d 1326, 1330 (9th Cir. 1979); Miller, 303 F.2d at 709.

11. Rodríguez, 823 F.2d at 740-41.


15. Rodríguez, 823 F.2d at 746; In re Greenwood Air Crash, 924 F.Supp. 1518 (S.D. Ind. 1995).

16. Miller, 303 F.2d at 711 (the “optimum of safety is sought to be achieved by imposing concurrent duties on the pilots and tower personnel”).

17. Rodríguez, 823 F.2d at 745-46.

18. 28 U.S.C. §2680(a); Collins v. United States, 564 F.3d 833 (7th Cir. 2009) (government could not be held liable for failure to install radar system to prevent collisions).