

# ***ANNIVERSARY REPORT***

## ***TASK FORCE ON ASSISTANCE TO FAMILIES OF AVIATION DISASTERS***



***SECRETARY RODNEY E. SLATER  
CHAIRMAN JAMES E. HALL  
CO-CHAIRS***

***September 28, 1998***



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

September 28, 1998

Dear Members of the Task Force on Assistance to Families of Aviation Disasters:

Last October, our Task Force issued 61 recommendations to ensure that the families of the victims of aviation disasters receive prompt and compassionate assistance. Today, the aviation community is hard at work implementing many of our recommendations. We are pleased to issue this "anniversary report," detailing the status of this important work.

In February 1997, the White House Commission on Aviation Safety and Security, chaired by Vice President Gore, issued recommendations on how we can improve family assistance. Our Task Force built on those recommendations.

There is no greater compliment to the work of the Task Force than the fact that a bi-partisan effort led the United States House of Representatives to pass legislation acting on our recommendations. This includes a requirement that air carriers provide adequate training to their employees and agents to meet the needs of survivors and family members, and an extension of the attorney solicitation ban from 30 to 45 days.

The dedication of the airlines and their representatives to implementing the recommendations deserves special recognition. Without their work on the Task Force, and their support for what we set out to do, our work would not have been a success.

We are also proud of the work of our agencies in this effort. The NTSB, which President Clinton named as the coordinator of federal assistance in this area, works with the airlines, the American Red Cross, and state and local governments to put in place an effective coordinated response. The Department and NTSB ensure that U.S. and foreign air carriers have family assistance plans, and, starting October 1, the Department requires that airlines have enhanced passenger manifests on flights to and from the United States.

The work of the Task Force, the Clinton Administration, the Congress, and the airlines has provided a more compassionate response to the victims of aviation disasters. The implementation of the recommendations shows that, in the words of fellow Task Force member Kendra St. Charles, "working together, we can make things better."

Sincerely,

A handwritten signature in black ink, reading "Rodney E. Slater".

Rodney E. Slater  
Secretary of Transportation

A handwritten signature in black ink, reading "Jim Hall".

James E. Hall  
Chairman  
National Transportation Safety Board

## INTRODUCTION

The Aviation Disaster Family Assistance Act of 1996 and the Foreign Air Carrier Family Support Act of 1997 require U.S. and foreign air carriers to have family assistance plans in the event of an aviation disaster within the United States. The Task Force on Assistance to Families of Aviation Disasters was convened to provide recommendations to the government and the air carriers for the best manner in which to carry out those plans, as well as to develop "best practices" for assisting families in the event of a disaster.

The Task Force report contained 61 recommendations to improve the assistance provided to the families of aviation disasters. The recommendations were presented in 15 sections. The first section, containing six individual subsections, concentrates on the needs of the families in the immediate aftermath of an aviation disaster. The remaining nine sections each focuses on a role of a specific organization's interaction with the assistance provided to family members. The progress made in each of these 15 sections is highlighted in this anniversary report.

Since the Task Force issued its final report, there has been one disaster involving two air carriers who have plans on file with the Department of Transportation and the National Transportation Safety Board. The crash of a Swissair MD-11 off the coast of Nova Scotia, Canada, on September 3, 1998, claimed the lives of all 215 passengers and 14 crew on board. The 229 people on board included 53 Delta Air Line passengers and one Delta Air Lines crew member, as this flight included a "code share" between Swissair and Delta.

While U.S. law did not require either Swissair or Delta to meet the requirements of either Family Assistance Act, as the event occurred outside the territory of United States, both Swissair and Delta met and surpassed the requirements of U.S. law in assisting the families of the victims. As this event occurred a relatively short time ago, all of the "lessons learned" from this disaster have yet to be revealed. However, where possible, instances where Swissair and Delta utilized the recommendations of the Task Force are contained in this report.

While this report also attempts to chronicle the work of the Canadian government and people to the families and the airlines following the accident, it does not do their efforts justice. A similar accident in another location could have had very different results. The standards set in this case could be unattainable no matter how hard an airline worked in a country less able to provide the kind of federal, state, and local support as was done in this case.

This report cites specific examples of where the Task Force recommendations have been implemented by certain air carriers to give a context to how certain air carriers have responded to the Task Force report. Both U.S. and foreign air carriers have been proactive in preparing family assistance plans, and the Task Force members who have had the opportunity to work with various airlines recognize that we are all better prepared to deal with a situation we all hope will never occur.

## **IMPLEMENTATION OF TASK FORCE RECOMMENDATIONS**

**1. The Task Force issued guidelines and recommendations to assist air carriers in responding to aviation disasters.**

**1.1 The Task Force recommended that the definition of "family member" for purposes of notification and provision of airline services should not be rigidly defined.**

- The Task Force found that airlines should not rigidly define family member for purposes of notification and provision of services, so that the airlines can extend notification and services to those who may not meet the legal definition of "next of kin." Airlines recognize that the definition of family member could be extended to close friends or companions of the victim, and usually will provide services to those persons. Most U.S. air carriers determine family members for purposes of notification and provision of services on a case-by-case basis, as familial situations vary. Carriers would choose to err of the side of being inclusive rather than exclusive.

**1.2 The Task Force proffered guidelines for the initial notification of family members by the air carrier in the immediate aftermath of an aviation disaster, including the use of third parties to assist in the notification process.**

- The U.S. House of Representatives passed legislation that would amend the Family Assistance Acts (the Aviation Disaster Family Assistance Act of 1996, which applies primarily to U.S. air carriers, and the Foreign Air Carrier Family Support Act of 1997) to include an assurance by air carriers that they will inform the family, upon request, whether the passenger's name appeared on a preliminary passenger manifest for the flight involved in the accident.
- Major air carrier plans call for the notification of families individually if they have information that a family member was on board the flight, rather than waiting for whole manifest to be released. While a toll-free number is required by law, certain airlines also provide additional toll-free numbers such as one for relatives once they initially call in, so that they will not experience a busy signal or delay if they call again. In addition, many airlines have also instituted a "Call Home" program for employees, whereby employees contact their families once the disaster occurs so that phone lines are cleared for passenger families.
- After first notifying their families, Swissair initially posted the names of 227 people on the flight on its website, [www.swissair.com](http://www.swissair.com), in an effort to limit phone inquiries to the airline following an aviation disaster. Major U.S. air carriers have similar plans to utilize the internet in such a situation.

- With respect to the use of third parties to assist in the notification process, the National Air Carrier Association (NACA), on behalf of Miami Air International, North American Airlines, Omni Air International, Tower Air, and World Airways, reached arrangements with Family Enterprises, Inc., to provide aviation crisis management services in event of an aviation disaster anywhere in the world. According to NACA, who served as a member of the Task Force, Family Enterprises has assured each carrier that in the event of an aviation disaster, Family Enterprises will handle the disaster by providing all of the toll-free number communication requirements, coordination with the next of kin, and on- site representation at the scene.

### **1.3 The Task Force recommended that airlines assist family members with travel to and accommodations at accident sites and memorial services.**

- Major air carriers have adopted plans to assure that family member travel should not be delayed due to full flights to the location of the family assistance center or requirements to fly on a particular carrier. Other air carriers will work with families to ensure that they spend the appropriate amount of time at a family assistance center. United Airlines, for example, has placed into its family assistance plan a provision that would allow a family to travel between the accident site and their residence, if the family so chooses.
- The U.S. House of Representatives has also passed legislation that would amend the Family Assistance Acts to include language stating that “nothing may be construed as limiting the actions that an air carrier may take, or obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.”
- Swissair arranged special daily charter flights to Halifax from New York and Switzerland for families to visit the crash site and to receive briefings on the status of investigations. In Halifax, 900 rooms were reserved for families of victims, along with transportation to Peggy’s Cove near the site of the crash. Families gathering in New York at JFK Airport were lodged at a nearby hotel.
- In addition to provision of travel and lodging, the Task Force recommended that airlines consider the provision of financial assistance to families in their time of need. The European Union Council proposed a regulation in October 1997, which would require its member airlines to compensate those persons or families involved in an airline disaster within fifteen days after the identity of the person. Advance payments are to be made to meet immediate economic needs on a basis proportional to hardship suffered. The payment should not be less than the equivalent in ecus (European currency units) of 15,000 SDR (special drawing rights) per passenger in the event of death (1 SDR = 1.3664 US dollars). If airlines choose not to provide compensation, the airline must inform the passengers at the time of ticket purchase. Swissair chose to make a lump sum payment to each family in the amount of \$US 20000.

#### **1.4 The Task Force prepared guidelines for training of air carrier personnel who interact with family members.**

- Legislation passed by the U.S. House of Representatives would amend the Family Assistance Acts to include assurances by the air carriers that they will provide adequate training to their employees and agents to meet the needs of survivors and family members following an accident. Many air carriers had family assistance plans in place prior to the enactment of the legislation. TWA, for instance, implemented a family assistance plan with a training component in 1992.
- All major U.S. air carriers have already implemented and improved their training plans and programs designed to meet the needs of families in the aftermath of aviation disasters. Continental Airlines, for instance, has implemented different types of training for different levels of personnel: emergency volunteers, front line reservations personnel, airline personnel, station managers, and corporate communication vendors. Northwest Airlines has a training program that, among other aspects, trains "Assist Members" to provide for logistical assistance to family members in a caring and compassionate way.
- The Task Force also recommended that an explanation of the role of the government be included in airline training sessions. The National Transportation Safety Board (NTSB), as well as the Department of Transportation (DOT), have participated in many airline training sessions to explain to the airlines the government's role in aviation disaster response, so that the government and the airlines can coordinate in assisting families.
- The Task Force found that airline training programs should use survivors and family members to share their personal experiences either in person or on video tape during the training process. Many U.S. air carriers, including American Airlines, utilize family member testimony in their preparedness training sessions. Task Force members Frank Carven, Joe Lychner, and Kendra St. Charles have all participated in various airline training sessions to emphasize to airline employees the necessity of prepared personnel in the event of an aviation disaster.

#### **1.5 The Task Force stressed the importance of the return of personal effects (property) to the family members by the airline.**

- Many airlines hold personal effects for time periods longer than 18 months, the time required by the Family Assistance Acts, so as to afford families as much time as necessary to receive effects at each family's personal pace.
- The Task Force also recommended that airlines retain a private company that specializes in the identification and return of personal effects to ensure adequate and effective return of passenger property.

- Kenyon International Emergency Services, a provider of services associated with personal effects, continues to work with the NTSB two years after the TWA 800 crash in returning personal items to families, and is working with Swissair on the return of the personnel effects to families of Flight 111 passengers. Other air carriers have contractual arrangements with other service providers in this area.

**1.6 The Task Force offered guidelines concerning the interaction between the airlines and American Red Cross in assisting the victims of aviation disasters.**

- The NTSB has designated the American Red Cross (ARC) as the “independent nonprofit organization” to provide for the emotional well-being of survivors and families who lost loved ones in an aviation disaster. Accepting this role, the ARC has initiated plans to prepare for and implement that role in the event of an aviation disaster involving foreign or domestic carriers that occur within the continental United States. Recognizing that this role must be implemented in close coordination with the activities of the NTSB, affected air carriers, airports, emergency response agencies, and related agencies and organizations, the ARC has developed procedures and activities to meet its responsibilities, and continues to do so. The ARC has prepared a document intended to provide agencies and organizations with an overview of the preparedness and response activities that the ARC will provide for aviation disasters. Included in this document are preparedness and response activities for local chapters and national headquarters, as well as assigned duties for aviation incident response teams and disaster relief operations.
- The NTSB Office of Family Affairs hosted a meeting this year with representatives from domestic, international, and regional air carriers, along with representatives of the ARC. The ARC presented information on its accomplishments and its objectives for the upcoming year. They also discussed the guidance provided to its local chapters on working with local airline representatives and airports to assist them in developing their plans. This forum provided ample opportunity for all participants to ask and respond to questions, resulting in beneficial information sharing.

**2. The Task Force issued recommendations to ensure that families of non-U.S. citizens involved in an aviation disaster receive appropriate assistance from both the airline and the U.S. government.**

- Since the issuance of the Task Force report, the Department of State has implemented and otherwise acted in furtherance of a number of the Final Report's recommendations. The State Department was pleased with the promptness with which a toll-free number was established after the crash of Swissair Flight 111 for the families, as well as the swift deployment of care givers by Swissair and Delta Air Lines to assist the families in Switzerland,

Canada, New York, and in the homes of many families who chose not to fly to Halifax. These two procedures, as recommended in the Task Force's Report, helped to allay anxiety and frustrations of family members during the immediate hours and days following the crash.

- The State Department has entered into a Memoranda of Understanding (MOU) with 14 U.S. air carriers reflecting Best Practices and Procedures in the event of an aviation disaster. The MOU provides a basis for cooperation and mutual assistance in reacting to aviation disasters occurring outside the United States with the goal of improving the treatment of victims' families.
- The Swissair Flight 111 crash on September 2, 1998, was the first time the MOU was utilized. The MOU between the State Department and Delta Air Lines inspired two positive changes to the State Department's response to an aviation disaster. First, the Department received in a timely manner the manifest from Swissair/Delta Air Lines. Secondly, liaison officers from Delta Air Lines joined the Department of State Working Group and provided information and insights that were critical to avoid miscommunications.
- The Department of State is also appreciative of the roles played by the DOT and NTSB in the aftermath of the crash of Swissair Flight 111. The NTSB, at the invitation of the State Department, was asked to send family affairs personnel to the recent Swissair 111 crash off the Halifax coast. Two family affairs officers were dispatched to the scene where they assisted State Department consular officers in ensuring that American victims and families were given all the assistance they needed. An NTSB forensic anthropologist was invited into the temporary morgue established by the Canadian government.
- DOT also assisted the State Department by focusing on the need for presumptive death certificates. This helped to facilitate the acquisition of the victims' presumptive death certificates, which becomes necessary for the victim's families until the report of death can be completed.
- Since the issuance of the Final Report, the State Department has maintained a dialogue with the airlines by participating in training exercises and visiting airline crisis centers.

**3. The Task Force issued recommendations to improve the passenger manifests (or other systems) used by the airlines to establish points of contact with families of passengers.**

- The Department of Transportation issued on February 18, 1998, a final rule to require enhanced passenger manifests for flights to or from the United States. The rule, effective October 1, 1998, will require certificated U.S. and foreign air carriers to collect a full name of each U.S. citizen traveling on flight segments to or from the United States, and to solicit a contact name and phone number. The rule allows each carrier to develop its own collection



system. Implementation of the rule will provide the government with prompt and adequate information in the event of an aviation disaster and permit the State Department to carry forth its responsibility to notify families of U.S. citizens killed overseas in a timely manner.

- The State Department looks forward to the implementation of the passenger manifest rule on October 1, 1998. This will assist the Department in determining who is a United States citizen so that it may fulfill its legal obligations to either the individual or his or her family in the event of an aviation disaster abroad.
- Airlines are working to ensure that they can comply with the passenger manifest rule. Over 80 U.S. air carriers and over 150 foreign air carriers have filed plans with DOT on how they will improve their passenger manifests. Others are conducting drills to ensure that the manifest is confirmed in the most timely manner possible. In particular, one airline has dedicated a room used only for emergency passenger manifest operations, and has assigned the function of passenger manifest coordination to their 24-hours reservations center. In addition, during a recent drill conducted by Continental Airlines for members of the Task Force, the average time for a name to be confirmed on the manifest was less than one minute.

**4. The Task Force issued recommendations on uniform guidelines for medical examiners and coroners on the identification of the remains of victims.**

- The NTSB continues its dialogue with the medical examiner community that was established last year when Chairman Jim Hall spoke at the annual meeting of the National Association of Medical Examiners. Since then the Board has initiated discussions with the medical examiner community on the many sensitive identification issues associated with an aviation disaster. Just recently the Board was able to provide advice to the Canadian medical examiner responsible for the identification of victims of Swissair Flight 111.

**5. The Task Force provided findings on the extent to which military experts and facilities are used to aid in the recovery efforts and subsequent identification efforts following an aviation disaster.**

- The NTSB continues to work with the Department of Defense (DOD) in recovery efforts. The NTSB utilized DOD's DNA capability for the identification effort involving Korean Air Flight 801. The NTSB was also instrumental in assisting the medical examiner tasked with the identification of passengers of Swissair Flight 111 in obtaining DOD DNA support, and assisted the Canadian Transportation Safety Board in obtaining U.S. naval salvage support.

**6. The Task Force issued recommendations to ensure that state mental health licensing laws do not act to prevent out-of-state mental health workers from working at the site of an aviation disaster or other sites to assist survivors, family members, and those involved in the recovery effort.**

- The U.S. House of Representatives amended portions of the Family Assistance Acts by adding language that prohibits actions by a state or political subdivision thereof that would prevent employees, agents, or volunteers of an organization designated for an accident from providing mental health and counseling services within a 30-day period after the accident. In addition, language was added permitting the designated director of family support services to extend the period not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if state and local authorities are notified of the determination.

**7. The Task Force issued recommendations on methods to improve the treatment of families by the legal community, including methods to ensure that attorneys do not intrude on the privacy of families of passengers involved in an aviation disaster.**

- As a result of the Task Force recommendations, the U.S. House of Representatives amended portions of the Family Assistance Act to extend the attorney direct solicitation provision from 30 days to 45 days. In addition, the House extended solicitation by an attorney to include solicitation by any associate, agent, employee, or other representative of the attorney.
- The Justice Department prosecuted an aviation plaintiff attorney for violation of the 30-day solicitation ban in the aftermath of the Scenic Air aviation disaster in October 1997 outside of Montrose, Colorado. James R. Lebovitz of the Cleveland, Ohio law firm of Nurenberg, Plevin, Heller, and McCarthy, represented himself and his firm as experts in aviation law and sent a letter to a family member dated one week after the accident in which he advocated hiring the firm for legal representation. Secretary Slater and Chairman Hall supported the Justice Department's decision to prosecute, citing the Task Force's endorsement of vigorously prosecuting violators of the solicitation prohibition. The prosecution resulted in a settlement comprised of an \$8000 civil penalty and a letter from the attorney to Chairman Hall acknowledging a violation of Aviation Disaster Family Assistance Act, as well as a commitment to future compliance with the Act. It is DOT and NTSB's hope that enforcement of this legislation will have a deterrent effect on other attorneys, encouraging efforts of the plaintiff and defense bar to police themselves in this delicate area.

**8. The Task Force issued recommendations on methods to ensure that representatives of media organizations do not intrude on the privacy of families of passengers involved in an aviation disaster.**

- The NTSB addressed the issue of protecting families from the media in the "Federal Family Assistance Plan for Aviation Disasters." Specifically, other than the media releases by the airline on the progress of family notification and release of passenger names, all media inquiries and releases that pertain to the family support operation will be referred to the NTSB family support public affairs officer. The NTSB will advise and assist the local medical examiner on any media affairs in his or her area of responsibility. There are no restrictions on victims or family members meeting with the media, if they so desire.

**9. The Task Force issued findings and recommendations on the availability of information from cockpit voice recorders.**

- Statutory law imposes strict privacy constraints on the federal government concerning the use of cockpit voice recorders. The NTSB will be conducting a review of major airlines' policies and procedures governing the use of cockpit voice recorders once they are returned to the owner.

**10. The Task Force issued recommendations concerning the NTSB "party system" used during the accident investigation process.**

- The RAND Institute of Civil Justice is conducting a research study for the NTSB focusing on the personnel and parties involved in an accident investigation – the "party system." The goal of the study is to assure that the central mission of the agency – the independent investigation of transportation accidents and the issuance of recommendations to improve transportation safety – continues to be carried out with the highest degree of public accountability, accuracy and timeliness. As the TWA 800 investigation demonstrated, NTSB accident investigations involve much more than an agency's in-house work. In conducting a major investigation, the NTSB leverages its resources by designating other organizations as "parties to the investigation" as a means of obtaining the necessary technical or specialized knowledge that is critical to the accident in question. RAND will examine the party system since its inception, focusing on whether the nature of investigations has changed over time, and, if so, whether the changes have had a positive or a negative impact on NTSB accident investigations.