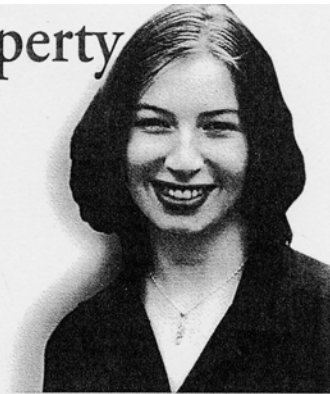


The Return of Personal Property After Death and Disaster – Is there a case for a National Standard?

By *Lucy C Payne LLB, MSC, MICDDS, MIEM*

Risk, Crisis and Disaster Management Consultant



As a researcher and practitioner, with a long-standing interest in disaster management, I have been involved in the aftermath of major incidents including the collision of two aircraft over Germany, the Bali bombings and most recently the military campaign in Iraq.

I am currently examining the issue of returning property to those affected by disaster as a result of my own experiences; some of my specific responsibilities have been centred around processing and returning personal property for bereaved families (*slide 1*). This current research has been developed with the assistance of members of the family support group Disaster Action and senior police officers. The outcomes of the research are designed to inform police authorities, the training of police family liaison officers, local authorities, coroners and their officers, disaster response agencies in their many forms and the wider death-care community.

What do we mean by personal property?

- Single items such as clothing, jewellery, wallets, identity papers, currency
- Items from a site - a car crash, an explosion, a place of work, a plane crash, the sea
- Suitcases, briefcases, computers, toys....

Slide 1

Today I wish to discuss a number of challenges that have presented themselves to those working in this field and briefly examine the strong case for a national

standard. However I am also keen to gain insight and I would very much value that from the community here before me today.

This is particularly important because it would be remiss of me to focus solely on the situation after disaster. Obviously that is where my experience lies, but the assertion of researchers in this area is that disasters do not create whole new difficulties for the families of the deceased. Instead they highlight problems that are already there on a smaller scale. Every day deaths are occurring in numerous circumstances and police family liaison officers, coroners' officers, hospitals, hospices, clergy will all be dealing with issues around personal property.

Much of the focus of this conference and on conferences before has been around the rights of the bereaved and I think it is now accepted that there are a number of basic rights that should be protected. Numerous inquiry reports have shown that in the past those in authority have been very good at removing choices from those affected by sudden death. I would argue that the right to the return of a loved one's personal property should also be safeguarded especially as it may be a vital part of the grieving process (*slide 2*). The importance of the process was reiterated to me after an air crash in America that occurred at sea, when there were very little human remains that could be returned, and one of the mothers was adamant that her son had survived. She was convinced that he had managed to swim to one of the islands and she repeatedly asked the responders to check, and even though fragments of his DNA had been recovered she did not believe that he had died. It was only when they were able to

return to her possessions that she knew he would have had with him, that she began the process of accepting that he had been killed in the crash (Personal Communication).

Why is returning personal property important?

- Rights of the bereaved
- Links with the right to view their loved ones
- "Removing" choices from families
- Lord Clarke's Inquiry
- May be a vital part of the grieving process
- Survivor's rights

Slide 2

It is also important to remember that the return of personal property after death and disaster should not be seen as relating to any financial or insurance arrangements – it is instead focused upon returning items of emotional significance where monetary value may often become irrelevant (in my experience items claimed have included scraps of paper, broken biro's and the casing of a mobile phone).

When initially examining this area of disaster management one of the most frequently asked questions is along the lines of 'Surely this is simple, you just gather up the property from wherever it is and you give it back. What is the problem?' (*slide 3*).

Why do we need a standard?

- Surely this is simple? You just collect the property and return it?

Slide 3

One of the facts that help me to answer this is that there are some differences with disaster and a number of these will be drawn out in this piece. In one way what makes a disaster different – nothing (slide 4). I have already said that disasters may highlight cracks that are already there. But there are a number of factors that disasters bring together that mean difficult and potentially very damaging choices are made. When dealing with disaster on the scale of the terrorist attacks seen around the world in the last decade there may be several thousand affected families and the temptation then is to make a blanket decision such as all property must be cleaned, or all property must be destroyed.

What makes a disaster different?

- The scale of the event
- The traumatic impact on both the body and the personal property
- The overwhelming of resources
- The investigative priorities
- Balancing the needs of all those involved
- Media interest

Slide 4

The aftermaths of disasters are not clear cut and it can be very difficult for people to grasp the traumatic impact after an explosion or an air crash on both the body and the items of property. Families may be confronted with very challenging issues and one of the blunt truths about this area of disaster management is that property will often survive where people have not. The fragile nature of the human anatomy can mean that there may be very few human remains recovered from a disaster site, but there may well be almost intact items of property. Property can be spread over a large area; there may be thousands of items particularly if a transportation company such as a plane or ferry has been involved and the owners may not be immediately identifiable. There will often also be a tragic mix of fatalities and survivors and after a train crash or an office collapse, for example, survivors' property can easily become part of that process, so it is vital that we have an understanding of their needs; they may not want property back, or they may want it back very quickly, or they may not expect it to be subjected to any processes (slide 5).

The realities of a disaster

- The impact on the property and the victims
- Property is separated – identification issues
- Property spread over a large location
- Property is contaminated
- Securing the site – the sanctity of the site

Slide 5

It is also important to remember that items of property have another important role after sudden death and that is the role of property as evidence. In the case of a disaster there will be a number of different response agencies all with competing needs; the site may well be a crime scene and after an air crash the CAA, the FAA, the NTSB (or whoever has jurisdiction in that area) the priority is to establish the cause of the accident, and, in some cases, that can literally mean stepping over everything else. Obviously those affected by tragedy will be keen to see justice done where possible and property may be an essential part of that but one of my assertions is that responding agencies should provide more detailed information on the length of time property will be held and be mindful of the conditions in which it is stored to prevent further deterioration.

It is my view that the current situation in the UK is both sporadic and fragmented and when returning personal property, different police forces in different parts of the UK have very different approaches; I have worked with police forces that have done everything they can to return items, and police forces who have used 'health and safety' to impose blanket destruction of all items (slide 6).

This also raises some important issues around perception; items of personal property may often be damaged, soiled, burned and wet, but with the right care and attention, such as an effective drying process, the results can be truly miraculous. Something the size of a small ticket stub opens out to be the last letter that somebody was writing to their loved one. There will be occasions when there are issues of health and safety that will need to be addressed but there are some ways around this, and there is also the issue of

Current situation in the

- Sporadic and fragmented
- The role of the FLO and Coroner
- Different police forces – approaches
- Health and safety
- Not safeguarded by legislation – we do have the work of
- Human Right's Act 1998
- Not detailed in Civil Code Act or guidance to local
- Will there be enough FLOs?
- Foreign families?

chemical, biological, radiological, nuclear attack, which is high on the agenda. If a dangerous pathogen, for example, the return process may not be able to be taken forward in the UK but in that situation what I think is right for families to be given is a clear and honest and accurate timeline.

In the past, response agencies have undertaken the censoring of property and has included the removal from property of medicines, pornography, items of contraception and private communications. One example communicated to me was of a businessman who always travelled abroad with four condoms in his pocket; the workers processing his property thought it was inappropriate to inventory them so they took them out of his pocket; the wife's first reaction on returning was that he must have been involved in an affair! So in addition to the delays in the returning process, inadvertently through their own sensibilities the responders have caused further difficulties for the families.

Therefore, one of the first things that has been developed to support a national standard was a Charter of Rights for the returning of property, the right to consistent treatment, the right to choose, the right to sensitive handling, and the right to return, and the right to respect for religion and culture, etc. This is the foundation on which all further work should be built (slide 7).

When establishing the current national standard, examples of jurisdictions were sought, such

Charter of Rights

- The Right to the timely return of property
- The Right to information
- The Right to consistent treatment
- The Right to choose how property is processed
- The Right to sensitive treatment and return

Slide 7

Aviation Disaster Family Assistance Act 1996 in place in the USA. One source of impetus for the passing of this statute was the work of the family support group of Flight 427. This flight crashed in Pennsylvania and the families campaigned to gain access to the hanger so that they could pay respects to the wreckage of the plane, and while outside waiting to be let in, looked around and to their horror discovered large bins in which there were both human remains and items of property. Congress agreed that this should not be allowed to happen again. This legislation sets out a number of stipulations to protect families after air disasters and imposes specific obligations on both airlines and other responding agencies. One stipulation is that the airline must arrange for personal property to be returned to families and sets out detailed descriptions. The family can choose to have the item 'as is'; it is returned as close as possible to how it was retrieved from the site, even with blood stains or badly burned. They can also ask for property to be cleaned, repaired or laundered but it is their choice. Prior to the legislation, a mother was very distressed when a responding agency laundered all of her child's clothes without telling her or giving her the chance to choose. She had laundered their clothes all their life and that last opportunity had been taken from her.

Another feature of the USA legislation is the stipulation that 'unassociated' property must be catalogued; after an air crash or explosion property can be spread over several hundred miles, before it is collected and stored. Think about what you have brought with you today. How many of your items, including the contents of your suitcase have your name, address and next-of-kin clearly detailed on them? Some items such as passports and bank cards do and

these may be much easier to return. But other items can be very difficult to associate with a victim so the American law states that photographs of property can be recorded in a catalogue, which if they feel able to, families can view and make claims from and the American legislation sets out the procedure for this. Some UK police forces have also used this methodology.

Many of the practical considerations of this legislation, and similar experiments trialled elsewhere, provide the foundations for the logistical elements of the national standard that I am proposing, and I have incorporated these into a guidance template for responders.

However, the American example does place a great emphasis on airline and transportation disasters and we must not forget that sadly there can be many other types of tragedies. In my view, any standard adopted must be more generic and not single out one particular area. Return of property should be approached holistically and should be afforded similar attention to other areas of post disaster management. It is a particularly complex area with legal and insurance issues to wrestle with, which should not be examined retrospectively and attempted during a difficult and challenging aftermath.

Most importantly, I am asserting that those affected by disaster should be treated as individuals, allowed to make informed choices and assumptions should not be made about their requirements. We must not assume that everybody who has lost a loved one has the same viewpoint on the property. Some people may not want it back. Some people are appalled by the idea of smelling the petrol or the air fuel on that item, while others have requested it to assist with their own grieving process.

Legislation can take a long time to pass, and may not always be an ideal solution, so my initial focus has been around a process of knowledge, education and training to introduce a national standard through an embedding process, and promote awareness of the issues discussed today. To assist with this a number of documents are in development; The Charter of Rights and a guidance template for responders as discussed, a leaflet to assist those affected by disaster and a policy statement as well as

model forms that can be incorporated into disaster planning.

With new legislation in the UK Civil Contingencies Bill and heightened public awareness, disaster management post-disaster family assistance an agenda and it is important that opportunities to discuss issues should not be wasted. Planning and resources being allocated in this field (although I would argue not enough!) and to encourage multi-agency work and national standards for disaster currently being undertaken. It is, therefore, right to adopt a national standard for returning personal property after sudden death and disaster. I shall conclude.

Lucy Payne would value comments and questions to assist with furthering this area and is contactable at lcpral@hotmail.com

References and further reading

- <http://www.aaae.com/depts/fed/hr3923.htm> as at 1st September 2004
Aviation Disaster Family Assistance Act 1996 available to download
- Eyre, A (2002), 'Improving post-disaster recovery: Minimising distress: Issues in the identification of victims following a disaster', *Australian Journal of Disaster Management*, Autumn: 9-13.
- Wald, M (1998), 'Catalogue of the Belongings of Flight 800 Victims', *The New York Times*, 5th June 1998, Section B:1
- Walsh, L *427 group improved treatment of families*, The Pittsburgh Gazette-Express, 28th March 1999, available at <http://www.pittsburghpost-gazette.com>
- <http://www.disasteraction.org.uk>
<http://www.disasteraction.org.uk/organisation.htm>
as at 1st September 2004
Website of the organisation Disaster Action