

**Testimony of Joseph Osterman  
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before the  
Committee on Health, Education, Labor, and Pensions  
U.S. Senate  
“Current Mine Safety Disasters: Issues and Challenges”  
October 2, 2007**

Good morning Chairman Kennedy, Ranking Member Enzi, and Members of the Committee. Thank you for allowing me the opportunity to present testimony on behalf of the National Transportation Safety Board regarding mine safety disasters. In particular, I will provide testimony regarding the NTSB experience providing assistance to victims and their families following a transportation disaster. The NTSB is an agency dedicated to the safety of the traveling public and it is my privilege to represent such an agency.

As you know, the Safety Board is an independent federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in other modes of transportation -- marine, highway, railroad and pipeline. In addition, the Board conducts safety studies on issues of national significance such as personal watercraft safety and operator fatigue. Based upon these investigations and studies, the Board makes recommendations to prevent similar accidents from happening again. Eleven years ago, the Board assumed the additional responsibility of coordinating assistance to victims and their family members following a major aviation disaster.

I would like to take a moment to first explain how the Board was identified for this important responsibility and then briefly discuss how the program has worked.

After a series of major aviation disasters in the early to mid- 1990's, including USAir flight 427 in Aliquippa, Pennsylvania, ValuJet flight 592 in the Florida Everglades, and TWA flight 800 off Moriches, New York, a number of family members began sharing with the Board their experiences involving a lack of a coordinated response from the airlines, continuous busy signals on the airline's 800 number, untimely and often incomplete notification of the accident, misidentified remains of loved ones, personal effects being destroyed without family members' consent, and the use of confidential information in litigation.

Family members felt abandoned and in some cases abused at a time when they needed guidance, assistance, and compassion. These feelings were not isolated but shared by family members of many other accidents.

In response to these concerns, Congress passed the Aviation Disaster Family Assistance Act in 1996. This legislation designated the Safety Board as the lead federal agency responsible for coordinating information to victims and their families impacted by a major aviation disaster. This Act gave the Board its authority to bring together federal, state and local government agencies to assist victims and their families when an aviation disaster occurred. It gave the Board additional responsibilities to facilitate the recovery and identification of fatally injured passengers, ensure to the maximum extent possible that family members were briefed about the investigation prior to any public release, and make sure family members were informed of and allowed to attend any public hearings and meetings on the investigation that was held by the Board. Additionally, it directed the Board to designate a director of family support services who would be responsible for acting as a primary point of contact within the Federal government and act as a liaison between the carrier and the family members. The Act also directed the Board to designate an independent non-profit organization to be responsible for coordinating the emotional care and support of those family members. The Safety Board designated the American Red Cross to be that independent organization.

To carry out the assigned task, the Safety Board created the Office of Family Affairs, currently the Office of Transportation Disaster Assistance (TDA). The Office has carefully recruited skilled and experienced individuals in the primary disciplines of victim recovery and identification, mental health, and emergency response operations. Members of the TDA team travel with the investigative teams to all major aviation disasters as well as selected major accidents in other modes of transportation. The team also provides assistance on a case-by-case basis to the Board's regional investigators handling general aviation accidents. For the first time in history, a trained and experienced team is now in place to coordinate the response to transportation accident victims and their families.

In addition to the Board's disaster assistance role, the Act also requires air carriers to prepare for and assist victims and their families. All domestic air carriers are required to have a plan to publicize a reliable, toll-free telephone number and provide trained staff to handle the calls from family members and have the plan on file with the U.S. Department of Transportation and the Safety Board. The plan must also include a process for notifying families of passengers in a

timely manner that an accident has occurred, an assurance that the carrier will assist the family members in traveling to the location of the accident, and provide for their physical care while they are in the accident city.

Following a 1997 crash in Guam, the Board realized that foreign air carriers flying in and out of the United States were not covered by the 1996 legislation. As a result, Congress passed the Foreign Air Carrier Family Support Act of 1997 that required foreign air carriers serving the United States to develop family assistance plans and fulfill the same responsibilities as domestic air carriers. This helped to ensure equitable support and assistance to anyone impacted by an aviation disaster occurring in the United States.

The 1996 legislation also required the establishment of a Task Force that consisted of representatives from the Department of Transportation, the National Transportation Safety Board, the Federal Emergency Management Agency, the American Red Cross, air carriers, and family members who have been involved in aircraft accidents. The Task Force was convened to make recommendations to government agencies and the air carriers regarding the implementation of their family assistance plans and to devise “best practices” for conducting family assistance operations. The recommendations collaboratively developed by this group of individuals were delivered to Congress approximately one year after the passage of the legislation. These recommendations became the foundation for the development of the Board’s Federal Response Plan for Aviation Disasters. The Board believes the input and “buy-in” of all of the stakeholders through this Task Force has been critical to the success of its work in assisting victims and their family members.

The Safety Board has learned through extensive experience in all modes of transportation that no one agency or person can manage catastrophic events alone. The Board is also aware that each and every event is unique and therefore must be met with a well thought out response. This Federal Response Plan solicits the support of private and public agencies through a series of Victim Support Tasks (VSTs). Again, the Task Force members articulate the needs of family members, and the Federal Response Plan, through the VSTs, identifies the agency most capable of assisting the family members. While on scene, all of the responding agencies are required to coordinate through a Joint Family Support Operations Center (JFSOC). The JFSOC is managed by the Board and is designed to be the primary location to address the issues of victims and their families.

While the Board has important responsibilities during the initial response to a transportation accident, our contact and support to the victims and their families continues throughout the Board's process by continuing to communicate with the family members through investigative updates, providing information regarding the Board's public hearings and meetings, responding to family members' questions on recovery and return of personal effects, recovery and identification of their loved one, and other issues and concerns. The Board has learned that it is critical to provide family members easy access to trained professionals who can provide answers to their questions.

The interaction between TDA staff and family members underscores the importance of the process of family assistance. Families frequently comment on their desire for a consistent source of factual information, an understanding of what to anticipate in the days, weeks, and months following the accident, and most importantly compassion. The family assistance process provides this in a focused way. A family member from a recent accident commented "the process of family assistance gave me some positive memories that I was able to carry with me as a source of hope beyond the horrible experience of the disaster."

For the air carriers, the NTSB serves as a neutral agency that helps alleviate unproductive tensions that may exist with family members by being the single source of factual information concerning the accident. The Air Transport Association and the Regional Airline Association, the two largest industry groups, both strongly support the NTSB family assistance program and help advise TDA staff on air carrier concerns. This ongoing relationship with the associations and the air carriers has allowed the airlines to respond more effectively.

While today we enjoy a well-integrated and effective family assistance program, that has not always been the case. Many individuals, even some at the Safety Board, did not believe the Board should have the responsibility for family assistance. Some were concerned that this additional role would detract from and interfere with the Board's independence and make it more difficult to maintain objectivity. To address those valid concerns, the Board put a "firewall" between the TDA team and the investigative team. The TDA team quickly earned a reputation for handling its tasks effectively while also protecting the integrity of the investigation. Over time, the TDA team has become an integral part of every go-team launch, and our accident investigators in all modes of transportation have grown to depend on their expertise in communicating with family members and rely on their assistance throughout the investigative process.

While we believe our program has established the “gold” standard in victim and family assistance, we know there is always more work to be done. The TDA team remains involved with its private and public partners to ensure their readiness to respond. Regular meetings are held with the air carriers, our federal partners and with non-profit agencies. In addition, due to the demand for information, the TDA team has developed several courses on Family Assistance which are currently held at the NTSB Training Center.

The NTSB model of family assistance is evolving beyond large aviation accidents. In addition to serving NTSB in both general aviation accidents and non-aviation disasters, the TDA team has also been asked to assist other federal agencies in developing plans and providing training to their teams to respond to victims and their family members. Those teams include the Federal Bureau of Investigation, the Department of Health and Human Services following Hurricane Katrina, and the Mine, Safety, and Health Administration (MSHA) on family assistance issues and challenges.

As far back as 2002, the Board was asked by MSHA to provide training and share “best practices.” In January 2007, members of the TDA team traveled to the MSHA Academy where they delivered a two-day training course to members of their family liaison program. There have also been a number of MSHA employees who have attended our Basic Family Assistance course offered at our Training Center.

While the Board has responsibility for coordinating assistance to victims of major transportation disasters and their families, it is very much aware that it takes the hard work of many agencies and individuals to be effective. The Board is also prepared to assist our colleagues in other agencies to develop and enhance their programs. The Board has discovered that assistance to families and victims during disasters not only helps them cope, but it improves our ability to investigate those disasters.

This concludes my statement, and I will be happy to respond to any questions you may have.