



After *the* Crash



WHAT YOU
CAN EXPECT
NEXT

When an Airliner Crashes...

Nothing that causes death and injury to hundreds in one tragic moment can ever be thought of as “routine,” but each time an airliner crashes, you can expect a standard set of responses from:

- ☞ Lawyers specializing in crashes
- ☞ Airline representatives
- ☞ Insurance companies
- ☞ The media
- ☞ Federal, state and local police
- ☞ The Red Cross and other emergency volunteers

Although you may have already dealt with many of these people by the time you read this, to preserve your legal rights, you should know the role each plays after a crash.

Airport Emergency Response

Most crashes occur at airports while planes are landing, taking off or taxiing on a runway. Even when a plane is in trouble in the air, its pilot tries to land on the nearest runway. Because of this, every major U.S. city airport has an emergency team that it dispatches immediately to the site when a plane crashes. Usually between 25 and 30 rescue workers rush to the scene with emergency medical and fire equipment. The job of this team is simple: to minimize the amount of injury suffered by as many people as possible.

This is a difficult task. The harsh truth is that most passengers die in a crash. Few survive. However, those who do survive the impact need to be pulled from the plane quickly before they succumb to smoke inhalation from the fire that is usually started. People on the ground, near the site of an air crash, may also die or be injured.

If the plane crashed during landing or takeoff and you are at the airport to see a passenger off or to welcome one, airline representatives will give you regular updates about rescue efforts as the information becomes available. They also will report the number of people killed or injured, but they will not release their names. That is left to the police.

Red Cross, Salvation Army and Other Volunteer Support

As soon as the crash occurs, the local chapter of the Red Cross is notified. It dispatches to the crash site a Disaster Action

Team (DAT) of 10 to 15 volunteers directed by a paid staff person. The team provides comfort and support to victims and their families at the scene of the crash. DAT team members can be identified by their red jackets, ID badges and, sometimes, helmets.

In most cases, the Red Cross is the first volunteer group to arrive on the scene. However, they are usually joined by the Salvation Army and volunteer units from a number of national churches. Volunteers provide coffee, food and a sympathetic ear

IN MOST
CASES, THE
RED CROSS
IS THE FIRST
VOLUNTEER
GROUP TO
ARRIVE ON
THE SCENE.

and find temporary housing for victims and their families so they can be close during rescue operations and investigations into the cause of the crash. They also provide support services to rescue workers.

Local hospitals, social service agencies and private citizens may also volunteer their skills to provide support to grieving families or victims. For example, after the 1985 Delta Air Lines crash at the Dallas/Fort Worth International Airport, a private psychiatrist went to the crash site and counseled the families of some of the 133 people who had died.

Don't hesitate to ask about these support services. These volunteers have handled emergencies before. They will understand

your needs and know what further resources are available.

Federal, State and Local Police

The police are among the first on the scene. These may be local or state police, or both. They will rope-off the site and make sure local medical services, fire squads and police emergency teams are on the way. Hospitals are alerted and ambulances and paramedics are dispatched.

State or local police authorities are usually in charge. The aftermath of the 1982 Air Florida crash on a Washington, D.C., bridge focused public attention on the importance of clear lines of authority for smooth police and rescue operations. The 14th Street bridge spans the Potomac River between Washington, D.C., and Virginia. Authorities from both jurisdictions responded but were initially uncertain who was in charge. A subsequent study resulted in an emergency plan for coordinated police activities.

The police maintain order to ensure that the rescue operation proceeds as efficiently as possible and seal off the site until federal investigators arrive. You should cooperate with these authorities as much as possible; answer their questions and give them room to proceed with rescue operations.

If criminal activity is suspected, the Federal Bureau of Investigation becomes the lead investigator. An example of that occurred with the crash of Pacific Southwest Airlines flight in San Luis Obispo, California on

December 7, 1987. The FBI began an investigation of the crash after learning about a radio message sent by the flight crew while the plane was in route to its destination. Within days, the FBI learned that a former employee of the airline had boarded the plane with a

gun and had shot the flight crew, which caused the airliner to crash. When that was made evident, the FBI assumed control of the investigation.

POLICE SET UP
A SPECIAL
TELEPHONE
LINE YOU CAN
USE TO GET
INFORMATION
ABOUT
VICTIMS.

The police allow only airport security and medical personnel onto the crash site. If the plane did not crash at an airport, securing the

area is more difficult and often only the area immediately around the crash can be sealed off. In the secured area, plane wreckage is not touched by anyone except as needed to save lives or, in some cases, to clear roadways. It is important that everything remain untouched so federal investigators from the National Transportation Safety Board and the FBI can examine it to determine who is legally at fault and what malfunction caused the crash.

As soon as victims are identified, police will call families and notify them of the victims' condition. In some cases, it takes authorities several hours or even days to identify all passengers, both survivors and those killed. If you believe a family member

was a passenger on a plane that crashed, police will ask you to remain at home.

Although you may want to hurry to the airport in hopes of getting news about a family member, security will not allow you on the site and will not announce the names of victims publicly until the families have been notified privately. You will be called with information as soon as it is known. Also, police set up a special telephone line you can use to get the most recent information about victims and their condition.

As victims are identified, the police send family members to the local hospital to help care for the survivors, or to the local morgue to identify those who did not survive. Survivors, relatives of passengers and crash witnesses will all be questioned by federal, local or state police. They have a legal right to question you. It is important that you cooperate with them as they attempt to identify passengers and determine what caused the crash.

National Transportation Safety Board

The National Transportation Safety Board, the federal agency responsible for investigating transportation emergencies, has developed standard procedures. An NTSB representative from the nearest field office goes to the crash site within an hour or two to make sure the site is sealed off and to coordinate the actions of local authorities.

The representative is joined within hours by an NTSB “Go-Team”—a group that spe-

cializes in air-crash investigations. The Go-Teams will vary in size depending on the severity of the accident and the complexity of the issues involved; any where from three to four to more than a dozen specialists can be sent. These include specialists in air traffic control, weather, airplane structure, power-plant systems, human factors, maintenance records and cockpit recorders, among others. Their job is to find the cause of the crash to help prevent similar accidents in the future.

In the days immediately after the crash, Go-Team members and, possibly, state aviation investigators interview all survivors and witnesses about what happened immediately before, during and after the airplane crashed. They also talk to everyone involved, such as the engineers who designed the plane, the manufacturer of the plane and the airport ground crew. They examine all wreckage and search for the cockpit voice and flight data recorders, which often contain critical clues about what happened directly before the crash. These are flown to Washington, D.C., for evaluation. Sometimes the NTSB holds a public hearing to gather facts and testimony or to make public its findings.

The NTSB will usually release its full investigative report 9 to 12 months after an airline crash. Some investigations take much longer however; such as USAir Flight 427 in 1994 and TWA Flight 800 in 1996 which each took about four years to complete. Once finalized, the report includes the NTSB's conclusion, a finding of the "probable cause" of the accident and safety recommendations. An abstract of the report is placed on the

NTSB's Internet site under "Publications," and the full report usually appears several weeks later. The finding of probable cause is not admissible in court, but the data used to reach the conclusions can be admitted.

It is important to cooperate with NTSB investigators. They have the legal power to insist that you talk with them. More importantly, they are instrumental in determining who or what is to blame for the crash. This is critical to prevent the same kind of accident from occurring again. It's not as important for collecting compensation for injury or death, but it often determines who will pay.

The Media

Television, radio and print media all send reporters and camera crews to the scene of an air crash. Often, the first arrive on the scene as soon as the ambulances. Media representatives are not allowed within the sealed-off area, however. If they attempt to enter, they can be arrested. They will get what pictures they can using zoom-lens cameras and, if the crash did not occur at an airport with restricted airspace, from helicopters.

Within a few hours, the police usually allow the media to view some wreckage. The police also give periodic reports to the media about rescue efforts, casualties and preliminary impressions about the cause of the crash.

As soon as the media have the passenger list, they will begin contacting survivors and victims' relatives for interviews. The media also interview Red Cross volunteers at the

scene of the crash, so keep in mind that anything you say to the Red Cross might be passed on to the media. The Red Cross has a

policy of not talking to reporters until all needs of the victims and their families have been tended to.

IF YOU TALK TO
THE MEDIA,
EVERYTHING
YOU SAY
BECOMES
A MATTER
OF PUBLIC
RECORD.

When you are approached, remember that you are under no obligation to talk to the media. If you do decide to talk to them, remember that everything you say becomes a matter of public

record, and the airline's insurance company will not hesitate to use it against you. If you tell the media, for instance, that your mother survived the crash without injury, expect to hear that fact used in negotiations or in court if your mother later claims her back was injured.

Airline Insurance Companies and Representatives

Almost every airline is insured by one of two insurance companies: U.S. Aircraft Insurance Group or Associated Aviation Underwriters. Within a few days of the crash, you will receive a telephone call or letter from the insurance company offering you condolences, help with identifying and claiming the bodies of those who died, payment of funeral expenses and an advance of some money. The insurer will urge you not to file a lawsuit "precipitously." Expect the

insurer to contact you several times, then offer to settle your case for a specified amount of money.

Airline personnel also have been known to approach survivors and victims' families after a crash. After making friends with you, they also may try to get you to settle any possible claims against the airline. After the 1985 Dallas/Fort Worth crash, every survivor or victim's family was visited by Delta Air Lines representatives almost immediately. They attended funerals and sent flowers. Later, some people found it hard to sue these "friends." Others were shocked to find that things they thought they had told in confidence to airline employees were being used in negotiations to try to get them to accept reduced compensation.

When making an offer, both the insurance company and airline representatives will claim they want to save you the money you otherwise will have to spend on a lawyer. They will also claim they want to make sure you get fair compensation for the loss you have experienced. They will warn you about lawyers who are trying to get you to hire them just to get a large chunk of the money you will be receiving, whether or not you have a lawyer.

DON'T SIGN
ANYTHING.
YOU NEED
LOTS OF
INFORMATION
BEFORE YOU
DECIDE
WHAT IS A
REASONABLE
OFFER.

Approaching victims and their families directly was first done after a 1977 crash in Tenerife, Canary Islands, and is now known as the “Tenerife approach.” Airlines and insurers justify using this approach because they say it helps identify victims and gets compensation to them and their families quickly without diverting money into unnecessary fees for lawyers.

The important thing to keep in mind when approached by those associated with the airline is that their goal is to settle your case quickly and for the least amount of money possible. Listen to them, but **don’t tell them anything**. No matter how friendly they seem and how good some of their advice is, they have their job to think about. Anything you have told them in confidence they will likely use to the benefit of the airline.

Don’t sign anything. The airline or its insurer may try to get you to sign a release or settlement agreement. Don’t do it. You need lots of information before you decide what to do and what is a reasonable offer. If you refuse to settle, or if you hire a lawyer, airline personnel may stop being friendly. They will stop trying to “help” you, and a private investigator may be hired to begin searching for evidence to support reducing the compensation you should receive.

Keep all your options open. In the first few days after the crash, you don’t even need to think about settlement. So, listen to airline employees, insurers or airline lawyers if you like, but don’t give information to these people.

Air-Crash Lawyers

Although a federal law bans solicitations by lawyers immediately after air crashes and other disasters, lawyers will still sometimes appear on the scene of air crashes within hours of the tragedy.

Within days of the 1996 ValuJet crash in the Everglades, victims' families were inundated with calls from lawyers and Federal Express packages with retainer agreements, while law firm employees—despite Florida laws that bar such contacts—prowled the Miami hotel where they were staying.

In 1996, President Clinton signed the Aviation Family Assistance Act, making the NTSB responsible for dealing with survivors and specifically instructing them to act as buffers for the families against the airlines,

THE CLAIM
THAT YOU
NEED TO HIRE
A LAWYER
IMMEDIATELY
IS ONLY
A PLOY.

lawyers and news media. An updated version of the Act imposes a 45 day waiting period before lawyers can contact survivors or family members of air crash victims.

Even with such protections in place, you could receive calls and letters from lawyers who risk little more than a slap on the wrist by disciplinary agencies if caught violating the waiting period. They will claim it is important that you retain them immediately so they can take care of everything for you. They will claim you need them

to preserve crucial evidence. They will tell you only they can protect you from insurance companies. They will be every bit as nice and “protective” of you as the airline representatives and insurers are.

The claim that you need to hire a lawyer immediately to help preserve the evidence is only a ploy to get you to hire one. All the evidence in an air crash is investigated and preserved by federal authorities. Lawyers aren't even allowed on the sealed-off site or to participate in the NTSB investigation.

It is no coincidence that lawyers want to recruit clients involved in air crashes. Clients provide them with business. The reason they want you as a client is that an airliner crash means big awards, and big awards mean big fees, usually with little work, most of it requiring negotiating, not trial tactics. After all, the federal authorities do the investigative work and almost all cases are settled before trial.

Although lawyers may seem to have your best interests at heart (after all they do want you to get a big recovery), just as with the insurers, their own interests are paramount. Thus, they may needlessly drag you through an emotionally draining lawsuit, forcing you to relive the tragedy repeatedly during intensive questioning by your own and the opposing attorney. Or, they may urge you to settle too early in order to avoid trial work.

Always remember that, whether you go to trial or not, your lawyer usually charges a percentage fee that, when converted to an hourly rate, has amounted in some outrageous cases

to \$10,000 an hour. As with airline insurers, listen to their offers and their credentials all you want, but don't be in a hurry to hire one of them. You need to assess all offers and decide what works best for you before deciding to hire a lawyer. And, if you do decide to hire one, before you start shopping, you need to know how to negotiate a reasonable fee. Information about lawyers and their fees can be found in HALT's book, *Using a Lawyer: And What To Do If Things Go Wrong*.

HALT

*An Organization of
Americans for Legal Reform*

*Dedicated to helping all Americans
handle their legal affairs simply,
affordably and equitably.*

© 2001 HALT – *An Organization of
Americans for Legal Reform*,
1612 K Street, N.W., Suite 510, Washington, DC 20006
(202) 887-8255 • www.halt.org

Organizational Contacts

The following organizations work on issues involving airline safety and counseling to survivors and victims families.

American Red Cross

www.redcross.org

Associated Aviation Underwriters

www.aau.com

Aviation Consumer Action Project

www.acap1971.org

Federal Aviation Administration

www.faa.gov

Federal Bureau of Investigation

www.fbi.gov

National Air Disaster Alliance/Foundation

www.planesafe.org

National Transportation Safety Board

www.ntsb.gov

U.S. Aircraft Insurance Group

www.usau.com

Notes



HALT

© 2001 HALT – *An Organization of
Americans for Legal Reform,*
1612 K Street, N.W., Suite 510, Washington, DC 20006
(202) 887-8255 • www.halt.org