



# Lessons in Family Assistance: Taking Care of Responders and Care Givers

2024 Aviation Symposium  
February 6-8, 2024

Fox  
Rothschild

# History: USA

- Presidential Memorandum
- Aviation Disaster Family Assistance Act (ADFAA) – 1996
- Foreign Air Carrier Family Support Act of 1997: Foreign Airlines operating in the U.S. (FACFSA)
- Task Force Recommendations (1997)
- MOU between DOS and NTSB 1997
- MOU between DOT and NTSB 1997
- MOU between FEMA and NTSB 1998

# History: USA

- 2000 Amendments (AIR 21)
- 2003 Amendments (Vision 100)
- Interagency Agreement between DHHS and NTSB 2007
- MOU between the ARC and the NTSB 2007
- NTSB's Federal Family Assistance Plan for Aviation Disasters 2008
- NTSB's Revised Framework for Air Carrier Family Assistance Plans – 2023

# ADFAA / FACFSA / RPDFA

Applies to:

- Any U.S. carrier having a certificate of public convenience and necessity
- Any foreign flag carrier having a permit to operate in/to the U.S.
- Interstate intercity rail passenger operations or interstate or intrastate high-speed rail operations
- Accidents occurring within the U.S. (including territorial waters and possessions)
- Involving a “major loss of life”

# Countries Adopting Family Assistance Legislation

- China
- Italy
- Brazil
- UAE
- EU Regulation 996/2010

*See generally, IATA Compilation of Emergency Response Planning Regulations, Standards and Guidance Applicable to Civil Aviation, Edition 1.4 May 2023*

# Family Assistance Requirements and Resources

- Montreal Convention – Advance Payments
  - Article 28 – Air Carrier shall in the case of accidents resulting in death or injury of passengers make advance payments . . . if required by its national law to meet immediate economic needs of persons entitled to claim compensation
  - Montreal Convention requirements are implemented by EC Regulations 2027/97, as amended by EC Regulation 889/2002 and the national legislation of member states. Regulation (EC) No 889/2002 of the European Parliament and of the Council of 13 May 2002 amending Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents (Text with EEA relevance) (Text with EEA relevance) (OJ L 140 30.05.2002, p. 2, ELI: <http://data.europa.eu/eli/reg/2002/889/oj>)

# Advanced Payments

- ADFAA/FACFSA – Not Required
- Warsaw/Montreal 1999
  - Not required, defers to local law
  - Strict liability up to 100,000 SDR's
- European Union
  - EU Regulation 889/2002, May 13, 2002
  - Requires EU Carriers to make advance payment as soon as possible but in no event later than 15 days
  - Advance Payment cannot be less than the equivalent in euros of 16,000 SDR's
  - Advance Payment shall not constitute recognition of liability and may be offset against later payments

# Family Assistance Resources

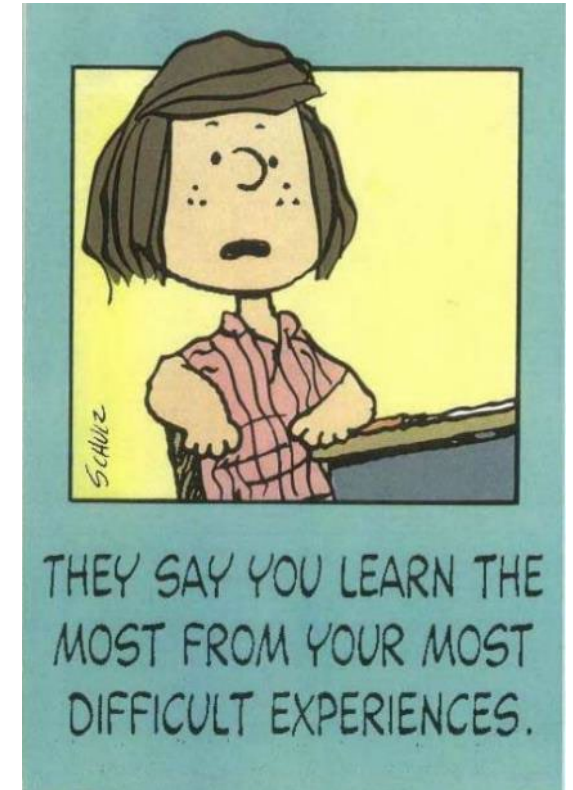
- The American Red Cross (ARC) is primarily responsible for coordinating the emotional care and support of the families of the victims
- The airline/passenger railroad is primarily responsible for family notification and all aspects of victim and family logistical support
- ADFAA / RPDFA requires airline/railroad resources to be utilized to the greatest extent possible to support the ARC

# Family Assistance Requirements and Resources

- Solatium:
  - Payment made to a victim or family member as compensation for injured feelings or emotional pain and suffering (such as the trauma following the wrongful death of a relative), as distinct from payment for physical injury or for damaged property
  - Solatium is culturally expected in many countries, such as China and Japan
- ICAO
  - Policy on Assistance to Aircraft Accident Victims and their Families. First edition 2013, Doc 9998 AN/499
  - Manual on Assistance to Aircraft Accident Victims and their families. Doc 9973
  - For ICAO resources generally, see: [ICAO Search Results](#)
  - ICAO Annex 9

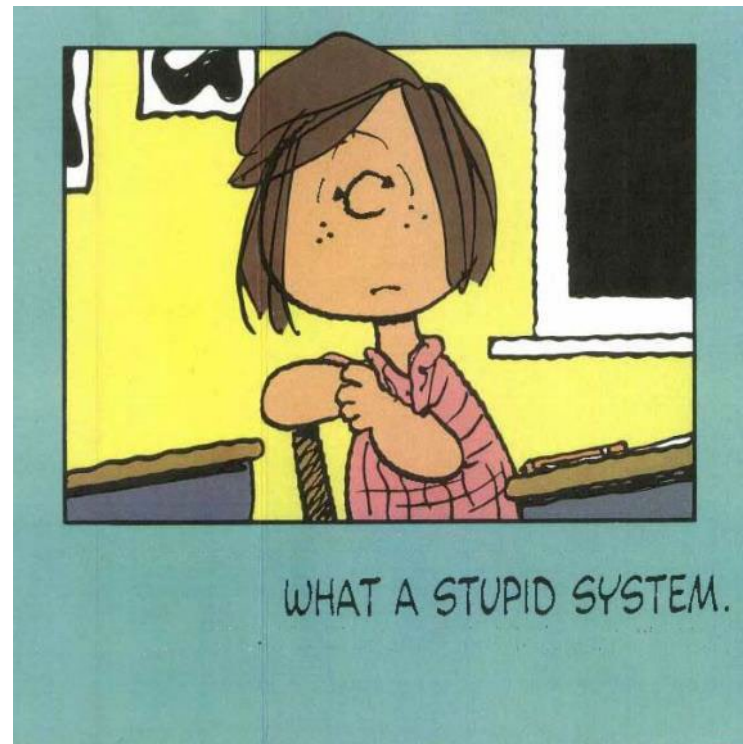
# Lessons Learned

- Provide passenger list immediately upon request – only to NTSB Family Coordinator or FBI Liaison
- Consult with families on disposition of remains and personal effects
- Return all personal effects to the families regardless of condition
- Retain unclaimed possessions for 18 months
- Consult with each family concerning a monument



# Lessons Learned

- Treat all families alike regardless of revenue status
- Coordinate with ARC to ensure families receive continued required level of support
- Reasonably compensate ARC for services
- Provide transportation to location and
- Physical care facility
- Commit sufficient resources to carry out the plan



# Lessons Learned

- Failure to file a plan or commit the resources necessary to carry it out...
  - Will cause U.S. carriers to lose Certificate of Public Convenience & Necessity
  - Will cause foreign carriers to lose their authority to fly to the United States
  - Railroads
- NTSB Family assistance coordinators are not responsible for accident investigation, they are:
  - A conduit for distributing information
  - Responsible for coordinating family briefings with responsible Board Member and other accident investigation principals

# Family Assistance

- Crisis centers and family assistance centers
- Advance payments
- Transportation and hotels
- Hospitals
- Funeral homes
- Search and rescue assistance
- Forensic specialists (victim identification and personal effects)
- Doctors
- Mental health professionals
- ARC

# Family Assistance

- Victim identification
- Funeral and mortuary assistance
- Personal effects
- Advance payments and other financial payments
- Claims processing
- Forensic assistance
- Investigative
  - Communication
  - 1-800 number
- Internet
- ARC
- Mental health

# Questions?

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