

# Property Rights: returning personal possessions after disasters

Anne Eyre and Lucy Payne investigate some key issues relating to the recovery and return of property following mass death in disasters

## Abstract

Today great emphasis is placed on respecting and fulfilling the rights of the bereaved in the aftermath of disaster and other circumstances of sudden violent death. When it comes to the specific details relating to the recovery, processing and return of personal property to the bereaved, however, there are still varying degrees of understanding about the meaning and significance of personal property and a lack of clarity within and across the various responding organisations about protocols for dealing with such property. The purpose of this article is to highlight key issues relating to the treatment and return of personal property with particular reference to the role of emergency responders and other disaster managers.

## Introduction

*'I remember the day that the package arrived. I knew what it was... they put it in the front hall and I left for the day. We all came back that evening and the house was filled... with this smell, and it was a combination of disinfectant, jet fuel and mildew, very distinctive smell that in some ways was offensive but in another way it was filling the house with whatever was left with Alexia in some way' (Lockerbie: My Trial, Channel 4 Television, May 2000).*

This quote, from a bereaved family member following the Lockerbie bombing, highlights the emotional and symbolic significance of property returned in the aftermath of traumatic loss through disaster. In this article we discuss the practical procedures and emotional implications associated with recovering and returning such property. We discuss the unique challenges associated with property return after mass disasters and urge emergency planners to revisit their plans and guidelines in order to take into account the increasing emphasis on a rights-based approach to disaster management.

## After single deaths

In the United Kingdom, procedures following an individual's sudden or violent death are relatively straightforward. In England and Wales, for example, under the *Coroners Act (1988)*, Her Majesty's Coroner initially retains the bodies of the deceased and any property found with them while they work to establish identification and the cause of death. When this process is complete they authorise the return of the body (and in most cases the property) to the family. Thus, for example, the bereaved may receive from a hospital or a police Family Liaison Officer (FLO) the clothes their loved ones were wearing and their personal possessions such as jewellery, a watch or a mobile phone (though there can be occasions when conflicts over ownership arise, putting the police and coroner in a difficult situation regarding who gets what). In some circumstances items may be retained as potential exhibits for an inquest or criminal trial before being ultimately returned or disposed of.

The manner in which these items are returned to families communicates something about their meaning and value, both for the giver and receiver. Being presented with a black bin liner and a form to be filled in gives one message; receiving a carefully prepared package accompanied by a few thoughtful words gives another. Clearly the meaning and significance of items varies according to one's relationship to them. For the police, for example, property may be considered in relation to its potential evidential value in respect of a criminal investigation and identification processes, while for family members it may primarily be of significant sentimental value (Home Office 2004:35). For the bereaved, personal property may be the last link with their loved one. It represents an ongoing connection with their last moments and the place and manner in which they died. For some, these items may have additional cultural and religious significance. In certain traditions items of clothing and jewellery may have sacred significance and there may be a requirement for the dead to be buried or cremated along with these possessions.

Professional organisations in the UK increasingly recognise the value of respect for diversity and the significance of planning and training to understand and meet cultural and psychological needs after death. The Association of *Chief Police Officers' Family Liaison Strategy Manual* (2003), includes a specific section on the return of property to families and encourages officers to consult with families with regard to what property they would wish to be returned and in what state, including the choice about whether the family wish for items to be cleaned or not. 'The family must always be consulted before any cleaning etc to establish their views....It is essential that property is returned rather than relatives asked to collect it from a location that may cause upset and trauma' (Association of *Chief Police Officers' Family Liaison Strategy Manual* 2003:46).

Specific emphasis is placed on officers inspecting property prior to return to ensure that all police and court exhibit tags have been removed. Reference is also made to health and safety considerations in relation to the searching and cleaning of property. The authors commend the policy adopted by many police forces of returning items to families which may seem to the authorities to be 'contaminated' but where, by signing a disclaimer, families' wishes can be fulfilled in terms of receiving clothing etc in a bloodstained state.

### **Dealing with disaster: unique challenges**

In situations of mass death such as a train or plane crash, a bombing or a building collapse, the legal and logistical issues involved may make this a more complex task. The South East Asian tsunami of 2004 represents one of the most extreme example of such complexity experienced in disasters. Indeed, by their very nature, the scale of disasters makes all aspects of response and management much more complicated and time-consuming. Add to these very practical considerations the fact that international disasters are likely to involve differing legal protocols and a vast number of responding organisations (each with their own assumptions, priorities and procedures), and the issues surrounding the return of personal property then become very complex indeed.

As with other cases of sudden violent death, the first tasks of the emergency services after a disaster is to rescue and recover casualties, including the dead, to secure the site and begin necessary investigations. In the UK the recovery of property from the site forms part of the evidence-gathering process for a criminal investigation. In such circumstances the police service provides dedicated teams responsible for arrangements relating to property. Such property may be at the scene and in some instances remote from the scene, for example at a victim's home or at the mortuary. Property

may also include items of clothing, freight recovered after a transportation incident or wreckage (Home Office 2004:35).

Disaster sites can cover a substantial area such that the search and recovery phase of disaster may take several days and even weeks. This was the case after the Lockerbie disaster where the disaster site covered hundreds of square miles. More recently, after the terrorist attacks in 2001 at the World Trade Centre, New York, activities associated with the identification of victims and retrieval of human remains were still taking place several years after the disaster.

In these circumstances, recovery of property and other aspects of disaster management present unusual circumstances and additional challenges. Simpson and Stehr (2004) have highlighted difficulties faced by American responders at Ground Zero where response activities deviated from what they were used to in more 'natural' disasters. They were *'shaped by the fact that the scene was simultaneously considered a disaster area, a crime scene and – it was soon realised – a mass grave. Among other things, this meant that the routinisation of recovery activities that typically takes place soon after a disaster, was instead spread out over a much longer period as new processes were established. Sifting debris for evidence, human remains, and personal effects took considerable time. It also resulted in conflict and confusion between and among different official response agencies, non-governmental organisations, and families and friends of victims as they struggled over competing needs and priorities'* (Simpson and Stehr 2004:110-111).

One example of this conflict was a much publicised scuffle that took place in November between the fire fighters, who wanted to continue searching for human remains, and the New York police following the Mayor's orders to cut back on searches and bring in more heavy equipment to clear the site (Simpson and Stehr 2004:110-111).

In mass disasters, specialist companies may be used to provide logistical support and a range of funerary and other services. Commercial providers in the UK include Kenyon International Emergency Services and Blake Emergency Services. These may be contracted by prior arrangement to work with organisations such as transport companies or local authorities and thus may become involved in disaster response activities such as body recovery and forensic identification as well as the cleaning and restoration of personal effects.

It is important that all those involved in disaster response are made aware of the roles and services likely to be provided by differing agencies so that a coherent and co-ordinated approach is followed, particularly when it comes to family liaison. Building on lessons from the past, the Home Office in the UK has recognised

that in mass fatality incidents police FLOs 'will provide the primary communication link with families limiting the potential for repetitive interactions' (draft 2004:51).

### **A practical and emotional task**

In the UK the latest Home Office *Guidance on dealing with fatalities in emergencies* (2004) stresses the importance of addressing practical considerations relating to the recovery and processing of property and the implications of these. It states:

*'In all cases it will be necessary to ensure meticulous documentation with cross-referencing to victim identification where relevant. It is important not to underestimate the storage requirements for property, whether it is at the mortuary or elsewhere. There may also be considerable resource and financial implications'* (Home Office 2004:35).

It is clearly important to have clear and manageable plans in place for processing, storing, retention and return of property recovered in disasters. It is equally important to provide education, training and support for those tasked with the practical and emotional responsibility of supporting families as they go through the painful process of identifying and reclaiming their loved one's possessions.

In 1998 Matthew Wald of *The New York Times* described the emotional impact of putting such plans into action when their reporters were given access to observe activities following the Trans World Airlines flight 800 disaster. At this time the process of formalised property return to families was still in its infancy:

*'If it is possible to catalogue heartbreak then the workers at the hangar in Calverton, NY, where the ruins of TWA Flight 800 are stored, have done it. It takes the form of a blue plastic three-ring binder, with 200 pages of colour photos of personal belongings, from cameras to underwear to hair dryers, anything that 230 people could bring aboard a Boeing 747 and that a diver could bring up from the bottom of the Atlantic'* (The New York Times, June 5th 1998).

Wald noted that many families declined to receive the catalogue and quotes the Director of the National Transportation Safety Board who stated 'You have to have a strong constitution to go through it' (ibid).

Research has highlighted the psychological impact on responders of dealing with disasters and recommended that education on the psychological and emotional reactions should be core to training as well as pre and post deployment briefings. Research into the preparedness of those called on to provide identification services in the event of mass casualties has concluded that 'the psychological implications of mass casualty identification must be thoroughly addressed' and that 'more attention needs to be focussed on the

psychological aspects of mass disaster preparedness' (ibid) in order to fully prepare potential responders to deal with mass casualty incidents (Pretty et al 2001:78).

Such preparedness also applies to police family liaison officers and other disaster responders who may accompany families in dealing with aspects of property return. Depending on local or regional arrangements, FLOs in the UK may be assisted by representatives from other organisations, for example airline representatives, social services crisis team members and/or voluntary responders. Regardless of who undertakes this task, in a large scale disaster where there might be vast amounts of property to be surveyed, it is important that such responders are carefully briefed and debriefed for this aspect of their role. They should be reminded of the importance of giving family members informed choice throughout this process and the opportunity to take their time rather than feel rushed to make decisions over such sensitive issues.

### **Time considerations**

In January 2005, personal photographs which had been recovered from the World Trade Centre were made available for the first time to the families of those who died there. The images, including family snapshots, college reunions, fishing trips and holidays were posted on a special limited access website, thus enabling families to search for and reclaim pictures they recognised. Although almost all of the images were badly damaged, they had been scanned and digitally restored by employees of the Kodak photographic company in a project co-ordinated by New York's Post Authority. According to the journalist, James Bone, 'families who claim photographs will get the original damaged version from the New York Police Department's property archive and the new, corrected print' (Bone 2005).

In negotiating a return date with families, consideration should be given to the significance of certain dates, such as anniversaries or special dates for family members. As the example of September 11 highlights, the processing and return of property may take several years to resolve depending on the nature and physical impact of the disaster, the role and requirements of the various authorities involved and resources available. The 2004 tsunami disaster provides further illustration of the fact that processing an extensive amount of property in an international disaster is likely to take many years. Whatever timescale is decided on, all responders should be aware that families should be notified if unclaimed items are to be destroyed and care should be taken to warn and inform them of such decisions and about when any such actions will be taken. Duncan McGarry, the UK's National Family Liaison Adviser, emphasised how important it is that family needs are considered with families being given sufficient time to change their mind about the return of items (personal communication 2005).

## A rights-based approach – a fundamental consideration

There has been a strong move towards considering the needs, interests and wishes of those bereaved in disaster. This positive development is increasingly reflected both in legislation and guidance relating to emergency response both in the UK and internationally. In many cases best practice in this field has arisen in response to the negative experiences of families who have drawn on their experience to campaign for change. Indeed the catalyst for the American aviation legislation included the appalling experience after the crash of Air Flight 427 to Pittsburgh. Family members who visited the wreckage of the crash, discovered a number of 'trash bins' filled with both human remains and personal effects (Walsh 1999). In the UK, Disaster Action, a charity whose members are all bereaved/survivors of disasters, work actively with the police and other organisations to achieve greater understanding and responsiveness in meeting the needs of those affected by collective tragedy.

Positive developments in relation to communication and liaison with families have also been driven in part by the recommendations of public inquiries carried out after sudden and violent death in the UK. This has included the *Macpherson Report* following the death of Stephen Lawrence; Lord Cullen's recommendations following the Ladbroke Grove rail disaster; and Lord Clarke's inquiry into the identification of victims following major transport accidents after the Marchioness Disaster. Indeed Lord Clarke (2001) recommended that after disaster there should be honest and accurate information at every stage, respect for the deceased and bereaved, and a sympathetic and caring approach throughout.

In terms of decision-making and action in the aftermath of disaster, however, there is still the potential for conflicting interests to clash and for confusion relating

to the treatment of property both within and across responding organisations. Furthermore, in view of the changing roles and responsibilities of organisations involved in all aspects of disaster planning and response in the UK, brought about by the *Civil Contingencies Act* (2004), and the recent national reviews of coroners and coroners officers, the perennial challenge of updating procedures and achieving good co-ordination and communication across multi-agency and multinational boundaries remains as relevant as ever. Complexity is in part a reflection of the fact that each disaster is unique; consequently there is always likely to be a huge range of organisations potentially involved at local, regional and national/international levels. This means there are likely to be gaps and failings including, possibly, in the area of property return.

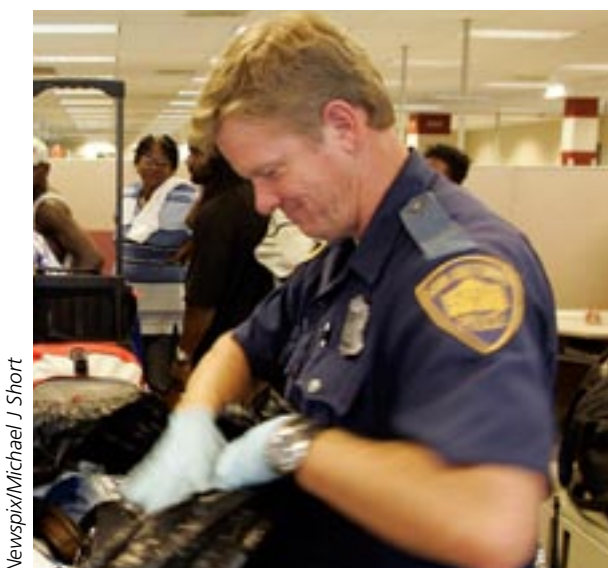
Thus despite the existence of a Family Assistance Code in Australia which supports co-operation between the police, coroners and airlines, and gives airlines responsibility for the return of victims' personal effects, in the aftermath the Bali bombings, several Australian families were unhappy with the way property was managed and returned. Grievances included the fact that after the police had informed them that all personal effects had been returned, Indonesian authorities announced they had property from three deceased victims, whom they named, to return and invited the families to claim. Some families were so upset by this that they complained to the Prime Minister and a few believe their loved one's property was stolen because valuable possessions were never accounted for (personal communication with an Australian Government official).

This reminds us to neither be complacent on account of having guidelines, codes and plans (all of which might prove fallible in responding to the next disaster), nor to push for rigid, inflexible procedures. Rather, the wish should be for the general principles and moral considerations reflected in such documents to form the basis for discussions in the aftermath of tragedy. It should inform specific strategies developed in response to any particular event. We suggest a rights-based approach to meeting the needs of the bereaved should be a fundamental consideration.

## New dimensions, new challenges

In recent years concerns about the possible release of chemical, biological, radiological or nuclear (CBRN) substances or materials, whether intentional or unintentional, have led to the development of additional plans and protocols for dealing with the aftermath of such major incidents.

Within the UK Fire Service, the New Dimensions project has resulted in the resourcing, training and exercising to meet the demands of a large scale terrorist incident. Much effort has gone into the procurement of new incident response units, decontamination facilities and



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*Processing the extensive amount of property in an international disaster takes considerable resources and time.*

enhanced urban search and rescue capabilities. However, little attention has been paid to planning, training and exercising in the meaning and significance of handling personal property during an emergency; to questions about the rights and ownership of property and the potential implications of removing it from the public without a clear strategy for its return. More generally the sorts of discussions and guidelines pertaining to cultural awareness, human rights and the responsibility of responders to those bereaved seems to be lacking within Fire Service plans.

There are, of course, specific difficulties that might arise in dealing with CBRN incidents and implications for dealing with personal property in such circumstances. The UK Home Office and others have recognised that much of the existing guidance and arrangements for dealing with fatalities (which includes issues surrounding the return of property) may not be suitable where contamination has occurred (Home Office 2004:35). More work is being done to address these issues.

## Conclusion

In summary, this article has highlighted some key issues relating to the recovery and return of property following mass death in disasters. Although there are some specific aspects of legislation covering this area and useful guidelines being developed to assist responders in view of changing times and challenges, the sensitive treatment and return of property may continue to present challenges both for the bereaved and responders. We suggest it is incumbent on the latter to revisit their thoughts and procedures and to ensure that planning, training and exercising include detailed consideration of property-related issues as an important aspect of the recovery phase of disasters.

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