



Michael Kubasak

Kubasak's Corner

Out of Sight...Out of Mind?

Inspect Before You Become A Suspect

Once again funeral-cremation-cemetery service has taken a blow to the chin from yet another discovery of improper crematory operations involving the Bayview Crematory in Seabrook, New Hampshire. Among other improprieties, the crematory was *unlicensed* and *unregistered* to perform cremations but did them anyway for the cheapest price in the area. (For the full story read: *The Cremation Report*, April 2005. To subscribe, email: dhernan@fcsworldwide.com or call 866-265-0148)

It was disturbing to read the comments of some colleagues who were interviewed by the press shortly after the story broke. To paraphrase, they said:

- This case is not as bad as Tri State where 364 bodies were involved. (Bayview may involve as many as 2,000 bodies. As I see it, one body is too many.)
- It is unnecessary to become involved in crematory operations.
- Funeral directors do not have time to perform crematory inspections.
- Funeral directors are not qualified to inspect a crematory.
- Crematory operations are the responsibility of the state.

There are approximately 20,000 funeral homes in the country and approximately 1,800 (1,799 now) crematories. As a result, the vast majority of cremations are performed by outside crematories, meaning a crematory not owned/operated by a funeral home. Of the nearly 600,000 cremations performed annually, the vast majority of them are arranged by funeral homes who do not own/operate a crematory. Therefore, it is safe to assume that most client families contract with and hire a funeral home to do a cremation. In accepting that responsibility, the funeral home becomes the agent of the client family. Being an agent includes determining that the cremation is performed in a timely and respectful manner, and as some courts have decreed, *cremated without the personal supervision of the family once the remains are in the custody of the funeral director.*

An "out of sight...out of mind" attitude that says "this is just a cremation and I need to get the body out of my preparation room and over to the crematory" is a sure route to disaster. The owner at Tri State and the uncaring employees at Menorah Gardens Cemetery also had this same irresponsible, appalling attitude. There is no room for irresponsibility in funeral service. Cremation continues to grow in popularity practically everywhere. When the first trade embalmer emerged years ago, the "first call" company evolved, and livery rental companies began serving funeral homes, anytime you use a service outside the employment, ownership and direct control of the funeral home, you add risk and increase your vulnerability. As agents of the client family, it is your responsibility to determine that outside providers are qualified, licensed (where applicable) and perform their duty and/or trade to current standards of practice. This is even more critical when dealing with cremation. In my experience, most client families engage a funeral home in the belief that the cremation will be done by the funeral director (not someone else), under his/her supervision, and likely, on the premises of the funeral home. Rarely do funeral directors disclose that the decedent will be transported off premises, that the funeral home will be transferring custody to someone else (without the knowledge or consent of the family), and that the body will be cremated at a crematory not owned by this funeral home or under its direct supervision. Yet, this is exactly what happens tens of thousands of times each year. Cremation brings a new type of consumer. Cremation forces us to take a new look at the economics of our business. Cremation brings a new set of responsibilities and a new set of liabilities. Cremation brings a new level of regulation and mandates that we learn new things.

Do not misconstrue this article to be an indictment of outside crematories or claims that they violate ethics or standards of care. Most perform admirably and are highly respected. As an owner, I, too, relied on an outside crematory.

I do mean to say that the funeral home is responsible for ensuring that the outside crematory acts in accordance with existing laws and the standard of care and with the client family's expectation that a dignified, respectful cremation will take place (even without their personal involvement). Further, in states where no laws exist, it is still the responsibility of the funeral director to ensure respectful, dignified cremation occurs.

Concern for the client family (the customer, the people who provide you with a paycheck) means seeing things through their eyes. Today we are held more accountable and cannot take things for granted or merely assume things are done right. Seeing for ourselves is believing. The prudent funeral director, the best funeral director:

- Makes time for an inspection
- Learns how to conduct an inspection

- Knows that, as the agent of the client family, it is not enough to leave matters up to someone else to check the crematory
- Knows that cremation is too important of a matter to leave to a state inspector

The prudent funeral director is the eyes and ears of the client family and knows that the family expects him/her to use only those persons, service providers or companies who are qualified, professional and licensed in fulfilling duties of care. Inspecting the crematory is the best way to gain assurance and peace of mind and reduce your vulnerability. Here are some guidelines for inspections:

1. Inspect the crematory 2-3 times per year and at different times of their operation. Do not be rushed; allow up to several hours for the inspection. Your presence should not be viewed by crematory personnel as being intrusive. You need to observe what takes place and document what you see. Do not hesitate to ask questions.
2. Inspections must be unannounced without prior notification to the crematory.
3. Inspections must be documented by you in writing. An inspection without documentation is worthless.
4. Maintain a permanent "Crematory" file at the funeral home where you retain inspection records and other matters pertaining to the crematory.
5. If you are ever refused to conduct an inspection, this is cause for serious alarm. Document the fact that you were refused and check it out with owners, management or someone who can explain the reason.
6. Inspections are not social calls or an excuse to have lunch. It's business.

An inspection should include, but not be limited to:

- State and local business licenses and permits posted and current
- If operator's certification is required, it should be posted and current
- External condition of building and grounds
- Number of chambers in operation, dates of installation, date of last service
- Name of owner, manager and all crematory operators
- Date of last regulatory inspection (if applicable)
- How and where remains are held prior to their cremation (never on the floor or stacked on top of one another)
- If refrigeration is on premises, make sure it is operational
- When a cremation is in process, legal and identification paperwork must accompany the body and be attached to the control panel (not "over there on the desk.")

- How remains are removed from the chamber and what tools are used
- Presence of metal identification disk with imprinted number matching decedent's number and all paperwork (with body at all times)
- Method of processing remains and cleanliness of processor
- Procedure for packaging and labeling cremated remains
- How excess remains that do not fit into the original urn are handled
- Procedure/location of storage of cremated remains (if provided)
- Procedure for disposal of medical devices, prostheses, metal, etc
- Dress, behavior and language of crematory personnel
- Overall security of the crematory
- Have background checks been performed on all personnel?
- Are employees bonded?
- Is the crematory insured, by whom, what is covered and in what amount? Require that your funeral home is named as "additional insured" on the crematory's error and omissions-professional liability policy
- Check the crematory log book to ensure entries of decedents are current; check that starting and ending times of cremations are provided
- Does the crematory have a policy-procedures manual. If yes, ask them for a copy. If no, require them to get one

One fact disclosed in the investigation is that Bayview charged considerably less for cremation than any competitor crematory and in addition, provided free transfer of remains to their facility. *They were the cheapest price around.* If you were building a new home, how would you like to hear from your contractor that he uses the cheapest framers, electricians and roofers? If your surgeon told you that the anesthesiologist on his surgical team is the cheapest? If the auto mechanic told you he uses the cheapest brake pads? Well, how about hearing that your funeral director uses the cheapest crematory for cremation? Instead of the cheapest, why not use the best...the best trade embalmer, livery company, first call service and the best crematory? One sure way to distinguish your practice (and avoid being suspect) is to surround yourself with the best!

When it comes to assuming custody of decedents and serving a client family, funeral directors have no choice about whether or not they accept responsibility. Our responsibility is linear and on-going, exceeds "task master" obligations and covers a broad range of activities beyond the preparation room, arrangement conference, casket selection room, and fulfilling OSHA and FTC requirements. Incidents like Bayview cause me to reflect and ask what has happened to common sense, morals,

service, compassion and caring for a decedent as if it was my own mother?

How many blows on the chin must we take and can we take before we say that enough is enough? More than likely, an inspection by a funeral director who knew what to look for, who was not afraid to ask tough questions, who took his responsibility for cremation seriously and put the interests of the client family first instead of his bottom line, might well have prevented the Tri State and Bayview disasters. I said it before and I'll say it again: There are more Tri State's and Bayview's out there we have yet to learn about. All of us need to assume responsibility and put a stop to this.

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