BEFORE THE DISASTER

Legal Disaster Preparedness 101

Gregory P. Priamos
County Counsel
County of Riverside

Gregory G. Diaz
City Attorney
City of San Buenaventura
“Ventura”
OVERVIEW

• Items to Have Ready Before the Disaster
• Training Before the Disaster Happens
• Practice Before the Disaster
• What Documents Should You Have Ready?
• How to Use the “Playbook”
  – Before
  – During the “Crisis”
  – After
Credit Where Credit is Due

• Credit to Jonathan Lowell, former San Luis Obispo City Attorney
  – Gave a Presentation at the League on Disaster Preparedness and provided sample documents
  – Great Collaboration with Thousand Oaks

• Riverside and Sonoma Counties
NON-LEGAL STUFF TO HAVE ON HAND

• Flash Drives
  – To Use with Printers
  – Backup if Power Problems
    • Generators
• Cell Phone Chargers
  – Apple & Android
• Laptop Computer
  – Power Cord
  – Surge Protector

• 3 Ring Binder
  - Hole Punch
Things to Have Ready for Emergency

• Keep Your Laptop Handy
• Have City Attorney Department Phone Listing in Wallet
• Your Version of the Disaster Playbook

• Utility Company Contacts
• School/Special Districts
• Non-profits (Red Cross)
Things to Keep at EOC

- EOC Management Section Cart
- Keep a “Legal” Binder that has Other Things in it:
  - Brown Act (Open and Public)
  - Emergency Declaration
  - Public Contract Code
  - EOC Check List for Legal Officer
<table>
<thead>
<tr>
<th>BOOKS/PUBLICATIONS/RESOURCES</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Local Disaster Plan</td>
</tr>
<tr>
<td>• EOC Check List for Legal Officer</td>
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<tr>
<td>• State Emergency Services Act</td>
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<tr>
<td>• CalOES:</td>
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<tr>
<td>– Elected Officials Guide to Emergency Management</td>
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<tr>
<td>– Emergency Proclamation Guide</td>
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<tr>
<td>• Local Emergency/Disaster Preparedness Ordinance</td>
</tr>
<tr>
<td>• Charter</td>
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<tr>
<td>– If Charter City/County</td>
</tr>
<tr>
<td>• Brown Act</td>
</tr>
<tr>
<td>– League’s <em>Open &amp; Public</em></td>
</tr>
<tr>
<td>– Any local Ordinances, Resolutions, or Procedures</td>
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</tbody>
</table>
BOOKS/PUBLICATIONS/RESOURCES

- Municipal Code Access
  - Purchasing Ordinance
    - Implementing Regulations
  - Public Works Contracting Ordinance
    - Implementing Regulations
- Federal Super Circular 200 Compliant
CONTACT LISTS/PHONE NUMBERS

• Plastic Cards for Wallet:
  – City Attorney/County Counsel Department
• City Council / Board of Supervisors
• Executive Team
• Other Key Players
  – Facilities
  – Purchasing
  – Public Information Officer

• Remember Cell Phones May be Out
• Text Group for Office
• Trusted, Experienced Friend that You Can Call 24/7 for Advice When the Stress is High
Technology

• Bring Laptop
  – Have IT Set it Up for Email/Attorney’s Drive

• If Having Computer Issues, Handwritten Changes on Items in Binder are Okay

• Keep a List of Internet Legal Sites—You May Not be Able to Contact Lexis or Westlaw Initially
TRAINING

• STATE: SEMS ON-LINE
• http://CSTI.ORG

• FEMA: ON-LINE
  – http://training.fema.gov/nims

• Courses:
  – ICS-100: Intro. to Incident Command System
  – ICS-200: ICS for Single Resources & Initial Action Incidents
FEMA Training

• Complete ICS Classes and Get FEMA Certificates
  – Important for Reimbursement

• Regular Drills of Possible Emergencies is Essential
  • Table Top Exercises
  • Full Field Drills
PRACTICE

• With Your Staff, in the EOC
  – Make Sure They Know Where it is
  – Where to Find “Your Stuff”

• Emphasize Bad Things Can Happen – Even if City Attorney /County Counsel is Out of Town

• Different if Fixed, Dedicated EOC or One that Rolls Out

EOC—Rolls Out Only for Emergencies
ALTERNATE LOCATION FOR OFFICE

• Have You Thought About what Happens if City Hall is Damaged?
  – Where do Your Employees Work From and How Does Both Recovery and Regular Work Get Done?
• Recommend Scouting Alternate Facilities Now
  – Check Technology Capacity!
PLAN FOR HANDLING WORKLOAD

• No “New” Capacity
• How to Build Capacity
  – Contract Out
  – Delay Projects
• Workload
  – Immediate Priorities
    • Disaster
    • Regular Work
  – Important Priorities
    • Disaster
    • Regular Work

-Projects That Can Wait
-How to Communicate to Staff / Elected Officials / Appointed Officials
Think About Extended 24/7 Staffing

- Have a Plan
- Keep in Contact with Your Staff
  - Text Group is a Good Method for Updates
- For City Attorneys & County Counsels – The Duty to Supervise isn’t Suspended During Emergency
  
  - Assess Individual Staff Before They go to EOC
    - Are They Up to It?
24/7 STAFFING PLAN

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<th>Day</th>
<th>7:00 am – 4:00 pm</th>
<th>4:00 pm – 10:00 pm</th>
<th>10:00 pm – 7:00 am</th>
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<tbody>
<tr>
<td>One</td>
<td>Attorney 1</td>
<td>Attorney 2</td>
<td>Attorney 3</td>
</tr>
<tr>
<td>Two</td>
<td>Attorney 4</td>
<td>Attorney 5</td>
<td>Attorney 6</td>
</tr>
<tr>
<td>Three</td>
<td>Attorney 1</td>
<td>Attorney 2</td>
<td>Attorney 3</td>
</tr>
</tbody>
</table>

Samples & Templates at Tabs 100 A & B in Playbook
PRE-APPROVED CONTRACTS

• Supplies
  – Sand / Sand Bags
  – Garbage Bags
  – Refuse

• Equipment
  – Generators
  – Back Hoes
  – Water Trucks

• Fuel
  – Gasoline
  – Diesel
  – Propane

• Food and Water
  – Disaster Workers
  – Residents
PRE-APPROVED CONTRACTS

• Disaster Recovery Specialists
  – Audit
  – FEMA Compliance
  – Recovery Procedures
  – Plan Check and Inspection for Rebuild
COPIES OF MUTUAL AID AGREEMENTS

- Police/Sheriff/Law Enforcement
  - Jail
- Fire
- Animal Control
- Building & Safety
- Environmental Health
- Health / Hospital
  - Mental Health
- Public Transit
- Public Works
- Social Services
- Transportation
  - Streets/Roads
- Water/Waste Water
- Waste Resources
  - Solid Waste
“PLAYBOOK”

- Initially ‘Crisis’ Document
- Now, Three Volumes
- Pre-Disaster Planning through Rebuild

PLAYBOOK Documents, Forms, and Materials to Help You Survive a Disaster

Avoiding Total Disaster: The Law & Emergencies
Disaster Preparedness Training for Local Government Legal Advisers

June 24th, 2019
Sheraton Grand Sacramento Hotel
Sacramento, California
USING THE PLAYBOOK

• Download & Personalize Word Docs & Excel
  – Fill in the blanks
  – PDF’s are Samples
  – Keep Multiple Places
    • Network
    • CD/Flash Drive
    • EOC
    • Office
    • Car

• “Read Only” Protect Your Templates

![Read Only Protection Message from Microsoft Word](Microsoft_Word_Read_Only_Protection.png)
PLAYBOOK ORGANIZATION

• VOLUME 1: Pre- Disaster
  • BEFORE THE DISASTER / EMERGENCY [Divider Tab]
    – A Number of FEMA Documents
    – Focus on Procurement Issues
    – Things You Can & Should do Now

• VOLUME 2: “Crisis” Docs.
  • CITY ATTORNEY/COUNTY COUNSEL EOC CHECK LIST [Divider Tab]
  • DISASTER ORDINANCE [Divider Tab]
    – Ventura Sample - Insert Your Own
PLAYBOOK ORGANIZATION

- DISASTER / EMERGENCY PROCLAMATIONS & DECLARATIONS [Divider Tab]
- DISASTER / EMERGENCY POWERS & AUTH’s [Divider Tab]
- OUTSIDE HELP; FEDERAL /STATE/VOLUNTEERS/ DONATIONS [Divider Tab]
- SHELTER ISSUES [Divider Tab]
- ENTRY PRIVATE PROPERTY/ ABATE UNSAFE [Divider Tab]
- CONFIRMING DISASTER/ EMERGENCY [Divider Tab]
- EXTENDING DISASTER/ EMERGENCY [Divider Tab]
- TERMINATING DISASTER/ EMERGENCY [Divider Tab]
- CITY ATTORNEY/COUNTY COUNSEL SPECIFIC ITEMS [Divider Tab]
PLAYBOOK ORGANIZATION

• MUTUAL AID AGREEMENTS [Divider Tab]

• VOLUME 3: POST “CRISIS”
  • RECOVERY – IMMEDIATE [Divider Tab]
  • REBUILD [Divider Tab]
Form Documents
  – Fill-in-the Blank

Sample:
  – Ordinances,
  – Resolutions,
  – Contracts,
  – Orders,
  – Declarations

O.K. to Handwrite in the Blanks if Cannot Access Electronic
  – Not Pretty - Just as Valid!
KEY DOCUMENTS IN PLAYBOOK

– Local Disaster/Emergency Ordinance
– Disaster Declaration
– Purchasing/Contracting Ordinance
  • Updated for Federal Super Circular 200
EMERGENCY POWERS/AUTHORITIES

• Evacuation Orders
• Imposing a Curfew
• Conscription of Aid
• Rationing
• Evacuation
• Commandeering Supplies/Property

• Abatement of Impending Peril & Authorizing Spending of Public Money
EMERGENCY POWERS/AUTHORITIES

• Suspending Automatic Land Use Approval Deadlines
• Prohibiting Price Gouging & Overcharging
• Prohibiting Use of Leaf Blowers
OUTSIDE HELP

• Employee Lending
  – From Other Agencies
  – Requesting National Guard
  – Volunteers
    • Waivers
    • Worker’s Compensation Coverage
    • Ham Radio Operators / Agreements in Advance

• Small Office
  – Legal Services Mutual Aid
    • Conflicts
    • Duty of Loyalty
    • Attorney/Client Privilege

• Donations
  – What to Accept
    • Document
  – How to Say No
OUTSIDE HELP

• Mutual Aid
  – Police/Sheriff/Law Enforcement
    • Jail
  – Fire
  – Animal Control
  – Building & Safety
  – Environmental Health
  – Health / Hospital
    • Mental Health

• Mutual Aid
  – Public Transit
  – Public Works
  – Social Services
  – Transportation
    • Streets / Roads
  – Water/Waste Water
  – Waste Resources
    • Solid Waste
Shelter

• Is There a Plan not only for Community Members, but what about City/County Staff that Need to work Extended Hours?
  – Have You Thought about Your Part-Time Staff in Recreation to Assist with City Staff Child Care Needs if Necessary
ENTRY ON PRIVATE PROPERTY

- Detailed Discussion by Other Speakers
- Playbook has:
  - Immediate / Emergency Entry
  - Clean Up Authorizations
  - Decline to Allow Access

- Inspection & Abatement Warrant
CONFIRMING EMERGENCY

• Resolution Confirming and Extending Emergency

• Forms for:
  – City Council / Board of Supervisors to Confirm if not in Session When Declared (Seven Days)
  – Must be Re-confirmed Every 60 Days Thereafter

Emergency City Council Meeting
December 6, 2017
Held at P.D. Lobby
TERMINATING EMERGENCY

• Resolution Confirming & Terminating Existence of Emergency [90]
• Resolution Terminating Emergency [95]
CITY ATTORNEY/COUNTY COUNSEL SPECIFIC DOCUMENTS

• 24/7 Staffing [100 A&B]
• Application for 60 Day Stay of Litigation /Continue Trial Dates [101]
  – Declaration in Support of Motion
• Internet Legal Research Sites [103]
MUTUAL AID AGREEMENT
What Should Be Included?

• Key Provisions
  – Financial Responsibility
  – Indemnification
  – Workers’ Compensation Coverage
  – General Liability Insurance Coverage
  – Automobile/Aircraft/Watercraft Liability Insurance

• Negotiating
• Drafting
• Keeping Current
MUTUAL AID AGREEMENT
What Should Be Included?

• How Long Can You Provide Mutual Aid?
• How Much Resource can You Share?
• Practice Calling it into Action
• Making Sure Your Successors Know it Exists
  – How & When to Use It
If You Think It Won’t Happen to You

• Photo on Right is the Hill behind Ventura City Hall
Take Aways / Follow-Up

  – Has Provisions that Should be in our Purchasing Ordinances to Ensure FEMA Reimbursement (Effective 7/1/2018)
• Ensure Your FEMA Training is Up-to-Date
  – ICS: 100, 200, 700, & 800
• Develop a Plan for 24/7 Staffing of the EOC – Now!!
• Make Sure You Have Plastic Cards with Contact info for:
  – Your Staff
  – Your City Council / Board
  – Your Department Head Team
  – A Colleague You Can Wake Up in the Middle of the Night
Take Aways/Follow-Up

Create Your Own City Attorney/County Counsel’s Department Emergency Binder

- Based on the Playbook

- Practice for an Emergency
  - Show Your Staff Where the EOC is and Discuss what the Attorney’s Role is During a Disaster
Questions