

Can Your Firm Survive a Disaster?

By Phil Guerra

We've all heard the adage, "Prepare for the worst; hope for the best." Unfortunately, many law office administrators admittedly rely on only the last half of that old saying when emergency strikes. They manage day-to-day operations while rarely considering that a catastrophe can stop business in its tracks.

Long-term business survival, however, not to mention professional and ethical implications, depends on having a well-thought out emergency plan. Such a plan facilitates execution of a firm's principal ambition—to seamlessly deliver legal services to clients—both in times of normalcy and disaster.

First Steps

An emergency plan answers three basic questions:

1. What emergencies should be planned for?
2. What needs to be done in an emergency?
3. Who will do what needs to be done?

Let's briefly examine each of these questions.

What to Plan for

We tend to think of major calamities as the sole source of trouble—those events generally attributable to the wrath of Mother Nature—floods, earthquakes, tornadoes, blizzards, and so forth. Smaller events, however, such as power failures, bomb threats, medical emergencies, or computer network failures, can also have devastating effects. A firm located in Salt Lake City won't need a hurricane plan, but most firms are subject to some type of geographically-based fury, as well as to a variety of man-made emergencies including bomb threats and crime.

Based on your location, determine your firm's disaster risks. Draw up a comprehen-

sive list of other emergencies that can conceivably impact the firm's ability to conduct business. Clearly, a moderate dose of imagination is called for at this stage. Everyone in the firm, from top management to departmental supervisors, should have a hand in developing this list to ensure that every possible threat is considered, evaluated, and prioritized.

What You Need to Do

The type of threat will dictate the specific preventive and remedial actions required. Abundant reference material is available to assist you. Much of this guidance is broken down into two general categories:

1. Actions that manage situations for which there has been warning
2. Actions that manage an emergency that comes as a surprise

For each type of emergency, develop a series of actions that minimize the consequences and that return the firm to normal operations as quickly as possible. I recommend two books on the subject:

1. Nina Wendt & L. J. Skinner, *Managing Emergency Situations in Law Firms*, an ALA Planning Reference Guide. This "bible" on disaster planning and emergency management should be on every administrator's desk. Besides discussing most aspects of risk assessment, plan development, and action strategies specifically oriented to the law firm environment, it includes a mini-resource list of disaster recovery organizations available nationwide.

2. The Systems Audit Group, *Disaster Recovery Yellow Pages (617-332-3496)*. This reference guide, updated annually by the publisher, provides the most comprehensive list of vendors engaged in disaster recovery services.

In addition, don't overlook reference material available from local and regional authorities who have prepared "localized" checklists and guides for specific threats. Agencies such as the Red Cross, local police, and fire departments, as well as local utility providers, are reliable sources of useful information.

Who is Responsible

An emergency plan must contain clear-cut lines of authority and responsibility—those who are responsible for making decisions during a disaster. Deciding who will do what can be difficult in terms of office politics, but an effective emergency plan will consider these issues delicately and designate back-up personnel as warranted.

Key Plan Elements

Any plan worth its salt will first and foremost safeguard employees, then facilities, files, records, and systems equipment.

1. **Employee Safety:** Your employees are your number one asset, and their safety is paramount in any well-conceived emergency plan. Include provisions for their physical and mental well-being, before and after disaster strikes. The emotional toll that often accompanies a catastrophe, large or small, can be as debilitating as the

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initial event itself. Massive natural disasters can trigger post-traumatic stress syndrome rendering employees essentially unavailable for duty. Less dramatic disasters or threats can pose equally crippling impairment resulting in the inability to take appropriate directives. It is critical to anticipate and prepare for a high level of personal trauma when creating a plan.

2. **Space and Facilities:** In the event of a catastrophe, office space and facilities may be damaged or unusable and even unreachable when located in a disaster zone. Make arrangements for sharing space or occupying alternative sites in the event that this scenario occurs.

3. **Preservation of Files and Records:** Diminish losses by keeping backups of all files off site.

While you are unable to use your office space, delineate methods for retrieving, duplicating, or restoring damaged files and records.

4. **Preservation of Systems and Equipment:** Disasters that occur without warning (earthquakes, tornadoes, fire) limit your ability to preserve technology systems and equipment. Nevertheless, assessing these risks will generally dictate appropriate safeguards to minimize the loss of (most likely) irreplaceable data. Discuss with your systems and equipment vendors their commitment to repairing damage or replacing losses. Place these provisions in your plan.

5. **Insurance Coverage:** Adequate insurance coverage is an essential element to a plan. By defining potential risks in an emergency plan, a firm may uncover areas where coverage is either inadequate or nonexistent. Invite insurance professionals to your office to assess risk and appropriate coverage. The emergency plan should identify critical insurance coverage (including business interruption, extra expense, valuable papers, computer hardware and

software), as well as contact information for insurance carriers and agents.

6. **Client Communications:** An emergency plan should never lose sight of its principle objective: to quickly restore a firm's ability to deliver legal services to its clients. When clients learn of a disaster at your firm, it is imperative that you constructively and convincingly communicate the status of the emergency and your actions to overcome it. This information goes to the heart of retaining client confidence. Plan

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to communicate with clients by generic letters, e-mail, fax, or an ad in the local newspaper—these tools are essential to maintaining goodwill. Designate a spokesperson to insure that the same message is being conveyed to everyone (vendors, landlord, the press) at the same time.

7. **Timing Considerations:** A well-executed emergency plan will “trigger” certain events as needs arise. For example, a threatening storm forces decisions regarding the processing of payroll, and unexpected recovery costs may entail contacting the firm's bankers to extend additional credit.

Completing a Plan

Once specific emergencies are identified, analyzed, and prioritized, and authority is assigned to those who can accomplish express objectives, reduce the plan to a written document for evaluation by all levels of firm man-

agement. Critique the draft in terms of its strategies to save people, property, and limit financial losses. The plan should adequately provide for emergency information management, recovery and cleanup measures, and clearly define responsibilities for the resumption of business activities. Assuming your plan passes initial management muster, circulate the draft plan to every employee of the firm for comments—someone may uncover previously undetected “bugs” that may need correction before the plan is finalized.

Once complete, disseminate and promote the plan to all employees continually—and review and update it at least annually. Last, emergency plans that require the participation of employees should be tested. For example, test fire evacuation plans—smooth evacuation is fundamental to a successful plan.

One final thought: Because risks constantly change, no effective emergency plan is a static work. Rather, it is, and (hopefully) will always be, a “work in progress.”

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