

# BEFORE THE DISASTER

## Legal Disaster Preparedness 101

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“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



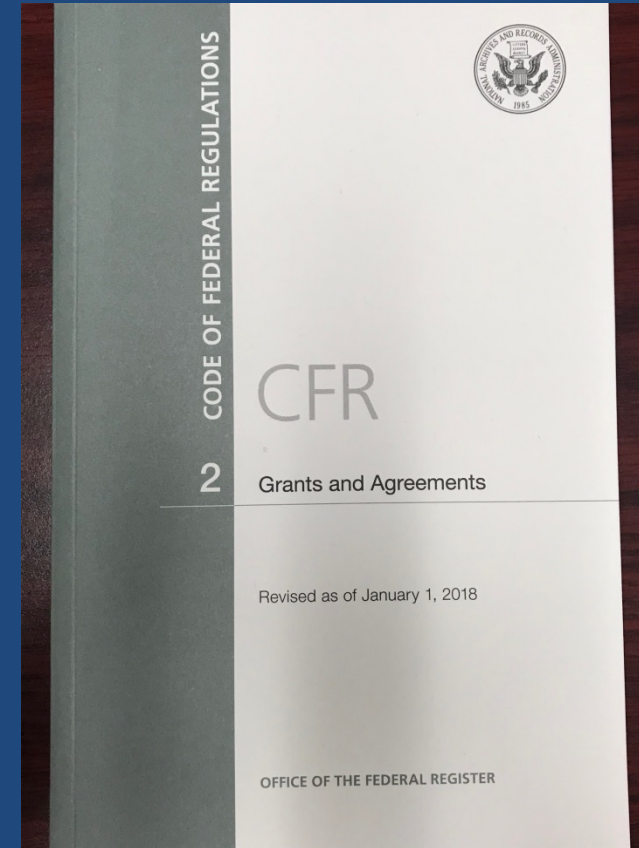


# BOOKS/PUBLICATIONS/RESOURCES

- Local Disaster Plan
- EOC Check List for Legal Officer
- State Emergency Services Act
- CalOES:
  - Elected Officials Guide to Emergency Management
  - Emergency Proclamation Guide
- Local Emergency/ Disaster Preparedness Ordinance
- Charter
  - If Charter City / County
- Brown Act
  - League's *Open & Public*
  - Any local Ordinances, Resolutions, or Procedures

# 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
  - ICS-700: National Incident Management System: An Intro.
  - ICS-800: National Response Framework: An Intro.

# 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

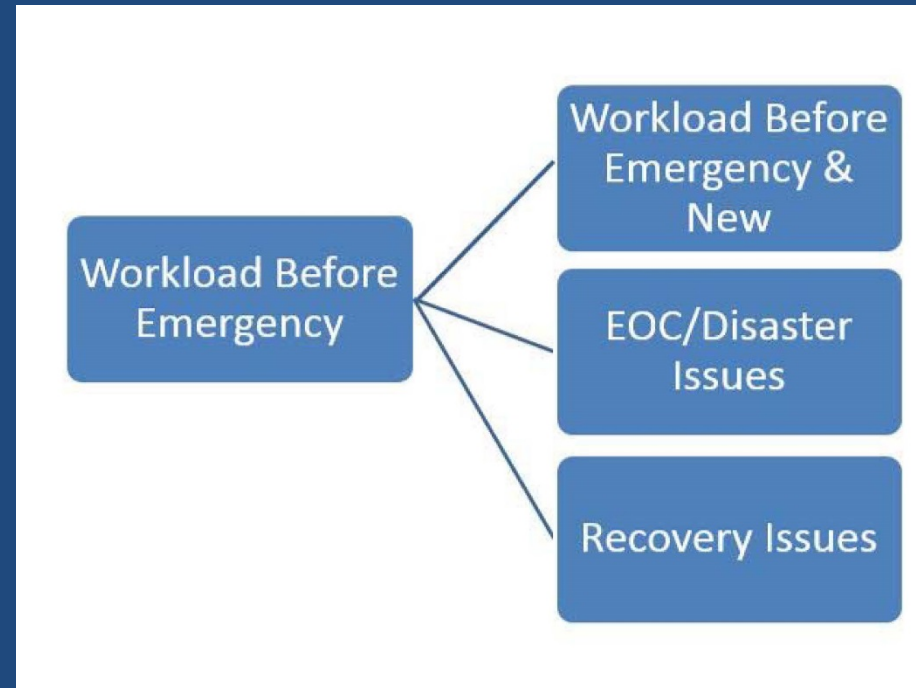
- Have You Thought About what Happens if City Hall is Damaged?
  - Where do Your Employees Work From and How Does Both Recovery and Regular Work Get Done?
- Recommend Scouting Alternate Facilities Now
  - Check Technology Capacity!





# PLAN FOR HANDLING WORKLOAD

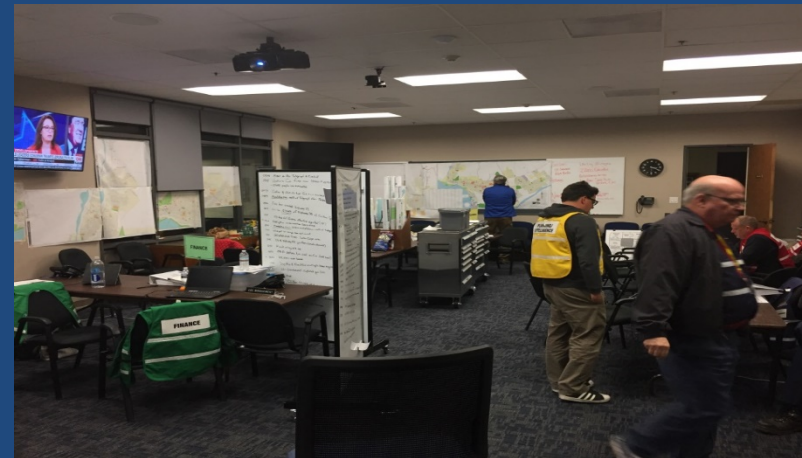
- No “New” Capacity
- How to Build Capacity
  - Contract Out
  - Delay Projects
- Workload
  - Immediate Priorities
    - Disaster
    - Regular Work
  - Important Priorities
    - Disaster
    - Regular Work



- 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

Day	7:00 am – 4:00 pm	4:00 pm – 10:00 pm	10:00 pm- 7:00 am
One	Attorney 1	Attorney 2	Attorney 3
Two	Attorney 4	Attorney 5	Attorney 6
Three	Attorney 1	Attorney 2	Attorney 3

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

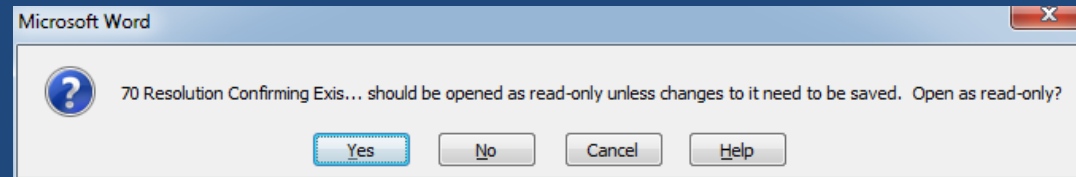


**Avoiding Total Disaster: The Law & Emergencies**  
*Disaster Preparedness Training for Local Government Legal Advisers*

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



# PLAYBOOK ORGANIZATION

- VOLUME 1: Pre- Disaster
- VOLUME 2: “Crisis” Docs.
- BEFORE THE DISASTER / EMERGENCY [Divider Tab]
  - A Number of FEMA Documents
  - Focus on Procurement Issues
  - Things You Can & Should do Now
- 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]

# CITY ATTORNEY/COUNTY COUNSEL SPECIFIC BINDER “PLAYBOOK”

- 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
- Conscriptioin 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

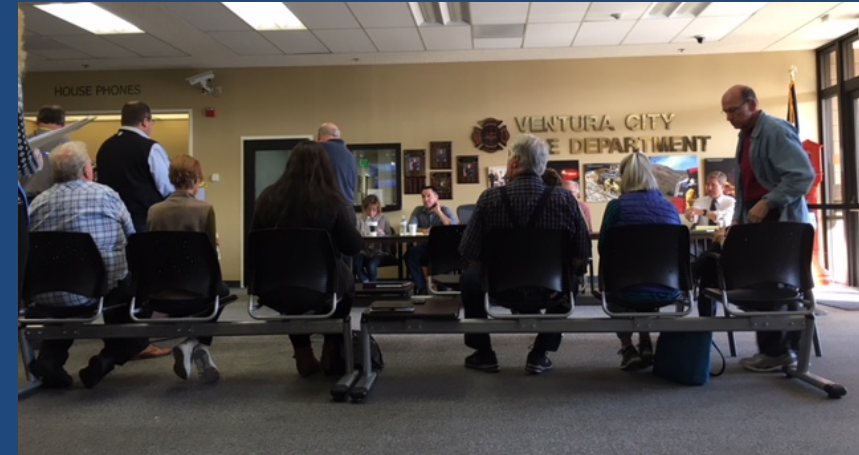
- Detailed Discussion by Other Speakers
- Playbook has:
  - Immediate / Emergency Entry
  - Clean Up Authorizations
  - Decline to Allow Access



- 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

- Federal Super-Circular  
200 2 CFR 200.317-200.326
  - 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

