



Preparing For The Unexpected: Anticipate and Plan for Law Office Disasters

Over the last few years the nightly news seems to have been full of stories of natural and man made disasters. Flooding has wiped out or caused the relocation of entire towns. Drought conditions caused broken water mains, resulting in widespread flooding. Hurricanes and tornadoes have cut a swath through many inhabited areas, leaving a trail of destruction in their wake. There have also been stories about gas line explosions, the derailment of trains carrying volatile gasses, and the unexpected discovery of toxic chemicals in the soil. And no one can forget the events of September 11, 2001.

These events tell us that we are not immune from the forces of nature or the whims of the demented. Likewise, as our state continues to grow and age, we are subject to the increased likelihood of infrastructure failures. Advance planning cannot entirely prevent the unexpected, but it can give you and your firm an edge in overcoming the long-term effects of what could otherwise be a catastrophe.

Any disaster preparedness plan should have two goals. First, it should be designed to protect the people in your office, both staff and clients, and your vital business records. Second, it should provide a framework within which to quickly replicate your office and have you up and running, in a new location if necessary, as quickly as possible.

In order to devise a successful disaster recovery plan, first you need to think about what sort of potential disaster situations you will be most likely to face, and then assess whether there is anything about the way in which you currently operate that

could make a potential disaster worse. As with any program to be carried out in a group situation, if your disaster recovery plan is to be successful one person needs to be assigned overall responsibility for its development and implementation. That person then needs to be given the time and resources necessary to accomplish the task.

I. Analyze Your Potential Risk

The following is a list of potential problems to anticipate and plan for. Carefully evaluate this list in light of what you know about your physical setting, your equipment, your clients, and your community and the surrounding environs.

- Natural Disasters
 - Hurricane
 - Tornado
 - Flood
 - Drought
 - Landslide

- Technological Disasters
 - Fire
 - Power Failure
 - Water line, gas line, or sewer break
 - Pipeline Explosion
 - Industrial Explosion
 - Hazardous Materials Accident
 - Hard Drive Crashes

- Antisocial Activities
 - Arson
 - Bombing or Bomb Threat
 - Criminal Activity
 - Violent Intruder (former client, opposing party or terminated employee)
 - Computer Hacker
 - Civil Disturbance

- Health Disasters
 - Pollution related problems
 - Epidemics

- Personal Problems
 - Long Term Illness or Disability
 - Suspension or Disbarment
 - Death

II. Analyze Your Present Situation

Once you have evaluated and ranked your potential risks, you should conduct an analysis of your physical facilities and current office processes to determine if they will help or harm you in the event of a disaster. The following are some things to consider:

- How do your building size, type, and age affect security considerations?
- How do the number and use of doors and windows affect security considerations?
- Is free access during business hours necessary, or could restricted access work?
- Would posting a security guard be appropriate or useful during certain times?
- Is your electrical or phone system exposed to sabotage?
- Is your computer system exposed to hackers?
- Do you duplicate important materials and back up all computer programs?
- Do you carry one copy of backup materials off site every day?
- Will your file storage/retention policies cause additional problems in a disaster?

With respect to building security, as security experts will tell you, a significant feature of any security systems is its deterrent value. If security measures are sufficiently visible, many intruders will select a less well-protected target.

III. Plan for Personal Safety

There are many steps that can be taken to ensure the safety of your personnel and your clients, and they will differ depending on your physical setting and the type of disaster you face. The following are some suggestions to provide your Safety Coordinator or Emergency Response Team with a structure within which to consider and make these plans:

- Small or freestanding buildings - Develop appropriate emergency escape routes and procedures.
- Large buildings - Review building emergency procedures and coordinate emergency plans with other tenants on your floor.
- Post vital safety information including:
 - Fire Exit Locations
 - Fire Extinguisher Locations
 - Escape Routes
 - Emergency Phone Numbers
- Educate Personnel

- Send Safety Coordinator to appropriate classes/seminars.
 - Prepare safety section of office manual.
 - Train personnel and issue periodic memos about emergency procedures.
 - Conduct periodic fire drills and other safety preparation drills.
 - Train one person to be responsible for escorting clients out of the building during an emergency.
- Develop Emergency Communication Plans
 - Collect and store off-site all employee's home and cell phone numbers.
 - If your office staff is large, develop a phone tree to facilitate spreading information within the firm in the event of a disaster.
 - Determine and publish an alternative phone number or a series of numbers employees can call for instructions in case of destruction of the office or office phone system.
 - Develop a plan for letting your clients know what has happened to your office and what you are doing to establish a new office.
- Purchase and Store Emergency Supplies
 - First Aid Kit
 - Flashlights with fresh batteries
 - Radio or mini-TV with fresh batteries
 - Cell phone and extra batteries
 - Emergency food and water
 - Petty cash in case banks and ATMs are not operational
- Make plans for your own unforeseen disability or demise:
 - Arrange in advance for one or more lawyers to cover your practice.
 - Get advance authority from clients (in fee agreement) to associate counsel in case of emergency.
 - Get your files organized and up to date, and include a to do list of uncompleted tasks in each file.
 - Prepare letter of instruction for your spouse, your partner, your staff, and any attorneys who will be covering your practice.

IV. Safeguard your Records and Equipment

Once you're sure all personnel and clients are safe, your thoughts will immediately turn to your files and other client and practice data. Here are some steps to follow:

- Make a complete office inventory including:
 - All computer hardware and peripherals, including serial number, purchase date, price, and vendor – update regularly as equipment is replaced
 - All software, including version number, serial number, purchase date, price, and vendor
 - All library contents, including active subscriptions

- All office furnishings, including purchase date and price
- All office equipment, including serial number, purchase date, price, and vendor
- All other equipment, such as coffee machines, TVs, tape recorders, video cameras, dictaphones
- All office supplies you regularly use

Consider making pictures or a video tape of your office once a year and store it off-site with your written inventory. Pictures will help establish the age and condition of the things you have lost, facilitating the settlement of your insurance claims.

- Establish a regular back-up procedure with off-site storage and follow it religiously. You should be backing up computer files and/or making off-site storage copies of:
 - Calendar or docket
 - Rolodex
 - Client/matter list
 - Word processing files
 - Billable time and other accounting information
 - Trust account records
 - Telephone programming (speed dial numbers, etc.)
 - Firm organizational or operating agreement and all firm minutes
 - Leases (building and equipment) and other contracts
 - Insurance records
 - Personnel records
 - Firm Inventory
 - File inventory, including off-site storage inventory

Review your current back-up procedures carefully. Many firms don't follow a regular back-up schedule, don't back-up everything they should, or don't store the back-up copies off site. Many faithfully practice back-up procedures, but have never tested them to see if data can be successfully restored from a back-up. Make back-up testing part of your regularly scheduled safety precaution drills.

After you've reviewed your back-up procedures, take a moment to consider how you handle your most important client papers. If you are trying a case involving physical evidence or "smoking gun" memos, make sure that you have taken the steps necessary to safeguard them against ALL contingencies. Consider a fire-proof file cabinet, an office safe, or establishing procedures for storing in a bank vault or safe deposit box all "irreplaceable" client papers and physical evidence. Work from copies in your office until shortly before trial.

You should also periodically review your existing insurance coverage to make sure it is tailored to the type or types of disasters you are most likely to face. You should consider whether you have, or need, the following types of coverage:

- Damage to or loss of real and personal property
- Flood Insurance (sometimes excluded from standard policies)
- Loss of Revenue (business interruption)
- Disability
- Long Term Care
- General Liability
- Valuable Papers
- Accounts Receivable

V. Get Back to Work!

Assuming the worst has happened and the office you left yesterday afternoon is nothing but a hole in the ground this morning, what do you do next? If you have previously developed a disaster contingency plan, you need only execute the business resumption portion of that plan to be back in business. Here are some basic steps for a business resumption plan:

- Notify office staff of nature of disaster and, if their homes are not also involved, instruct them to stand by or where and when to call for further instructions. This can be done by direct calls to them, by a phone tree, or by having them call a specified number at specified times to receive recorded information and updates.
- Contact your insurance agent, and begin assessment of damage as soon as authorities allow. If your complete office inventory is available, this should greatly facilitate settling your insurance claim.
- Contact your stand-by attorney to make sure he or she is aware of your situation and is in a position to help you. It is a good idea to have more than one standby, or a standby who doesn't live in the same town. Often, when a natural disaster gets one law office, it gets many in the same location.
- Execute your plan for temporary office space.
- Execute your plan for temporary or new equipment. This could be a short term lease arrangement, purchase of new computers "off the shelf," or an agreement to share excess equipment with another firm in your area. Use your supply inventory list to purchase enough supplies to get back in business at your new location.
- Notify staff of where and when to return to work.
- Load all backed-up computer information.
- Immediately review calendar/docket to obtain any necessary continuances and make sure statutes of limitations do not run.

- Contact your clients and let them know what has happened. When informing them of the crisis, you should be truthful about the condition of your office but convey that the firm is taking all necessary steps to protect their interests.
- Review client/matter list and obtain copies of all pleadings from opposing counsel or the court to re-establish your files.
- Contact your banker and arrange a line of credit. You will need to be able to meet your payroll and other accounts payable even if your cash flow is hampered because of the disaster. Also, you may need to lease or purchase equipment before your insurance claims have been settled.

Statistics indicate that the majority of businesses which experience a major disaster are no longer in business five years later. If you hope for the best but plan for the worst, you'll be able to take a disaster in stride and continue to provide the highest level of service for your clients.

This paper acknowledges with grateful appreciation the ideas and checklists of:

ABA Task Force on Law Office Disaster Planning and San Francisco Lawyers Club,
When Disaster Strikes: How to Handle Law Office Emergencies (1988)

Poll, Ed., Fires, Floods and Other Disasters Do Occur: Plan Ahead, *Lawyers Weekly USA*, April 25, 1994

Phelps, J. R., Setting Up a Disaster Preparation, Protection and Recovery Plan for Your Law Firm

Yevics, Patricia, Disaster Planning: Protecting Your Firm, Your Clients and Your Family

Duties of the Emergency Response Plan Coordinator

The responsibility for the overall allocation of resources and decision-making rests with the coordinator. This individual alone must have the authority to select and implement courses of action. The disaster plan must, of course, provide for alternate coordinators should the emergency coordinator be unavailable.

A. Advance preparation

1. Assembles team members to design and implement disaster plan.
 - a. Decides on mustering place
 - b. Issues authorized permit badges
 - c. Obtains necessary local permission for re-entry
 - d. Relays decisions to team members and other personnel
 - e. Contacts outside agencies for assistance
2. Prepare a disaster action plan.
 - a. Organization charts
 - b. Establish "hotline" or nerve center
 - c. Assemble communication teams
 - d. Develop procedures for securing office space
 - e. Arrange alternative work area
 - f. Assign individual responsibilities
3. Duplicate and maintain off-site personnel records
 - a. Employee names, addresses, phone numbers, hospitals
 - b. Assembles copies of insurance policies, claim forms
 - c. Back-up copies of computerized personnel, payroll histories etc.
4. Communicate policies regarding office closure, paid time off, cash advances, alternate work assignments or hours, etc.

5. Establish disaster preparedness and re-entry procedures.
6. Educate personnel concerning disaster procedures and policies.

B. Initial Disaster Response

1. Determine that the disaster is over and the possibility of further danger to personnel has been eliminated from such objects as falling materials, loose wires, running water or toxic gases.
2. Begin assessment of the damage as soon as authorities allow. Ensure that all metal cabinets or other containers that are to be opened are not hot. If fire was involved, flash fires may occur upon opening a warm cabinet. If electricity has been restored, extreme caution may be necessary in wet or damp conditions.

Contact the building owner/management, insurance company representative regarding steps to be taken to mitigate damage and obtain authorization for immediate salvage and repairs.

Disaster Essentials Checklist

Information the Emergency Response Coordinator should have available at all times at work as well as at home.

1. Your office disaster plan
2. Employee telephone numbers, addresses
3. Building management key personnel phone numbers (work and home)
4. Vendor contact list
5. Petty cash
6. Copies of insurance policies and information regarding coverage
7. Office lease
8. Client contact information
9. Floor plans
10. Master docket/calendar for firm
11. Client file index and off-site storage index
12. Safe deposit keys
13. Banking account numbers
14. Clerk of Courts and key Court personnel contact information

Forewarned Disaster Planning

Disasters are not always unforeseen. In the event of a hurricane, tornado, flood, fire in a nearby building or civil disorder, the Emergency Response team may have time to take precautionary measures. In all cases, however, the safe evacuation of all personnel must be the first consideration.

A. Pre-Disaster Priorities

1. Alert the Emergency Response Coordinator.
2. Close off master electrical switches.
3. Turn off gas.
4. Move valuables to a "safe room:" on the interior of the building, or if possible to a safe place outside.
5. Cover valuable materials that cannot be moved with heavy grade plastic and wrap them securely.
6. Secure loose objects and move them away from windows or glassed-in areas.
7. Keep materials off the floor.
8. Back-up and take with you as much computer data as time permits.
9. Re-check supplies purchased for coping with disasters as outlined in the firm's disaster contingency plan.
10. Don't forget to take the plan with you when you depart.
11. Tape windows to reduce danger of flying glass.
12. Close the doors to all rooms.
13. Listen to a radio or television for instructions.

B. Post Disaster Priorities

1. Listen to a battery operated radio for instructions.
2. Notify the fire department if any fires have broken out.

3. Assist those who have been injured by falling debris, glass, smoke etc.
4. Evacuate the building if safe to do so. Do not re-enter, until the building has been declared structurally sound by the safety department.
5. Do NOT use the telephone, except in a real emergency. The lines should be kept free for government rescue operations.
6. Check for broken water pipes, shorted electrical circuits, or leaking fuel. Do not use a match or candle to find your way, since there may be flammable gas in the air. Shut off utilities at main valves or meter boxes. Turn off all equipment.
7. Ensure that sewage lines are working before running water or flushing toilets.
8. Institute security measures to take the place of any automatic security systems.

Basic Security And Safety Checklist

The refrain "It can't happen here" has a hollow ring to those who may have seen how a chance accident or minor oversight had catastrophic consequences. An Emergency Response Plan, therefore, must not only outline how a disaster is to be prevented, but also how, if one arises, its impact can be contained and minimized.

1. Clearly mark staff-only areas as closed to the public.
2. Escort visitors in non-public access areas.
3. Ensure that a staff member is always present in the Reception area.
4. Be aware that terminated employees may pose security risks. Ensure that terminated employees, before leaving, turn in all relevant identification and keys.
5. Ensure that all outside windows, doors, loading docks or other entry points are secure.
6. Ensure that all access control systems, intrusion and automated alarm systems are maintained on a regular basis.
7. Establish procedures that will be followed in the event of theft and vandalism.
8. Ensure that all staff and outside service employees are aware of the firm's security systems.
9. Ensure that all employees have a place to lock any valuable possessions, e.g., purses, laptop computers etc.
10. Ensure that employees who work overtime or late nights are escorted to their vehicle or driven home in a taxi.
11. Do not lock or block access to any exit door.
12. Maintain an appropriate sized and stocked first aid kit.

Fire Safety Information

The majority of fires take place during off-hours when few people are present to sound an alarm or extinguish them while still in their initial stages. It has been reported that better than 70% of all office fires occur between the hours of 9 p.m. and 9 a.m. Thus, these fires happen after most, or all, of the law office staff has left for the day. This fact underlies the importance of having an automatic fire detection system.

Either heat or smoke activates fire detectors. A heat detector is preferred because a fire produces heat before any appreciable rise in temperature produces smoke. The best type is the ionization detector which can sense invisible products of combustion even before smoke appears.

In addition to an automatic detection system, ideally the building should have an automatic fire extinguishing system that can put out or limit the spread of fires and eliminate the delays involved in calling the fire department. Regardless of the sophistication of the system used the fire department should always be called.

A. Fire Safety Procedures

1. Have fire extinguisher, halon and/or any other type of fire suppressor systems professionally serviced on a regular basis.
2. Restrict smoking to a designated area with the building.
3. Store cleaning solvents or other combustibles in fire rated cabinets if kept on premises.
4. Ensure that all electrical appliances, coffeepots, computers etc. are turned off when not in use. Appoint individuals to turn off all equipment before leaving the premises at night. Common-use items such as coffeepots and photocopiers should be on clock timers to automatically turn off during non-standard use times.

B. Fire Evacuation Procedures

1. Upon discovery of a fire
 - a. Evacuate personnel out of the immediate area of danger. Use stairwells. Do not use any elevator.
 - b. Sound the alarm. Go to the nearest fire alarm/pull station and pull the handle (many fires have spread due to delayed alarms). Make sure a designated individual or position is responsible for calling the fire department (911).

- c. Extinguish or contain the fire. If the fire is small enough and you have had training in the use of the fire extinguisher and are confident that you can operate it effectively, then and only then should you attempt to extinguish the fire.
 - d. Confine the fire. If unable to extinguish, confine the fire by closing the door to the fire area and evacuate to the nearest safe exit.
2. When the fire alarm sounds
- a. Immediately leave your work area, closing the door behind you.
 - b. Go to the nearest exit or stairwell and proceed to the outside. DO NOT USE THE ELEVATOR.
 - c. If the exit or stairwell is blocked due to heat or smoke, use an alternate exit.
 - d. If you are caught in smoke, crawl. Fresher air is nearer the floor.
 - e. Have a designated meeting place to insure everyone is out.
 - f. Remember: A fire can be lethal. Get out and stay out. Never go back inside until the Fire Department gives an all clear.

C. Fighting A Fire

1. Fight a fire only if all of the following are true:
- a. Everyone is evacuated from the immediate area of danger.
 - b. The Fire Department has been called.
 - c. The fire is small and confined to the immediate area where it started (wastebasket, cushions, etc.)
 - d. You can fight the fire with your back to a safe escape route.
 - e. Your extinguisher is rated for the type of fire you are fighting and is in good working order.
 - f. You have had training in the use of the fire extinguisher and are confident that you can operate it effectively.

If you have the slightest doubt about whether or not to fight the fire, DON'T. Instead, get out, closing the door behind you.

2. Procedure for usage of a fire extinguisher: Hold upright and remember the acronym P.A.S.S.

P - Pull the pin
A - Aim the nozzle
S - Squeeze the handle
S - Sweep at the base of the fire

**IMPORTANT FACTS
ALL EMPLOYEE'S SHOULD KNOW**

- LOCATION OF FIRE ALARMS
- LOCATIONS AND TYPE OF FIRE EXTINGUISHER
- EXITS AND EVACUATION ROUTES

Disaster Recovery Supply and Equipment Checklist.

Some of the supplies may be stored on-site in emergency storage; however, an on-site depot will be of little use if the disaster renders it inaccessible. For this reason, some supplies ought to be stored off-site as well.

- Tarpaulins and plastic sheeting to protect materials from water, to insulate windows and to cover tables during salvage operations.
- Interlocking plastic crates to pack materials in. Cardboard cartons may be used although moisture from the materials will weaken the cardboard.
- Fans and dehumidifiers to promote drying of the materials and reconditioning of the environment.
- Pumps to remove water.
- Generators to power equipment such as emergency lights, air conditioners, fans etc.
- Wet and dry vacuum cleaners to clean up mud and debris.
- Waterproof and grounded heavy duty extension cords.
- Washing tanks or large plastic garbage containers.
- Sponges, brushes, hoses to wash materials.
- Wheeled carts to move materials.
- Absorbent paper such as blank newsprint to absorb moisture.
- Freezer paper, wax paper to keep items from adhering to each other in a freezer.
- Mobile telephones or portable radios to coordinate the disaster team.
- Portable battery operated radios.
- Petty cash, ATM's may not operate for some time.
- Emergency water and food supplies.
- Wet weather clothing such as boots, hats, gloves etc.
- Toiletries

Power Failure

Power failures are generally without warning. Interruptions may occur during summer thunderstorms or from accidents to nearby transformers. If the power failure appears to be of short duration, little will need to be done beyond protecting sensitive equipment by turning it off. If you practice in an area where frequent power outages occur, all computer equipment should be protected by having surge protectors and uninterruptible power sources. If these are unavailable, frequent back-ups are crucial.

Power Outage Checklist

1. Check to see if anyone is trapped in elevators stopped between floors. Contact the fire department or the building superintendent to free any trapped people.
2. Notify the electric utility. Telephone lines will probable still be operational.
3. Check to see if neighboring buildings are affected.
4. Institute security measures to take the place of any automatic security systems unless they are battery operated.