

**PLANNING FOR DISASTER PREVENTION AND/OR
RECOVERY**

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**THE LAW OFFICE MANAGEMENT INSTITUTE
Managing Risk and Taking Care of Yourself
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The Law Office Management Institute
Managing the 'Back' Office

Disaster Recovery Planning

I. Importance of a Disaster Recovery Plans.

A. Your Firms' Obligations.

1. Your firm has an ethical obligation to ensure the best interest of not only your clients but also the employees of the firm.
2. Your firm may have statutory obligations in correlation to work being done for a client.
3. Your firm has a professional obligation to protect the assets of clients and the firm.
4. Your firm has a moral obligation to the well-being of the employees who have supported the organization.

B. Magnitude of the Problem.

1. Over 40 percent of business never reopen.
2. A company that experiences a total computer outage that lasts more than ten days will most likely never recover financially.
3. 50 percent will be out of business within five years.

C. Business operations must continue uninterrupted under any circumstances for the firm to continue delivering legal services. Ensuring operations continue is the overriding objective of disaster management—and with it comes plans for employee safety, file protection and facility maintenance.

D. Long term business survival may depend on an emergency plan that clearly maps out a firm's return to normal operations in the face of predictable or unpredictable calamitous events.

II. Initiating a Recovery Plan.

A. Risk Assessment.

1. Determine the probability and consequences associated with potential risks to your firm:
 - a) Draw up a comprehensive list—common sense will help you identify specific types of events: fire, flood, hurricane, tornado, explosion, power loss, environmental catastrophe, human error or deliberate sabotage.
 - b) Everyone in your firm should have a hand in developing this list to ensure that every possible threat is considered, evaluated and prioritized.
2. Identify the preparedness and preventative measures, if any, already in place.

B. Senior-level Management.

1. Senior-level management may view the plan as an expense and not a revenue generator; therefore, it is imperative you raise the level of awareness regarding the ramifications of not having a comprehensive plan to address potential business interruptions, such as:
 - a) Lost revenue.
 - b) Lost customers/client.
 - c) Negative publicity.
 - d) Loss of business.
 - e) Loss of competitive edge.
2. Have senior-level management determine their acceptable risk level. Their acceptable risk level will most likely determine the overall resources and cost dedicated to this effort.
3. Senior-level management must appoint someone to lead the business recovery effort that has the power to lead, influence, support, prioritize, and organize the project.

- C. Appoint a Committee.
 - 1. Identify key, reliable personnel as committee members to cover all areas that may be affected by a serious business interruption.
 - 2. The Committee will:
 - a) Determine the responsibilities of all staff members.
 - b) Function as the recovery team.
 - c) Make recommendations for future implementation.
 - d) Review the plan at least once a year.

III. Implementing the Recovery Plan.

- A. The Emergency Recovery Plan should be written to:
 - 1. Delineate clear-cut lines of authority and responsibility.
 - 2. Lay out who possesses responsibility to make decisions and who will put the plan into action.
 - 3. Include the potential use of back-up personnel as warranted.
- B. Effect of a written plan:
 - 1. Less confusion after disaster.
 - 2. Greater opportunity to resume business quickly.
 - 3. Team members will gain a sense of accomplishment and be able to focus on the job at hand and not the disaster that just occurred.
- C. Key Recovery Plan Elements.
 - 1. Employee Safety:
 - a) Ensure your plan's highest priority is the safety of your employees before and after disaster strikes:
 - 1) All employees should be aware of evacuation routes.
 - 2) Designated individuals should be capable of assisting those with limited mobility in evacuating the building.

- 3) Each firm should consider developing an emergency information hotline for employees to call.
 - b) Be aware that the emotional toll that often accompanies a catastrophe can be as debilitating as the initial event itself.
 - c) Anticipating the level of personal crises in your action plan is critical to its success.
 - d) Be prepared to hire temporary staff to either:
 - 1) Assume regular duties of staff.
 - 2) Assist in the actual recovery operations.
2. Facilities:
- a) Consider what you'll do if your firm is damaged or unreachable because it lies in the danger zone.
 - b) Establish a temporary control center to manage the disaster recovery team:
 - 1) May be an employee's garage or temporary leased space.
 - 2) Temporary control center should have certain basic office equipment in place.
 - c) Pre-arrange commitments to share office space or occupy alternative sites to resume business for all individuals in the firm.
3. Preservation of Records, Files and firm letterhead.
- a) The best protection for both paper and magnetic records is backup, backup, backup, and store the backup off-site.
 - b) Put someone in charge of procuring supplies as soon as possible at the temporary control center.
 - c) A disaster recovery kit should be on the premises for recovery of records (flashlights, batteries, rubber gloves, blotting paper, water-proof markers, garbage bags, buckets, knives and clothesline).
 - d) Contact form and stationary vendors to supply necessary materials.
 - e) Identify library subscriptions/volumes to be replaced immediately.

4. Preservation of Systems and Equipment.
 - a) Pre-arrange commitments with systems and equipment vendors to repair damage or replace losses.
 - b) Identify portable or home computers that might be pulled back from home use during recovery period.
5. Insurance Coverage
 - a) Adequate insurance coverage for a variety of risks is an essential element to well conceived emergency plan.
 - b) Identify and/or review critical coverage, causes of loss, exclusions, and limitations:
 - 1) To make sure it has adequate coverage for real property, personal property, loss of earnings, business interruption, out-of-pocket-expense, valuable papers, extra expense, computer hardware and software, etc.
 - 2) To make sure that “standard care” was taken or “due diligence” was exercised if you have to mitigate the effects of a business interruption.
6. Client Communications.
 - a) Your plan should strive to make the emergency conditions in business operations as transparent as possible to clients.
 - b) Clients must be contacted within 48 hours of the disaster and informed that it is business as usual and court dates will not be missed.
 - 1) This will retain client confidence in the firm’s ability to continue operations.
 - 2) This is important for retaining clients in the future.
 - 3) They will appreciate the call and give the firm leeway.
7. Damage Assessment.
 - a) Should attempt to assess the damage within the first 24 hours or as soon as officials will let the recovery team inside the firm.

- b) All items should be color coded in some manner to indicate those for disposal, immediate high-priority salvage and low-priority salvage.
- c) Damage assessment phase should include the taking of photographs for insurance purposes.

IV. Completing the Plan.

A. Firm Awareness.

- 1. Employee awareness is the single most effective and at least expensive countermeasure that a company can employ.
- 2. Committee members must be trained and made comfortable with their roles.
- 3. Keep the firm aware of the status of the project.
- 4. Distribute your written plan firm-wide so that it can be evaluated for effectiveness by all levels of firm management.
- 5. When your plan passes the initial management scrutiny, circulate the draft to every employee.

B. Test the Plan.

- 1. Do not let your recovery plan sit and grow dormant, it should be tested at least once a year.
- 2. There are a variety of degrees of testing, but look to:
 - a) Verify the plan's feasibility.
 - b) Verify functionality and usefulness.
 - c) Test your committee members' interaction.
 - d) Find areas of weakness and vulnerability.
- 3. After testing:
 - a) Document your results.
 - b) Analyze the results with appropriate personnel.

c) Make necessary adjustments to your plan.

C. Finalize the Plan

1. Encourage all employees to become familiar with the plan.
2. Include your plan as part of new employee orientation.
3. Remind veteran employees to reread the plan occasionally.
4. Schedule regular plan reviews with applicable committee members, management, and personnel.

V. Conclusion.

- A. Although law firms generally are not mandated to have Disaster Recovery Plans in place, the call to have one is vital.
- B. The consequences of not having a plan in place have financially crippled or put out of business many companies.
- C. Keep thinking about contingencies and ask your firm-management how they plan to handle different situations.
- D. Understand that it can happen to YOU.

VI. Questions to Get You Started.

1. What would we do if our facility were closed for several days, damaged or even totally destroyed?
2. What could we absolutely not survive without? Network? Computers? Equipment? What can I do to assure I never have to live without them?
3. What if my key suppliers or shippers were shut down even though I am not?
4. What if there was a prolonged power outage?
5. What if my computer or computerized machinery was destroyed?

6. Is my insurance adequate to get us back in operation?
7. Do I understand what is covered and what is not?
8. Can we pay creditors, employees, and other firm needs during a prolonged shutdown?

■ The following sources were used to create this outline:

1. "Putting Together a Disaster Recovery Plan" by Jean Barr. *Legal Management* p.31-38, Jan.-Feb. 1993, available at http://www.alanet.org/periodicals/disaster_index.html
2. "Be prepared, plan ahead and survive when disaster strikes" by Phil Guerra. *Legal Management*, v17 i6 p36(5), Nov.-Dec. 1998) available at http://www.alanet.org/periodicals/disaster_index.html
3. Atlas Lee, *Business Continuity Program: A Necessity for a Law Firm*, in Disaster Preparedness, Disaster Recovery, p. 2 (LawNet 2001) available at <http://www.peertopeer.org/PDF/DisasterRecovery.pdf>
4. Get Ready - Be Prepared, Disaster Preparedness Considerations, at <http://www.sba.gov/disaster/getready.html>
5. "Disaster Recovery Steps to Take in Recovery Effort" by Suzanne Rose, Mgt. Consultant, at <http://www.tba.org/tnbarms/disaster.html>