Emergency Response Ad Hoc Committee

• Ad Hoc Committee
  • Established in 2019 by the Department President Damien Brower

• Charge to Ad Hoc Committee
  • Determine level of assistance to member cities during/after emergency
  • If assistance provided:
    • Handling attorney/client issues
    • Keep the Emergency “Playbook” up to date
    • Determine if need exists for a Standing Committee
    • Future emergency/disaster trainings, seminars, & webinars
  • Report back in a year

Emergency Response Ad Hoc Committee

• Gregory G. Diaz, Committee Chair
  City Attorney, San Buenaventura (Ventura)
• Ariel Pierre Calonne
  City Attorney, Santa Barbara
• Johanna N. Canlas
  City Attorney, Coronado and Solana Beach
  Burke, Williams & Sorensen, LLP
• Andrew L. Jared,
  City Attorney, South Pasadena
  Colantuono, Highsmith & Whatley, PC

• Tracy M. Noonan
  City Attorney, Thousand Oaks
• Trevor L. Rusin, City Attorney,
  Lomita & Assistant City Attorney
  Malibu
  Best Best & Krieger LLP
• Marc L. Zafferano
  City Attorney, San Bruno
• Samantha W. Zutler
  City Attorney, Healdsburg
  Burke, Williams & Sorensen, LLP
Emergency Response Ad Hoc Committee

Work Products Prepared by Ad Hoc Committee

- Emergency Resolution
  - Includes authorization to obtain/hire legal assistance
- Professional Services Agreement
  - Outside Firms for Emergency Assistance
- Shared Legal Services Agreement
  - In-House to In-House Emergency Assistance
- Draft Proposal for Standing Committee Status
- Emergency/Disaster Playbook 2.0
  - Easier to use with links to documents
- Three Presentations
  - City Attorney’s Conference 10/2020
  - City Attorney’s Conference Break Out Session 5/2021
  - Cal Cities Conference 9/2021
Ad Hoc Committee Recommendation

• Form a Standing Emergency Response Committee

Benefits of Standing Committee

• Regular review & update of the Disaster Playbook
  ➢ New material added as different types of emergencies/disasters occur
• Address variety of major disasters/emergencies and the increase in frequency, intensity, and duration

• Continued development of expertise in the legal response to disasters/emergencies
• Development of continued training on the legal response to disasters/emergencies
• Resource for the Municipal Law Handbook Committee in reviewing & revising the disaster/emergency section/chapter
Benefits of Standing Committee

- Formalizes the Department’s commitment to the types of resources/assistance Cal Cities will provide to a City Attorney whose city is experiencing a disaster/emergency
- Provide a cadre of experienced City Attorneys/Assistants/Deputies to assist others during a disaster/emergency
- A forum to address ethical issues of providing assistance to entities other than existing clients for both in-house City Attorney Offices and private municipal firms
- Resource for Cal Cities Lobbyists on proposed disaster/emergency legislation
  - Address any liability issues in new legislation
Duties & Responsibilities

(1) Update the *Emergency/Disaster Playbook*
   ➢ Expand the types of emergencies and disasters included
   ➢ Keep current with changes in statutory or caselaw

(2) Identify new subjects, topics, forms, and other documents for the *Playbook*

(3) Provide a cadre of experienced City Attorneys and Assistants/Deputies to assist others during a disaster or emergency

(4) Be a resource for the Municipal Law Handbook Committee in reviewing and revising the disaster and emergencies sections

(5) Regular interaction with other disaster agencies (e.g., CalOES, CalFire)
   ➢ Update & expand resources & approaches by City Attorneys

(6) A resource for Cal Cities Lobbyist on disaster/emergency related proposed legislation

(7) Provide sample shared resources agreements for in-house City Attorney Offices to assist others when a disaster/emergency occurs
   ➢ Sensitive to the ethical duties of loyalty to their client
   ➢ Addresses forming an attorney-client relationship
(8) Provide sample legal services agreement for private firms to enable provision of assistance in disasters and emergencies
   ➢ Addresses forming an attorney-client relationship
   ➢ Addresses impact on firm’s future business

(9) Recommend and provide resources for trainings and other educational events on the special responsibilities and duties of City Attorneys before, during, and after a disaster/emergency
The Emergency Response Committee shall be:

- Appointed by the President
  - Designate its Chair

- The Committee shall be composed of:
  - At least 7 and up to-9 members
  - Attention should be paid in selecting members to ensure:
    - Rural and urban cities;
    - Small, medium, and large cities;
    - In-house and contract city attorney offices; and,
    - Northern and Southern California cities
  - A Department Officer, designated by the President to serve as a liaison
Disaster Playbook

What is it?
- Guide
- Template Repository

Three Volumes
- Before the Disaster (706 pages)
- During the Disaster (544 pages)
- After the Disaster (525 pages)

Summary of Immunities

Disaster Playbook

• Created for the first Joint Training of City Attorneys and County Counsels
  ➢ Featured at Joint Training in 2019

➢ Where is it?

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Disaster Playbook

How to use it?

**Materials**

Summary of Immunities Applicable to Emergency Response

Playbook: Before the Disaster
Playbook: During the Disaster
Playbook: After the Disaster

• Summary of Immunities
  - 3 pages of basic immunities
  - Helpful to understand what limitations and powers exist
  - An essential resource DURING the crisis

**SUMMARY OF IMMUNITIES APPLICABLE TO EMERGENCY RESPONSE**

- Immunity for disciplinary acts or omissions
  - [California Code 11518.101 et seq.]
  - [Interpreted mostly by state law; disciplinary means basic policy decisions in which rules and benefits were weighed]
  - [The Code is designed to protect public interests]
  - [Public entity immune: 11518.104]
  - [Scope]
    - [Distinguish ministerial or discretionary duties, which are not subject to immunity]
    - Example: implementing existing policy decisions, planning or operational functions
  - Cases:
    - Summit v. City of Los Angeles (1988) 209 Cal.App.3d 692 (Governor's authority to direct national Guard to quell civil disturbances held discretionary)
    - Gillette v. County of Monterey (1990) 70 Cal.App.3d 776 (county's decision held irrelevant to a fiscal plan and breach of trust; but court found viable basis for removal for moral turpitude)
    - Lessons: use broader discretionary immunity under Emergency Services Act; tell employees to use good judgment in accordance with their training and experience

- Immunity for health and safety inspections of property
  - [California Code 1150.1.5]
  - [Do not inspect property]
  - [Do not inspect property][Do not inspect property]
  - [Revised for health and safety inspections of property]
  - [Immunity is absolute, applies to both discretionary and ministerial acts]

- Immunity for actions taken on behalf of public interest
  - [State v. Barger (1975) 155 Cal.App.3d 463]

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  - [State v. Barger (1975) 155 Cal.App.3d 463]
• Vol. 1: Before A Crisis
  • Samples of:
    – Pre-planning Contracts, Ordinances to be adopted BEFORE the disaster
    – Good summary of the process
    – Resources to put in kit

• Vol. 2: During A Crisis
  – Items Needed Immediately:
    • Declarations
    • Ordinances
    • Resolutions
  – Many helpful examples
  – Some Form Documents
    – Fill-in-the Blank
O.K. to Handwrite in the Blanks if Cannot Access Electronic
Not Pretty - Just as Valid!

• Vol. 3: After the Disaster
  - Recovery and Repayment
  - 525 pages
Playbook 2.0

- Major Project of Ad Hoc Disaster Response Committee
  - Andrew Jared, Trevor Rusin, and Samantha Zutler

- Expand the types of emergencies and disasters included

- Keep current with changes in statutory or caselaw
GOALS: Update the *Emergency / Disaster Playbook*

- Expand the types of emergencies and disasters
- Keep current with changes in statutory or caselaw
- Modernize format: hyperlinked TOC
- Update content
Tips for Use of the *Playbook*

- **Print 3+ copies:**
  - One copy on desk
  - One copy in EOC
  - One copy in trunk of car

- **READ sections NOW that are Applicable to your Client**
  - Read Chapter 1: get familiar with disaster response
  - Read Chapter 2: create templates now
  - Read Chapter 3: recovery, repayment

- Keep thumb drive(s) with saved versions of Playbook and templates
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

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
**Making Training a Job Requirement**

- Mandate taking one FEMA class a quarter
- Including FEMA training progress/completion part of performance review
- Doing drills to test understanding of various elements/issues

**If You Think It Won’t Happen to You**

- Photo on Right is the Hill behind Ventura City Hall
Questions