

# The Law and Catastrophic Disasters

## LEGAL ISSUES IN THE AFTERMATH

A Legal Table Top  
Exercise Using a  
Disaster Scenario

# March 5-6, 2009

**HILTON ALEXANDRIA MARK CENTER  
ALEXANDRIA, VIRGINIA**

Held in conjunction with the  
Mid-Year Meeting of the National  
Emergency Management Association

### **Presented by**

*The National Legal Preparedness Program  
Institute for Public Safety and Justice  
of The University of the District of Columbia  
and*

*The Center for American and International Law*

### **In cooperation with**

*National Emergency Management Association*

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Security of the Naval Postgraduate School*

*American Bar Association's:*

*Special Committee on Disaster Response and Preparedness*

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Co-Editor, A Legal Guide to Homeland  
Security and Emergency  
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Co-Author, Legislative Law and  
Statutory Interpretation and Housing  
and Community Development

Former Deputy Attorney General, State  
of California

# The Law and Catastrophic Disasters

## LEGAL ISSUES IN THE AFTERMATH

This program is designed for attorneys and public and private sector officials responsible for disaster management who give advice or take actions with legal consequences regarding catastrophic events.

Working with a major catastrophe scenario, we will identify major legal requirements, restrictions, liabilities and risks which officials face when trying to maintain or re-establish key services following a natural or man-made disaster.

Many legal impacts of disaster response and recovery activities do not emerge during the crisis phase of a disaster; rather, liabilities and other legal problems often become apparent only in a disaster's aftermath. Accordingly, this Table Top Exercise will focus not just on the immediate aftermath of the crisis, but on the next year - and the myriad legal issues that must be addressed during that period.

Over an intense one and one-half day period, participants will meet in plenary sessions and in breakouts that are designed to stimulate discussion of legal issues arising after the disaster.

There will be three breakout meetings. The first will focus on immediate response issues, the second on stabilization and re-entry, and the third on recovery. The breakout groups will be divided into six subject areas – public safety, public health/medical, sheltering/housing, education, infrastructure restoration and environmental remediation, and judicial and electoral systems. Breakout group discussions will be led by experts with experience gained from recent catastrophic events such as Hurricane Katrina and 9/11. Because these subject areas are often interrelated, the plenary sessions will give breakout participants an opportunity to interact, to identify interrelated and cross-cutting issues and to raise complex questions.

Each breakout group will have experienced legal and professional experts and a facilitator who will address issues raised by the scenario. Registered participants can then add insights and their own experience to the discussion.

The goal of this exercise is to identify legal problems that are most likely to arise following a major catastrophe, and to consider best practices.

## PROGRAM AGENDA

### THURSDAY, MARCH 5, 2009

- 12:00 **FACULTY AND FACILITATORS - ORIENTATION**
- 2:00 **PLENARY SESSION - INTRODUCTIONS AND EXERCISE OVERVIEW**
- 2:45 **BREAKOUT FOR MODULE 1 - "RESPONSE TO THE DISASTER"**
- 4:30 **BREAK**
- 4:45 **PLENARY SESSION: MODULE 1**
- 5:45 **RECEPTION**
- 7:00 **DINNER ON YOUR OWN**

### FRIDAY, MARCH 6, 2009

- 8:00 **CONTINENTAL BREAKFAST**
- 8:30 **SUMMARY OF DAY 1 AND OVERVIEW OF DAY 2**
- 8:45 **BREAKOUT FOR MODULE 2 - "STABILIZATION AND RE-ENTRY"**
- 10:45 **BREAK**
- 11:00 **PLENARY SESSION: FOR MODULE 2**
- 12:00 **WORKING LUNCH**
- 1:15 **BREAKOUT FOR MODULE 3 - "RECOVERY"**
- 3:15 **BREAK**
- 3:30 **PLENARY SESSION: FOR MODULE 3**
- 4:30 **RECOMMENDATIONS AND CONCLUSIONS**
- 5:30 **ADJOURN**

## AMONG THE PARTICIPATING EXPERTS AND FACILITATORS:

**Geri Augusto**, PhD., Adjunct Assistant Professor of Public Policy, Brown University, Providence RI.

**Thomas Blaint**, Deputy Attorney General, State of New Jersey, Trenton, NJ

**Joey Booth**, Former Lt. Colonel, Louisiana State Police

**Orlando Cabrera**, Head of Affordable Housing Corporation; Former HUD Assistant Secretary for Public Housing

**Ben Griffith**, Partner, Griffith & Griffith, LLC, Cleveland, MS

**Tom Hall**, Clerk, Florida Supreme Court, Tallahassee, FL

**Kay Heidbreder**, General Counsel, Virginia Tech University, Blacksburg, VA

**Michael Hodge**, Michael Hodge and Associates, Dumfries, VA

**Jerry Johnson**, Baker Donelson, Jackson, MS

**Robert Johnson**, Senior Counsel, City of Houston, TX

**Hon. Catherine D. Kimball**, Justice, Louisiana Supreme Court, just appointed as Chief Justice

**Tammy Little**, Assistant Attorney General, Ohio Emergency Management Agency, Columbus, OH

**Lawrence Martin**, Special Insurance Counsel, New York City Law Department

**Gene W. Matthews**, Senior Fellow, North Carolina Institute for Public Health, Chapel Hill, NC

**Hon. Phil Mendelson**, Council Member, Washington D. C.

**Margaret Moore**, Professor, University of the District of Columbia, Former Director D.C. Department of Corrections and Former Deputy Secretary of Corrections, State of Pennsylvania

**Penya Moses-Fields**, City Attorney, New Orleans, LA

**Glade Myler**, Sr. Deputy Attorney General, Nevada Department of Justice, Carson City, NV

**J. Scott Newton**, Baker Donelson, Jackson, MS

**Richard Pennington**, Chief of Police, Atlanta, GA

**Cheryl Perry**, Counsel to North Carolina Emergency Management Agency; North Carolina Redevelopment Agency

**Lori Polachek**, Assistant General Counsel, American Red Cross

**Herman Robinson**, Executive Counsel, Louisiana Department of Environmental Quality

**Earl Salo**, Environmental Protection Agency's Assistant General Counsel for Solid Waste and Homeland Security

**Kevin Stephens**, MD, JD, Director of Public Health, New Orleans, LA

**Stuart Stuller**, Caplan & Earnest, LLC, Boulder, CO

**Elneta Hutchins-Taylor**, General Counsel, Houston Independent School District

**Ed Thomas**, Technical Manager, Micheal Baker Jr., Inc., Quincy, MA

**David Trissell**, Chief Counsel, Federal Emergency Management Agency

**Lai Sun Yee**, Distinguished Fellow, Naval Post-Graduate School, Arlington, VA

**Dave Zocchetti**, General Counsel, California Office of Emergency Services, Mather, CA





NOTE: This program is not designed to address operational questions. Instead, it will focus on legal issues that arise before and after operational decisions are made. Among the issues that may be addressed are:

### PUBLIC HEALTH/MEDICAL

- patient evacuations • feasible medical care and malpractice standards
- evacuee privacy and lost health records (HIPAA) • patient consent
- locating family members • credentialing surge medical personnel and transportation providers • distribution of pharmaceuticals/strategic national stockpile • quarantine/social distancing situations • corpse identification and disposal • National Disaster Medical System coordination • financial considerations impacting medical care and facility repair • ensuring backup power and communications systems.

### PUBLIC SAFETY

- evacuation/warning decisions (compliance, liability, cost, animals, transportation, vulnerable/special needs populations, prisoners) • adequate law enforcement • debris removal and toxic materials • reestablishing local transportation • reuniting families • privacy concerns • lost document alternatives • role of military and national guard • evacuated/affected area security • inter-governmental communications and coordination • food safety and critical supplies • emergency condemnations and travel restrictions • temporary morgues • shelter security.

### EDUCATION

- educational facilities as shelters • re-opening and re-locating schools • school transportation • interim evacuee schooling • special needs educational requirements • integration of evacuee and host community populations • security and violent incidents • financing revived educational programs • allocating relocated student costs • financing repair of damaged facilities • revenue losses • school record privacy and lost documents • communications with teachers, administrators, parents, children, media, and the greater community • family separations and custody.

### JUDICIAL AND ELECTORAL SYSTEMS

- court facilities, personnel, and lawyers (including offices) • complications in systems for compulsory process, injunctions, and protective orders • court records and evidence preservation • prisoner custody including evacuations
- timely trials and waivers • temporary licensing and malpractice coverage for volunteer lawyers and law students • enforcement of evacuation orders/warnings • dealing with property theft, fraud, and price gouging
- timely fair elections and adequate public communications for candidates
- flexible voting periods and absentee processes • adequate voter

identification and voting sites.

### HOUSING/SHELTER

- restrictions on placement, maintenance, and services (including security) for shelter • quality standards and environmental requirements • vacant PHA units and HUD housing vouchers • land use, zoning, environmental, and building code restrictions, limited financing and construction work force, and site preparation needed for housing development and repair • federal (FEMA and HUD), state, and local agency role conflicts and overlapping responsibilities • EMAC and intrastate cooperation • government program flexibility • reimbursing shelter and rehousing expenses • special needs/disability and immigrant populations • pets in shelters • housing disaster and reconstruction workers • flood plain designations/insurance affecting rebuilding and financing and utility availability • restricting homeowner returns • homeowner insurance coverage.

### INFRASTRUCTURE RESTORATION AND ENVIRONMENTAL REMEDIATION

- coordinating public and private sector efforts to restore critical government/private services: public safety and fire protection, health services, power and gas, street maintenance, traffic signals, potable water, sewer service, debris removal, functioning bridges, overpasses, flood control, government centers, communications and information access • controlling toxic materials and spills/releases liability • food availability and safety • critical supplies • access to businesses for staff/customers • incentivized contracts for expedited restoration • controls and criteria for re-entry into restricted areas • safe levels to access contaminated or radioactive areas • emergency authority to seize property, conserve fuel, restrict vehicle access, and commandeer private property, vehicles, food and supplies.

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8:30am-5:00pm CST

PAYMENT MUST ACCOMPANY REGISTRATION

## GENERAL INFORMATION

**CANCELLATION POLICY:** A cancellation fee of \$25 will be charged upon receipt of written notice received by Feb. 20, 2009. (Email cburkel@cailaw.org) After these dates, no refunds, but substitution of attendees for this program will be permitted. Registrants not entitled to a refund will receive the course materials.

**HOUSING:** The program will be headquartered at the Hilton Alexandria Mark Center in Alexandria, VA, located just minutes from Washington National Airport and downtown Washington, DC. The Hilton is offering attendees a rate of \$135 per night plus tax and applicable fees. This rate is only available until February 12. Reservations made after that date are subject to availability and current prevailing rates. To make your reservations, please call the hotel directly at 703-845-1010. The mid-year NEMA meeting will be held in the same hotel.

**NONDISCRIMINATION POLICY:** The program does not discriminate on the basis of race, color, sex, religion, national origin, age, disability, veteran status or any other protected status in educational activities, scholarship programs or admissions.

**MCLE CREDIT:** This program has been approved by the State Bar of Texas for 9.75 hours, including 0 hour of ethics. Course ID Number: 901173648. Sign-in sheets and/or certificates of attendance will be available for ALL states.

## REGISTRATION

### THE LAW AND CATASTROPHIC DISASTERS – LEGAL ISSUES IN THE AFTERMATH

March 5-6, 2009

Hilton Alexandria Mark Center • Alexandria, Virginia

Registration includes course materials, the hosted luncheon on day 2 and the reception for program registrants and faculty.

Check applicable box:

Regular registration fee  \$225

Members of Cooperating Organizations  
(See front cover for a listing of those organizations.)  \$175

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Take advantage of this opportunity to learn lessons from lawyers who have helped their government and business clients confront legal challenges caused by recent disasters.



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LEGAL ISSUES IN THE AFTERMATH  
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