

The In-House Lawyer's Role in Surviving a Crisis

by

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Every company is a candidate for a crisis or an emergency. If your company hasn't been in the headlines or on the evening news recently for some crisis, someone in your industry probably has been.

Recent events, that if they happened at your company, would have commanded your attention:

- pre-Olympics nuclear terrorist plot
- Concorde crash
- Firestone Tire/Ford SUV blowout problem
- Kursk submarine disaster
- French and UK Refinery Blockades
- Moscow TV/Radio Tower Blaze
- McDonald's Shenzhen manufacturing
- Loch Lomond Golf Club (Solheim Cup)
- Toshiba Laptop computers (China)
- Auckland Power Outage

In my experience, in-house lawyers – and lawyers generally – often assume that they have all the necessary skills and training to respond to a crisis or emergency. This is, they say, what lawyers do for a living. It is only when it happens to your company that you wish that you had spent a little more time preparing and organizing.

Over the past ten years, I have worked in various capacities in crisis and emergency planning and response. Based on that experience, here are some practical steps I recommend you take to prepare for disaster.

This paper focuses on three main elements of emergency response and crisis management: (1) planning and preparing to respond, (2) response and recovery (dealing with the business issues), and (3) the legal issues commonly involved in crises.

Based upon my studies of this area over the past several years, most business crises have these common elements:

- Compressed time frame for resolution

¹ This document contains only my thoughts and experiences, and does not necessarily reflect the views of BP Amoco plc or its affiliates.

- Incomplete information
- Problems organizing communications, both internally and externally
- Media interest, normally accompanied by a "good graphic"
- A basic fear
- Predictability

The first four of these are self-explanatory. The fifth and sixth, "a basic fear" and "predictability," deserve a little explanation.

The business crises that have gotten the most media coverage have been those that have a good graphic. This can be the image of a Tylenol bottle, or an Alar-sprayed apple, or an oil-soaked bird in Alaska. Most of these graphics, and certainly the graphics of the Concorde crash in France and the Kursk submarine disaster, involve a fundamental fear -- the fear of most (all?) flyers about the possibility of something going wrong on takeoff, or the fear of drowning in the cold sea -- that makes the graphic extremely powerful. The media loves it, as it looks good on the 6 o'clock news, and tugs at the heart strings. Good news doesn't sell advertising.

Most of these crises were, in a sense, predictable. Had the Russian Navy or Ford or Air France thought about their worst nightmares, they could have anticipated a submarine lost in deep water, an alleged defect in a supplied part purportedly leading to crashes of a high-profit product, or the flaming crash of their most recognizable aircraft. To the extent that these events could have been anticipated, the parties involved could have developed a robust plan to deal with them. Some did, some didn't.

I. Step One: Planning & Preparing

The first rule is, Planning Pays Three to One. That is, for each hour you invest up front in planning to respond, you avoid at least three hours of running around when you need to respond to an actual crisis or emergency. There are two major tasks: first, identify the possible crises for your business; and, second, prepare the materials that you would need to respond to the most likely crises. There is also the ancillary training and drilling.

A. *Identify the Most Likely Crises for Your Business*

To identify what crises or emergencies could affect your business, start by reading a force majeure clause in a contract to identify the types of crises that could affect any business. These include the normal litany of fire, earthquake, explosion, Acts of

God, shortage of labor or material, shipwreck, bad weather, riot, war, civil unrest, and, depending on your location, volcanoes.

But those only represent one type of disaster. What about other types? What crises have struck other businesses? The criminal act of a third party, such as violence in the workplace or product tampering, is one example. An allegation that one of your employees has committed a criminal act is another. What else might happen to businesses generally?

After you have spent some time thinking about those types of crises, concentrate on your particular business. What could go wrong there? It could be the loss of a key customer, or a computer virus. It could be the loss of a key permit, a change in regulation or law, or the death or unavailability of one of your key employees or a business partner.

Included as Attachment One is a list of some of the crises and emergencies that might affect your business. Look over that list and think about whether one of those would be a crisis for your company. Is there something else that comes to mind?

B. Preparing to Respond

Having identified most of the crises or emergencies that might affect your business, now you can give some thought to what you would need to do in response.

Not so long ago, I got a call at home at 9:30 on a Sunday morning. It was the boss. There had been an incident at one of our joint ventures in another country. People had been injured, and the situation was still unsettled. As usual, the available information was sketchy.

In the heat of the moment, despite years of involvement in crisis management and emergency response planning, I couldn't think of the right questions to ask. Who did we need to call? How would I arrange for local counsel? What was I missing?

I was able, after some searching, to locate my crisis management manual (which had been stuck away in a closet). I found the lawyer's checklist. This checklist gave me some comfort that I had covered the main items, and gave me a little time to organize my thoughts related to the specific emergency at hand.

Lessons Learned:

1. Have a plan to respond.
2. Have a manual, with a lawyer's checklist.

3. Have one copy in the office, one at home, and one on the road (and one copy on your internal website, if you have one). How about an electronic copy in your portable computer or, better yet, in your Palm Pilot?
4. Update it, at least every six months.
5. Use it when the phone rings.

What should you include in your manual? At a minimum, you will need the phone numbers (office, home, and mobile) of those folks who will be involved in the response effort. You will also need the names and contact numbers of the other folks in the business who you may need to contact: your boss, your boss's boss, Public and Governmental Affairs, outside counsel, inside counsel at other locations, your secretary, etc. You may want to add key personnel at your partners, key contacts at relevant government agencies, and suppliers and vendors, both your normal suppliers and vendors and those upon whom you may need to call in a crisis.

The business folks in charge of your emergency response/crisis management plan should have briefing sheets on the various facilities, including the history of the facility, the number of employees, and other facts and figures. These facts are helpful when you are trying to pull together press announcements following an incident, as the press likes hard facts as filler. I recommend that the crisis management plans for the various facilities in your organization be on a centralized web page or server. This makes updating a lot easier. Then all you need to worry about is not having access to the server.

I also recommend including a lawyer's checklist. A sample checklist is attached as Attachment Two. While you need to decide whether this is appropriate for your business, it gives you a place to start, and some issues to consider. This checklist assumes a major crisis response effort, including an Incident Screening Committee (ISC) to analyze incidents with respect to possible severity, a senior Crisis Management Team (CMT) to manage the broader corporate consequences of a true crisis, an Information Officer (IO) to coordinate information and assignment flow in a crisis, and an Emergency Response Team (ERT) focused on incident or emergency response. Also, give some thought to the longer term consequences, and how you will approach recovery.

Finally, are there any legal issues that you can anticipate for which it would be appropriate to have a memorandum prepared in advance? This might include a legal analysis of the duties of indemnity, the legal obligations in response to an off-shore oil spill, or the legal rights and obligations of a volunteer. What about a proposed force majeure notice or a draft contract for a service provider? These are things that you can, and should, think about now. Even a rough draft is a lot of comfort when the bullets are flying and everybody else is in a panic.

C. Training and Drilling

Now that you have identified the possible crises that might affect your operations, and you have prepared plans and checklists to respond to and to recover from those crises, the next step is to train your personnel in using the plans and checklists. In my experience, getting attorneys to focus on these issues before a crisis is difficult. This applies to both in-house attorneys and external counsel.

Lawyers can also help by participating in the training of others, making others aware of the language issues that arise in the context of responding to an incident. This is a good opportunity to talk to people generally about writing clearly and concisely.

It is important for the attorneys involved to recognize that crisis management training is more than a routine legal matter. By definition, a crisis involves broader issues. Training can help get this message across, even to attorneys. But an even more powerful message delivery service is drilling.

It is common practice for children at school to participate in fire drills. This helps them find the exits, and makes the response to the alarm bell automatic.

So, too, running frequent drills on the crisis management plan helps people keep their manuals handy. It also helps to spot gaps, and other items you might want to add to your manual.

II. Step Two: Response and Recovery – The Business Issues

The primary focus, once you recognize that a crisis is occurring, is managing the response. This is the time to turn to the checklists you have prepared, because when the building's on fire, you don't have time to think. Apart from that, the key message is Communication is Key. But don't forget to deal with the aftermath.

A. Response

Sometimes, the most difficult thing to recognize is that a crisis is brewing. Normally, people hesitate to identify a matter as a crisis. They hesitate to activate the crisis management plan, or to make a phone call to get everybody together to discuss the situation, to ensure that this is not a "creeping crisis." Instead, they have the tendency to try to muddle through, without making a big deal out of what may not be a crisis.

History teaches us that this is a bad idea. It is normally better to over-activate your plan rather than under-activate. You can always stand down from yellow or red alert; it takes more time to gear up the initial effort. Activating the plan occasionally also takes the mystery out of the process and makes it more "acceptable."

The lawyers, and others, need to be sensitive to this tendency. The lawyers can suggest that this might be a matter on which to at least notify the people who would be involved in a crisis response, so that they can stay close to their phones.

Once you have activated the team, then it's time to pull out your checklists and manuals, and follow them. While they may not cover every issue, they do provide a structured framework for response. One of the roles of the attorney is to make sure the people follow the emergency response plan, and do not try to micro-manage the effort at the involved location.

A key lesson is to consider who else in your organization, or elsewhere, might need to know. Is there another project pending in the same area, but involving a different part of your business? Might the press contact someone in a similar business in your company? Is there a partner or a government agency who would prefer to hear from you rather than read about it in the newspaper? Is your senior executive meeting with government officials in that country on another matter next week?

B. Communication

Many of the "poor" responses to crises have been due to poor internal or external communications. This is predictable, and to a large extent, preventable. Handling the flow of information inside your own organization, and between your organization and the outside world, is critical.

The information that you will receive from the incident site at the early stages of an incident will normally be incomplete, ambiguous, contradictory and wrong. The sooner you establish a reliable flow of information to and from the site, the sooner you can begin to effectively respond to the event. This applies to everyone involved in the response effort, as well as to others inside and outside your organization with a "need to know."

1. Responder Communications

A well-designed crisis management/emergency response plan will establish a clear line of communication of incident and response information. Where the incident involves multiple sites, this line of communication can be a combination of

telephone, fax, video and electronic communication. Key points to remember are that

- the responders at the site have to deal with the incident first, and keeping management back in the home office informed second,
- not everyone who wants to know needs to know,
- multiple parties will make inconsistent demands for information,
- early information is normally ambiguous, incomplete and incorrect,
- you will need to brief people when they first join as well as at shift changes (new people will be joining constantly), so it's good to keep a running summary of the team's collective notes, with the most recent information on top,
- keep a list of assigned tasks, and mark off what's been done,
- equipment breaks, and
- someone needs to arrange for food and lodging for everyone involved at the various sites.

Against this background, and recognizing the possible need to produce this information in later litigation, the lawyers can help by teaching the clients what unnecessary words to avoid. Also, you can encourage your client to put qualifiers in their written work, such as "Initial reports are that the tank ruptured," rather than the absolute statement that "The tank ruptured." If at all possible, get them to put dates and times on their notes, as to when they received the information, and from whom.

The four rules of thumb in this area are:

1. Limit your written communication to the necessary facts and figures;
2. Avoid ambiguity;
3. Keep it short, keep it simple; and
4. Limit the distribution to the people who need to know.

For me, the six hot buttons in the client's documentation in response to an incident are:

1. Causation
2. Adjectives and Adverbs
3. Judgment words
4. Unnecessary words
5. Legal words
6. Speculation, opinion, and guesses

I would suggest that your clients be advised to avoid these six hot buttons to the extent possible. When it is not possible, they should use appropriate qualifiers or check with a lawyer before they write it. The simple rule would be: "Limit your written communications to those facts necessary to assist the response. Write for posterity."

In order to keep information current, and to keep track of assigned tasks, the incident/crisis manager will want to have frequent meetings or conference calls with the heads of station. This can be twice a day, or more frequently. These are great times to get briefings from everybody, receive updates on factual developments, and check on the status of pending action items. Not everybody needs to attend these meetings.

I recommend that someone is appointed the custodian of the "living history," and that this document be constantly updated to reflect the current state of your knowledge. One way to do this is to keep adding new pages at the front of the document to add new or different information. This makes it critical to date the information entries. This information should, however, be distributed to a wider team than just those who attend the daily briefings.

2. Lawyer Communications

Early on, you should consider whether you need to have a lawyer at the site. The role of that attorney would, on the surface, be to assist local responders with the legal issues as they arise. An additional role, and in the event of a remote incident perhaps the primary role, is as your eyes and ears at the scene.

Lawyers by training and disposition are often more objective than business people. They may be able to avoid being as caught up in the human drama of the event. So having one at the site may be good, provided that you select the right individual and make sure he or she understands the multiple roles clearly.

If you have more than one lawyer involved, either at multiple sites or in supporting the response effort at only one location, it is important that they have well established lines of communication. In an actual event, you will be astounded at the amount of legal time and effort required. One lawyer will be sitting at the table advising management, another will be communicating with on-site counsel and/or headquarters, and another will be reviewing press releases, reading contracts or drafting force majeure notices. The second shift will be home sleeping, getting prepared to replace the first team. The normal legal work of the department comes to a grinding halt.

Estimate the number of lawyers you think you will need. Then double it. Then double that. This is an approximation of how many lawyers will be involved to support the management response team over an extended (more than eight-hour) crisis. I cannot stress this too much. Where the response requires management involvement (as opposed to just local incident response, such as fighting the fire) and extends beyond one day, at least six lawyers will be required to support it. These lawyers may not be needed full time during this period, but there will be peaks of activity requiring all six at once. If you need to coordinate with a management response at another headquarters location, you may need even more.

If lawyers are going to be involved at more than one management location, I recommend that one lawyer be assigned the responsibility of coordinating the overall effort. This person would be the clearing house, and a single point of contact for information about who is working which shift, which outside counsel have been engaged and deployed, and which legal projects are pending. On the pending task list, list the legal issues identified and their status (i.e., resolved, open/unassigned, or assigned to XYZ -- response due 12pm). This is a good list to share among all the lawyers involved on a regular basis, to avoid unnecessary duplication of effort. In this case, the lawyers should have their own separate channel of communication.

3. External Communication

a) General

There are two principal aspects of external communication. First, identify who needs to know. Second, how should you coordinate those communications?

Depending on the nature of your operations, and the nature of your incident, emergency, or crisis, you may need to communicate with some or all of the following:

- Management, including your boss
- Shareholders
- Employees of the affected operation
- Families of employees
- Other employees at other facilities
- Neighbors in the affected community
- Mutual Aid Groups
- Fire department and other local emergency responders
- Neighbors of other company facilities
- Customers
- Joint Venture partners in the affected operation
- Joint Venture partners in other operations

- Government regulators
- Host governments
- Public health authorities
- Governments in other locations where you operate
- Insurers
- Hospitals
- The press/media, generally
- The trade press
- Stock analysts
- Environmental groups

Depending on your business, there may be others you need to advise.

b) A Word on the Press

A lawyer's first thought regarding communication with the press in a crisis is "no comment." This is right, and it isn't.

The lawyer's job is normally to protect the company's balance sheet, and to keep that entry under "Liabilities" as small as possible. In the first days of an incident, the lawyer hasn't had a chance to evaluate the legal theories necessary to protect the client. And the lawyer knows that the information is preliminary, and fragmentary. Thus, it would seem, "no comment" avoids getting the company into any more trouble.

The Public and Governmental Affairs folks, on the other hand, want to go out to the press and protect the company's reputation by saying that the company will fix everything so everyone is happy. This avoids the negative impact on the other portion of the balance sheet, that line labeled "Goodwill."

The right answer is somewhere in between.

The lawyers need to realize that, if this is a significant event, the press is going to run the story, with or without the company's cooperation. The lawyers need to be aware of the longer term consequences to the company of the most conservative legal strategy. Further, when the media has an interest, it is generally good for the company to establish its position as a credible source of information. This will be reflected in the tone of the media coverage.

The Public and Governmental Affairs folks also need to understand that there is normally no compelling need to admit liability when the facts are still unclear, even if to do so would look good on tonight's Six O'clock News. This might be a real problem in the lawsuit a year or two later.

So what's the answer? It's a balance. The lawyers need to work with the Public and Governmental Affairs folks, and understand the process. The lawyers need to understand the fundamental principles of communication in high risk/low trust situations. The lawyers need to work with the Public and Governmental Affairs folks to develop a message that is consistent with minimizing the creation of unnecessary legal liability, while at the same time maximizing the protection of the brand value and the company's good name.

My recommendation to the lawyers is that they spend some time now with the Public and Governmental Affairs folks. Build and invest in the relationship. When the crisis hits, Legal and Public and Governmental Affairs need to work as allies.

4. Other Internal Communication

While considerable attention is directed to media communications in response to a crisis, one constituency that is often forgotten is the remainder of your employees who are not involved in the response. Not only do they have a strong interest in information about the incident and the company's response, they also can be an effective vehicle for distributing credible messages. Establish a procedure for getting the information to them at the same time information is distributed to the press. Provide them the facts and figures, as that information becomes available, even if you need to "qualify" the information. The employees will appreciate who, internally, is involved in managing the incident, and how the company is responding. These are their friends and co-workers. Your employees can process more information than the press.

If you have company bulletin boards, post and update the information. Do you have a web-site? Company-wide e-mail? Your employees can be the best way to get the right word out to the public, if you let them.

C. Recovery

One aspect of crisis management/emergency response that is often overlooked is recovery.

It is easy, when you are caught up in the tension of responding to the fire or the death or the investigation, to forget that you still have a business to run. What do you need to be thinking about now to address the longer term issues?

Are there changes that need to be made in how you operate this business to avoid similar problems at other facilities? Are there "lessons learned" that you can share

with others to help them in their response, or better yet, to help them avoid a similar problem altogether?

Take a moment during your response to focus on the issues that need to be addressed, and make a note.

III. Step Three: Common Legal Issues

With a little thought, you could come up with a list of the legal issues that would likely be involved in a crisis affecting your company. You could also outline, in advance, the steps you would want to take and the materials and people you would want to access, and establish ways to do that. That outline can be converted to a checklist, or just kept close at hand (in the manual).

As a guide, here's a list of the big legal issues, and some suggestions on how to approach the issues.

Claims: Will this incident result in a large number of claims against the company? If so, are there steps that you can take early to reduce the number of claimants or the size of their claims? In the United States, people have taken steps to resolve such claims early, and have thus defeated the establishment of a class action. Does a claims lawyer or a litigation expert need to be consulted early?

Contacts: Do you have the phone numbers for the people you may need to call? Can you reach them at home or at their vacation place? This list needs to be in your manual, on the web, at home, at the office, and in your briefcase on the road. It needs to be updated at least every six months. Remember to include not only people in your company, but also the outside counsel you may need to contact in the other countries in which you operate. Do you have their home numbers, too?

Contracts: Are there any form contracts you need to prepare in advance? If you are going to need to engage some outside contractors to respond, do you want to have a form? Do you need a joint defense form? What about forms for a response to a declaration of general average?

- Delegations: Under normal circumstances, you may need to get various internal approvals to engage counsel or to expend resources. Do you need a special delegation or power of attorney in order to act in an emergency?
- Documents: You need to take control early over the documents that people will create. This includes their notes, their e-mail, and any proposed press releases. In some jurisdictions, it is difficult to destroy these documents if litigation is likely. You are better off controlling inputs, not outputs. Instruct people not to make conclusions, speculations or guesses. Advise them on the risk of admissions against interest. Try to limit their use of adjectives, adverbs, and words with legal implications (liable, negligence, responsible, etc.). Press releases should be reviewed by Legal before distribution. Key learning here: don't sweat the small stuff. People will resist running it by the lawyers; if you take more than five minutes to review the document, they will go around you.
- Force Majeure: If you want to know whether the incident, emergency or crisis gives you the right to declare force majeure, you need to be able to locate the contracts that might be affected, as well as the applicable clauses. What's the notice provision? Is there a "generic" declaration letter you can prepare in advance and have in your manual, ready to go? Can you locate an electronic copy if you need one?
- Insurance: Can you locate your insurance policies? When do you need to make notification to the insurers? Are there limits on actions that you can take before notification? Be careful about any public statements that might prejudice the rights of the insurers.
- Indemnity: Be prepared to respond to questions about indemnity, both for your outside contractor/responders and for your own employees. Depending on the nature of the incident, will your employees need their own outside counsel? Who finds, hires and pays for that counsel?

- Notifications: Do you need to make any notifications to governmental agencies? What about stock exchanges? Other possible constituencies are listed under Step Two(B)(3)(a).
- Security: Arrange for security at the site. Is the security of in-country personnel at issue? What about responders coming from other locations?
- Travel: If you need to send someone to a foreign incident location, how are you going to handle visa and similar requirements, if any? What if the lawyer or the other responders want/need to take in equipment that is restricted for import or export? Do the responders need to speak the local language, or will you arrange for translators? Who will arrange for food, hotel and transport? Will the responders need special identification to get access to the site? Is there a risk that the company responders will be arrested in country? Who will handle the call if you are traveling when the notice comes in?

Conclusion

While a crisis or an emergency cannot necessarily be managed, it can be survived. It takes some pre-planning, some understanding of the process, and a willingness to observe and study the reports of other crises affecting other companies. Learn from history, and be ready to apply those lessons learned when and if crisis strikes your company.

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Attachment One
Potential Crises and Emergencies

- A. Force majeure, generally
 - 1. Explosions
 - 2. Fire
 - 3. Earthquake
 - 4. Flood
 - 5. Weather
 - 6. Crashes
 - 7. Volcanoes
 - 8. Medical emergency
 - a) disease
 - b) poisoning
 - c) evacuation
 - 9. Country Collapse
 - 10. Riot and Civil Insurrection
 - 11. Martial Law
 - 12. War
 - 13. Nationalization, expropriation

- B. Environmental
 - 1. Releases
 - 2. Permit revocation
 - 3. Environmental releases from neighboring facilities

- C. Third Party Criminal Acts
 - 1. Kidnap, Hostage, Extortion
 - 2. Violence in the workplace
 - 3. Product tampering
 - 4. Piracy
 - a) High seas
 - b) Intellectual property
 - 5. Arson

- D. Operational
 - 1. Loss of permit
 - 2. Loss of major customer
 - 3. Loss of major supplier
 - 4. Labor action
 - 5. Occupational safety incident
 - 6. Computer malfunction
 - a) Viruses

- b) Y2K
 - c) Hackers
 - d) Collapse of network
 - 7. Equipment malfunction
 - 8. Employee fidelity
 - 9. Local bank collapse (Letters of Credit? Accounts?)
 - 10. Industrial espionage
 - 11. New legislation
 - a) making our business no longer legal
 - b) new permits that can't be granted
 - 12. Lease cancellation
 - 13. New taxes
 - 14. Government civil investigations
 - 15. Product liability
 - 16. Partner collapse
 - a) Bankruptcy
 - b) Takeover, merger
 - c) Change of ownership
 - d) Unavailability -- sickness, incarceration
 - 17. Inconsistent obligations under local law v. other law or company policy
- E. Intellectual property
- 1. misuse by others
 - 2. allegations of misuse by us
- F. Corporate Takeover
- G. Allegations of criminal conduct
- 1. Local law violations
 - a) Bribery
 - b) Permits
 - c) Labor
 - (1) Race, sex, religious discrimination, etc.
 - d) Environmental exposure of employees
 - e) Occupational safety regulations
 - f) Trade regulation/Competition
 - g) Government relations
 - h) Slander/libel
 - i) Export/import law violations
 - j) Mistakes on government filings
 - k) Tax
 - l) Private conduct by employees

- (1) drugs
 - (2) drunk driving
 - (3) other criminal behavior
2. Extraterritorial Application of Laws
- a) US Export
 - b) US Antiboycott
 - c) US FCPA
 - d) Antitrust, US, EU, Other
 - e) Other

ATTACHMENT TWO
LEGAL DEPARTMENT EMERGENCY CHECKLIST

UPON NOTIFICATION:

Assess need for complete plan activation

- Consult with Legal Department CMT or ISC member as appropriate
- Information Officer and ISC Representative: NAME (o) Phone; (h) Phone; Beeper Number

UPON DECISION TO ACTIVATE PLAN:

- Notify Information Officer and ISC Legal Department representative of activation
- Report to ERT meeting room with Legal Department Representative Manual, Emergency Assistance Plan, Legal Department Phone Lists, and

Corporate Phone Book

- Remind participants of need to keep documents limited to the facts and to avoid opinion or speculation
- Designate/notify assisting attorney and alternates; notify second shift
- As appropriate, notify local Claims Attorney

DURING AN EMERGENCY:

- Maintain contact with Information Officer when CMT is activated
- Coordinate with Claims Attorney primary member
- Consider sending attorney to site (in-house, Claims, outside attorney)
 - Coordinate with Information Officer if CMT activated
 - Designate senior on-site representative
- Confirm legally required notifications have been made. Consider and, as appropriate, recommend additional notifications (i.e., insurance, force majeure)
- Confirm instructions to incident site to review all press releases and similar documents

with Legal Department representative before issuance

- Advise site not to destroy any relevant documents, even if pursuant to normal document retention guidelines
- Remind ERT members of need to leave ALL documents and notes relating to the incident in the ERT meeting room. At shift changes or arrival of additional people, remind participants to keep documents factual and to avoid opinions and speculation. At end of incident, collect all notes, documents, diary entries, and e-mail notes.

- Notify and, as appropriate, engage, other attorneys (in-house or outside) in coordination with Information Officer.

Consider the following:

- Environmental, Health & Safety
- Local Claims Attorney
 - Labor
 - Corporate
 - Criminal Defense
 - Business Unit
 - Security
 - Others

Consider different constituencies:

- Employees of business and families
- Surrounding community
- Mutual Aid groups
- Shareholders
- Stock exchanges
- Customers

- Local and State Government
- Emergency and public health authorities
- Federal government -- elected representative s and executive agencies
- Regulatory community
- Suppliers
- Contractors
- Press/media (including trade journals)
- Hospitals
- Corporate management of parent and affiliates
- Other employees
- Stock analysts
- Trade associations
- Competitors