

## **Report of the LSC Disaster Task Force**

LSC America's Partner for Equal Justice LEGAL SERVICES CORPORATION





## ABOUT THE LEGAL SERVICES CORPORATION

The Legal Services Corporation (LSC) was established by Congress in 1974 to promote equal access to justice. LSC operates as an independent 501(c)(3) non-profit corporation and currently serves as the single largest funder of civil legal aid for low-income Americans. To achieve its mission of helping to provide high-quality civil legal aid to low-income people, LSC currently distributes more than 93% of its total funding to 132 independent non-profit legal aid programs with more than 850 offices across America. To learn more about LSC, please visit **www.lsc.gov**.

#### **Project Team**

Michael Bern Sarah Burack Martin Costello Sharon Cole Sohom Datta John Eidelman Rebecca Fertig-Cohen Lara J. Fu Lacey Henry Janet Hsu Lynn Jennings Justin Kirschner **Robert Malionek** Katie Marren Lauren Moose Jaclyn Newman **Charles Read** Kelsey Schutte Irina Sivachenko Viola So Sunila Steephen **Christopher Turner** 

#### **Report Design**

KINETIK

#### Cover Image

Flooding in New Orleans after Hurricane Katrina—August 2005.



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## EXECUTIVE SUMMARY

From January 2014 to July 2019, there have been 537 Presidential disaster-related declarations, including 288 major disaster declarations,<sup>i</sup> 51 emergency declarations, and 198 fire management assistance declarations. This number does not include state or locally declared disasters or emergencies. The past few years was particularly devastating. In the first half of 2019, there was an earthquake in California, a tropical storm on the Gulf Coast, and extensive flooding in the Midwest." In 2018, the United States and its territories experienced destruction caused by Hurricanes Florence, Michael, and Lane, Typhoons Yutu and Mangkhut, wildfires in California, volcanic eruptions in Hawaii, and an earthquake in Alaska.<sup>iii</sup> In 2017, three major Hurricanes—Harvey, Maria, and Irma-ravaged parts of Texas, Florida, the U.S. Virgin Islands, and Puerto Rico, as well as some of the largest wildfires that California had ever experienced.<sup>iv</sup> The total cost of these disasters has surpassed \$500 billion and more than 3,800 people have died.<sup>v</sup> During this time period, there have been 67 disasters that have each exceeded \$1 billion in damages; it will take years for the hardest hit communities to fully recover; low-income survivors are typically the hardest hit by a disaster and will face significant obstacles in their path to recovery.



## THE IMPACT OF DISASTERS ON LOW-INCOME SURVIVORS.

Deprivation and hardship are a constant in the lives of low-income individuals. They struggle to find employment, affordable housing, and ways to provide for basic needs including healthcare, food, and safety for themselves and their families. With the assistance of legal aid lawyers and other service providers, many low-income families and individuals can navigate complex bureaucracies and systems to address some of their basic needs for food stamps, unemployment benefits, subsidized housing assistance, and health insurance. For low-income disaster survivors, basic subsistence and re-establishing their lives can involve months and even years of serious challenges. Law can be both a barrier and a tool as disaster survivors work to regain their lives.

In the immediate wake of a disaster or crisis, disaster-related civil legal issues follow a common pattern. Some of the common civil legal issues that arise are:

Landlord-Tenant: The need for adequate housing is often a major issue for disaster survivors. When a disaster occurs, the available housing stock dwindles in the impacted areas. Some landlords find they can rent units at a higher rate and evict tenants from once-affordable units. Some landlords may also refuse to make necessary repairs to housing units that were damaged by the disaster, leaving many tenants to live in uninhabitable conditions. Illegal evictons often occur after major disasters if courts are closed and tenants are temporarily evacuated.

**Income Protection:** There is an immediate need for cash assistance post-disaster, including unemployment benefits, food stamps, and other public benefits.

**Document Replacement:** Survivors often need help obtaining copies of important documents, such as birth certificates, driver's licenses, and Social Security cards to apply for or restore benefits and support. **Title Clearing:** Some disaster survivors have difficulty establishing title to their homes because the property has been passed down through generations without formal paperwork or recording. Without proper proof of ownership, the disaster survivor cannot receive benefits, insurance proceeds, or access capital to rebuild or make repairs.

**FEMA Appeals:** Often, disaster survivors' applications for Federal Emergency Management Agency (FEMA) assistance are rejected, but they are given a right to appeal. For example, FEMA denied at least 335,748 applications<sup>vi</sup> from Puerto Ricans asking for disaster assistance to fix their hurricane-ravaged homes. The assistance of a trained attorney or volunteer increases the likelihood that survivors will receive the assistance for which they have applied.

**Domestic Violence:** With families experiencing even more stressors after a disaster, it is common to see a spike in domestic violence. With critical housing shortages, many domestic abuse survivors may have to co-habitate with their abusers.

**Consumer and Fraud Issues:** Unscrupulous individuals often try to take advantage of disaster survivors who are trying to rebuild their lives, either through outright fraud, exorbitant pricing, or impermissible contract terms.

Despite legal aid's potential in the aftermath of disaster, there can be a significant gap in the disaster-response landscape when there is a lack of a coordinated effort to deal with the legal needs of disaster survivors. Most emergency management and disaster-response organizations are unaware of the legal issues faced by disaster survivors and the particular needs of low-income communities.

In April 2018, LSC's Board of Directors established LSC's Disaster Task Force. The focus of the Task Force was to foster and promote better cooperation, coordination, and communication between and among the emergency management community, legal services providers, the private bar, the judiciary,



community-based organizations, and the business community to ensure that low-income disaster survivors receive the legal assistance they need. The Disaster Task Force held three in-person meetings and field hearings in Washington, D.C., Houston, TX, and Miami, FL between May 2018 and March 2019.

The Disaster Task Force's Recommendations highlight the concrete steps that legal services providers can take to build a systematic, coordinated, and sustainable approach to helping low-income individuals, families, and communities prepare for, respond to, and recover from a disaster.

The Task Force's recommendations focus on relationship-building, training attorneys and volunteers to recognize disaster-related civil legal issues and to represent low-income disaster survivors, as well as enabling legal services providers, courts, individuals, families, and communities to better prepare for disasters.

LSC's follow-up on these recommendations is critical to ensuring that they are implemented in a meaningful way. The Disaster Task Force recommends that LSC:

- Establish a multi-disciplinary working group to assist in implementing the recommendations.
- Continue to educate the emergency management community about the importance of integrating legal services providers into their work;
- Embrace a leadership role in promoting civil legal aid as a critical component of a community's disaster preparedness, response, and recovery.

This Report organizes its recommendations by the committee structure the 60-member Task Force established to conduct its work: (1) Relationship-Building and Integration of Legal Services into the Nation's Emergency Management Infrastructure; (2) Training Pro Bono Lawyers, Other Volunteers, and Legal Services Providers; (3) Continuity of Operations Planning for Legal Services Providers and the Courts; and (4) Preparing Individuals, Families, and Communities for a Disaster. [Disaster] Survivors, after working with first responders to take care of life and limb, should be able to turn to a second wave of responders from the legal community to preserve their rights and ensure their security. Floods, tornadoes, hurricanes, and other disasters leave survivors to face a host of civil legal challenges: just replacing their identification, applying for benefits, dealing with insurance claims, preventing unlawful evictions and foreclosures, and combating all too frequent scams of one kind or another.

JOHN LEVI, BOARD CHAIR, LEGAL SERVICES CORPORATION

Almost 15 years later, LSC grantees are still responding to Katrina-related disaster issues for vulnerable families such as FEMA recoupments. In the past two years, Congress has appropriated \$30 million to LSC to help low-income families and individuals recover from the multitude of natural disasters that occurred between 2017 and 2019.vii LSC provides these resources to its grantees in disaster-impacted areas to deliver civil legal aid to those in need. The disaster funds provided by the U.S. Congress are critical resources that help low-income individuals and families recover from a disaster. The Task Force underscores the importance of these resources and believes that Congress should continue to include funding for civil legal needs in future Supplemental Disaster Appropriations.



#### EXECUTIVE SUMMARY

#### **Recommendations Related to Relationship-Building** and Providing Coordinated Legal Services

#### **RECOMMENDATION A1**

Building Relationships with Federal, State, Local, and Tribal Emergency Management Organizations and Other Government Officials

Preparedness is critical, and legal services providers need to develop relationships with their federal, state, local, and tribal emergency management agencies and organization(s), as well as other government officials. Legal services providers should ensure they have a seat at the table prior to, during, and after a disaster. They can help advance this goal by identifying their key state and local emergency managers and, where applicable, federal and tribal emergency manager(s) in their areas, and sharing the legal expertise, resources, and organization needed in preparing for, responding to, and recovering from a disaster.

#### **RECOMMENDATION A2**

#### Building Relationships with Community-Based Organizations

Legal services providers should develop relationships with voluntary organizations active in disaster, faith-based organizations, and disability groups. Legal services providers should develop long-term relationships with community-based and other volunteer organizations in the areas they serve. It is important for legal services providers to have a seat at the table to participate in pre-disaster planning activities and to provide much-needed resources and expertise post-disaster.

#### **RECOMMENDATION A3**

Building Relationships with the Private Bar, Law Schools, and Other Stakeholders in the Legal and Business Communities

Prior to a disaster, legal services providers and bar associations need to proactively identify, recruit, and cultivate relationships with members of the private bar, law schools, and other volunteers in the legal and business communities with the goal of promptly enlisting their support after a disaster. Legal services providers should identify and recruit volunteers from the private bar and the business community and connect with them pre-disaster. Outreach and recruitment strategies and trainings also should target law students, paralegals, and other legal professionals who are eager to assist post-disaster.

#### **RECOMMENDATION A4**

#### Providing Legal Assistance at Disaster Recovery Centers or Multi-Agency Resource Centers

Legal services providers should establish predisaster connections to ensure that emergency managers invite legal services providers to the Disaster Recovery Centers (DRCs), Multi-Agency Resource Centers (MARCs), or similar entities, to provide initial legal assistance to disaster survivors. Legal services providers should demonstrate their ability to staff centers and connect with the most vulnerable disaster survivors immediately after a disaster to make them aware of their rights and available services.

#### **RECOMMENDATION A5**

#### Providing Training on How to Identify Disaster-Related Civil Legal Issues

Legal services providers should train emergency managers and Volunteer Organizations Active in Disaster (VOAD) and Community Organizations Active in Disaster (COAD) case workers to identify civil legal issues so they can efficiently recognize and communicate survivor needs to lawyers. Disaster survivors may face several problems but might not recognize them as legal issues. Legal services providers should train emergency managers and disaster caseworkers on how to identify civil legal issues immediately following a disaster.



#### Establishing Communication with and Outreach to Disaster Survivors

Legal services providers should establish lines of communication with disaster survivors by working with emergency management organizations through hotlines, on-line resources, and other available modes of communication. The lines of communication must be accessible to all disaster survivors, including those with disabilities who might require reasonable accommodations to access legal services (e.g., physical accessibility, website or telephone accessibility, print materials in relevant languages, and sign language interpretation).

#### **RECOMMENDATION A7**

#### Deploying Pro Bono Attorneys and Volunteers Post-Disaster Efficiently

Organizations that facilitate pro bono participation should explore avenues to increase coordination and information-sharing to deploy volunteer legal expertise post-disaster. Numerous entities, including state and local bar associations, the American Bar Association's (ABA) Young Lawyers Division, ABA Free Legal Answers,<sup>viii</sup> the Association of Pro Bono Counsel, the Pro Bono Institute, and the Association of Corporate Counsel, facilitate pro bono participation. The members of these organizations have tremendous knowledge and expertise to contribute in times of crisis. Currently, there is no coordinating mechanism among all these various entities to ensure efficient deployment of volunteer legal expertise following a disaster.

#### **RECOMMENDATION A8**

#### Dedicating Adequate and Properly Trained Resources to Manage Volunteers

Legal services providers should devote appropriate resources to coordinate pro bono work. There should be communication and coordination between and among persons handling the intake of pro bono volunteers and those handling the day-to-day work. Legal services providers should routinely train and mentor volunteers from law schools, law firms, and the business community. Legal aid staff attorneys can focus on training, mentoring, and overseeing the volunteers to maximize their utility. This includes using remote communication and training to maximize volunteer participation.

#### **RECOMMENDATION A9**

#### Participating in Long-Term Disaster Recovery Efforts

Legal services providers should participate in long-term disaster recovery efforts. The recovery process does not end in the weeks immediately following the disaster. Instead, it may extend for many years, and community organizations may be faced with aiding survivors with long-term issues including contractor fraud, insurance and benefit issues, title disputes, social service eligibility disputes, replacement of significant documents, and housing issues such as evictions and foreclosures.



#### EXECUTIVE SUMMARY

#### **Recommendations Related to Training Pro Bono** Lawyers, Volunteers, and Legal Services Providers

#### **RECOMMENDATION B1**

#### **Customizing Trainings to Location**

Trainings should cover the common federal and state legal issues disaster survivors are most likely to encounter in their area. The legal issues survivors face will evolve over time and will vary depending on the type, risk level, and form of disaster. Trainings should be updated regularly to account for changes in agency practice and policy, particularly those of federal administrative agencies, as well as state and local laws.

#### **RECOMMENDATION B2**

#### Building on Best Practices for Disaster-Related Trainings

Hundreds if not thousands of handbooks, PowerPoint presentations, webinars, and videos have been developed to train volunteers on disaster-related civil legal issues. As new trainings are developed, they should build on the best practices and lessons learned from this body of work.

#### **RECOMMENDATION B3**

## Creating a One-Stop Resource for Training and Expertise

The legal services community should work together to create an online "one-stop" resource for disaster training materials and expertise. This site should target several audiences, including pro bono attorneys and other volunteers, legal aid attorneys, and disaster survivors. In addition to providing basic training information, the site should include template documents. This site will be a critical resource for providing training materials on disaster-related civil issues. The site should also include a nationwide "Brain Bank" of experts to address critical questions and fill any legal expertise gaps, such as insurance, tribal law, or small business issues.

#### **RECOMMENDATION B4**

#### **Training Often**

Legal volunteers should be trained or retrained close in time to when they will be helping disaster survivors. When practicable, trainings should occur before a disaster, if disasters follow a predictable or seasonal cycle, or as soon as possible after a disaster occurs. Legal volunteers should be mobilized efficiently, such that local volunteers can triage and address local and state legal issues, and remote legal volunteers can focus on federal legal issues and the many issues that will remain long after a disaster happens.<sup>ix</sup>

#### **RECOMMENDATION B5**

#### Maintaining Relationships with Volunteers

It is important to maintain and constantly reinvigorate relationships with volunteers throughout the recovery process. In the long tail of disaster recovery, maintaining a trained and enthusiastic army of legal volunteers is critical. Regular retraining and celebration of accomplishments will help make trained and capable pro bono resources available for years to come.



#### **Recommendations Related to Continuity of Operations Planning for Legal Services Providers and Courts and Adoption of Model Court Reforms**

#### **RECOMMENDATION C1**

Legal Services Providers Must Maintain Comprehensive, Up-to-Date Continuity of Operations Plans (COOP)

Legal services providers are a critical resource for both existing clients and disadvantaged disaster survivors confronting a broad range of legal needs and challenges. Legal services providers, should have a comprehensive COOP in place that is designed to (1) ensure the safety of the organization's employees, and (2) safeguard critical information, including client files.

#### **RECOMMENDATION C2**

#### Courts Must Maintain Comprehensive, Up-to-Date Continuity of Operations Plans

Courts are not immune to the effects of disasters. Disruption of court operations following a disaster interferes with ongoing legal proceedings and leaves individuals without recourse in the face of emerging legal needs. A comprehensive COOP should serve to protect court staff and resume operations to preserve access to the justice system, safeguard litigant rights, and enable the court to support the influx of post-disaster demands.

#### **RECOMMENDATION C3**

#### States Should Adopt Model Court Reforms

States should adopt model court reforms to facilitate post-disaster recovery. Each state should engage the relevant stakeholders and assess whether certain model reforms are appropriate for their respective court infrastructures. Many courts have implemented measures that have improved their ability to respond to post-disaster legal needs and resume operations more efficiently. We recommend consideration of the following reforms:

- Adoption of the "Katrina Rule": Following Hurricane Katrina, the American Bar Association issued a model court rule that permits out-ofstate lawyers to provide temporary pro bono services in a state affected by a major disaster.
- Extensions of Time: Extensions of deadlines and tolling provisions for statutes of limitations should be considered to safeguard litigant rights.
- Court System Coordination: Unification of court systems facilitates the flow of information and orders to lower courts in a timely and streamlined manner.
- Geographic Flexibility: If the court should be displaced outside of the geographic jurisdiction, temporary allowances permitting matters to be heard elsewhere allows for uninterrupted access to the courts.
- Specialized Procedures: Courts should adopt specialized procedures on a case-by-case basis regarding certain areas of law that are uniquely affected by disasters, including landlord/tenant, criminal, family, title disputes, estate, and bankruptcy issues.



#### EXECUTIVE SUMMARY

#### **Recommendations Related to Preparing Individuals,** Families, and Communities for Disaster

#### **RECOMMENDATION D1**

#### Improving Individual, Family, and Community Preparedness

Individuals and communities need to increase their level of preparedness for a disaster. There are several low-cost ways for individuals and communities to prepare for a disaster. FEMA provides several resources for individual, family, business, and community preparedness.

#### **RECOMMENDATION D2**

#### Increasing the Legal Preparedness of Low-Income Individuals, Families, and Communities

Legal services providers have a role to play in increasing the level of legal preparedness of low-income individuals, families, and communities. Legal services providers can develop checklists to help low-income individuals, families, and communities prepare for their legal needs preand post-disaster. The checklists help individuals and families identify and prepare for common legal issues in various legal areas, and are divided into action steps to be taken pre- and post-disaster.

#### **RECOMMENDATION D3**

Providing Disaster Preparedness Information in a Time, Place, and Manner that Promotes Acceptance

Legal preparedness checklists should employ communications best practices and be simple and tailored to the client audience. Checklists should use simple, clear language and identify specific, discrete action steps that individuals can take. Checklists should be easy to find, and may incorporate graphics, symbols, and/or translations to reach their target audiences more effectively or to highlight particularly salient information.

#### **RECOMMENDATION D4**

#### Disseminating the Checklists Through Trusted Messengers and Community Partners

To ensure that the disaster legal preparedness checklists reach their intended audiences, legal services providers should collaborate with trusted community organizations, non-profits, faith-based organizations, and private sector businesses within their target communities. Individuals are more likely to trust and act upon information that they view as credible. The credibility of a message is enhanced when it is repeated, and when it is disseminated via trusted community partners and/ or media organizations and platforms.

# INTRODUCTION

#### FAIRDALE, IL

A violent and long-lasting EF-4 tornado's path extended for more than 30 miles—April 2015.



## INTRODUCTION

For natural disaster survivors, basic subsistence and reestablishing their lives can involve months and even years of serious challenges. Law can be both a barrier and a tool as disaster survivors work to regain their lives. This report identifies the concrete steps that legal services providers can take to build a systematic, coordinated, and sustainable approach to helping low-income individuals, families, and communities prepare for, respond to, and recover from a disaster.

From January 2014 to July 2019, there have been 537 Presidential disaster-related declarations, including 288 major disaster declarations,<sup>1</sup> 51 emergency declarations, and 198 fire management assistance declarations. This number does not include state or locally declared disasters or emergencies. The past few years was particularly devastating. In the first half of 2019, there was an earthquake in California, a tropical storm on the Gulf Coast, and extensive flooding in the Midwest.<sup>2</sup> In 2018, the United States and its territories experienced destruction caused by Hurricanes Florence, Michael, and Lane, Typhoons Yutu and Mangkhut, wildfires in California, volcanic eruptions in Hawaii, and an earthquake in Alaska.<sup>3</sup> In 2017, three major Hurricanes—Harvey, Maria, and Irma—ravaged parts of Texas, Florida, the U.S. Virgin Islands, and Puerto Rico, as well as some of the largest wildfires that California had ever experienced.<sup>4</sup> The total cost of these disasters has surpassed \$500 billion and more than 3,800 people have died.<sup>5</sup> During this time period, there have been 67 disasters that have each exceeded \$1 billion in damages; it will take years for the hardest hit communities to fully recover; low-income survivors are typically the hardest hit by a disaster and will face significant obstacles in their path to recovery.



## THE IMPACT OF DISASTERS ON LOW-INCOME SURVIVORS.

Deprivation and hardship are a constant in the lives of low-income individuals. They struggle to find employment, affordable housing, and ways to provide for basic needs including healthcare, food, and safety for themselves and their families. With the assistance of legal aid lawyers and other service providers, many low-income families and individuals can navigate complex bureaucracies and systems to address some of their basic needs with food stamps, unemployment benefits, subsidized housing assistance, and health insurance. When a community experiences a disaster, the needs and vulnerabilities of low-income people are amplified, and the need for legal assistance becomes even more critical.

In the immediate wake of a disaster or crisis, disaster-related legal issues follow a common pattern. Some of the common civil legal issues that arise are:

Landlord-Tenant: The need for adequate housing is often a major issue for disaster survivors. When a disaster occurs, the available housing stock dwindles in the impacted areas. Some landlords find they can rent units at a higher rate and evict tenants from once-affordable units. Some landlords may also refuse to make necessary repairs to housing units that were damaged by the disaster, leaving many tenants to live in uninhabitable conditions. Illegal evictons often occur after major disasters if courts are closed and tenants are temporarily evacuated.

**Income Protection:** There is an immediate need for cash assistance post-disaster, including unemployment benefits, food stamps, and other public benefits.

**Document Replacement:** Survivors often need help obtaining copies of important documents, such as birth certificates, driver's licenses, and Social Security cards to apply for or restore benefits and support.

**Title Clearing:** Some disaster survivors have difficulty establishing title to their homes because the property has been passed down through generations without formal paperwork or recording. Without proper proof of ownership, the disaster survivor cannot receive benefits, insurance proceeds, or access capital to rebuild or make repairs.

**FEMA Appeals:** Often, disaster survivors' applications for Federal Emergency Management Agency (FEMA) assistance are rejected, they are given a right to appeal. For example, FEMA denied at least 335,748 applications<sup>6</sup> from Puerto Ricans asking for disaster assistance to fix their hurricane-ravaged homes. The assistance of a trained attorney or volunteer increases the likelihood that survivors will receive the assistance for which they have applied.

**Domestic Violence:** With families experiencing even more stressors after a disaster, it is common to see a spike in domestic violence. With critical housing shortages, many domestic abuse survivors may have to co-habitate with their abusers.

**Consumer and Fraud Issues:** Unscrupulous individuals often try to take advantage of disaster survivors who are trying to rebuild their lives, either through outright fraud, exorbitant pricing, or impermissible contract terms.

Diagram 1 on page 14 provides an overview of the cycle of civil legal issues that arise post-disaster.

Despite legal aid's potential in the aftermath of disaster, there can be a significant gap in the disaster-response landscape when there is a lack of a coordinated effort to deal with the legal needs of disaster survivors. Most emergency management and disaster-response organizations are unaware of the legal issues faced by disaster survivors and the particular needs of low-income communities. Legal services providers have deep networks in low-income communities and have experience creating access for people who face barriers to services and information.

#### ABOUT LSC

The Legal Services Corporation (LSC) is the nation's largest single funder of civil legal aid for low-income Americans. Established by Congress



#### INTRODUCTION

#### **DIAGRAM 1: Lifecycle of Civil Legal Issues Post-Disaster**

#### SHORT-TERM

### 1 TO 6 WEEKS AFTER EVENT

#### Housing

- Lease Terminations
   & Evictions
- Utility Shutoffs
- Security Deposits
- Repair Issues
- FEMA Applications
- Insurance Claims

#### **Document Replacement**

- Birth Certificates
- Driver's Licenses
- Social Security Cards
- Deeds

#### **Income Protection**

- Wage Theft Issues
- Unemployment Applications/Appeals
- Public Benefits
   Applications/Appeals
- U.S. Small Business
   Administration Disaster
   Loan Applications

#### MEDIUM-TERM

1 TO 6 MONTHS

#### **Housing & Consumer**

- FEMA/SBA Appeals
- Landlord-Tenant Issues
- FEMA/U.S. Department of Housing and Urban Development Rent Subsidy Renewals
- Displaced Public Housing Tenant Issues
- **—** Foreclosure Prevention
- Real Property Title Clearing & Probate
- Section 8 Portability
- Mobile Home Questions
- Repair & Contractor Scams
- Insurance Scams
   & Claim Disputes
- Price Gouging

#### Family & Education

- Access to Public Education While Displaced
- Powers of Attorney (for care of a child or senior)
- Guardianships & Supportive Decision Making
- Emergency Custody Modifications
- Parenting Order Modifications (new home/school locations)
- Domestic Violence Issues
   (including protective orders)

#### LONG-TERM

## 6 MONTHS TO YEARS

#### Housing

- Foreclosures
- Landlord-Tenant Issues
- Flood Insurance Disputes
- FEMA Recoupments
- Other Housing Disputes

#### Consumer

- Disaster Tax Relief Applications
- Bankruptcies

#### **General Civil**

- Civil & Disability Rights Cases
- Legal Counsel for Community Organizations

SOURCE: Texas Access to Justice Commission

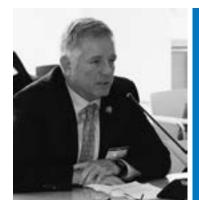


in 1974, LSC is an independent 501(c)(3) nonprofit corporation and promotes equal access to justice by providing grants to nonprofit legal aid organizations in every state and territory and the District of Columbia. Every year, LSC distributes more than 93% of its federal appropriations to 132 independent nonprofit legal aid programs with more than 850 offices. LSC-funded programs assist Americans in households with annual incomes at or below 125% of the federal poverty guidelines.

LSC has worked in the disaster arena since 2005, when it helped respond to Hurricane Katrina. At that time, LSC implemented a coordinated disaster response network to address the devastating effects of this disaster on low-income communities. LSC grantees assisted and successfully represented disaster survivors with issues such as securing or retaining housing, preparing and filing insurance claims, obtaining replacement for lost identity documents, navigating complex benefits programs—including FEMA assistance, and dealing with repair contractors.

Since 2014, LSC has led the Midwest Legal Disaster Coordination Project to support projects that develop coordinated plans between emergency management organizations and legal service providers in the Midwest. This project's goal is to ensure that at-risk communities throughout the Midwest are better prepared when a disaster occurs.

Almost 15 years later, LSC grantees are still responding to Katrina-related disaster issues for vulnerable families such as FEMA recoupments. In the past two years, Congress has appropriated \$30 million to LSC to help low-income families and individuals recover from the multitude of natural disasters that occurred between 2017 and 2019.7 LSC provides these resources to its grantees in disaster-impacted areas to deliver civil legal aid to those in need. The disaster funds provided by the U.S. Congress are critical resources that help low-income individuals and families recover from a disaster. The Task Force underscores the importance of these resources and believes that Congress should continue to include funding for civil legal needs in future Supplemental Disaster Appropriations.



Mark Sloan, Homeland Security and Emergency Management Coordinator, Harris County, TX speaks to the importance of legal services providers having a "seat at the table" with their state, local, or tribal emergency managers in preparing for, responding to, and recovering from a disaster.

#### DISASTER TASK FORCE OVERVIEW

On April 10, 2018, LSC's Board of Directors established LSC's Disaster Task Force.8 Task Force participants included private sector and legal aid lawyers; judges; federal, state, local, and tribal emergency managers; disaster relief experts; and members of the business community and LSC's Leader's Council. The focus of the Task Force was to foster and promote better cooperation, coordination, and communication of stakeholders' expertise and resources to ensure that low-income disaster survivors receive the legal assistance they need. The Disaster Task Force held three meetings in Washington, D.C., Houston, TX, and Miami, FL between May 2018 and March 2019. In between meetings, the 60-member Task Force conducted its work in four committees: (1) Relationship-Building and Integration of Legal Services into the Nation's Emergency Management Infrastructure; (2) Training Pro Bono Lawyers, Other Volunteers, and Legal Services Providers; (3) Continuity of Operations Planning for Legal Services Providers and the Courts; and (4) Preparing Individuals, Families, and Communities for a Disaster.

#### OVERVIEW OF THE NATION'S EMERGENCY MANAGEMENT INFRASTRUCTURE

The United States has a well-established emergency management infrastructure that is divided into the following phases—mitigation,

#### INTRODUCTION

preparedness, response, and recovery—at the federal, state, local, and tribal levels. Experts at all levels agree that disaster response and recovery is not just the responsibility of government but is a shared responsibility among the entire community. One of the Task Force's key objectives is to educate its non-emergency management Task Force members and the broader legal services community about the need to integrate into and navigate in an existing emergency management infrastructure to effectively deliver disaster legal services. A brief description of each phase of emergency management is provided below.

#### **A.** Mitigation

Mitigation includes any activities that prevent an emergency, reduce the likelihood of occurrence, or reduce the damaging effects of unavoidable hazards. Mitigation activities should be considered long before an emergency.<sup>9</sup>

#### **B. Preparedness**

FEMA has issued the National Preparedness Goal,<sup>10</sup> which defines what it means for the whole community to be prepared for all types of disasters and emergencies.

Across the country, states act as coordinators, and service delivery occurs at the local level. Another element of a state's preparedness strategy is leveraging the resources of other states. These types of arrangements are achieved through the Emergency Management Assistance Compact (EMAC), a nationally adopted, mutual aid agreement among states to share resources during times of need. EMAC offers assistance during governor-declared states of emergency or disasters through a system that allows states to send personnel, equipment, and commodities to assist with response and recovery efforts in other states. All fifty states, the District of Columbia, Guam, and the U.S. Virgin Islands have enacted legislation to become EMAC members.<sup>11</sup>

#### **C.** Response

The National Response Framework<sup>12</sup> (NRF) is a guide outlining how the nation responds to all types of disasters and emergencies. The NRF is designed to be

all-hazards, scalable, flexible, and adaptable. There are standard operating procedures across the nation, and it is important to integrate whole communities and to learn from prior disasters. All disasters are local, but when a local government is overwhelmed and cannot adequately respond to an emergency or disaster, it then turns to the state government for assistance. When state resources are insufficient, the state will, in turn, request assistance from the federal government.

Pursuant to the Stafford Act,<sup>13</sup> there are two types of Presidential disaster declarations: (1) emergency declarations and (2) major disaster declarations. The President can make emergency declarations for a broad range of events to save lives or avert danger, but the assistance provided is limited. Emergency assistance is focused on response activities such as debris removal and limited assistance to families. By contrast, the President can make major disaster declarations only for a narrow list of natural events, but the assistance provided is broader.

#### **D. Recovery**

The National Disaster Recovery Framework<sup>14</sup> is a guide to promote effective recovery, with a focus on large-scale or catastrophic events. The goal of recovery is to return the community's systems and activities to normal. Recovery efforts start once an incident has occurred, and some recovery activities may be concurrent with response efforts. Although recovery is primarily the responsibility of local government, if the emergency or disaster receives a Presidential declaration, several assistance programs may be available under the Stafford Act.<sup>15</sup>

- Public Assistance is for repair of infrastructure, public facilities, and debris removal, and may include repair or replacement of non-federal roads, public buildings, and bridges and implementation of mitigation measures.
- Individual Assistance is for damage to residences and businesses or for personal property losses, and may include: grants to individuals and families for temporary housing, repairs, replacement of possessions, and



medical and funeral expenses; U.S. Small Business Administration (SBA) loans to individuals and businesses; crisis counseling for survivors and responders; legal services; and disaster unemployment benefits.

While there is no financial limit on direct assistance, there is a \$34,900 limit for Housing Assistance (HA) and a \$34,900 limit for Other Needs Assistance under the Individuals and Households Program (IHP) assistance.<sup>16</sup> Federal assistance prioritizes homeowners and those who have insurance coverage. As a result, renters are often disproportionately impacted by disaster.<sup>17</sup>

Recovery from disaster is unique to each community depending on the amount and kind of damage caused by the disaster and the resources within a community. Long-term recovery can take months or years because it is a complex process of rebuilding homes, businesses, and public infrastructure, as well as revitalizing the community's economy, and restoring the quality of life.

#### OTHER KEY STAKEHOLDERS IN EMERGENCY MANAGEMENT

In addition to federal, state, local, and tribal first responders and emergency managers, there are other key stakeholders who play a significant role in disaster preparedness, response, and recovery. A summary of their roles is provided below.

#### A. National Voluntary Organizations Active in Disaster

With more than 100-member organizations, National Voluntary Organizations Active in Disaster (NVOAD) is an association of organizations that "mitigates and alleviates the impact of disasters."<sup>18</sup> Organizations operating under this umbrella include the American Red Cross, Catholic Charities, and other secular and faithbased groups, including LSC. They work with various non-affiliated local organizations and at all levels of government. Coordination with Voluntary Organizations Active in Disaster (VOAD) has been written into many disaster plans, including the National Disaster Recovery Framework, and VOAD has a seat at the federal and state disaster relief tables. National VOAD follows the four Cs—coordination, communication, collaboration, and cooperation.<sup>19</sup> At the local level, Community Organizations Active in Disaster (COADs) organize disaster relief and recovery efforts.

#### **B. Tribal Nations**

As sovereign nations, tribes may take different approaches to emergency management, but often work within existing national frameworks. Like states, tribes also make assessments and determine whether a Stafford Act declaration is necessary during disasters.<sup>20</sup> There is an added layer of complexity when non-tribal members live on the reservation and tribal members live off the reservation, or when a tribal nation is so large that it crosses county or state lines.

Because tribes cannot give up their sovereignty, intergovernmental agreements, like EMACs, are often difficult to achieve. In the past, tribes have worked with others, including Community Emergency Response Teams (CERT), the American Red Cross, and the federal government. Tribes would like to work with other communities in preparedness efforts, and would prefer to be incorporated into state and local planning processes on a regular basis.

#### **C. Disability Community**

It is important to be cognizant of the needs of-and legal responsibilities to-disabled individuals in the event of disaster. There are 61 million people<sup>21</sup> with disabilities in the United States. This does not include elders, pregnant women, and many others with access and functional needs. There has been a lack of planning, accessibility, and accommodation for the millions of people with disabilities impacted by disasters. The Rehabilitation Act of 1973 requires that any recipient of federal funds make programs and services accessible for people with disabilities, and there is no waiver for this requirement. The Americans with Disabilities Act also requires equal access before, during, and after disasters. Consistent efforts need to be made to ensure the needs of people with disabilities are being met through compliance with the law.22

#### NEW ORLEANS, LA

One of many houses destroyed by Category 5 Hurricane Katrina—August 2005.







#### **RECOMMENDATIONS RELATED TO**

**Relationship-Building and Providing Coordinated Legal Services** 





#### SECTION

#### **RECOMMENDATIONS RELATED TO**

## Relationship-Building and Providing Coordinated Legal Services

Providing legal services is an essential element of disaster recovery, and relationship-building between and among legal services providers and various stakeholders in disaster relief is a necessary step for the delivery of those services. There is a need for better coordination between the emergency management community and legal services providers in preparing for, responding to, and recovering from a disaster.

Many emergency managers do not have a full understanding of the role lawyers serve following a disaster. Conversely, many attorneys do not understand the existing emergency management infrastructure and protocols, which makes it hard to coordinate the response efforts of various legal services providers and do not integrate them into other response efforts. It is imperative that legal services providers and the emergency management community work to build relationships during "blue sky" times, before a disaster occurs, to ensure that there is a framework already in place to integrate the delivery of legal services with the emergency management community during the response to a disaster. This will also help open lines of communication and improve information sharing to identify and respond to legal needs of survivors during the recovery.

Based on the Task Force's review of training manuals and articles discussing post-disaster recovery, as well as interviews and field hearings with relevant stakeholders, the Task Force has compiled the following recommendations to the Legal Services Corporation (LSC) and its grantees on relationship-building and coordination between and among various stakeholders during each phase of the emergency management cycle.



Building Relationships with Federal, State, Local, and Tribal Emergency Management Organizations and Other Government Officials

Preparedness is critical, and legal services providers need to develop relationships with their federal, state, local, and tribal emergency management agencies and organization(s), as well as other government officials. Legal services providers should ensure they have a seat at the table prior to, during, and after a disaster. They can help advance this goal by identifying their key state and local emergency managers and, where applicable, federal and tribal emergency manager(s) in their areas, and sharing the legal expertise, resources, and organization needed in preparing for, responding to, and recovering from a disaster.

#### **RECOMMENDATION A2**

#### Building Relationships with Community-Based Organizations

Legal services providers should develop relationships with voluntary organizations active in disaster, faith-based organizations, and disability groups. Legal services providers should develop long-term relationships with communitybased and other volunteer organizations in the areas they serve. It is important for legal services providers to have a seat at the table to participate in pre-disaster planning activities and to provide much-needed resources and expertise post-disaster.

#### **RECOMMENDATION A3**

#### Building Relationships with the Private Bar, Law Schools, and Other Stakeholders in the Legal and Business Communities

Prior to a disaster, legal services providers and bar associations need to proactively identify, recruit, and cultivate relationships with members of the private bar, law schools, and other volunteers in the legal and business communities with the goal of promptly enlisting their support after a disaster. Legal services providers should identify and recruit volunteers from the private bar and the business community and connect with them pre-disaster. Outreach and recruitment strategies and trainings also should target law students, paralegals, and other legal professionals who are eager to assist post-disaster. The important thing is that we know about who you are and what you do. What do you provide back to those individuals? And if I don't know you exist, then we end up exchanging business cards at 2:00 AM that's not when we should be doing that. We should know each other by face and by name.

MARK SLOAN, HOMELAND SECURITY AND EMERGENCY MANAGEMENT COORDINATOR, HARRIS COUNTY, TX

#### **RECOMMENDATION A4**

Providing Legal Assistance at Disaster Recovery Centers or Multi-Agency Resource Centers

Legal services providers should establish pre-disaster connections to ensure that emergency managers invite legal services providers to the Disaster Recovery Centers (DRCs), Multi-Agency Resource Centers (MARCs), or similar entities, to provide initial legal assistance to disaster survivors. Legal services providers should demonstrate their ability to staff centers and connect with the most vulnerable disaster survivors immediately after a disaster to make them aware of their rights and available services.

#### **RECOMMENDATION A5**

#### Providing Training on How to Identify Disaster-Related Civil Legal Issues

Legal services providers should train emergency managers and Volunteer Organizations Active in Disaster (VOAD) and Community Organizations Active in Disaster (COAD) case workers to identify civil legal issues so they can efficiently recognize and communicate survivor needs to lawyers. Disaster survivors may face several problems but might not recognize them as legal issues. Legal services providers should train emergency managers and disaster caseworkers on how to identify civil legal issues immediately following a disaster.



An effective response requires coordination, coordination requires trust, and trust in turn must precede the chaos.

#### **RECOMMENDATION A6**

#### Establishing Communication with and Outreach to Disaster Survivors

Legal services providers should establish lines of communication with disaster survivors by working with emergency management organizations through hotlines, on-line resources, and other available modes of communication. The lines of communication must be accessible to all disaster survivors, including those with disabilities who might require reasonable accommodations to access legal services (e.g., physical accessibility, website or telephone accessibility, print materials in relevant languages, and sign language interpretation).

#### **RECOMMENDATION A7**

#### Deploying Pro Bono Attorneys and Volunteers Post-Disaster Efficiently

Organizations that facilitate pro bono participation should explore avenues to increase coordination and information-sharing to deploy volunteer legal expertise post-disaster. Numerous entities, including state and local bar associations, the American Bar Association's (ABA) Young Lawyers Division, ABA Free Legal Answers,<sup>24</sup> the Association of Pro Bono Counsel, the Pro Bono Institute, and the Association of Corporate Counsel, facilitate pro bono participation. The members of these organizations have tremendous knowledge and expertise to contribute in times of crisis. Currently, there is no coordinating mechanism among all these various entities to ensure efficient deployment of volunteer legal expertise following a disaster.

#### **RECOMMENDATION A8**

#### Dedicating Adequate and Properly Trained Resources to Manage Volunteers

Legal services providers should devote appropriate resources to coordinate pro bono work. There should be communication and coordination between and among persons handling the intake of pro bono volunteers and those handling the day-to-day work. Legal services providers should routinely train and mentor volunteers from law schools, law firms, and the business community. Legal aid staff attorneys can focus on training, mentoring, and overseeing the volunteers to maximize their utility. This includes using remote communication and training to maximize volunteer participation.

#### Participating in Long-Term Disaster Recovery Efforts

Legal services providers should participate in long-term disaster recovery efforts. The recovery process does not end in the weeks immediately following the disaster. Instead, it may extend for many years, and community organizations may be faced with aiding survivors with long-term issues including contractor fraud, insurance and benefit issues, title disputes, social service eligibility disputes, replacement of significant documents, and housing issues such as evictions and foreclosures.





Building Relationships with Federal, State, Local, and Tribal Emergency Management Organizations and Other Government Officials

In the emergency management field, the best time to exchange business cards is prior to a disaster. Providing legal services is an essential element of disaster recovery, but it cannot work in a silo. Legal services providers need to be integrated into the greater emergency management community to ensure they have a seat at the table when a disaster occurs. They should identify and engage with the key state and local emergency managers and, where applicable, federal and tribal emergency manager(s) in their service areas before the next disaster. Legal services providers need to demonstrate the legal expertise, resources, and level of organization they bring to the table in preparing for, responding to, and recovering from a disaster. Building relationships is key to developing trust in a community, requiring collaboration and outreach before a disaster.

Building such relationships involves maintaining regular contact with emergency management representatives. Legal services providers should participate in planning, training, and table-top exercises to foster a sense of trust and to understand the roles and responsibilities of each stakeholder. Participation in periodic, multi-stakeholder exercises can help identify gaps in capabilities and capacity, establish stronger communication protocols, and lead to overall improved preparedness. The Emergency Management Institute<sup>25</sup> provides trainings that legal services providers should attend. For example, Lone Star Legal Aid (Lone Star) has developed a long-term relationship with the Harris County Office of Homeland Security and Emergency Management and the City of Houston. At the Houston field hearing, Mark Sloan, Homeland Security and Emergency Management Coordinator for Harris County, discussed the on-going relationship between Lone Star and Harris County where they keep in contact through monthly VOAD meetings to discuss each other's roles and responsibilities and identify potential gaps in services. Because they know each other by face and by name, they can better coordinate critical responses during emergencies. As a result of this on-going relationship, Lone Star was asked to staff the DRCs after Hurricane Harvey.

Through their work funded by the Midwest Legal Disaster Coordination Project, Iowa Legal Aid (ILA) and Legal Aid of Nebraska (LAN) are fully integrated into the emergency management infrastructures in their states. ILA works regularly with the emergency managers in Cedar Rapids and Des Moines. An ILA representative served as president of the Iowa VOAD in 2018 and ILA is represented on its board of directors. LAN is deeply integrated into the emergency management community, especially in Lincoln, Omaha, and Grand Island and has made significant headway in raising awareness among, and networking with, emergency management communities in more rural parts of the state. LAN is a member of the state's VOAD and seven COADs.

Emergency managers are not the only government officials with whom legal services providers should establish a relationship. In some localities, the police and/ or fire department performs the emergency management role and, as such, legal services may need to adapt to these circumstances in relationship-building. Depending on the issues that disaster survivors are confronting, legal services providers may need to work with the local district attorney, county counsel, city attorney, or state attorney general to respond to consumer scams. For example, Legal Aid of Western Missouri (LAWMO) worked closely with the Missouri Attorney General's Office in the aftermath of the Joplin tornado to reign in contractor fraud and other consumer scams.

Additionally, legal services providers should develop relationships with their local elected officials. Their offices and resources can be helpful during the recovery period because many constituents contact their offices for assistance. Legal Services of Greater Miami worked with Senator Marco Rubio's office to provide services to low-income disaster survivors following hurricanes in recent years.



A2

Building Relationships with Community-Based Organizations

Members of the National VOAD are heavily involved in disaster recovery efforts. They work with various non-affiliated local organizations and all levels of government. Coordination with VOAD is written into many emergency management plans, including the National Disaster Recovery Framework,<sup>26</sup> and VOAD has a seat at the table with federal and state disaster relief organizations.

To develop long-lasting relationships and facilitate disaster recovery, legal services providers must recognize the importance of community and volunteer organizations in the communities they serve. In addition, they must establish ties with these COADs and VOADs and demonstrate their value to contribute to the missions these organizations serve. Generally, legal services providers can approach this goal in three

So th[is] kind of relationship-building over time and over a wide area are very, very important—that raises the profile of legal aid. Not everybody knows who we are and what we do. So that's one way of relationship-building education, broadening our breadth, and to make it so our bandwidth can serve more people.

SAUNDRA BROWN, FORMER MANAGING ATTORNEY, LONE STAR LEGAL AID ways. First, legal services providers should prioritize building trust and name recognition with these organizations before a disaster occurs. Second, immediately after a disaster, legal services providers must demonstrate that they understand the impacted communities and connect attorneys and volunteers to address the specific needs of the survivors. Finally, after a disaster, legal services providers should assist VOAD/COADs in getting the resources they need to serve their communities and prepare for long-term recovery efforts.

Legal Services of Alabama's (LSA) relationship with Alabama Voluntary Organizations Active in Disasters (ALVOAD) demonstrates the importance of building the relationship long before a disaster occurs. LSA is an active member of ALVOAD, attends quarterly meetings and conference calls, and provides information to ALVOAD affiliated agencies through presentations and written materials. Further, this early communication fosters closer relationships that can provide benefits beyond disaster relief, such as increasing legal services provider visibility in the general legal community, fundraising, and building of a volunteer base.

During Task Force meetings, emergency managers stressed the importance of assigning roles prior to disasters. This means that each legal services provider and each VOAD/COAD must have a designated point of contact to coordinate with the other groups. When these lines of communication are clearly delineated prior to a disaster, it enables survivors to be directed to the help they need with greater ease. Once these links are established, they must be maintained as personnel on both sides will change. One example of these nurtured connections comes from the Partnership for Inclusive Disaster Strategies.<sup>27</sup> This organization connects local disability advocacy and service providers with legal services providers and protection and advocacy programs. By establishing these connections prior to disasters, organizations already have a strong framework of volunteers and service providers in place to facilitate faster recovery.

The faith-based community also plays a key role in disaster recovery. Legal services providers should also connect with faith-based groups. In Cedar Rapids, lowa Legal Aid partnered with a faith-based group— Matthew 25—after the 2016 floods. Matthew 25 staff distributed ILA flyers and information and regularly made referrals to the program. Additionally, ILA has a long-standing relationship with a religious sister from St. Mary's Church in Marshalltown, IA. In 2018, a tornado struck Marshalltown and the sister made referrals to ILA and the MARC.<sup>28</sup>





Building Relationships with the Private Bar, Law Schools, and Other Stakeholders in the Legal And Business Communities



Ellyn Josef, Pro Bono Counsel, Vinson & Elkins LLP and Doug Neagli, General Counsel, ExxonMobil Risk Management, Inc. speak to the importance of pro bono legal assistance post-disaster.

Prior to a disaster, legal services providers and bar associations need to proactively identify, recruit, and cultivate relationships with members of the private bar, law schools, and other stakeholders in the legal and business communities. It is also important to do this during "blue sky" times, because after a disaster many volunteers come forward to help, but it is challenging to harness their efforts while also responding to the disaster. Outreach and recruitment strategies and trainings also should target law students, paralegals, and other legal professionals who are eager to assist post-disaster. As with the previous two recommendations, these contacts should be regularly updated and renewed.

Lone Star Legal Aid's relationships with Houston-area law firms, particularly Vinson & Elkins and Latham & Watkins, helped the program after its headquarters was destroyed during Hurricane Harvey. LSLA was completely offline and had no technology services. Law firms in Houston came together to get LSLA back online and equipment donated. Vinson & Elkins LLP provided 25,000 fliers about food stamps and other legal issues that could be distributed at the Disaster Recovery Centers. Latham & Watkins donated space to house some of the displaced LSLA staff members.

Doug Neagli, General Counsel of ExxonMobil Risk Management Inc., described his longstanding relationship and partnership with Lone Star Legal Aid and the law firm of Hunton Andrews Kurth. The two organizations reached out to Neagli for assistance after Hurricane Harvey to represent individuals in FEMA hearings. Lone Star trained Neagli and some of his ExxonMobil colleagues who went on to represent several clients.

Another example of such cooperation is the Disaster Legal Assistance Collaborative (f/k/a Bay Area Resilience Collaborative)—a network of legal services providers and local bar associations that can be activated in the wake of a disaster to help survivors. It was created to plan for responding to a Bay Area earthquake but has since been activated to respond to several wildfires. The network coordinates and helps deploy legal resources for disaster survivors.





**Providing Legal** Assistance at Disaster **Recovery Centers** or Multi-Agency **Resource Centers** 

In the immediate aftermath of a disaster, state, local, or tribal emergency managers should be sufficiently familiar with legal services providers to invite their staff and volunteers to the Disaster Recovery Centers (DRCs), Multi-Agency Resource Centers (MARCs), or similar entities to provide initial legal assistance to disaster survivors. These centers provide survivors with a "one-stop shop" to address their issues.<sup>29</sup> They also help survivors identify which issues could be solved through legal means rather than through another agency or organization. DRCs and MARCs are typically initially open seven days a week. Staffing the DRCs and MARCs continuously might strain the resources of legal services providers; properly trained pro bono attorneys, law students, and paralegals can provide assistance.

Because Legal Aid of North Carolina (LANC) had been part of the Statewide Disaster Recovery Task Force before Hurricane Florence, it was invited to send staff to DRCs across the state. LANC sent staff to each center to meet with the DRC managers and coordinate their presence in each location. LANC paralegals had been acting as Affordable Care Act navigators for several

years prior to Hurricane Florence and were able to leverage the connections they built in the affected communities to send them to the DRCs quickly. At the centers, their staff provided legal information and directed potential clients to FEMA's statewide intake hotline.

Because Florence impacted far-flung and rural areas of the state. covering all DRCs every day proved challenging. Through a partnership with the North Carolina Bar Association and the NC Pro Bono Resource Center, LANC trained a corps of volunteer attorneys on common disaster-related legal issues and deployed them to cover the busiest DRCs several days a week. The volunteers in turn freed up LANC's staff to cover more centers. LANC trained the volunteer attorneys to direct potential clients to the intake hotline, so survivors who gualified received services beyond what the volunteers could provide at the DRCs.

LANC's participation on the Statewide Disaster Recovery Task Force allowed them to influence high-level decision-making and educate stakeholders about the civil legal needs of disaster survivors and the role that they played to meet those needs. Having a seat at the table institutionalized their role as a critical partner in the disaster recovery process, paving the way for their immediate deployment to the DRCs following the storm.

In addition to staffing the DRCs/MARCs, it is important that legal services providers reach out to communities where disaster survivors live and work. For example, after Hurricane Katrina, Southeast Louisiana Legal Services (SLLS) brought lawyers to shelters to consult with survivors. The department overseeing foster care children had initially set up a toll-free number, but when the phone and power infrastructure were down, it was insufficient. Getting lawyers into the shelters to identify and triage survivors' needs was the first step in creating a pipeline to address their issues. Additionally, Legal Services of New York City (LSNYC) was able to provide legal services from donated space at a used car dealership in Staten Island after Superstorm Sandy. In Puerto Rico, following Hurricane Maria, people were not seeking out legal assistance, but needed food and water. So, Puerto Rico Legal Services (PRLS) brought their staff to the government stop-and-go centers to meet people where they were.





**Providing Training** on How to Identify **Disaster-Related Civil Legal Issues** 

Legal services providers need to train emergency managers and VOAD/COAD caseworkers on how to identify civil legal issues likely to arise following a disaster. One Task Force member, Saundra Brown, who has significant experience providing legal assistance to disaster survivors, said when she trains non-lawyers on how to identify a legal issue, her mantra is: "If it feels unfair, it's a legal problem."30

After the flooding in Louisiana in 2016, Southeast Louisiana Legal Service (SLLS) partnered with Catholic Charities-the organization providing case management services for flooding survivors. SLLS trained the disaster caseworkers to spot legal issues and set up a referral system. SLLS and Catholic Charities set up a forum with a ioint email address and the caseworkers sent referrals, authorizations, and other types of information through the forum. As a result of the partnership, Catholic Charities referred about 25-30% of the total flood cases that SLLS took on during the first year of the post-disaster response.31

As a direct result of the Task Force's work. the Disaster Services Corporation, SVDP-USA (DSC)-the lead case management organization in Puerto Rico after Hurricanes Irma and Mariaasked Puerto Rico Legal Services to train their caseworkers on how to identify civil legal issues. The DSC caseworkers assist client families in developing long-term recovery plans for where each family will be 9-24 months after a disaster.

Legal services providers can be more proactive in seeking out training opportunities. The International Association of Emergency Management<sup>32</sup> and the National Emergency Management Association<sup>33</sup> hold annual conferences, and each has extensive participation of emergency management professionals. Additionally, legal service providers should seek out state-specific emergency management conferences to offer this training.



Hadassa Santini, Executive Director, Puerto Rico Legal Services, Inc. and Martha Minow, Board Vice Chair, Legal Services Corporation & 300th Anniversary University Professor, Harvard University discuss Hurricane Maria's impact on disaster survivors.



Establishing Communications with and Outreach to Disaster Survivors

Legal services providers should establish lines of communication with disaster survivors by working with emergency management and other organizations using technology and in-person outreach, including: hotlines, on-line resources, social and mainstream media, community forums and contacts, and the legal community at large. Communications cannot be passive. Legal services providers should have multi-lingual handouts and pamphlets prepared and ready for distribution for disaster-related civil legal issues that come up repeatedly (e.g., landlord/tenant issues, predatory lending, etc.). Legal services providers should also explore becoming part of their communities' 211 Resource Directories.<sup>34</sup> Plans should anticipate contingencies for compromised communications resulting from power outages and cellular phone service disruption, as well as alternative ways to communicate (e.g., face-to-face contact, DRC and MARC, outreach, flyers, posters and cards, call-in numbers for remote legal personnel, and eventual restoration of cellular and landline service, laptops and other means of communication).

Panel moderator, Martha Minow, Board Vice Chair, Legal Services Corporation & 300th Anniversary University Professor, Harvard University; Nalani Fujimori Kaina, Executive Director, Legal Aid Society of Hawaii (middle) and Shelby King Gaddy, Executive Director, Legal Services of the Virgin Islands, Inc. (far right) speak to the challenges of providing legal assistance to disaster survivors in remote and hard-to-reach areas.





During Superstorm Sandy, government agencies and nonprofits started Sandy-information accounts on Facebook and Twitter. For example, a Twitter account called, Sandy Aid (@sandyaid) was created.

Legal Aid of North Carolina began preparing for Hurricane Florence early based on their experience with Hurricane Matthew. The program had disaster manuals, materials for distribution, and new videos ready when the storm hit. They developed culturally sensitive information targeted to the reading levels of their client population.

Legal services providers may set up hotlines after a disaster, but if the program itself is affected by the disaster, it might not have the ability to establish one. The ABA's Young Lawyers' Division has an agreement with FEMA to establish hotlines after a federally-declared disaster. During the 2015 Butte and Valley Fires, Legal Services of Northern California (LSNC) reached out to the California State Bar and they helped coordinate with the ABA's Young Lawyers Division to staff an emergency hotline.

Part of knowing a community is having an in-depth knowledge of the racial and ethnic composition of your service area and how best to communicate a culturally competent message. Establishing access to interpreters may be a critical need for a particular community post-disaster. Puerto Rico Legal Services discussed the need for Spanish speakers for their hotlines. While it received help from another organization outside of Puerto Rico to set up a hotline because they did not have power, it was not staffed with Spanish speakers—limiting the number of survivors it could effectively serve.

The Partnership for Inclusive Disaster Strategies offers a 24/7 hotline to connect people with disabilities who are impacted by disaster with services and assistance related to their needs, including navigating disaster assistance, connecting with local disability rights and service providers, and making available immediate loaner and replacement medical equipment, supplies, and technology such as mobility and independent living devices.

Legal services providers may have to coordinate with providers outside of their service area to broadcast their services. For instance, after Hurricane María, many survivors lost their houses in Puerto Rico and were forced to move to the You have to think about what we put out as messaging. It has to be consistent. We have to be consistent with the city, and the county (Harris County, TX) has to be consistent with us. And we want to make sure that we're providing enough information, so the general public clearly understands that our goal is to manage this impact that has overcome them and direct them back to their new normal.

RICK FLANAGAN, EMERGENCY MANAGEMENT COORDINATOR, CITY OF HOUSTON

mainland where they were temporarily placed in motels and hotels by FEMA. While temporarily relocated, they continued to have different legal needs, including assistance with claims against FEMA. Upon leaving Puerto Rico, some left behind pending cases in Puerto Rican courts and administrative agencies, including cases about parental rights and alimony. PRLS coordinated with organizations outside of Puerto Rico to assist these survivors. Because many referrals came from other LSC-funded programs, they did not require eligibility re-screening. PRLS often coordinated by phone with other organizations. These referrals would go directly to their intake system administrator, who would open a case and refer it to the proper branch office.

Task Force members had a concern about being able to reach disaster survivors in remote and rural areas. It was a particularly acute problem during the California wildfires. The traditional model of sending pro bono lawyers into rural communities was impossible because many of those areas were inaccessible. Even if there were volunteer lawyers willing to show up, there was nowhere for them to go without predetermined alternate locations which needed to be simultaneously remote from the wildfires, yet accessible to rural populations.





Deploying Pro Bono Attorneys and Volunteers Post-Disaster Efficiently

Numerous entities, including state and local bar associations, the ABA Young Lawyers Division, ABA Free Legal Answers, the Association of Pro Bono Counsel, the Pro Bono Institute, and the Association of Corporate Counsel, facilitate pro bono and volunteer participation in their local jurisdictions and across the country. The members of these organizations have tremendous knowledge and expertise to contribute in times of crisis, and their work has had a significant impact. Even so, there is currently no coordinating mechanism among these various entities to ensure efficient deployment of volunteer legal expertise following a disaster. To the extent these organizations can streamline their efforts, they will be able to deploy attorneys and legal professionals even more quickly and effectively, including through the implementation of the Katrina rule as discussed in Section III of this report. To avoid duplication of effort and maximize the services provided to

disaster survivors, it is important for these entities to coordinate their activities with local legal services providers. One approach is to use local volunteers to triage and address local and state legal issues, and to work with remote legal volunteers to focus on federal and long-term issues.<sup>35</sup>

After the California wildfires in 2017 and 2018, the State Bar of California Office of Access and Inclusion (OAI) coordinated post-disaster pro bono services. OAI's role is to serve as a clearinghouse and connector. It has served in this capacity since 1989 and has developed many contacts with legal aid groups, local bar associations, FEMA, and other key stakeholders. Its role is to connect everyone who needs to be connected during and after a disaster. After a disaster, OAI performs a variety of tasks including: setting up phone trees, scheduling regular stakeholder check-ins, and putting electronic services in the cloud.

Lawyers from all over the country can also volunteer to staff the ABA Free Legal Answers<sup>36</sup> portal. Through that portal, attorneys can provide free answers to questions directly from disaster survivors or direct disaster survivors to experts who can help them with their cases. More than 500 attorneys volunteered their services to the Florida Free Legal Answers site, which matched disaster survivors with volunteer attorneys.

After Hurricane Harvey, New York, Chief Judge Janet DiFiore created the New York Emergency Legal Task Force to organize training and deployment of New York lawyers to help survivors. The Bar Association of the City of New York answered Chief Judge DiFiore's call and hosted multiple trainings run by lawyers from the New York Legal Assistance Group and FEMA. They trained attorneys to help victims navigate applying for, and appealing denials of, FEMA disaster aid.

Another example comes from American Samoa and Saipan, where the Young Lawyers Division created a remote FEMA appeals clinic where stateside attorneys were exclusively responsible for doing appeal work for those residing on the island.



#### LOS ANGELES, CA

Collapsed overpass on Highway 10 in the Northridge 6.7-magnitude earthquake—January 1994.



Dedicating Adequate and Properly Trained Resources to Manage Volunteers

### The goal, as it must always be, is to make sure that those who are volunteering actually can be effective and know what they're doing.

MARTHA MINOW, BOARD VICE CHAIR, LEGAL SERVICES CORPORATION & 300TH ANNIVERSARY UNIVERSITY PROFESSOR, HARVARD UNIVERSITY In the immediate aftermath of a disaster, there may be an overwhelming outpouring of volunteers wanting to assist. A challenge for emergency managers and legal services providers is how best to channel these volunteers. It is important for legal services providers to dedicate appropriate resources to coordinate and facilitate the work of pro bono attorneys and other volunteers. Properly supervising and training the larger network of pro bono volunteers is worth the time investment. It requires an open line of communication between volunteers and coordinators.

LSNYC's response during Superstorm Sandy serves as an example.37 With funds from LSC's SuperStorm Sandy grant, the program hired a full-time pro bono coordinator to recruit and train volunteers to handle Sandy-related cases. With assistance from large New York City law firms, LSNYC designed projects and provided training on issues related to housing repairs, flood insurance, and FEMA appeals. Pro bono attorneys represented clients directly, participated in clinics, and conducted outreach. With the work of a dedicated staff member. LSNYC was able to build an extensive pro bono program to help low-income disaster survivors. Since 2015, the program has greatly increased its pro bono capacity and has an extensive network of partners to call on if they experience another disaster.

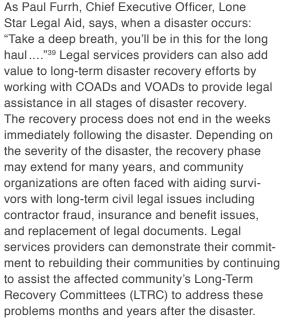
Another example is SLLS' response after Hurricane Katrina. SLLS hired its first ever full-time pro bono coordinator to help manage dozens of lawyers locally and from other states who wanted to help. Notably, the Winston-Salem, North Carolina firm Womble Carlyle (now Womble Bond Dickinson) agreed to take on title clearing matters to help homeowners properly record title to their homes. Between the summers of 2006-2008, Womble sent teams to SLLS every week to assist with preparing probate cases for survivors. Out-of-state attorney involvement tapered off in mid-2008 which turned out to align with the time frame needed for disaster-impacted Louisiana lawyers to have recovered so that they could more robustly engage in this pro bono work. SLLS has continued to refine this pro bono model to help it handle probate work.

Volunteers should be recruited for both short and long-term representation. Potential funding to hire a pro-bono coordinator may be available from LSC disaster funds, as well as private funders like the Robin Hood Foundation.<sup>38</sup>





#### Participating in Long-Term Disaster Recovery Efforts



Legal Aid of Western Missouri's participation in the Joplin Long-Term Recovery Committee (Joplin LTRC) is an example of such a long-term commitment. Formed in response to the 2011 tornadoes in Joplin, the Joplin LTRC matched survivors in need with resources based on the severity of the case. To address on-going legal issues, LAWMO



Renee White, Associate Professor, Missouri Southern State University & Former Chair, Joplin Long-Term Recovery Committee; Father Pius Pietrzyk, Board Member, Legal Services Corporation & Chairman, Department of Pastoral Studies, St. Patrick's Seminary; and Pamela Roychaudhury, Managing Attorney, Legal Aid of Western Missouri discuss the work of the Joplin Long-Term Recovery Committee.

trained other service providers that were LTRC members to identify civil legal issues through regular workshops. From those trainings the LTRC built a referral system. LAWMO also partnered with the local YMCA to conduct outreach, handed out flyers at laundromats and gas stations, and sought help from the Missouri Attorney General's office to spread the word. LAWMO gave toolkits to other service providers to refer clients to legal aid. Every month for two years post-disaster, LAWMO participated in regular "Disaster Coffees," where 150 organizations expressed their needs and coordinated recovery work. Because of Joplin LTRC's efforts, more than 1,600 families with unmet needs received help.





**RECOMMENDATIONS RELATED TO** 

**Training Pro Bono Lawyers, Volunteers, and Legal Services Providers** 



## SECTION

## **RECOMMENDATIONS RELATED TO**

# **Training Pro Bono Lawyers, Volunteers, and Legal Services Providers**

Disasters can create legal challenges for survivors that continue for months or even years. After a disaster, the instinct among lawyers and other legal professionals to volunteer is strong, but most lack expertise handling the specific legal challenges disaster survivors are likely to face. Attorneys and other legal professionals require training before they can provide effective disaster legal services.

The prior section discussed the importance of building relationships with attorneys and other volunteers. This section provides recommendations on how best to train those volunteers. Task Force members discussed several trainingrelated issues, including: (1) which legal issues warrant focused training; (2) what types of training are available and how should training be delivered; and (3) when should volunteers be trained. The answers to these questions are not necessarily easy or intuitive, but experiences from past disasters can inform the preparation and training of legal services providers prior to and in the wake of future disasters.

Based on the Task Force's comprehensive review of available disaster assistance trainings, as well as interviews and field hearings with many stakeholders, the Task Force has compiled the following recommendations for LSC and its grantees to improve existing disaster legal services and to address gaps in those services:



#### **Customizing Trainings to Location**

Trainings should cover the common federal and state legal issues disaster survivors are most likely to encounter in their area. The legal issues survivors face will evolve over time and will vary depending on the type, risk level, and form of disaster. Trainings should be updated regularly to account for changes in agency practice and policy, particularly those of federal administrative agencies, as well as state and local laws.

## **RECOMMENDATION B2**

#### Building on Best Practices for Disaster-Related Trainings

Hundreds if not thousands of handbooks, PowerPoint presentations, webinars, and videos have been developed to train volunteers on disasterrelated civil legal issues. As new trainings are developed, they should build on the best practices and lessons learned from this body of work.

## **RECOMMENDATION B3**

# Creating a One-Stop Resource for Training and Expertise

The legal services community should work together to create an online "one-stop" resource for disaster training materials and expertise. This site should target several audiences, including pro bono attorneys and other volunteers, legal aid attorneys, and disaster survivors. In addition to providing basic training information, the site should include template documents. This site will be a critical resource for providing training materials on disaster-related civil issues. The site should also include a nationwide "Brain Bank" of experts to address critical questions and fill any legal expertise gaps, such as insurance, tribal law, or small business issues.

## **RECOMMENDATION B4**

#### **Training Often**

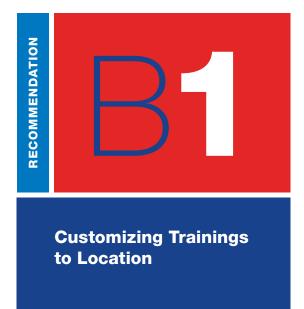
Legal volunteers should be trained or retrained close in time to when they will be helping disaster survivors. When practicable, trainings should occur before a disaster, if disasters follow a predictable or seasonal cycle, or as soon as possible after a disaster occurs. Legal volunteers should be mobilized efficiently, such that local volunteers can triage and address local and state legal issues, and remote legal volunteers can focus on federal legal issues and the many issues that will remain long after a disaster happens.<sup>40</sup>

## **RECOMMENDATION B5**

#### **Maintaining Relationships with Volunteers**

It is important to maintain and constantly reinvigorate relationships with volunteers throughout the recovery process. In the long tail of disaster recovery, maintaining a trained and enthusiastic army of legal volunteers is critical. Regular retraining and celebration of accomplishments will help make trained and capable pro bono resources available for years to come.





Disasters start local and end local. Unique legal issues are very dependent on your local community. They also differ based on whether or not you're one month post-disaster versus one year post-disaster.

PAMELA ROYCHAUDHURY, MANAGING ATTORNEY, LEGAL AID OF WESTERN MISSOURI Trainings should cover the common federal and state legal issues disaster survivors are most likely to encounter. The legal issues survivors face will evolve over time and will vary depending on the type, risk level, and form of disaster. Trainings should be updated regularly to account for changes in agency practice and policy, particularly that of federal administrative agencies, as well as state and local laws. Common legal issues arising after a natural disaster are outlined at right.

Legal services organizations preparing training materials on disaster-related legal issues should be cognizant of these potential legal needs and consult with local experts to ensure that training materials are substantively accurate and sufficiently comprehensive.

In addition, legal services providers are part of a comprehensive response to a disaster. Although they primarily provide legal services, they must be able to see the broader picture of a community's recovery from disaster and be attentive to more than just providing legal help, and assist the whole process of recovery. As a result, volunteers may need training on recognition of and referrals for non-legal issues (*e.g.*, CPR training and psychological counseling).



	FEDERAL LAW	STATE LAW
SHORT-TERM	<ul> <li>FEMA disaster assistance applications and FEMA appeals</li> <li>Small Business Administration loan applications</li> <li>Public and federally-assisted housing displacement</li> <li>Other public benefit programs:         <ul> <li>Indian Affairs Financial Assistance and Social Services</li> <li>Medicaid</li> <li>Children's Health Insurance Program</li> <li>Disaster Supplemental Nutrition Assistance Program</li> <li>Emergency Farm Loans and Crop Insurance</li> <li>National Flood Insurance Program</li> </ul> </li> <li>Disability rights:         <ul> <li>Section 504 of the Rehabilitation Act of 1973</li> <li>Americans with Disabilities Act of 1990</li> <li>Individuals with Disabilities Education Act of 1975</li> </ul> </li> <li>Non-discrimination laws:         <ul> <li>Housing and neighborhood displacement</li> </ul> </li> <li>Document replacement and preservation</li> <li>Foreclosure prevention (loan forbearances and modifications)</li> </ul>	<ul> <li>Neighborhood disputes</li> <li>Insurance claims and disputes</li> <li>Landlord/tenant disputes</li> <li>Housing and mobile home park habitability disputes</li> <li>Document replacement and preservation</li> <li>Title clearing</li> <li>Healthcare</li> <li>Disability law</li> <li>Family law</li> <li>Guardianship</li> <li>Custody</li> </ul>
LONG-TERM	<ul> <li>Renewing FEMA disaster assistance</li> <li>Appealing denials of FEMA disaster assistance</li> <li>Appealing denials of SBA loans</li> <li>Personal bankruptcy</li> <li>Tax issues (also a state issue)</li> <li>Recoupment processes         <ul> <li>FEMA</li> <li>Disaster Supplemental Nutrition Assistance Program (D-SNAP)</li> <li>Community Development Block Grant—Disaster Recovery (CDBG-DR)</li> <li>Small Business Administration</li> </ul> </li> <li>Equal access/non-discrimination/ Section 504 compliance (applies to every federal dollar spent, granted, or contracted)</li> </ul>	<ul> <li>Insurance claims and disputes</li> <li>Consumer protection and Contractor disputes</li> <li>Foreclosures</li> <li>Domestic violence</li> <li>Title clearing</li> <li>Employment issues</li> <li>Equal access/non-discrimination</li> </ul>



Building on Best Practices for Disaster-Related Trainings The disaster recovery process presents a wide array of civil legal issues. As a result, training for attorneys and other volunteers covers many different topics and takes many different forms. Disaster legal trainings are categorized as follows:

1. Trainings on Triage and Issue Spotting— In the wake of a disaster, attorneys and laypersons will need to triage the range of legal issues survivors may encounter. "Issue spotting manuals" and in-person trainings on issue spotting help attorneys and other legal services providers to direct survivors to specialists who can assist them with their respective legal issues. Issue-spotting manuals also help survivors to identify their legal issues independently and are readily accessible by legal professionals and survivors alike.

**2. In-Depth Trainings**—Attorneys and legal services providers who need to learn about a specific legal area can be trained using a variety of different media, ranging from hard copy resources to in-person trainings and virtual presentations.

Dorothy Fernandez, Pro Bono Counsel at the law firm of Morrison & Foerster LLP, talks about the firm's decades-long practice of creating *Helping Handbooks* to help disaster survivors.





Developing trainings for each of these two categories is important for effective, efficient, and well-rounded disaster recovery efforts. Task Force members have analyzed the form and substance of each category to assess what disaster legal issues attorneys need to be trained in and how they should be trained.

When creating and curating trainings and issue-spotting manuals, organizers should leverage large law firms and/or their state bar to assist in preparing the materials. For example, Morrison & Foerster has created Helping Handbooks for many of the major disasters over the last two decades. Depending on the disaster, a handbook will have chapters dedicated to different legal issues, including personal finance, taxes, consumer tips and fraud protection, tips on hiring contractors, health care, loss of life, etc. The Handbook is targeted to two audiences: (1) survivors and their families, and (2) the lawyers on the front-line providing aid. It is written in plain English and is not meant to be a training manual for lawyers, even though lawyers often use it as a guide. The firm's lawyers and staff, including librarians, draft the handbook, with at least one lawyer staffing each chapter. It is distributed in a variety of ways, including bar associations, the ABA Young Lawyers Division, public libraries, and on the firm's website at https://www.mofo.com/culture/community/helping-handbooks.html.41

Where feasible, state bar associations should have an employee devoted to managing, updating, and organizing trainings, a practice currently followed by the California Bar Association and potentially suitable for other large states. In addition, where possible and with appropriate permission, states could tailor other states' existing webinars and manuals to suit their needs. This practice has been used in North Carolina, which has adapted materials prepared by Lone Star Legal Aid following Hurricane Harvey.

#### A. Trainings on Triage and Issue Spotting

Issue-spotting manuals are frequently the initial contact point between a disaster survivor and the legal community. Oftentimes, disaster survivors are not aware that their problem is a legal problem, they just know they need help. Attorneys will review issue-spotting manuals to learn quickly about a legal issue so that they can identify when problems are legal issues and then provide straightforward

Before Katrina, we did not have any kind of a volunteer or pro bono coordinator. We got such an incredible response from the rest of the country that we found it necessary to create a position, particularly at that time, not just for volunteer attorneys, but for the droves of law students that were coming from all over the country.

LAURA TUGGLE, EXECUTIVE DIRECTOR, SOUTHEAST LOUISIANA LEGAL SERVICES

legal services, seek out additional training on particular issues, or redirect survivors to an appropriate expert. Similarly, disaster survivors may rely on self-help and use an issue-spotting manual to identify their major legal issues rather than or before reaching out to an attorney.

Issue-spotting manuals carry a heavy burden. They must address a wide variety of legal issues in a way that is meaningful and understandable for attorneys and survivors alike and yet not contain so much detail as to be overwhelming. Five features are common among the best issue-spotting manuals:

- Breadth of topics
- Non-technical language and easy navigation
- "Question and Answer" sections
- Step-by-step instructions
- Contact information for expert resources

Though many excellent issue-spotting manuals do not include all the above features, each improves the quality of such a manual.

#### 1. Breadth of Topics

It is critically important that an issue-spotting manual broadly cover the full suite of legal issues that a disaster survivor is most likely to encounter. Of the issue-spotting manuals surveyed, the *Texas Disaster Assistance Manual* was perhaps the broadest, covering topics ranging from "Falling

Trees, Flying Limbs & Loud Neighbors" to personal bankruptcy issues.<sup>42</sup> The many topics enable attorneys and survivors to pinpoint what legal needs exist. It is better for a manual to be over-inclusive rather than under-inclusive, as volunteer attorneys try to assess which of the many identified legal issues may be most relevant to a particular survivor.

The breadth of topics does not always mean many areas of law. While many issue-spotting manuals do cover several areas of law, others appropriately focus on a specific topic or population and address a wide range of relevant law within that sub-section of disaster recovery. For example, *Picking Up the Pieces: Restoring Rural Housing and Communities After a Disaster* addresses housing needs specific to rural populations.<sup>43</sup>

#### 2. Non-Technical Language and Easy Navigation

Issue-spotting manuals are often read by both legal professionals and survivors, so the language must be understandable to people who are not legal professionals. It is a best practice for an online manual, exemplified by the *Texas Disaster Assistance Manual*, to display the definitions of any legal terms when the user's mouse hovers over the word.<sup>44</sup>

Some issue-spotting manuals are geared primarily to survivors rather than legal professionals. For example, in *Navigating the Road to Housing Recovery*, NeighborWorks America and the Federal Deposit Insurance Corporation created a guide to assist families in securing and restoring housing as they recover from disasters.<sup>45</sup> This guide outlines steps that a survivor can take in a variety of personal circumstances. Though the guide is intended for survivors, a legal practitioner can also use the guide to assist a survivor in preparing and packaging documents needed to request assistance.

Easy navigation can also mean that some materials should be written in languages other than English. For example, the *Morrison & Foerster: Superstorm Sandy Helping Handbook* was also provided in Spanish and Chinese.<sup>46</sup> Legal services providers report that disaster survivors who do not speak English as a first language may be less comfortable seeking legal assistance. By making issue-spotting manuals available in multiple languages, legal services organizations may be able to expand their reach into underserved communities.

#### **3. Question and Answer Sections**

A notable majority of the issue-spotting manuals

reviewed devote a significant portion of their content to "Question and Answer" sections outlining common questions and crisp, clean answers. Rather than burying information in dense pages of content, the "Question and Answer" format allows readers to discover information in an efficient and effective manner. This structure is also easy to supplement over time with new questions practitioners face. For example, in the North Carolina Bar Association's Resource Materials for Responding to Legal Questions from Those Affected By Disasters, the manual presents the "Most Common Issues/Questions" for each topic, a summary of the relevant law, and responses to the questions along with actions that can be taken to address the issue.47

#### 4. Step-by-Step Instructions

Many issue-spotting manuals provide step-by-step instructions for a survivor or an attorney to prepare relevant documentation to assist the survivor. For example, the *North Carolina Disaster Response Manual* includes step-by-step instructions to apply for FEMA disaster assistance, outlining what an individual might expect to occur throughout the process of applying for FEMA assistance.<sup>48</sup>

A few issue-spotting manuals provide copies of or links to sample documents that can assist an attorney or a survivor in preparing appropriate legal documents. To the extent a survivor has a straightforward legal issue, sample documents can be prepared during a quick interaction with an attorney in a disaster recovery shelter or even by the survivor, without subsequent support from an attorney. *Navigating the Road to Housing Recovery* includes an example of a credit report and a sample dispute letter for disputing a credit report believed to be inaccurate.<sup>49</sup>

#### 5. Contact Information for Expert Resources

While issue-spotting manuals play an important role in the provision of disaster legal services, survivors often have much more nuanced legal needs than can be addressed in a handbook. It is also helpful to provide extensive external resources where readers can research more technical questions. Contact information goes beyond just an email address or phone number for a local legal services organization. For example, in the *Texas Disaster Assistance Manual*, each substantive topic includes a relevant phone number or website for further information, additional





question and answer resources, and an appendix with contact information for each substantive area and legal services organizations for each county.<sup>50</sup>

#### **B. In-Depth Trainings**

In-depth trainings on substantive topics are essential to prepare attorneys to deliver high-quality legal services in pertinent areas in the aftermath of a disaster. There are logistical and administrative strategies that can enhance the delivery of trainings. In this regard, exemplary trainings for both short- and long-term legal issues often share some or all of the following five attributes:

- Ease of access and use of multiple learning styles
- Pairing training with client assignments
- Consideration of wide-ranging issues and diverse potential clients
- Emphasis on "Lessons Learned" and "Question and Answer" supplemental materials
- Creating connections to experts and volunteers

As with issue-spotting manuals, not all of these attributes are necessary or even practical for a single training.

#### 1. Ease of Access and Use of Multiple Learning Styles

Disaster trainings are presented in several ways, including at in-person training sessions, virtually, and in written materials. Regardless of the way the training is delivered, it is vital that the training be readily accessible to pro bono attorneys and volunteers, including those with disabilities. Those designing legal trainings should proactively identify ways in which the training materials can be accessed as effortlessly as possible and through multiple media. For example, a written training might be made available both digitally and in hard copy. In-person trainings can be recorded so that attendees and others can watch or listen again later. Virtual trainings can be presented on websites that involve minimal cost or are already widely used by

Train frequently and substitute freely. That's the best advice I can give to people about their staff. Everybody needs to get a dose of disaster training. People get exhausted those first few weeks and months, and you need to rotate people through. The same thing can be said of volunteer and pro bono staff.

PAUL FURRH, EXECUTIVE DIRECTOR, LONE STAR LEGAL AID

> attorneys (*e.g.*, the Practising Law Institute (PLI)).<sup>51</sup> The California Bar Association enhanced ease of access by offering courses on a number of different disaster legal issues following the 2017 California wildfires as individual sessions within a full day of training.<sup>52</sup> In addition to the in-person full-day training, each session was accessible for free, online, with a PLI account and for CLE credit in many states. Participants could elect to attend all the sessions or relevant individual sessions.

> In addition to improving ease of access, using varied media helps to address different learning styles, such as auditory, visual, and tactile, and to improve ease of access for disabled persons, which can result in a more impactful, wide-reaching training.

#### 2. Pair Training with Client Assignments

During the Task Force's research, several participants shared that they enhanced the delivery of legal services by pairing a training session with client assignments or client interaction immediately following the training. Pro bono attorneys and other volunteers can leverage and deploy their newly-obtained skills when the information is fresh in their minds. Empirical evidence also supports this approach, as attorney utilization rates rise after attorneys are immediately paired with clients.

#### 3. Consideration of Wide-Ranging Issues and Diverse Potential Clients

While it is important that trainings cover topics that are broadly applicable, it is also important for trainings and materials to address niche issues and specific populations of survivors. The topics relevant to certain groups may differ significantly from those relevant to another group. For example, the laws related to mobile home-ownership and leasing are different from laws governing homeownership or landlord/tenant issues.<sup>53</sup> The property issues around Native American land are complicated and may require more in-depth training.<sup>54</sup>

#### 4. Emphasis on "Lessons Learned" and "Question and Answer" Supplemental Materials

Though each disaster is unique, prior disasters and the lessons learned from them—provide a wealth of information. A section in training or supplementary materials on "lessons learned" or "Frequently Asked Questions" can facilitate this transfer of knowledge from prior disasters. For example, as part of a training and panel discussion, Lone Star Legal Aid prepared a list of 25 Pro Tips for Working with FEMA and tied each tip to the exact time in the presentation where the topic was discussed in more detail.<sup>55</sup> Many of these tips were not directly tied to legal issues, but were succinct points to help attorneys to deliver services more effectively and efficiently.

## 5. Utilize Technology to Deliver Training

Technology platforms are a common way to provide training. The Pro Bono Training Institute in California has a web-based training site that is used to accommodate disaster trainings, which are free to the public. Team Rubicon, an organization for veterans, also has a tech platform that uses online trainings.



B3

**Creating a One-Stop Resource for Training and Expertise**  The legal services community should work together to create an online "one-stop" resource for disaster training materials and expertise. This site should target several audiences including: pro bono attorneys and other volunteers, legal aid attorneys, and disaster survivors. In addition to providing basic training information, the site should include precedent or template documents that address federal and state legal issues. This site will be a critical resource for providing training materials on disaster-related civil issues.

This resource should include a nationwide "Brain Bank" of experts who can address critical questions and fill any legal expertise gaps, such as topics related to insurance, tribal law, or small business issues. For example, in its response to SuperStorm Sandy, Legal Services of New York City found that private attorneys are often conflicted out of pro bono service on insurance and foreclosure claims, and therefore, the program needed to identify non-conflicted pro bono volunteers. Moving forward, legal services providers should identify these experts before a disaster.



Examples of resources that would be available on the One-Stop website.





Some natural disasters have "seasons." The Gulf and Atlantic Coasts have a hurricane season; the Southwest and Pacific Coast have a wildfire season; and the Plains and Southeast have a tornado and flood season. Though the duration, severity, and geographic reach of a natural disaster season may not be entirely predictable, the annual cycle from low to high probability of a disaster still

Monica Vigues-Pitan, Executive Director, Legal Services of Greater Miami, Inc. discusses the strategy around and timing for providing training on disaster-related civil legal issues to pro bono attorneys and volunteers.



creates a natural calendar for training legal volunteers. Legal service providers should work with their state and local emergency managers to identify the likeliest types of disasters and when they might occur. In areas in which disasters are seasonal, it is most efficient to train volunteer lawyers preemptively before the season starts so that they are ready to deploy in the immediate aftermath of a disaster. In addition to reaching new volunteers before a disaster occurs, "annualized" courses allow trainers to share updates on the law and to disseminate best practices learned from responses to disasters in prior seasons.

For example, in 2018, Legal Services of Greater Miami began an initiative to preemptively train volunteer lawyers before the start of hurricane season. After Hurricane Irma in 2017, they recognized that waiting to train volunteer lawyers until after the disaster was inefficient. The time it took to train lawyers in the wake of the hurricane took the experts from the Legal Services of Greater Miami away from their primary jobs and delayed the deployment of volunteer lawyers until after trainings were scheduled and completed.

Of course, disasters do not always occur on a predictable schedule. There inevitably will also be first-time volunteers who are moved to help only after a disaster and thus they cannot be preemptively trained. To prepare for these scenarios, legal services organizations should be ready with trainings they can present on short notice to local bar associations and private firms. If trainings are not available before a disaster, legal services organizations can utilize the best practices outlined in this report and the precedent materials coordinated by DLA to help create trainings.

Both lawyers who are local to the disaster area and those located across the country can be trained in the wake of a disaster. Lone Star Legal Aid, based in Houston, trained nearly 2,000 lawyers over three days at the shelters set up to house Hurricane Harvey survivors. Their trainings focused on equipping lawyers to triage the legal issues that survivors faced.

Once the immediate aftermath of a disaster has faded, legal services organizations should leverage local law firms as well as community organizations to provide venues for training. As discussed above, trainings also should be made available online so that individuals may train remotely at their convenience.



B5

## Maintaining Relationships with Volunteers

Volunteers are particularly needed and particularly absent in rural areas when a disaster strikes. And I think we need a rural focus on organizing volunteers. Sometimes you can get volunteers in an immediate response. It's very rarely long-term, and it's very difficult even immediately (after a disaster) in rural areas.

ILLENE JACOBS, DIRECTOR OF LITIGATION, ADVOCACY, AND TRAINING, CALIFORNIA RURAL LEGAL ASSISTANCE

Few disaster survivors, lawyers, or other volunteers recognize how long disaster recovery will take at the outset. The disaster recovery from Hurricane Katrina is, in some ways, ongoing and experts say that the recovery process following Hurricane Harvey could take more than a decade. Legal services providers and other organizations that coordinate volunteers following a disaster need to be prepared to maintain and reinvigorate relationships over many months and years following a disaster.

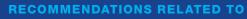
Moreover, legal services organizations and law firms can provide ongoing clinics for extended periods following a disaster as a mechanism to continue addressing legal needs as they arise and to stay connected with volunteers. In Houston, for example, pro bono attorneys and legal services providers jointly operate a Hurricane Harvey Survivors Clinic that continues to address long tail legal issues like contractor disputes.

In Louisiana, SLLS recently started a "Flood Proof" incubator program in partnership with the Louisiana State Bar Association. The program integrates pro bono assistance over an 18-month period from recently licensed attorneys under SLLS' guidance. These attorneys help disaster survivors with disaster-related title clearing issues three years after the flood. They also help low-income households in high-risk flood prone areas be more resilient in the future by handling title clearing issues in "blue-sky" times.

Both researchers and experts praise the use of email to keep in contact with attorneys and maintain relationships with volunteers. In *Natural Disasters, Access to Justice, and Legal Services*, one legal services organization found significant value in a very active email listserv and frequent roundtables on specific legal issues to keep volunteers engaged. Other organizations checked in on cases placed with law firms to ensure that the firm was supervising progress on cases.<sup>56</sup> Legal services providers would offer to take over pro bono cases that had lost momentum and then would try to re-staff them with someone with more capacity.

Finally, legal services providers strive to reinvigorate attorneys and keep volunteers excited about the tremendous work they do following a disaster. This should frequently include expressions of gratitude. The Joplin Long Term Recovery Committee regularly celebrated the work of its volunteers. The committee sent daily emails to volunteers that listed services needed. When volunteers were deployed, they were celebrated with cheering crowds, songs, and t-shirts. The Joplin LTRC recognized that celebrating volunteers made them more likely to continue volunteering.





**Continuity of Operations Planning for Legal Services Providers and Courts and the Adoption of Model Court Reforms** 

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## SECTION

#### **RECOMMENDATIONS RELATED TO**

# **Continuity of Operations Planning for Legal Services Providers and Courts and the Adoption of Model Court Reforms**

Interrupted access to effective legal and judicial services in the aftermath of a disaster exacerbates an already chaotic situation. In addition to their existing caseload, attorneys and judges are confronted with an onslaught of disaster survivors facing urgent and often unanticipated legal questions.

Yet legal services providers and court systems may also be disrupted or devastated by a disaster. In addition to resolving their own problems, legal services providers and courts face the challenge of efficiently restoring operations to meet pressing legal needs. Doing so while navigating an often inflexible framework of legal infrastructure and rules adds yet another layer of complexity and stress to the circumstances.

While the timing of disasters and the extent of the damage is unpredictable, legal services providers and court systems can arm themselves with preparedness resources to preempt issues and mitigate disruption. A Continuity of Operations Plan (COOP) aims to facilitate post-disaster recovery by identifying preventative measures and providing a roadmap to follow before, during, and after an emergency. This section provides specific details about the elements of a COOP. The Task Force heard from Gregory Cowan, Senior Management Analyst from the Florida Justice Administrative Commission, who outlined the key principles of a good COOP:<sup>57</sup>

- Address the leadership issue—know who is in charge;
- Dedicate staff to specific tasks/issues;
- Build and strengthen collaborative relationships;
- Develop redundant communications (have multiple ways of communicating after a disaster);
- Develop a self-sufficient workforce;
- Actually write the plans: occupant emergency, COOP, and disaster recovery; and
- Test, exercise, and maintain the plan.

Based on our review of available COOP planning resources, as well as interviews with legal services providers and court administrators, the Task Force has prepared the following recommendations to LSC grantees, legal services providers, and courts to ensure continuity of operations.



#### Legal Services Providers Must Maintain Comprehensive, Up-to-Date Continuity of Operations Plans (COOP)

Legal services providers are a critical resource for both existing clients and disadvantaged disaster survivors confronting a broad range of legal needs and challenges. Legal services providers should have a comprehensive COOP in place that is designed to (1) ensure the safety of the organization's employees, and (2) safeguard critical information, including client files.

#### **RECOMMENDATION C2**

#### Courts Must Maintain Comprehensive, Up-to-Date Continuity of Operations Plans

Courts are not immune to the effects of disasters. Disruption of court operations following a disaster interferes with ongoing legal proceedings and leaves individuals without recourse in the face of emerging legal needs. A comprehensive COOP should serve to protect court staff and resume operations to preserve access to the justice system, safeguard litigant rights, and enable the court to support the influx of post-disaster demands.

#### **RECOMMENDATION C3**

#### States Should Adopt Model Court Reforms

States should adopt model court reforms to facilitate post-disaster recovery. Each state should engage the relevant stakeholders and assess whether certain model reforms are appropriate for their respective court infrastructures. Many courts have implemented measures that have improved their ability to respond to post-disaster legal needs and resume operations more efficiently. We recommend consideration of the following reforms:

- Adoption of the "Katrina Rule": Following Hurricane Katrina, the American Bar Association issued a model court rule that permits out-ofstate lawyers to provide temporary pro bono services in a state affected by a major disaster.
- Extensions of Time: Extensions of deadlines and tolling provisions for statutes of limitations should be considered to safeguard litigant rights.
- Court System Coordination: Unification of court systems facilitates the flow of information and orders to lower courts in a timely and streamlined manner.
- Geographic Flexibility: If the court should be displaced outside of the geographic jurisdiction, temporary allowances permitting matters to be heard elsewhere allows for uninterrupted access to the courts.
- Specialized Procedures: Courts should adopt specialized procedures on a case-by-case basis regarding certain areas of law that are uniquely affected by disasters, including landlord/tenant, criminal, family, title disputes, estate, and bankruptcy issues.





Legal Services **Providers Must Maintain** Comprehensive, **Up-to-Date Continuity** of Operations Plans

In preparing this Report, the Task Force engaged in field hearings with various stakeholders in the emergency legal services field from disaster-affected states and territories, ranging from the U.S. Mariana Islands to Alaska. The Task Force reviewed more than fifty COOPs from various LSC grantees and analyzed them to elucidate best practices. The Task Force also reviewed COOP plans from global private-sector organizations, in order to gain perspective on how large organizations mitigate disaster risk. Finally, the Task Force reviewed publicly available reports on LSC grantees' experiences recovering from Hurricanes Maria, Katrina, Florence, the California wildfires, and other natural disasters, with a focus on the role of civil legal aid in helping communities get back on their feet, and long-term issues facing disaster-affected communities.

Legal services providers are a critical resource for both existing clients and disadvantaged disaster survivors confronting a broad range of legal needs and challenges. Legal services providers, including LSC grantees, should have a comprehensive COOP in place that is designed to (1) ensure the safety of the organization's employees, and (2) safeguard critical information, including client files. Another important consideration when developing

a COOP is to assess how the legal services provider will be able to dedicate staff to the emergency needs of disaster survivors and continue to maintain their level of service to other clients. One possibility may be to seek a mutual aid agreement among existing legal services providers to provide back up support when existing legal staff has been assigned to disaster recovery duties.

Disasters are inevitable and legal services providers need to understand that they need to prepare for a disaster. During the field hearings, several Executive Directors and staff from LSC grantees shared their disaster experiences and stressed that before delivering services to clients, legal services providers need to know what is happening with their own staff.

Laura Tuggle, Executive Director of Southeast Louisiana Legal Services, told the Task Force that Hurricane Katrina displaced 100% of the program's staff for six weeks or more, and one-third of the staff never returned. She said that "You must keep in mind that your people, your staff will be affected just as much as the people you're serving."58

SLLS updates their COOP annually in April before storm season. Their plan is very detailed down to the very basics, *e.g.*, pull the blinds down before leaving. Every year each staff member fills out a form informing the organization where he or she will be when a hurricane hits. Another change spurred by Katrina was moving servers off-site, occasional testing of those servers, and migrating from paper checks to online banking. SLLS's case management system is uploaded into the cloud, so attorneys and volunteers can access the case management database remotely. SLLS has agreements with sister organizations in the civil legal aid field, so that if SLLS's staff is displaced, they can work from sister organizations' offices. SLLS can text clients and send out a blast when a disaster is coming. SLLS also participates in the Louisiana State Bar Association's Disaster Committee and works within that framework to help annually update the statewide plan and a pro bono volunteer plan. Courts are included in statewide planning.

During the 2017 California wildfires, staff from California Rural Legal Assistance were required to wear masks for two weeks because the air was too toxic to breathe. Staff members had family members who died in the disaster. To help staff be available, legal aid organizations needed to provide





a way for staff to communicate, which involved donating or loaning laptops or cell phones and even providing hotel vouchers.

Bay Area Legal Aid made it their priority to notify their Napa office when the cell towers burned down in the 2017 fires. The program learned quickly that they needed to improve their ability to work remotely, such as having a cloud-based system for documents. The smoke was so bad that they eventually had to close some offices temporarily but were able to have staff remotely handle an emergency hotline number and continue to provide services to the community.

After Hurricane Maria, all of Puerto Rico was without power and unable to communicate. PRLS staff worked out of their parking lot because their building was flooded. They also only communicated in person with employees that came to the office. They were eventually able to set up an emergency phone line and then worked with the only functioning radio station to broadcast the emergency phone number for employees and clients. As conditions improved, they were able to communicate with the bar association and other legal service providers. They had no COOP or emergency plan at the time, but have since implemented one.

The following outline provides the elements of a comprehensive COOP<sup>59</sup> that addresses key issues: a clear hierarchy of decision-making authority, procurement of alternate work locations, storage redundancy to maintain access to important documents, and measures to preserve lines of communication. (*See* Appendix C.) Each COOP plan should be tailored to the risks, hazards, and vulnerabilities specific to the geographic area and facility. It should be updated regularly to account for lessons learned, technological developments, and changes in law or policy.



#### **A. Primary Goals**

Before drafting, a legal services provider should brainstorm the primary goals it envisions for its COOP. An effective plan lays out its strategy and planning assumptions upfront. A list of goals might include the following:

- 1. Preserve individual safety, especially employee health and safety.
- 2. Minimize disruptions to operations, including mitigating damages to facilities and resources.
- 3. Safeguard client rights and confidential information.
- 4. Prepare for and address needs of disaster survivors.

#### **B. Organization**

- □ 1. Cover the four phases of a disaster:
  - Readiness and preparedness: understanding how a disaster may impact the organization and how education, outreach, and training may build capacity to effectively respond to and recover from a disaster.
  - Activation and relocation: specifically authorizing individuals to activate the emergency plan at the proper time and assess emergency needs, including relocation, if necessary.
  - Continuity of operations: triaging issues to address most pressing needs first and returning the organization to as near-normal function as possible under the circumstances.
  - Reconstitution: assessing long-term organizational needs and returning organization to full strength, including revision of disaster response plan, if necessary.
- 2. Incorporate user-friendly formats in the COOP for ease of navigation and comprehension: (a) Table of Contents; (b) Questions & Answers; (c) Step-by-step lists; (d) Charts; (e) Reference Guides for easy transport; and (f) Checklists.
- □ 3. Specify planning assumptions upfront.
- 4. Utilize pre-existing planning resources, such as emergency planning software platforms.

#### **C. Key Elements**

- 1. Disaster Specific Responses
  - Identify disaster risks relevant to the geographic area (*e.g.*, terrorism, tornado, earthquake, hurricane, wildfire).
  - Identify vulnerabilities specific to the facility (*e.g.*, located in a flood zone).
  - Consider that disasters may extend beyond weather-related events (*e.g.*, terrorism, active shooters, pandemics).
  - Include responses to routine disruptions (*e.g.*, one-hour power outage).

## **2.** Authority

- Establish who has the authority to implement disaster procedures and in what capacity.
   This could take the form of a Disaster
   Response Team with representatives from different departments and identified alternates if designees are unavailable.
- Designate responsibilities to specified roles rather than individuals due to employee turnover.
- Avoid vague instructions when assigning tasks.
- Create orders of succession with a clear hierarchy.

#### □ 3. Critical Operations

- Identify and prioritize essential functions and resources.
- Consider applying timelines (*e.g.*, functions that should be restored within 24 hours, 48 hours, one week, etc.).
- Maintain lists of key suppliers, vendors, insurance contacts, etc.

#### □ 4. Communications

- Create communication trees including contact information for all disaster stakeholders and staff.
- Account for the possibility of electricity and internet failure.
- Exhaust communication resources: websites, hotlines, radio, social media, voicemail, email, local media, etc.
- Account for channels of communication between offices, and with staff, clients, vendors, agencies, and courts.



- Identify and secure alternate work locations. Prioritize other facilities under the direct control of the organization or court to minimize logistical and contractual issues.
- Consider opportunities for teleworking and remote access, including the possibility that lawyers may be displaced and need to work out of geographic areas in which they are not admitted to practice.
- Consider opportunities to share alternate work locations to cut down on cost.
- Maintain an insurance policy and provide for post disaster assessment and filing of appropriate claims.
- □ Maintain an inventory of essential equipment.

## 6. Human Resources

- Take stock of available personnel needs and address workplace injuries immediately following a disaster.
- Consider the range of resources the staff may need (*e.g.*, basic technology, hotel vouchers, food, water, child care, physical and behavioral assistance).
- Include means for aiding personnel with disabilities and personnel with family members with disabilities (if children or parents with disabilities do not have their usual level of support, personnel may not be able to return to work).
- Prepare Disaster Response Kits for staff, packed with essentials.

Plan for continuation of payroll.

□ Provide for additional emergency personnel

(1) Note whether the state permits lawyers admitted in other states to provide pro bono legal aid.

(2) Consider that pro bono lawyers may be conflicted out of certain work.

(3) Provide pro bono lawyers with resources and materials to provide effective aid (*e.g.*, webinars, CLE credit, etc.). *See* Section B of this report for additional information.

#### 7. IT/Records Management

Storage redundancy: routinely back up important documents to remote servers and safeguard hard copies.

- Track equipment needed to provide essential services and acquire such equipment for designated alternate work locations.
- Secure client files in accordance with fiduciary responsibilities.
- Maintain client confidentiality in securing client documents.
- 8. Agency Coordination
  - Include a directory of federal, state and local agencies.
  - Establish relationships and make agencies aware of emergency procedures in advance.
  - Cooperate with local government, community organizations, and businesses. See Section A of this report on relationship-building with key stakeholder organizations.

#### **D. Implementation**

- 1. Training
  - See Section II of this Report for additional resources.
  - Create manuals and employ other training methods to educate staff on COOP procedures.
- 2. Testing and Exercising
  - Conduct regular simulations to test efficacy of COOP.
  - Include procedures for documenting and reporting tests and their results.
- 3. Updates
  - Create a flexible document. Routinely incorporate lessons from the organization's own experiences and those of other states about methods that were or were not effective.
  - Be prepared to adapt to new technology that could further facilitate continuity of operations.
  - Establish a time and team responsible for regular review of the COOP, ideally annually. This team should include representatives from across all functional areas of operations and departments.
  - Monitor the development of any state law or policy proposals that could impact the COOP.





Courts Must Maintain Comprehensive, Up-to-Date Continuity of Operations Plans

We need to recognize that as much as it's a trauma for our clients and the community in delivering services, we absorb some of that trauma ourselves. And beyond that, our staff have experienced the trauma directly in terms of loss of their own houses and being survivors themselves of the disaster. And still months after the typhoon, it's still a part of the daily conversation about what people have done, and how people have recovered, and what's going on with you.

LEE PLISCOU, EXECUTIVE DIRECTOR, MICRONESIAN LEGAL SERVICES CORPORATION Courts are not immune to the effects of disasters. Disruption to court operations following a disaster interferes with ongoing legal proceedings and leaves individuals without recourse in the face of emerging legal needs. Those jurisdictions that have experienced several disasters appear to have made progress in COOP planning.

Task Force member Jorge Labarga, Justice of the Supreme Court of Florida, stated that immediately after a natural disaster it is important to communicate a clear and concise message that law and order will be maintained. He also highlighted the importance of COOP planning for the court system. He stated that the first challenge is overcoming complacency: "it hasn't happened here, so it won't happen here." Once a court system begins COOP planning, the planning process must create a culture that makes clear the real risk of going through a disaster. Justice Labarga also commented that a COOP planning process must be inclusive, bringing all stakeholders together, not just internal members of the judiciary. He emphasized that one cannot assume that all parties are thinking the same; a better product will result if everyone is involved.

Texas created an Advisory Committee on Judicial Emergency Preparedness and Court Security to review the state's existing emergency planning and recommend updates and changes. Texas is in the process of reforming the state's statutory grant of authority to modify procedures when there is a disaster. Contemplated reforms include decentralizing authority, extending time frames to avoid excessive emergency authority renewal requests, and reducing the burden on the Supreme Court. The state does not have a unified court system; however, some counties have entered into Memoranda of Understanding stating that sister counties could borrow their space in the event of a disaster.<sup>60</sup>

Although the court system of the U.S. Virgin Islands had a COOP, they did not anticipate being hit by two Category 5 storms within 14 days of each other, resulting in extensive damage across all three islands. Neither did the plan anticipate back up power generation becoming the primary source of power for several months. The territory had to adjust and modify its plans almost on a daily basis, based on the availability of power, communications, fuel, and other supplies. COOP plans should not only be flexible in terms of routine amendments, but also aim to provide



adaptability to account for unforeseen challenges that arise during a disaster.

In the aftermath of the flooding from Hurricane Florence in 2017, a North Carolina court found that not only was its primary location destroyed, but its backup location was as well.<sup>61</sup> In brainstorming solutions, the Safety & COOP Manager is considering conducting certain court hearings, such as first appearances or bond hearings, remotely over video as an option of last resort. While this solution requires power and internet connectivity, it would be useful not only in cases of physical destruction of facilities, but also during other disasters where exposure to others would be unsafe, as in a pandemic.

A comprehensive COOP should serve to protect court staff and resume operations to preserve access to the justice system, safeguard litigant rights, and enable the court to support the influx of post-disaster demands. The COOP should incorporate certain fundamental elements and account for challenges unique to the court system. (See Appendix F.) It will cover relevant constitutional or statutory authority, jurisdictional questions in light of displacement, whether and to what extent to suspend procedures and timelines, and methods to preserve case evidence and filings. The COOP should be updated routinely to reflect the most current law, technological resources, and prior experiences. The following outline provides the elements of a comprehensive COOP for the courts.

#### **A. Primary Goals**

Before drafting, a court should brainstorm primary goals it envisions for its COOP. An effective COOP lays out its strategy and planning assumptions upfront. A list of goals might include the following:

- I. Preserve individual safety, especially employee health and safety.
- 2. Minimize disruptions to operations, including mitigating damages to facilities and resources to maintain access to the justice system.
- □ 3. Safeguard litigant rights and case materials.
- 4. Prepare for and address arising needs of disaster survivors.

#### **B.** Organization

A comprehensive COOP covers the four phases of a disaster: 1) readiness and preparedness; 2) activation and relocation; 3) continuity of operations; 4) reconstitution. (*See* Appendix A) The COOP should resemble a roadmap for each stage of the life cycle of a disaster. Within that overarching structure, a court should thoughtfully organize its COOP to maximize its utility. A strong COOP incorporates user-friendly formats for ease of navigation, transport and comprehension such as: 1) Table of Contents;
2) Questions & Answers; 3) Step-by-Step lists; 4) Charts; 5) Reference Guides; and 6) Checklists.

Other pre-existing templates, planning resources, and emergency planning software platforms are available to aid the drafting process. Three valuable resources include:

1. Conference of Chief Justices and Conference of State Court Administrators

The Conference of Chief Justices and Conference of State Court Administrators created a Security and Emergency Preparedness Committee to develop strategies for courts. The Committee is currently pursuing a grant from the State Justice Institute to study the experiences of state judiciaries that have recently been afflicted by natural disasters. The Committee is dedicated to ensuring that state judiciaries are integrated into a statewide executive COOP plan. Another goal is to modernize and upgrade the National Disaster Center's COOP planning tools.

 2. Continuity of Court Operations: Steps for COOP Planning

With the support of a grant awarded by the U.S. Department of Justice, Bureau of Justice Assistance, the National Center for State Courts collaborated with a national coalition to develop a step-by-step COOP planning guide. The guide walks through the stages of developing a COOP in detail and provides worksheets and a sample template. (*See* Appendix E.)

 3. Template for Assessing Status of COOP Planning: Louisiana District Courts
 In 2010, the Louisiana Supreme Court requested the Bureau of Justice Assistance Criminal Courts Technical Assistance Project at American University to provide guidance for assessing the status of COOP planning in Louisiana's District Courts. The resulting report produced an assessment template dividing COOP planning into fifteen functional areas. Each area was then broken down into a structured worksheet so local courts could test their current COOP for comprehensiveness. (See Appendix F.)



#### **C. Key Elements**

A court COOP should address as many of the following issue areas as possible to the extent relevant. A model checklist is available in Appendix F.

#### 1. Disaster Specific Responses

- Identify disaster risks relevant to the geographic area (*e.g.*, tornado, earthquake, hurricane, wildfire).
- Consider that disasters may extend beyond weather-related events (*e.g.*, terrorism, active shooters, pandemics).
- Identify vulnerabilities specific to the facility (e.g., located in a flood zone).
- Include responses to routine disruptions (*e.g.*, one-hour power outage).

#### 2. Authority

- Identify any constitutional or statutory authority relevant to court authority during times of emergency.
- Consider whether the court system is unified and, if not, ensure coordination between or among systems.
- Establish who has the authority to implement disaster procedures and in what capacity.
   This could take the form of a Disaster
   Response Team with representatives from many departments, with identified alternates, if designees are unavailable.
- Designate responsibilities to specified roles rather than individuals due to employee turnover.
- Avoid vague instructions when assigning tasks.
- Create orders of succession with a clear hierarchy.

#### 3. Critical Operations

- Identify and prioritize essential functions and resources.
- Consider applying timelines (*e.g.*, functions that should be restored within 24 hours, 48 hours, one week, etc.).
- Maintain lists of key suppliers, vendors, insurance contacts, etc.
- Consider the point at which a court may need

to suspend procedures and how that timeline affects filing rights.

Consider which cases need to be prioritized. Are current trials in progress? Are there state laws and policies in place suspending or extending statutes governing speedy trial provisions?

#### 4. Communications

- Share the status of court operations with other courts, agencies, legal service organizations, state bar organizations, litigants, and the public.
- Create communication trees including contact information for all disaster stakeholders and staff.
- Account for the possibility of electricity and Internet failure.
- Exhaust communication resources including websites, hotlines, radio, social media, voicemail, email, local media, etc.

#### 5. Facilities

- Identify and secure alternate work locations. Prioritize other facilities under the direct control of the court, to minimize logistical and contractual issues.
- Address potential jurisdiction concerns should the court need to be relocated to an alternate facility.
- Consider opportunities for teleworking and remote access.
- Consider opportunities to share alternate work locations to cut down on cost.
- Maintain an insurance policy and provide for post-disaster assessment and filing of appropriate claims.
- □ Maintain an inventory of essential equipment.

#### □ 6. Human Resources

- Take stock of available personnel needs and how to address workplace injuries immediately following a disaster.
- Consider the range of resources the staff may need (*e.g.*, basic technology, hotel vouchers, food, water, child care, physical and behavioral assistance).



- Include means for aiding personnel with disabilities and personnel with family members with disabilities (if children or parents with disabilities do not have their usual level of support, personnel may not be able to return to work).
- □ Prepare Disaster Response Kits for staff.
- □ Plan for continuation of payroll.
- □ Provide for additional emergency personnel.

#### 7. IT/Records Management

- Account for preservation of evidence and case filings.
- Implement storage redundancy by routinely backing up important documents to remote servers and safeguarding hard copies.
- Track equipment needed to provide essential services (and acquire for alternate work locations).

#### 8. Agency Coordination

- Include a directory of federal, state, and local agencies.
- Establish relationships and make agencies aware of emergency procedures in advance.

#### **D.** Implementation

- Training: Create manuals and employ other training methods to educate staff on COOP procedures.
- 2. Testing
  - Conduct regular simulations to test the efficacy of the COOP.
  - Include procedures for documenting and reporting tests and their results.
- 3. Updates
  - Create a flexible document. Routinely incorporate lessons from the court's own experiences and those of other states about methods that were or were not effective.
  - Be prepared to adapt to new technology that could further facilitate continuity of operations.
  - Establish a time and team responsible for regular review the plan, ideally annually. This team should include representatives from across all functional areas of operations and departments.
  - Monitor the development of any state law or policy proposals that could impact the plan.



Joseph Baxter, State Court Administrator, Rhode Island Supreme Court & President-Elect; Nikole Nelson, Executive Director, Alaska Legal Services Corporation; Justice Jorge Labarga, Florida Supreme Court; Judge Jonathan J. Lippman, Of Counsel, Latham & Watkins LLP & Former Chief Judge of New York; and Chief Justice Paul Reiber, Vermont Supreme Court & President, Conference of Chief Justices, speak to the importance of COOP planning.



BECOMPTION

## States Should Adopt Model Court Reforms

Each state should engage the relevant stakeholders in conversation and assess whether certain model reforms are appropriate for their respective court infrastructures. Many courts have implemented measures that have improved their ability to respond to post-disaster legal needs and resume operations more efficiently. The following are model reforms the Task Force encourage states to consider adopting to enhance their disaster preparedness approaches.

Laura Tuggle, Executive Director, Southeast Louisiana Legal Services shares her reflections on her program's response to and recovery from Hurricane Katrina.



#### A. Adoption of the "Katrina Rule"

Following Hurricane Katrina, the American Bar Association published the Model Court Rule on Provision of Legal Services Following Determination of Major Disaster, also known as the "Katrina Rule." (*See* Appendix G.) The rule permits out-of-state lawyers under the supervision of civil legal aid or pro bono programs to provide temporary pro bono services to residents of another state during a declared emergency. As of October 1, 2018, eighteen (18) states and 1 U.S. territory had adopted the rule or an equivalent.<sup>62</sup> *See* Table 1 below. The reform has proven effective in quickly allowing out-of-state volunteer lawyers to assist on the front lines of disaster relief operations.<sup>63</sup>

Some states rely on ad-hoc versions of the rule in the form of judicial emergency orders. Other states have institutionalized programs requiring out-of-state lawyers to register with an in state legal services organization while providing pro bono services. Some states have not considered adopting the Katrina Rule at all, in some cases due to lack of awareness, or in other cases, due to lack of necessity. A select few states have rejected it outright.<sup>64</sup> In most states, the procedure to adopt the rule would require a proposal to be brought to the highest court in the state (usually by the local bar association), followed by an order adopting the rule by that Court. States looking for even more legal support could consider extending the Katrina Rule to temporarily lift limitations on in-house counsel.

#### **B. Extensions of Time**

Strict deadlines set before a disaster could become problematic for litigants' rights if there are delays created by a disaster. Accommodating timing allowances can help states ensure that contemplated rights are adequately protected and preserved. For example, states may consider tolling provisions for statutes of limitations, suspending court processes, or changes to how and when to implement filing extensions.

## **C. Court System Coordination**

Unified court systems can facilitate a streamlined flow of information and orders to lower courts. Preparing administrative order templates in



advance can help reduce any burden in disseminating instructions to the lower courts. Ultimately, states should aim to organize their court systems to strike a delicate balance between concentrating authority in the highest court and devolving power among regional courts. Depending on the state's size and the complexity of its needs, this balance will necessarily be unique to each state.

In non-unified court systems, courts should pay special attention to communication pathways and coordination between the various court branches in the event of an emergency. One model to achieve this balance in a non-unified court system is to follow the lead of the Louisiana state courts. See Appendix F. After Hurricane Katrina, the Louisiana court system asked each court to formulate a COOP. To ensure the plans remain updated, the Louisiana Supreme Court monitors actions taken by lower courts to implement the COOP in its annual Performance Report. It requests each lower court to report actions taken across twelve different metrics, including, for example, whether in the past year they have tested their plan on a regular basis, identified or secured an alternate facility, etc. Thereafter the report is published publicly, providing a means of lower court accountability without the administrative oversight of a unified system.

#### **D. Geographic Flexibility**

Courts only have authority over defined geographic jurisdictions. However, depending on the nature and extent of the disaster, holding court within the assigned jurisdiction may be unsafe, impractical, or impossible. Physical displacement of courts may require temporary allowances for matters to be heard outside the geographic boundaries of the court's jurisdiction. States should consider that state legislative cooperation may be necessary to facilitate this effort.

#### **E. Specialized Procedures**

Niche areas of the law pose unique challenges that may require specialized procedures on a case-bycase basis. In particular, disasters can lead to new tensions in areas of landlord/tenant, family, title dispute, estate, and bankruptcy law.

## **TABLE 1: "KATRINA RULE" ADOPTION**

#### **ADOPTED THE RULE**

AZ	СО	DE	GA	IA
IL	LA	MN	МО	ND
NH	NJ	NY	SC	TN
USVI	VA	WA	WI	

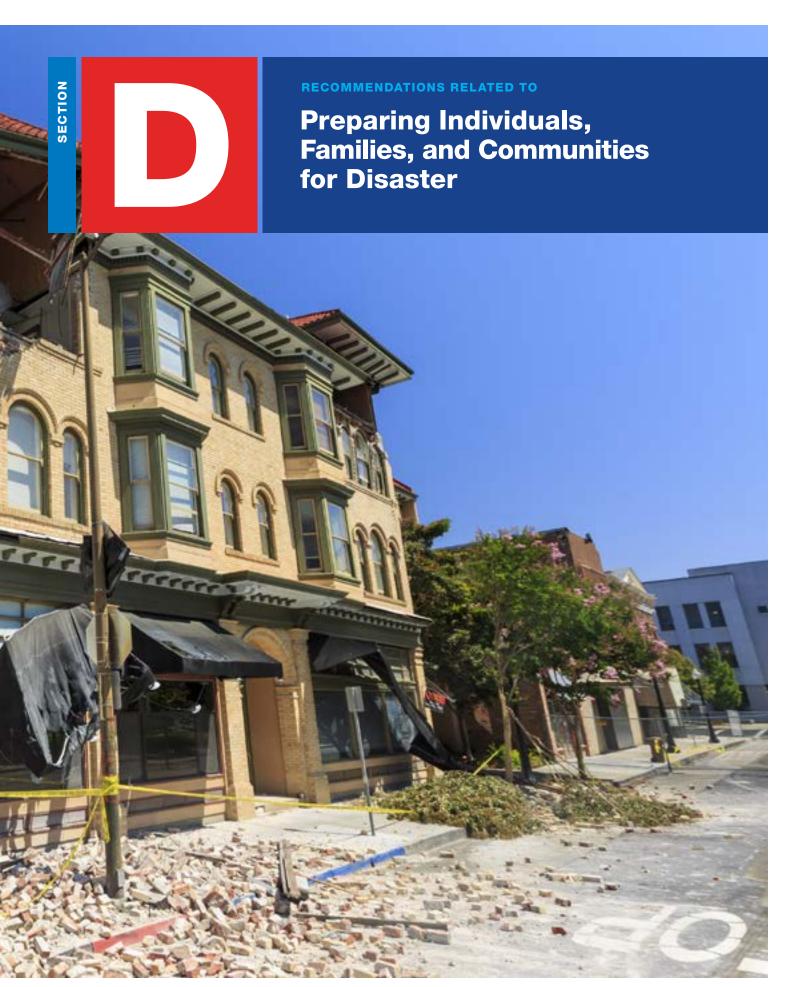
#### **DID NOT ADOPT/HAS NOT CONSIDERED**

AK	AL	AR	CA	СТ
DC	FL	GUAM	н	ID
IN	KS	KY	MA	MD
ME	МІ	MS	МТ	NC
NE	NM	NV	ОН	ОК
OR	PA	PR	SD	тх
UT	VT	wv	WY	

## NAPA, CA

Damage after the largest earthquake in the San Francisco Bay Area since the 1989 Loma Prieta—August 2014.







## SECTION

## **RECOMMENDATIONS RELATED TO**

# **Preparing Individuals, Families, and Communities for Disaster**

Based on consultations with the Task Force committees, field hearings with various stakeholders, and review of disaster preparedness and communications literature, the Task Force has compiled the following recommendations to help prepare low-income individuals, families, and communities to face the most frequent legal issues that arise post-disaster.

These recommendations are designed to address immediate and near-term legal needs post-disaster and chart proactive steps that individuals can take to prepare. In developing these recommendations, we emphasize resources that focus on the prevention of legal issues before they arise, the mitigation of problems while the disaster is ongoing and in the immediate post-disaster period, and effective response strategies for the most common legal issues typically faced by individuals after disasters.

Emergency managers, community-based organizations, COADs/ VOADs, and legal services providers can disseminate legal preparedness checklists to individuals in their communities. The checklists cover five broad topics: family law, FEMA applications and appeals, housing issues (for both homeowners and renters), insurance, and legal issues for small businesses. The checklists identify basic, actionable steps that individuals and families can take to prepare for common disaster legal issues. The checklists also can be modified by legal services providers to meet the needs of a particular community or jurisdiction.

In tandem with the checklists, we reviewed social science and disaster-related literature on effective communications strategies and methods of dissemination. Based on this literature and a review of existing disaster preparedness checklists, we have identified best practices for communicating preparedness information.



#### Improving Individual, Family, and Community Preparedness

Individuals and communities need to increase their level of preparedness for a disaster. There are several low-cost ways for individuals and communities to prepare for a disaster. FEMA provides several resources for individual, family, business, and community preparedness.

## **RECOMMENDATION D2**

#### Increasing the Legal Preparedness of Low-Income Individuals, Families, and Communities

Legal services providers have a role to play in increasing the level of legal preparedness of low-income individuals, families, and communities. Legal services providers can develop checklists to help low-income individuals, families, and communities prepare for their legal needs preand post-disaster. The checklists help individuals and families identify and prepare for common legal issues in various legal areas, and are divided into action steps to be taken pre- and post-disaster.

#### **RECOMMENDATION D3**

#### Providing Disaster Preparedness Information in a Time, Place, and Manner that Promotes Acceptance

Legal preparedness checklists should employ communications best practices and be simple and tailored to the client audience. Checklists should use simple, clear language and identify specific, discrete action steps that individuals can take. Checklists should be easy to find, and may incorporate graphics, symbols, and/or translations to reach their target audiences more effectively or to highlight particularly salient information.

#### **RECOMMENDATION D4**

#### Disseminating the Checklists Through Trusted Messengers and Community Partners

To ensure that the disaster legal preparedness checklists reach their intended audiences, legal services providers should collaborate with trusted community organizations, non-profits, faith-based organizations, and private sector businesses within their target communities. Individuals are more likely to trust and act upon information that they view as credible. The credibility of a message is enhanced when it is repeated, and when it is disseminated via trusted community partners and/ or media organizations and platforms.



Improving Individual, Family, and Community Preparedness

#### **A. Individual and Family Preparedness**

Individuals and families can become better prepared for disasters by taking basic steps that would be helpful in a range of post-disaster situations. For example, individuals and families can save for emergencies and download alert and warning apps from emergency management services or other information providers. FEMA's website, Ready.gov, has helpful hazard information, alert messages, and preparatory activities under its "Be Informed," "Plan Ahead" and "Take Action" sections.

When thinking about being prepared for disaster relief, it's really sort of a way of just life in Alaska. To live there, you sort of have to understand you may be without water, you may be without food, you may be without electricity. And it happens on a pretty regular basis that I'll get a call from one of my offices saying something, for instance, that there's a storm coming in. They can't get to the office, or they've lost connectivity.

NIKOLE NELSON, EXECUTIVE DIRECTOR, ALASKA LEGAL SERVICES CORPORATION Emergency managers have learned that the true first responders are not any local bureau or department, but neighbors. To that end, FEMA has adopted a campaign called: "You Are the Help Until Help Arrives" that emphasizes the importance of individuals taking basic first aid or CPR courses or participating in Community Emergency Response Team training. In addition to learning useful post-disaster skills, individuals who participate in these trainings or take other preparatory steps often feel more empowered and able to cope with the stress of a disaster should it occur.

At the local level, the City of Seattle is also changing its approach to individual and family preparedness and has stopped emphasizing emergency kits because it became a competition and people thought that "the fanciest kit will get you through anything." Instead, the city is spreading the message that "Preparedness is not an activity. It's a lifestyle."65 Seattle launched the Seattle Hazard Explorer<sup>66</sup> website that provides an interactive hazard risk map that enables individuals to look up any address and see the likely impact of particular disasters. The city also has experimented with a social media program that encourages disaster preparedness. Both the map and the program seek to educate individuals on the specific risks they personally face and provide them with resources to tailor a preparedness plan accordingly. Task Force members have also had success developing personalized websites with preparedness information tailored to the individual user.67 In order to engage the whole community, Seattle is working with community organizations like food banks to have COOPs, churches to enhance counseling and social services for disaster survivors, and paying stipends to "Community Safety Ambassadors"-multilingual leaders who teach disaster preparedness programs in 20 languages and provide culturally appropriate approaches to outreach.

It is important for legal services providers to develop relationships with federal, state, local, and tribal emergency managers not only to focus on recovery but also to foster a culture of preparedness.

#### **B. Community Resilience**

In recent years, the disaster resilience community has been heavily influenced by Professor Daniel Aldrich's work on social capital. His research finds that communities with robust social networks are more resilient after disasters and better able to





coordinate recovery.<sup>68</sup> Aldrich and others have concluded that community networks remain strong after a local crisis, as survivors borrow tools and resources from one another, and take advantage of their social networks to learn about recovery efforts or bureaucratic requirements.

The Neighborhood Empowerment Network (NEN) in San Francisco has successfully implemented many of Professor Aldrich's ideas regarding community-based disaster resilience. NEN is a cohort of diverse agencies and institutions that work together to create and deploy tools and resources that empower communities to achieve their self-identified resilience goals. Specifically, NEN leverages techniques such as place-based planning, human-centered design, asset-based organizing, and servant leadership to engage communities and ensure the transfer of ownership back to the neighborhood. Twelve communities in San Francisco have partnered with NEN and built a high performing local cross sector of networks, which, in turn, have crafted culturally-specific

resilience action plans that sustain investments at the individual, organizational, and community levels and increase connection, capacity, and the acquisition of essential resources.<sup>69</sup>

Legal services providers with existing community networks in place can use these connections to reach and serve at-risk residents or can begin to create them well in advance of the next disaster. Working with businesses, and community- and faith-based organizations, legal services providers can help provide a continuum of support to a particular community, ensuring that individuals have trusted sources for disaster preparedness information when the need arises. NEN's experience has shown that, to make a behavioral change, an individual first needs to be encouraged to make the change from several trusted sources. By partnering with organizations that already have the trust of, and standing within, a particular client community, legal services providers will be able to communicate more effectively and help coordinate the post-disaster resolution of legal concerns.



Increasing the Legal Preparedness of the Low-Income Individuals, Families, and Communities

Legal services providers have a role to play in increasing the level of legal preparedness of low-income individuals, families, and communities. Legal services providers can develop checklists to help low-income individuals, families, and communities prepare for their legal needs pre- and post-disaster. The checklists provide high-level resources to help individuals and families identify and prepare for common legal issues and are divided into action steps to be taken pre- and post-disaster. Where applicable, the checklists point to issues or resources that may have special application to particular communities, such as tribal communities or residents of rural areas. The checklists are also designed to be modular and adaptable, so that local legal services providers can tailor them to the needs of their specific target audiences.

The following preparedness checklists address some of the most common legal challenges that individuals face after disasters. These checklists are designed for use by individuals both before and after a disaster and are not meant to be exhaustive or tailored to the specifics of any particular jurisdiction or post-disaster situation. Many legal services providers will conduct "legal checkups" with their clients. These checklists can be integrated into those checkups. Legal services providers are encouraged to build upon and modify the checklists to meet the needs of their client populations.<sup>70</sup>

Barb Graff, Director of Emergency Management, City of Seattle; Father Pius Pietrzyk, Board Member, Legal Services Corporation & Chairman, Department of Pastoral Studies, St. Patrick's Seminary; Kathleen Fox, Asst. Vice President for Safety & Security Strategic Operations, George Washington University & Former Assistant Administrator for National Preparedness, FEMA; and Daniel Homsey, Director, Neighborhood Empowerment discuss strategies to increase individual, family, and community preparedness.







#### **A. Family Law Checklist**

Disasters can substantially impact family law-related arrangements on which individuals depend. Displacement following a disaster can impact custody, visitation, and child support arrangements. In addition, a 2015 study by the International Federation of Red Cross and Red Crescent Societies concluded that incidents of domestic and sexual violence increase in the wake of a disaster—owing to a loss of family members and homes, scarcity of basic resources, displacement, increased stress, and marital conflict.<sup>71</sup> As a result, past or potential survivors of domestic violence are particularly at risk following a disaster. For all those reasons, families and individuals should plan for the unique family law-related legal challenges that can arise in a disaster's wake.

#### **Before the Disaster**

1. Make copies of your important legal documents and store the originals somewhere safe, like a fireproof and waterproof safe, a safe deposit box in your bank, or another secure location in your home.

Keep the copies somewhere safe as well. If available, you may want to store copies in a password-protected location in the cloud or in a safe physical location. Important documents include identity documents such as:

- driver's license,
- □ state ID, passport,
- □ social security card,
- birth certificates,
- □ marriage and death certificates,
- adoption papers,
- □ child custody documents,
- □ divorce decrees, and
- settlement agreements.

- FEMA has a list of important documents available in print and online free of charge in its Emergency Financial First Aid Kit.<sup>72</sup>
  - If you are an immigrant, your important documents may include your green card or residence card, work authorization, and any naturalization or citizenship documents.
  - If you are a survivor of domestic violence, your important documents may include protective orders.
  - If you have a child custody arrangement, important documents may include your child custody order or authorization agreements.
  - If your child is on an Individual Education Plan or 504 Plan, keep a copy of that plan somewhere safe in case your child's schooling is interrupted due to a disaster.

#### After the Disaster

- 1. Replace Vital Documents as Necessary
  - If you need to replace vital documents, refer to www.usa.gov.<sup>73</sup>
- **2. Domestic Violence Issues** 
  - If you have lost a protective order, contact the court clerk in the court in which you received the protective order for another copy.
  - ☐ If you have relocated to a different state because of the disaster, a protective order likely is still enforceable. If you believe an attacker is going to breach the protective order, call 9-1-1.
- 3. Child Custody
  - If parents have joint custody and conditions are worsening or disaster is approaching, the custodial parent should make a good faith effort to contact the other parent. To the extent possible, make a record or note of such efforts.
  - If it is unreasonable to return children due to disaster-related conditions, take pictures of the conditions to provide proof to the judge.
- 4. Additional Resources for Particular Communities—*e.g.*, Texas Law Help<sup>74</sup>



#### **B. Housing Issues Checklist-Homeowners**

Major disasters can all have significant impacts on the homes of disaster survivors. Whether you rent or own your home, your residence may be uninhabitable for several months following a disaster and require extensive and costly repairs. Some individuals also experience difficulties and delays in obtaining aid from FEMA or other relief organizations because they lack the proper papers showing that their home is their primary residence. The following checklist identifies steps you can take before and after a disaster to alleviate some of the common legal issues related to housing.

#### **Before the Disaster**

- 1. Gather your residency documents and store them somewhere safe, like a waterproof and fireproof safe on your property, a safe deposit box at the bank, or another secure location in your home. If available to you, a password protected location in the cloud is a good place to store copies.
  - If you own your home, you can prove your ownership by using your deed, title, bill of sale or land installment, mortgage payment booklet or other mortgage documents, property tax bills and/or tax receipts, or your homeowners' insurance policy.
  - ☐ If you inherited your home, check that the title is clear and that the title to your home is in your name and that the documentation is in a safe place.
    - This may involve conferring with an estate-planning lawyer who can ensure that the home is properly in your name. Besides ensuring the home is in your name, update the home insurer as well. If there is no insurance on the home, consider purchasing a homeowner's insurance policy.
    - Other documents that can prove you occupy a property include utility bills, a current driver's license, or paystubs made out to your address.
    - Keep a copy of your utility bills or account paperwork so that you can contact your providers after a disaster.
    - Make sure you have the contact information for your lender or bank so that you can contact them after a disaster. This information will probably be included in the ownership documents described above.

- Check in annually with your homeowner's insurance company. If you do not have one, please consider using one.
  - See Insurance Checklist for more information.
- Keep a list of recommended or previously used contractors (*e.g.*, electrician, roofer, plumber, general contractor) in the event of potential post-disaster repairs. This can help you avoid contractor fraud. See more below.

#### After the Disaster

- I. Do not assume you can stop paying your mortgage.
  - Contact your lender. Many lenders will offer a grace period during which you may not have to pay your mortgage. The exact terms will vary depending on the lender, and interest may continue to accrue even while payments are deferred.
    - Find out who owns and services your loan.
       Different lenders will offer different assistance options.
    - Contact your lender to discuss your options. Government lenders with established procedures for helping homeowners in disaster situations are listed below, but many private lenders will also work with affected homeowners to establish a payment plan.
    - Fannie Mae<sup>75</sup>
    - Freddie Mac<sup>76</sup>
    - Federal Housing Administration<sup>77</sup>
    - Rural Development Agency<sup>78</sup>
    - Veterans Administration<sup>79</sup>
  - Continue to pay your maintenance fees to your homeowners or condominium association.
  - Document all your conversations with your lender and keep records of your payments.
  - ☐ If you own a farm and have sustained damage to your barn, crops, livestock, etc., contact the Farm Services Agency.<sup>80</sup>
  - Consult with a HUD-approved housing counselor or legal aid attorney if you need further assistance.
    - □ HUD<sup>81</sup>
    - Legal aid<sup>82</sup>





#### **2.** Avoid contractor fraud.

- Beware of out-of-state contractors, and work with your state's homebuilders' licensure board.
- Ask for written estimates and references from potential contractors.
- Collect contact information from your contractor, including name, phone number, business name, business address, and references.
- Confirm that your contractor has a current, valid license with your state's contracting authority. Do the same for any sub-contractors that will work on your property.
- Confirm that your contractor has the necessary insurance.
- Check for any complaints against your contractor with your state Attorney General's office and the Better Business Bureau.
- Get a contract and read it carefully before signing. Your contract should cover the cost of the project, the work to be done, the materials to be used, the start date and the duration. Typically, contracts will specify that it is the contractor's job to secure any necessary building permits. Take your time reviewing the contract and make sure everything you have been promised by the contractor is included in the contract. Do not sign a contract with blank spaces that have to be filled in or a contract that you do not understand.
- If you need a loan to finance your repairs, contact your bank or a reputable lender.
   Be wary of accepting financing from your contractor. Oftentimes these agreements allow the contractor to place a lien on your home and/or foreclose if you miss a payment.
- Pay your contractor by check, credit card, or money order. Keep records of all your payments. Do not pay your contractor in cash.
- Keep notes or records of your conversations with your contractor. Take photographs of the work done as the project progresses.
- Only make your final payment and sign a release when the work is complete.

Disasters don't come neatly packaged in a little box and then are over. They tend to have iterative events afterwards that continue to add layers of pressure and stress on these communities.... But the truth is that really, really well-organized communities that take on the responsibility of their resilience every day are really well positioned to survive a disaster.

DANIEL HOMSEY, EXECUTIVE DIRECTOR, NEIGHBORHOOD EMPOWERMENT NETWORK



#### **C. Housing Issues Checklist–Renters**

Major disasters can have a significant impact on the homes of disaster survivors. Whether you rent or own your home, your residence may be uninhabitable for several months following a disaster and require extensive and costly repairs. Some individuals also experience difficulties and delays in obtaining aid from FEMA or other relief organizations because they lack the proper papers showing that their home is their primary residence. The following checklist identifies steps you can take before and after a disaster to alleviate some of the common legal issues related to housing.

#### **Before the Disaster**

- 1. Gather your residency documents and store them somewhere safe, like a waterproof and fireproof safe on your property, a safe deposit box at the bank, or another secure location in your home. If available to you, a password protected location in the cloud is a good place to save additional electronic copies.
  - If you rent, you can use your lease, records of your rent payments, or utility bills to prove your tenancy.
  - Other documents that can prove you occupy a property include utility bills, a current driver's license, or paystubs with your address listed.
  - Keep a copy of your utility bills or account paperwork so that you can contact your providers after a disaster.
  - Make sure you have the contact information for your landlord so that you can contact them after a disaster. This information will probably be included in the rental documents described above.
- 2. If you do not already, obtain renter's insurance and know what types of disasters your policy covers.
  - Check in annually with your renter's insurance company. If you do not have one, please consider using one.
  - □ For more information, see the **Insurance Checklist**.

#### After the Disaster

- 1. Do not assume you can stop paying your rent.
- 2. Contact your landlord immediately to determine an action plan.
  - Photograph/document the damage to the apartment.
- 3. Check your lease before making repairs. Your lease may have provisions that set out your and your landlord's rights and obligations with respect to repairs, notice, and termination of your tenancy. You and your landlord will have to comply with the lease, as well as with any applicable state and local laws before taking action to modify your rent payments or end your tenancy.
  - If your rent is subsidized, contact the government agency that helps you with your rent. You may be entitled to a rent reduction.
  - Document all your conversations with your landlord and keep records of all your rent payments.
  - Speak to a HUD-approved housing counselor or legal aid attorney before deciding to withhold your rent.
    - HUD<sup>83</sup>
    - Legal aid<sup>84</sup>



#### **D. Insurance Checklist**

Obtaining and knowing how to utilize one's insurance is an important component of any effective disaster preparedness plan. Because disaster risks vary by location, it is important that individuals obtain the right insurance coverage for the disaster risks particular to them. In addition, individuals can better prepare to make use of that insurance when a disaster occurs by taking steps ahead of time to inventory their valuables and taking steps after a disaster to document damage and file claims efficiently and thoroughly.

#### **Before a Disaster**

- 1. If you do not already have it, obtain necessary homeowner's or renter's insurance and ensure that the policy is sufficient for common disasters in the area. Note that many standard policies do not cover floods, earthquakes, land movements, and certain hurricane damage. If you live in an area where these events are common, you may wish to obtain additional coverage.
  - Maintain an insurance policy even if your home is paid in full or no longer under a mortgage.
  - If you are a renter and floods are a risk in your area, be sure that your policy covers flood damage or obtain an additional policy. See Heartland Flood Help<sup>85</sup> or the National Flood Insurance Program<sup>86</sup> for more information.
  - ☐ If you own a car, obtain car insurance if you have not done so. Note that often car insurance policies *do* cover flood damage.
  - If you have questions about your insurance or about getting insurance, consider reaching out to United Policyholders<sup>87</sup>, a nonprofit that provides information on insurance in all 50 states.

- 2. Create a home inventory and store it in a safe location like a waterproof and fireproof safe on your property, a safe deposit box at the bank, or another secure location in your home. If available to you, a password-protected location in the cloud is a good place to save copies.
  - Your inventory should include copies of important documents, such as the insurance policies themselves, birth and death certificates, wills, and prescriptions.
  - □ Take photographs of high-value items, using both close-up and wide angle shots.
  - Keep your insurance agent's contact details with your policy and inventory. The contact details should include the agent's phone number, mailing address and website, as well as your policy numbers.
  - A sample home inventory form is available on www.ok.gov.<sup>88</sup>
- 3. Review your inventory every year and make any changes that are necessary. Consult your insurance agent to clarify your coverage and answer any questions.
- 4. Review your insurance policy. If you did not confirm when purchasing your policy, make sure your policy covers common disasters in your area.



		1. If you have insurance:
REASON FOR DENIAL	ACCEPTABLE DOCUMENTATION	Photograph or videotape the damage befo making any repairs.
Identity not verified	<ul> <li>Official government document (social security statement, etc.)</li> </ul>	<ul> <li>Make temporary repairs if necessary to prevent further damage and keep all receipt</li> </ul>
	Copy of driver's license	<ul> <li>Beware of contractors going door-to-do or using aggressive sales tactics. Ask</li> </ul>
<ul> <li>Ownership not verified</li> </ul>	<ul> <li>Deed, title, or official record</li> <li>Real estate tax bill or receipt</li> </ul>	potential contractors for references, pro of insurance, and their license.
	<ul> <li>Will or proof of inheritance</li> </ul>	When signing a contract with anyone w does home repairs, check that the cont
	<ul> <li>Mortgage statement</li> <li>Proof of insurance coverage</li> </ul>	lists all costs for labor and supplies and
	(settlement or denial), or statement from insurance provider	<ul> <li>provides a defined timeline for completi</li> <li>File your insurance claims as soon as possible. You may not be eligible for other</li> </ul>
Occupancy not verified	<ul> <li>Official government document (social security statement, etc.)</li> </ul>	types of aid, including FEMA individual ass tance, until your insurance claims have be filed and processed. If the damage is exter
	Copy of driver's license	sive, paint the insurance company's name your policy number and temporary addres
	<ul> <li>Landlord's statement or copy of lease</li> </ul>	on a sheet of plywood so the adjuster can find house easily.
	Rent receipts	Keep records of all your correspondence
	<ul> <li>Utility bill reflecting damaged residence address</li> </ul>	with the insurance company including contact information, date, time, and note
	<ul> <li>Voter registration card or</li> </ul>	what was discussed.
	merchant's statement	2. If you do not have insurance:
	<ul> <li>Contractor's statement or estimate</li> </ul>	Contact government agencies nationally or in your area.
<ul> <li>Insufficient damage/Damage not disaster-caused</li> </ul>	<ul> <li>Mechanic's statement or estimate</li> </ul>	You can apply for FEMA assistance if the President declares your state
	Statement from local official	a major disaster area.89
	<ul> <li>Receipts for expenses caused by the disaster</li> </ul>	The Small Business Administration offers low-cost loans to individuals and repair an individual's primary home or damaged belongings. <sup>90</sup>
Insurance may cover losses	<ul> <li>Receipts for expenses caused by the disaster</li> </ul>	Many non-governmental organizations, such as the Red Cross, Salvation Army and Work
	<ul> <li>Proof of insurance coverage (settlement or denial), or statement from insurance provider</li> </ul>	Renew, offer assistance to those affected by disasters without insurance. There may also local organizations in your area that can help
URCE: https://www.disasterlegalaid.org/legalhelp/item.5466-Appeal_Your_FEMA_Decision.		Faith-based charitable organizations in you area may also be able to offer assistance. The National Disaster Inter Faithe National

The National Disaster Inter-Faiths Network maintains a list here: http://www.n-din.org/





#### **E. FEMA Appeals Checklist**

After a disaster, individuals can apply for assistance from FEMA. This assistance is intended to address essential post-disaster needs, such as temporary housing assistance or repairs to your primary residence. FEMA cannot duplicate assistance that an individual receives from his or her insurance company. Once you have submitted your initial application for assistance, FEMA will conduct an inspection of your home and review your application to determine if you qualify for a grant. FEMA will then send you an initial decision letter stating whether you are eligible for assistance. If the agency determines you are not eligible, it will say so in the letter and explain why. Many disaster survivors receive denials of their initial disaster relief applications to FEMA. Following Hurricanes Maria and Harvey in 2017, for example, FEMA denied, partially or fully, over half a million initial requests.<sup>91</sup> Denied applicants have the right to appeal FEMA's decision-so it is important that individuals are properly prepared to submit an appeal. You have an opportunity to appeal FEMA's decision by following the steps in the checklist below.

- I. Know your deadline. Unless you can show good cause for delay, you have 60 days from the date of FEMA's initial decision letter to submit your appeal.
- 2. Make sure FEMA has your up-to-date contact information. You can update your address and telephone number with the agency online at DisasterAssistance.gov<sup>92</sup> or by calling the FEMA helpline.
- 3. Review FEMA's initial decision letter and determine why you were deemed ineligible.
   A list of reasons for FEMA denials can be found on the FEMA website.<sup>93</sup>
- 4. Prepare your appeal.
  - □ Include a copy of your initial decision letter.
  - Write an explanation of why you think FEMA's decision was incorrect.
  - Compile any supporting documentation that supports your claim and that FEMA may have requested. The table at left sets out acceptable documentation for common FEMA denial reasons.
  - If someone from outside your household writes your appeal for you, you must include a separate signed statement stating that the writer was authorized to act on your behalf.
  - Legal services organizations or pro bono attorneys may be available to assist you with preparing your appeal.
- 5. Submit your appeal. FEMA appeals may be submitted online at DisasterAssistance.gov, in-person at a FEMA Disaster Recovery Center, or by fax or mail. Appeals cannot be submitted by email.
- ☐ 6. Additional Resources: FEMA's Individual Assistance Program & Policy Guide.<sup>94</sup>



#### F. Small Business Law Checklist

On average, 40% of small businesses fail after experiencing disasters such as hurricanes, floods, or wildfires, and more than 95% of small businesses will experience losses in revenue.<sup>95</sup> Small business owners can protect themselves and their employees against these risks by taking steps to prepare themselves and their businesses before a disaster hits.

#### Before a disaster

- 1. Identify risks to your business. Which natural or man-made disasters could affect your business and would be likely to occur in your area?
  - Examples include physical risks to building and property, damage to suppliers, inability to get clients to your physical location.
  - Use the free worksheet at www.readyrating.org to assess your risks.<sup>96</sup>
  - Review the hazard-specific Ready Business toolkits available in both English and Spanish from FEMA at www.ready.gov/business.<sup>97</sup>
- □ 2. Create a preparedness plan.
  - Estimate costs associated with these risks.
     FEMA has a worksheet to help with these calculations.<sup>98</sup>
  - Ask yourself:
    - How will I ensure the well-being of employees?
    - □ What is the stability of my business location's environment?
    - □ How will I keep the business running?
- □ 3. Prepare your assets.
  - If possible, put away reserve funds in case of a disaster to continue operations. The general rule of thumb is to reserve enough funds for at least two weeks of operating expenses.
  - https://www.ready.gov/financial-preparedness<sup>99</sup>
- 4. Ensure data privacy and protection for your business's records.
  - □ Take steps to protect your servers.
  - Back-up your business information to a secure online server.
  - Install a firewall and regularly update it to protect your data. Cyber security attacks increase during a disaster, which can compromise client data.
  - Practice accessing the backup data from remote locations using different equipment.

#### **5.** Protect your employees.

- Develop an Emergency Action Plan for your business. OSHA requires that all organizations with a staff of ten or more have an Emergency Action Plan. (29 CFR 1910.38).
   Have emergency steps, escape routes and emergency numbers clearly posted.
- Inform all employees of the preparedness plan. Conduct evacuation drills with your employees.
- If your business is large enough to have separate departments, develop a committee to identify disaster-related risks in each department.
- □ Train staff in first aid and CPR and keep first aid kits stocked and available.
- 6. Review business insurance coverage. Keep in mind that floods and earthquakes are not typically covered by regular insurance plans. You may wish to purchase additional coverage for these events.

#### After a Disaster

- □ 1. Check online for disaster declarations in area.<sup>100</sup>
- 2. Assess the damage and document it by taking photos and/or videos for your insurance company.
- 3. Contact your insurance agent and file your claim quickly.
- 4. Apply for a loan from the U.S. Small Business Administration (SBA) for expenses that are not covered by your insurance. The SBA offers two types of loans to help disaster survivors:
  - Business Physical Disaster Loans for businesses to fund repairs or replace disaster-damaged property of up to \$2 million.
  - Economic Injury Disaster Loans are working capital loans to help small businesses meet their ordinary financial obligations
  - SBA's website is here: https://disasterloan. sba.gov/ela/Declarations/Index.<sup>101</sup> You can also reach the agency by phone 1-800-659-2955 (TTY: 1-800-877-8339) or email disastercustomerservice@sba.gov.
- 5. Check if the damage to your business qualifies you for any special federal income tax provisions such as casualty loss deductions or deferrals of casualty gains.



#### **6.** Other Resources:

American Red Cross Ready Rating Program (www.readyrating.org)

Free program organizations can join to access preparedness assessments, Emergency Action Plan templates and other resources for improving organizational preparedness.<sup>102</sup>

Ready.gov/business (FEMA) Has many business-focused tips and resources on what to do during different types of disasters.<sup>103</sup>

□ National Disaster Help Desk

Provides assistance to businesses struck by disasters across the country. Dial 1-888-MY-BIZ-HELP or 1-888-692-4943 to get help navigating the disaster assistance realm.

- Information to Help Small Business Owners Make Post-Disaster Business Decisions Provides perspective and asks the difficult questions that need to be asked after a disaster, such as whether it is a good idea to re-open or not, and long-term issues to consider.
- Disaster Recovery and Continuity Guide This guide provides worksheets and question matrices on all things recovery. Starts with basic planning tips, hazard assessment, etc., but the bulk of this guide is in recovery, with useful worksheets (ignore Colorado-

Disaster Recovery Guide for Business A working guide to help a business think through what it needs to do after a disaster using worksheets, checklists, tables, etc. Includes an assessment of the business post-disaster, whether re-opening is feasible, funding, and re-opening steps.

Disaster Recovery Toolkit for Small Businesses

specific numbers).

Helpful guide with checklists and prompts on all recovery topics.

Business Recovery Planning Success Stories

Provides six different lessons-learned stories from businesses affected by disasters.

### Tax Relief in Disaster Situations

Links to disasters across the US and the resources, information, and tools for each region.

- Disaster Preparedness and Recovery for Community Development Organizations Getting Back to Business (pages 37-41) provides tips and thoughts for Community Development Organizations and small businesses. Rest of document covers pre-planning and Business Continuity Planning/COOP.
- Hurricane Preparedness for Business: What to do Before, During and After a Disaster Use the Recovery Checklist "After the Storm" (pages 3-5) for bullet points of different ideas and issues to consider.
- Community Economic Recovery Guidebook This is a helpful guidebook that covers all phases of planning for a disaster, specifically Recovery (pages 10-12). It gives tips, resources, and other websites that can provide perspective and assistance.
- Helping Families Recovery After Disaster: The Family Financial Toolkit As small businesses owners need to also take care of disaster impacts at home, this toolkit provides resources, lessons learned, case examples, etc.
- Business Continuity and Disaster Recovery Checklist for Small Business Owners Eleven simple, great tips for recovery.
- Disaster Cleanup Tips and resources from the SBA that includes fact sheets and info from CDC, EPA, FEMA, OSHA.
- Getting Back to Business" brochure from the Institute for Business and Home Safety.
- Relief and Recovery Assistance Guide Great recovery information with good tips to navigate recovery, registrations, national resources, etc. (ignore New Jersey or Sandyspecific contact information).
- Business Continuity Plan: Components and Sequencing Description
   A Recovery Plan template with tables, checklists, Yes/No questions, etc.
- Small Business Disaster Recovery Checklist Four quick tips to prepare for recovery.
- Disaster Recovery: Best Practices This guide details how to create a recovery plan for businesses.



Providing Disaster Preparedness Information in a Time, Place, and Manner That Promotes Acceptance

Legal services providers should use best practices to communicate legal preparedness information to prospective disaster survivors. The information presented should be simple, tailored to the client audience, and credible. Checklists should use direct, clear wording and identify specific, discrete action steps that individuals can take. Checklists should be easy to find and to read, and may incorporate graphics, symbols, and/or translations to

We're trying to be more sensitive to what people live with, whether they're low-income or linguistically isolated, or have some other challenge. We try to meet them where they are. We're also trying to do more survivor stories... to tell their stories on their own behalf. It's not your government telling you what you should do. It's people who look like you and sound like you and understand your lifestyle who say: 'I've got an important lesson to share with you. We look alike, we sound alike, you can trust me.

BARB GRAFF, DIRECTOR OF EMERGENCY MANAGEMENT, CITY OF SEATTLE more effectively reach their target audiences or to highlight particularly salient information.

In preparing these recommendations, we examined existing disaster preparedness checklists and relevant websites to identify best practices that could be incorporated into checklists for legal preparedness topics. The Taskforce reviewed websites that publish general disaster preparedness materials (e.g., Ready.Gov, FEMA, the Red Cross and the U.S. Small Business Administration), as well as websites with a legal focus (e.g., Legal Aid of West Virginia, Legal Aid of Iowa, and the State of Rhode Island Emergency Management Agency).

This exercise revealed that the most effective checklists are those that are concise and to-the-point. In addition, preparedness checklists benefit from having large icons and check boxes or places for individuals to fill out relevant information. If accessible online, checklists should be easy to find on an organization's webpage. Checklists should be formatted or modifiable in such a way that they are easily printed, so that they can be distributed to disaster survivors in-person at relief stations, community organizations, etc. Finally, checklist providers should consider whether checklists need to be available in multiple languages (including Braille), given the demographics of the affected population.

Preparedness websites may benefit from incorporating short videos or personal narratives to help humanize the checklists and emphasize their importance. Such websites may have separate tabs or side panels for individuals and groups with discrete issues—such as students, the elderly, or small businesses—all of which should be easy to navigate and visible. Lastly, preparedness websites benefit from having clear messages with pictures, illustrations, or other imagery that draw the user's attention and emphasize the importance of taking preparedness actions.

The Task Force surveyed existing social science literature on effective pre-and post-disaster communications to glean lessons regarding dissemination of legal preparedness information. This literature repeatedly emphasizes that establishing the credibility of a preparedness message is key to encouraging individuals to adopt and ultimately act upon the information. The credibility of a message is enhanced when the message is repeated, preferably by multiple sources and across multiple platforms.





Lone Star Legal Aid Client, Liza Leal and Carla Krystyniak, Equal Justice Works Fellow, Lone Star Legal Aid talked about the legal assistance Ms. Leal received as she and her family recovered from Hurricane Harvey.

Effective disaster preparedness communications should take into account timing. Individuals coping with disasters tend to believe the first message they hear. Being the first to disseminate a communication can establish an organization as a credible source of information and increase its impact. Legal services providers and emergency managers also should consider whether certain preparedness information is best shared pre- or post-disaster. In general, communications should be timed so that their substance is useful when it is received. Agencies and individuals who are using the checklists should get the word out early and to as many people as possible. Partnering with local organizations can help facilitate this goal. The information should be distributed well before a disaster occurs through a variety of methods such as social media, print, and online.

After the disaster, the organizations should communicate as swiftly as practicable (taking into account that individuals may first need to secure their physical safety before they can turn to addressing legal issues) and continue to communicate frequently for those that did not receive the information initially. This outreach can include going door-to-door, broadcasting via radio, television, and social media, and putting up physical flyers.

Effective preparedness communications also promote action by individual recipients. In other words, preparedness information should provide specific guidance about what actions to take and explain how those actions can prevent or minimize future losses. In the experience of Task Force members, individuals are most motivated to prepare for a disaster when working to protect their families or their communities. When legal services providers speak to individuals or organization leaders to enhance their preparedness, providers should stress the negative impacts a family or community would experience if preparedness actions are not taken. Encouraging the public to take affirmative steps reminds individuals of the consequence of inaction; in the context of post-disaster legal issues, these consequences can be devastating, and include the loss of a home or considerable legal and financial frustrations. Giving real life examples, such as describing a person who failed to obtain insurance, could not make mortgage payments after a disaster, and experienced foreclosure, can encourage people to do more than just read the steps they should take. Action steps should be described simply, in short groups or acronyms. Such steps tend to be more effective when framed as positives (e.g., "boil drinking water" or "stay calm") instead of negatives (e.g., "don't drink the water" or "don't panic").104





Disseminating the Checklists Through Trusted Messengers and Community Partners

We don't do disaster response community education. We just do community education, and disaster response is always part of it. When we go out to the community... you say, we do eviction defense, foreclosure defense, and then you also say, we do disaster response.

MONICA VIGUES-PITAN, EXECUTIVE DIRECTOR, LEGAL SERVICES OF GREATER MIAMI, INC. To ensure that checklists reach their intended audiences, legal services providers should consider partnering with trusted community organizations, non-profits, faith-based organizations, and private sector businesses within their target audience.

In working with specific communities to enhance disaster preparedness. legal services providers should be mindful of how they can tailor particular preparedness information for the client community. Adapting a preparedness message to its target audience may involve focusing on the types of disasters most common in a particular area, the needs of the population, the languages spoken, and the medium that would reach the most people. Legal services providers and emergency managers should consider using specialized and diverse media platforms to communicate preparedness information, such as local radio stations and media outlets or online channels that target particular populations. Having communications in multiple languages or using images to illustrate certain key points also may broaden the reach of the legal preparedness information. When taking into account their prospective audiences, legal disaster preparedness checklists should consider that disaster survivors often experience heightened feelings of vulnerability and uncertainty. Social science literature suggests that effective communications do not disregard this experience, but rather convey empathy and respect.

Contact FEMA's Individual and Community Preparedness Division at FEMA Prepare@fema. dhs.gov to learn more about preparedness partnership opportunities in your community.



## CONCLUSION

With the frequency and intensity of natural disasters increasing at a dramatic rate, it appears that no community is safe from potential harm. With the disproportionate impact disasters have on low-income individuals and families, it is imperative that the legal services community become better equipped to address the legal issues of disaster survivors. This comprehensive report provides a host of recommendations to guide legal services providers in building a systematic, coordinated, and sustainable approach to helping low-income individuals, families, and communities prepare for, respond to, and recover from a disaster. The foundation for success is engaging with the emergency management community, communitybased organizations, pro bono attorneys, the business community, and other volunteers in your service areas. Task Force members and other stakeholders plan to continue work on these important issues. To that end, the Legal Services Corporation welcomes your assistance in helping to implement these recommendations. We look forward to the next phase of our work.



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## THE TASK FORCE

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#### TASK FORCE CO-CHAIRS

Judge Jonathan J. Lippman Of Counsel, Latham & Watkins LLP & Former Chief Judge of New York

#### **Martha Minow**

Board Vice Chair, Legal Services Corporation & 300th Anniversary University Professor, Harvard University

#### Father Pius Pietrzyk

Board Member, Legal Services Corporation & Chairman, Department of Pastoral Studies, St. Patrick's Seminary

#### COMMITTEE CO-CHAIRS

**COMMITTEE A** Relationship-Building and Integration of Legal Services into the Nation's Emergency Management Infrastructure

Barb Graff Director, Office of Emergency Management, City of Seattle

Laura Tuggle Executive Director, Southeast Louisiana Legal Services

**COMMITTEE B** Training Pro Bono Lawyers, Other Volunteers, and Legal Service Providers

George T. "Buck" Lewis Shareholder, Baker Donelson

Raun Rasmussen Executive Director, Legal Services NYC

**COMMITTEE C** Continuity of Operation Planning for the Courts and Legal Service Providers

James Featherstone President and Chief Executive Officer, Homeland Security Advisory Council

The Honorable Madeleine Landrieu Dean, Loyola University Law School

COMMITTEE D Getting the Word Out: Preparing Prospective Disaster Survivors to Know Their Legal Rights and Responsibilities

Brian E. Hastings Col (Ret.), USAF, Director, Alabama Emergency Management Agency

Shirley Peng Managing Attorney, Legal Aid of Nebraska

## TASK FORCE MEMBERS

**José Andrés** Founder, World Central Kitchen

Joseph Baxter State Court Administrator, Rhode Island Judiciary

David F. Bienvenu Partner, Simon, Peragine, Smith & Redfearn LLP

**Paulette Brown** 

Joseph F. Bruno Former Commissioner, New York City Office of Emergency Management

Kim Burgo Vice President, Disaster Operations, Catholic Charities USA

Saundra Brown Former Managing Attorney, Lone Star Legal Aid

Brian Corbin Executive Vice President, Member Services, Catholic Charities USA

**Erin Coryell** Program Officer, Margaret A. Cargill Philanthropies

Brackett Denniston Senior Counsel, Goodwin

Lisa Dewey Pro Bono Partner, DLA Piper

Mary DeWitt-Dia Manager, Partnership Disaster Cycle Services, American Red Cross

**Elizabeth Disco-Shearer** Chief Executive Officer, St. Vincent de Paul Disaster Services Corporation

Ivan Fong Senior Vice President, Legal Affairs and General Counsel, 3M Company

**Dorothy Fernandez** Pro Bono Counsel, Morrison & Foerster LLP

**Richard Flores** Director, Legislative Affairs and Tribal Relations, National Tribal Emergency Management Council

#### **Gregory Forrester**

President and Chief Executive Officer, National Voluntary Organizations Active in Disaster

William Friedman

formerly with the Sandy Response Unit, New York Legal Assistance Group

**Paul Furrh** Chief Executive Officer, Lone Star Legal Aid

Lisa Gavin Managing Attorney, Iowa Legal Aid

David D. Halverson LTG (Ret.) Chairman & Chief Executive Officer, Cypress International

Chief Justice Nathan L. Hecht Supreme Court of Texas

Federico Hernandez Denton Chief Justice (Ret.), Supreme Court of Puerto Rico

**Stephanie Hudson** Executive Director, Oklahoma Indian Legal Services

**Ilene Jacobs** Director of Litigation, Advocacy, & Training, California Rural Legal Assistance, Inc.

**Chauntis Jenkins-Floyd** 

Ellyn Haikin Josef Pro Bono Counsel, Vinson & Elkins LLP

John S. Kiernan Partner, Debevoise & Plimpton LLP

Abby Kuzma Founder, Neighborhood Christian Legal Clinic

Jorge Labarga Justice, Supreme Court of Florida

Mary Landrieu Senior Policy Advisor, Van Ness Feldman

Max W. Laun Vice President and General Counsel, Arconic

**Glenn Leon** Senior Vice President, Chief Ethics & Compliance Officer, Hewlett Packard Enterprise Co.



#### **Matthew Lyttle**

Deputy Director (A), Individual and Community Preparedness Division, FEMA

#### **Mary Ellen Martinet**

Associate Chief Counsel, Response & Recovery, FEMA

#### **Alex Miller**

Senior Vice President and Chief Counsel, Global Regulatory Affairs, Visa Inc.

#### Monica Montoya

Manager, Partnerships, Disaster Cycle Services, American Red Cross

#### **Frank Neuner**

Partner, NeunerPate

#### Lori Peek

Professor, Department of Sociology & Director, Natural Hazards Center, University of Colorado Boulder

#### Will Polk

Assistant General Counsel, North Carolina Department of Public Safety

#### **Rebecca Rapp**

General Counsel and Chief Privacy Officer, Ascendium Education Group

Harry Reasoner Partner, Vinson & Elkins LLP

#### Marcie Roth

President and CEO, Partnership for Inclusive Disaster Strategies

#### **Eve Runyon**

President and Chief Executive Officer, Pro Bono Institute

#### **Sharon Ryan**

Senior Vice President, General Counsel and Corporate Secretary, International Paper

#### Hadassa Santini Executive Director, Puerto

Rico Legal Services

## **Don Saunders**

Senior Vice President, Policy, National Legal Aid and Defender Association

#### **Aaron Scheinwald**

Acting Director, Storm Response Unit, New York Legal Assistance Group

#### John Schultz

Executive Vice President, General Counsel and Corporate Secretary, Hewlett Packard Enterprise Co.

#### Lisa Schwab

Senior Corporate Counsel, U.S. Consumer Markets Legal Services, Liberty Mutual Insurance Company

#### **James Silkenat**

Attorney at Law **Mark Sloan** Homeland Security & Emergency Management Coordinator, Harris County Office of Homeland Security and Emergency Management

#### **Mike Sprayberry**

Director/Deputy Homeland Security Advisor, North Carolina Division of Emergency Management

#### Ellis Stanley

Chairman of the Global Board, International Association of Emergency Managers

#### Laura Stein

Executive Vice President and General Counsel, The Clorox Company

#### Vance Taylor

Chief, Access and Functional Needs Division, California Office of Emergency Services

#### **Jennifer Tobin**

Program and Research Associate, University of Colorado

#### Gloria Valencia-Weber

Board Member, Legal Services Corporation & Emeritus Professor of Law, University of New Mexico School of Law

#### Andrew VanSingel

Director, Disaster Legal Services, Young Lawyers Division of the American Bar Association

#### **Monica Vigues-Pitan**

Executive Director, Legal Services of Greater Miami

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John G. Levi Chairman, LSC Board of Directors; Partner, Sidley Austin LLP

onthe

Judge Jonathan J. Lippman Of Counsel, Latham & Watkins LLP & Former Chief Judge of New York

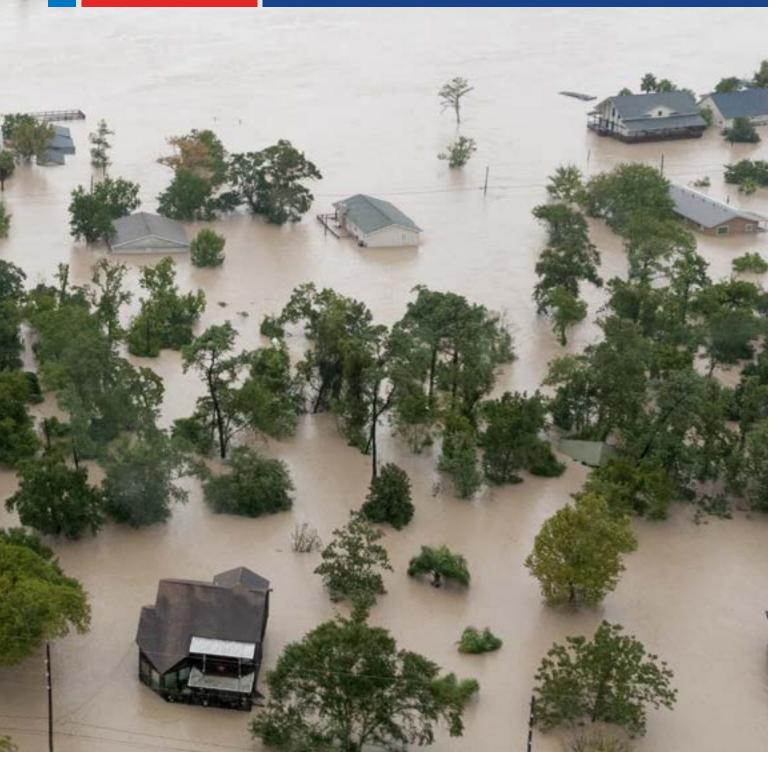
Martha L. Minow Board Vice-Chair, Legal Services Corporation & 300th Anniversary University Professor, Harvard University

Father Pius Pietrzyk Board Member, Legal Services Corporation & Chairman, Department of Pastoral Studies, St. Patrick's Seminary

James J. Sandman President, Legal Services Corporation



# APPENDICES





## APPENDIX A

## **Glossary of Terms**

**211 Resource Directories:** 211 is a service provided by United Way and is the most comprehensive source of local human and social services information in the US and most of Canada. People in need of help can dial 211 to speak with a community resource specialist in their local area that can help them find critical services such as emergency information and disaster relief.

#### Access and Functional Needs (AFN): Access

and Functional Needs denotes individuals who are/ have limited English fluency; children; seniors; pregnant women; chronic conditions/injuries; developmental, intellectual, physical disabilities; homeless; transportation disadvantaged; those living in poverty. It is important to integrate this community into disaster plans, since they are disproportionately affected in emergencies.<sup>105</sup>

#### **Community Organizations Active in Disaster (COAD):**

A group of community organizations, businesses, nonprofits and individuals working together to plan community responses to a variety of emergency and disaster situations.<sup>106</sup>

**Conference of Chief Justices (CCJ):** The CCJ is comprised of the chief justices in the United States. It is devoted to discussing methods to improve the administration of justice, rules, procedural issues, and the operation and organizational structures of the judicial system and state courts. Membership in CCJ includes the chief justices from all fifty states, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, Puerto Rico, and the District of Columbia. It is governed by a Board of Directors. Under the CCJ are several committees which help to meet the organization's objectives, addressing issues such as mass torts and violence against women.<sup>107</sup>

#### **Conference of State Court Administrators (COSCA):**

Established in 1955, COSCA's mission is to improve state court systems and services. Membership is comprised of the state court administrator (or equivalent official) from all 50 states, five US territories, and the District of Columbia.<sup>108</sup>

**Continuity of Operation Planning (COOP):** A COOP is a resource plan that allows federal government agencies and departments to continue operating even under national security threats, natural hazards, and technology threats. It establishes plans to activate selected

personnel, equipment, records, and software to an alternative site in order to continue operations.<sup>109</sup>

Disaster Recovery Center (DRC): A readily accessible facility or mobile office in federally declared disasters where FEMA provides status information and updates to client applications, as well as general information on FEMA disaster assistance. Representatives from the Governor's Office of Homeland Security and Emergency Preparedness, the Federal Emergency Management Agency, U.S. Small Business Administration (SBA), volunteer groups, and other agencies are at the centers to answer questions about disaster assistance and low-interest disaster loans for homeowners, renters, and businesses. They can also help survivors apply for federal disaster assistance.<sup>110</sup> A DRC may act similarly to a MARC (see below) by including other federal, state, local, and voluntary agencies within the same or a similar facility to provide information on their disaster assistance programs.111

#### **Emergency Management Assistance Compact (EMAC):**

The Emergency Management Assistance Compact is an all hazards—all disciplines mutual aid compact that serves as the cornerstone of the nation's mutual aid system. EMAC offers assistance during governor-declared states of emergency or disaster through a responsive, straightforward system that allows states to send personnel, equipment, and commodities to assist with response and recovery efforts in other states.

#### FEMA's Individuals and Households Program (IHP):

Under the Stafford Act, FEMA's IHP provides aid to an individual is either underinsured or uninsured and is affected by disaster. IHP is not structured as a substitute for insurance, nor can it compensate for all losses caused by disaster—rather, it meets basic needs and supplements other aid. FEMA can provide funds to reimburse lodging, pay rent, repairs and construction, among other needs.<sup>112</sup>

#### International Association of Emergency Managers (IAEM):

A non-profit educational organization dedicated to promoting the "Principles of Emergency Management" and representing those professionals whose goals are saving lives and protecting property and the environment during emergencies and disasters. IAEM has over 6,000 members worldwide.<sup>113</sup>



Long-Term Recovery Group (LTRG): A cooperative body made up of representatives from faith-based, non-profit, government, business, and other organizations working within a community to assist individuals and families as they recover from disaster. LTRG structures vary depending on the community. LTRGs should reflect local needs, available resources, cultural diversity, leadership style, and community support. The goal of an LTRG is to unite recovery resources with community needs to ensure that even the most vulnerable in the community recover from disaster.<sup>114</sup>

**Multi-Agency Resource Center (MARC):** A single, "one-stop shop" location where public and private organizations come together to provide efficient, effective assistance to individuals and families affected by a disaster. Specific types of assistance and services provided at a MARC are determined by participating agencies according to community needs and available resources, but may include assistance locating temporary housing, information about the casework process, health and mental health services, and distribution of bulk supplies. MARCs bring together multiple service providers in a single location to provide on-site assistance.<sup>115</sup>

**National Center for State Courts (NCSC):** The NCSC is the definitive source for court services. It is an independent, nonprofit organization which provides education, information and resources for judges and court administrators. The accessible aid is intended to improve court functions. Its work is guided by the collaboration between COSCA and CCJ (see below), among other associations of leaders in the judicial realm.<sup>116</sup>

#### National Emergency Management Association (NEMA):

A nonpartisan, nonprofit 501(c)(3) association dedicated to enhancing public safety by improving the nation's ability to prepare for, respond to, and recover from all emergencies, disasters, and threats to our nation's security. NEMA is the professional association of and for emergency management directors from all 50 states, eight US territories, and the District of Columbia.<sup>117</sup>

National Flood Insurance Program (NFIP): For over fifty years, the NFIP provides affordable flood insurance to renters, businesses, and property owners to reduce the impact of floods. As a result, NFIP helps to

mitigate the socio-economic damages of floods. The program also encourages groups to adopt floodplain management regulations.<sup>118</sup>

#### National Tribal Emergency Management Council (NTEMC):

The National Tribal Emergency Management Council is a consortium of tribal emergency management organizations from around the country. NTEMC is not a response organization, but they share best practices, information, and public health/safety issues that affect Native American populations. NTEMC provides the resources for individual groups to create their own internal infrastructure and control the response to natural disasters and emergencies.<sup>119</sup>

#### **National Voluntary Organizations Active in Disaster**

(NVOAD): An association of organizations that mitigate and alleviate the impact of disasters, provides a forum promoting cooperation, communication, coordination and collaboration; and fosters more effective delivery of services to communities affected by disaster. The National VOAD coalition includes well more than 100 Member organizations, which represent National members, State VOADs, Local/Regional VOADs and hundreds of other member organizations throughout the country. The National VOAD core purpose are the "4 Cs": cooperate, communicate, coordinate, collaborate.<sup>120</sup>

The "Katrina Rule": The "Katrina" Rule is a mandate from the ABA Model Court that allows out-of-state lawyers to temporarily practice in a state affected by disaster. It was inspired by Hurricane Katrina, in which many lawyers attempted to provide pro bono services but were hindered by law statues. Several states have either adopted the rule, modified it, or have introduced it to their state legislature. For future disasters, the Katrina Rule is intended to help mitigate the disaster's effects.<sup>121</sup>

**The Stafford Act:** The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 allows the federal government to provide aid to states during disasters and emergencies. FEMA directs the federal aid to the states. If state and local emergency response capabilities are unable to respond to the disaster accordingly, the Stafford Act may be invoked by the governor of that state. Under presidential declaration, the Act provides relief assistance and funds as directed by Congress.<sup>122</sup>



## **APPENDIX B**

## **COOP Plan Rubric**

## ELEMENTS OF A VIABLE COOP PLAN

**ESSENTIAL FUNCTIONS:** The critical activities performed by organizations, especially after a disruption of normal activities.

**DISASTER SPECIFIC RESPONSES:** Identification of hazards relevant to specific geographic areas; and vulnerabilities specific to relevant facilities.

**ORDERS OF SUCCESSION:** Provisions for the assumption of senior agency offices during an emergency in the event that any of those officials are unavailable to execute their legal duties.

**DELEGATIONS OF AUTHORITY:** Identification, by position, of the authorities for making policy determinations and decisions at HQ, field levels, and all other organizational locations. Generally, pre-determined delegations of authority will take effect when normal channels of direction have been disrupted and will lapse when these channels have been reestablished.

**CONTINUITY FACILITIES:** Locations, other than the primary facility, used to carry out essential functions, particularly in a continuity event. Continuity Facilities, or "Alternate facilities", refers to not only other locations, but also nontraditional options such as working at home ("teleworking"), telecommuting, and mobile-office concepts.

**CONTINUITY COMMUNICATIONS:** Communications that provide the capability to perform essential functions, in conjunction with other agencies, under all conditions.

VITAL RECORDS MANAGEMENT: The identification, protection and ready availability of electronic and hard copy documents, references, records, information systems, data management software and equipment needed to support essential functions during a continuity situation. HUMAN CAPITAL: During a continuity event, emergency employees and other special categories of employees who are activated by an agency to perform assigned response duties.

**TESTS, TRAINING, AND EXERCISES (TT&E):** Measures to ensure that an agency's continuity plan is capable of supporting the continued execution of the agency's essential functions throughout the duration of a continuity event.

**DEVOLUTION OF CONTROL AND DIRECTION:** Capability to transfer statutory authority and responsibility for essential functions from an agency's primary operating staff and facilities to other agency employees and facilities.

**RECONSTITUTION:** The process by which surviving and/or replacement agency personnel resume normal agency operations from the original or replacement primary operating facility.

## FOUR PHASES OF CONTINUITY OF OPERATIONS ACTIVATION PHASE I – READINESS AND PREPAREDNESS

#### PHASE II - ACTIVATION AND RELOCATION:

Plans, procedures, and schedules to transfer activities, personnel, records, and equipment to alternate facilities are activated

**PHASE III – CONTINUITY OPERATIONS:** Full execution of essential operations at alternate operating facilities is commenced

**PHASE IV – RECONSTITUTION:** Operations at alternate facility are terminated and normal operations resume

SOURCE: https://www.fema.gov/pdf/about/org/ncp/coop\_brochure.pdf



## **Links to Supplemental Appendices**

**APPENDIX C** FEMA DISASTER DECLARATIONS FROM JANUARY 1, 2014–JUNE 30, 2019

APPENDIX D MODEL COOP PLAN FOR LEGAL SERVICES PROVIDERS

**APPENDIX E** CONTINUITY OF COURT OPERATIONS: STEPS FOR COOP PLANNING

APPENDIX F COOP PLAN CHECKLIST FOR COURTS

**APPENDIX G** AMERICAN BAR ASSOCIATION MODEL COURT RULE ON PROVISION OF LEGAL SERVICES FOLLOWING DETERMINATION OF MAJOR DISASTER



## ENDNOTES

i See Appendix C for a full list of presidentially-declared disasters between January 1, 2014 and June 30, 2019.

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vi Nicole Acevedo, *FEMA Has Either Denied or Not Approved Most Appeals for Housing Aid in Puerto Rico*, NBC News (July 17, 2018), https://www. nbcnews.com/storyline/puerto-rico-crisis/ fema-has-either-denied-or-not-approvedmost-appeals-housing-n891716.

vii See The Bipartisan Budget Act of 2018 Public Law 115-123 (February 9, 2018) and Additional Supplemental Appropriations for Disaster Relief Act, 2019, Public Law 116-20, Title II (June 6, 2019).

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