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PRICEWATERHOUSECOOPERS 

together



**Effective Crisis Management:
Preparing for the Unpredictable
in the Workplace**

Presented by **Nina G. Stillman**
and **J. Christopher Dineen**
to PricewaterhouseCoopers
General Counsel Forum
April 17 and 18, 2008

WHAT IS A WORKPLACE CRISIS?

- A natural disaster such as Hurricane Katrina
- A terrorist attack such as 9/11
- A mass healthcare event such as a possible avian flu pandemic
- An episode of workplace violence
- An operational catastrophe such as an explosion, fire or toxic release
- A massive employment class action
- A charge of senior executive malfeasance
- Interruption in the supply chain (stability/quality)

WHAT HAS THE 21ST CENTURY TAUGHT US ABOUT WORKPLACE CRISES?

- Employers ignore the potential for workplace crises at their peril
- Every employer can be the victim of a workplace crisis
- The crises can be more disastrous than previously imagined
- A “100 year” event can occur more than once every 100 years
- Preparing for a workplace crisis is the most effective way to manage one

EFFECTIVELY MANAGING INFRASTRUCTURE CRISES

- Developing a Crisis Management Program
- Emergency Planning for evacuations, business continuity, bomb threats, natural disasters
- Workplace violence prevention
- Preparing for a pandemic

Effective Crisis Management

- Preparation = effective crisis management
- A Crisis Management Plan (“CMP”) maximizes emergency constructive decision-making.

Components of the CMP

- Notifications
- Command Center
- Incident Investigation Team
- Investigation Protocol
- Public Relations
- Crisis Counseling

Handling Employer/Employee Conflicts

- Separate counsel issue
- 5th Amendment issue

BUSINESS CONTINUITY PLANS

- Relocation of personnel and operations
- Emergency communications mechanisms
- Key employee identification
- IT backup, infrastructure and security
- Backup vendors/suppliers

Bomb Threats

- “Do not allow a bomb incident to catch you by surprise.”
- “The probability of finding a bomb that looks like the stereotypical bomb is almost nonexistent.”
- Bomb threats delivered in a variety of ways, with most called in

Bomb Threats (cont'd)

- Develop 2 separate but interdependent plans
 - Physical security plan
 - *Covers protection of property and personnel*
 - Bomb incident plan
 - *Provides procedures for responding to executed or threatened bomb attack*
 - *Limits time lost to searching*
 - *Instills confidence in the leadership*
 - *Reinforces notion that those in charge care*
 - *Reduces panic*
 - *Reduces potential injuries and property loss*

Bomb Threats (cont'd)

- Three alternative responses
 - Ignore the threat
 - Evacuate immediately
 - Search and evacuate if warranted

Bomb Threats (cont'd)

- Ignoring threats not advisable
- Evacuating immediately on every threat has negatives
 - Disruptive to business
 - Incentive to employees to hoax
 - Bomb may be placed at exit

Bomb Threats (cont'd)

- Search first is ATF preferred method
 - Not as disruptive
 - Meaningful response
 - If device found, evacuation can be accomplished expeditiously

Workplace Violence Prevention

■ The Hiring Process

- Application should be comprehensive for employment history
- Inquiries into relevant convictions
- Gaps in employment history should be fully explored
- Background checks and verification of employment history are important for employer to establish “due diligence” in hiring. Also check Department of Motor Vehicles records of all drivers before hire

Workplace Violence Prevention (cont'd)

■ Retention

- Consider work rule requiring employees to promptly notify employer of any criminal convictions (including guilty or no contest pleas) for anything other than minor traffic violations
- Consider periodically checking DMV records of current drivers, e.g., annually on anniversary date
- Conduct post-accident drug and alcohol tests

Workplace Violence Prevention (cont'd)

- Develop a crisis plan for workplace violence
- Train all employees:
 - To identify problems which may lead to violence
 - To report all threats
 - To handle threats and violence when they occur
- Follow up and investigate all threats of violence
- Implement and publish a rule that threats and violence are grounds for discharge

PREPARING FOR A PANDEMIC

- If WHO Pandemic Phase 6 is reached, absenteeism due to illness could reach 40% during peak outbreak periods
- Another 10%-20% of workforce could be absent because of transportation disruptions, school closures or mandatory quarantines
- Outbreak waves could recur multiple times until pandemic controlled
- Estimates that it will take three years before pandemic controlled

PREPARING FOR A PANDEMIC (cont'd)

- Business Continuity Plans must be revised to address maintenance of key activities in light of:
 - 50% employee absence
 - Supply disruptions
 - Customer disruptions
- Plans must be flexible to respond to new information

PREPARING FOR A PANDEMIC (cont'd)

■ Human Resources Issues

- Employee communication
- Insurance review
- Travel policies and evacuations
- Attendance and pay policies
- Office closures
- Flexible work arrangements
- Employee counseling
- Absence tracking

MASSIVE LITIGATION AND SCANDAL

- Be prepared to investigate the claims *quickly*
- Do a preliminary risk/liability assessment
- Ensure document/data preservation
- Determine how internal and external communications are to be handled
- Check for possible insurance coverage and be sure to timely notify/tender
- Consider a public relations strategy

EXECUTIVE MALFEASANCE

- Determine who should conduct the investigation
- Assess privilege issues and “sword and shield” doctrine applicability
- Be prepared to take quick, effective and consistent action in response to an executive’s wrongdoing

DO WE HAVE INSURANCE FOR THIS???

- Commercial General Liability
- Property Damage
- Business Interruption
- Crime/Fidelity
- Directors and Officers
- Product Recall

BUSINESS INCOME COVERAGE

We will pay for the actual **business income** loss you incur due to the actual impairment of your operations during the **period of restoration** not to exceed the applicable Limit of Insurance for Business Income shown in the Declarations.

This actual impairment of **operations** must be caused by or result from direct physical loss or damage by a covered peril to **property**, unless otherwise stated.

BUSINESS INCOME COVERAGE

- This actual impairment of operations *must be caused by or result from direct physical loss or damage by a covered peril to (insured) property*, unless otherwise stated.

BUSINESS INCOME COVERAGE “CHAIN RULE”

- Direct Physical Loss or Damage
- By a Covered Peril
- To (Insured) Property
- Causes an Impairment of Operations
- No Exclusions Apply
- And All Policy Conditions Satisfied

BUSINESS INCOME COVERAGE “CHAIN RULE”

- Employer/Employee Conflicts
- Bomb Threat
- Workplace Violence
- Direct Physical Loss or Damage
- By a Covered Peril
- To (Insured) Property
- Causes an Impairment of Operations
- No Exclusions Apply
- Policy Conditions

BUSINESS INCOME COVERAGE “CHAIN RULE”

- Avian Flu Pandemic
 - Direct Physical Loss or Damage
 - By a Covered Peril
 - To (Insured) Property
 - Causes an Impairment of Operations
 - No Exclusions Apply
 - Policy Conditions

BUSINESS INCOME COVERAGE “CHAIN RULE”

- Denial of Service (Internet Attack)
 - Direct Physical Loss or Damage
 - By a Covered Peril
 - To (Insured) Property
 - Causes an Impairment of Operations
 - No Exclusions Apply
 - Policy Conditions

BUSINESS INCOME COVERAGE “CHAIN RULE”

- Regional Northeast Blackout (Loss of water, communications, gas, power)
- Direct Physical Loss or Damage
- By a Covered Peril
- To (Insured) Property
- Causes an Impairment of Operations
- No Exclusions Apply
- Policy Conditions

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