LEADING PRACTICES PROFILES SERIES

Crisis Management and the Role of In-House Lawyers: Leveraging Cross-Functional Expertise

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Provided by the Association of Corporate Counsel
1025 Connecticut Avenue, NW, Suite 200
Washington, DC 20036 USA
tel +1 202.293.4103
fax +1 202.293.4107
www.acc.com

This Leading Practices Profile, an update to ACC's 2011 *Crisis Management and the Role of In-House Lawyers: Company Leading Practices,* features the leading business continuity and crisis management plans of four entities that share plan aspects, including core components, operational strategies, and lessons learned. The Profile also addresses the law departments' role in prevention planning, training, risk assessment, crisis management, and continuity planning.

The information in this Leading Practices Profile ("LPP") should not be construed as legal advice or legal opinion on specific facts, and should not be considered representative of the views of ACC, unless so stated. Further, this LPP is not intended as a definitive statement on the subject; rather, it is intended to serve as a tool for readers, providing practical, benchmarking information to the in-house practitioner.

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OVERVIEW

April 2016

This Leading Practices Profile is an update of ACC's 2011 resource, *Crisis Management and the Role of In-House Lawyers: Company Leading Practices.*[1] The 2011 profile featured the crisis prevention and management strategies of three companies that shared information on how they designed and implemented their programs. This update highlights the leading practices of three new and one returning participant, who share their best practices for business continuity planning, crisis management readiness, and leveraging cross-functional expertise.

Effective crisis management programs strive to prevent crises from occurring in the first place. They also guide prompt and decisive responses designed to save lives, restore trust and resume operations in the event a crisis occurs. While some crises can be avoided, others cannot, and preparedness programs and systems for prompt and effective response to crisis events can make the difference between chaos and a managed response with mitigated loss.

The organizations and individuals presented here are representative of and leaders in their respective industries, and include a university with enrollment in excess of 12,000 students, and a staff of over 600 faculty and 1,400 other personnel; a global technology leader serving customers in over 100 countries and employing 40,000 research scientists; a former Vice President and General Counsel to CBC/Radio-Canada and former director of the National Bank of Canada who is currently working on her Master's Degree in Management at New York University; General Counsel to the to a Fortune 500 consumer products company, who agreed to speak to the ACC about crisis management from his perspective, rather than as an official representative of the Company. He comments are, therefore, provided anonymously.

Section I of this Profile provides an introduction to business continuity and crisis management approached by companies as they anticipate and mitigate possible risks and establish their crisis response procedures. Included in the introduction are insights from Debra Ballen, General Counsel and Senior Vice President of Public Policy at the Insurance Institute for Business and Home Safety, with whom ACC spoke in 2011 and again for this update; Christine Carron, Senior Partner at Norton Rose Fulbright Canada LLP, whom ACC interviewed in 2011; and Martha Healey, also interviewed in 2011, and who was then (and until March 2015) a Partner at Norton Rose. Section II examines the key crisis management themes and leading practices of participant companies. Section III describes in detail how the four profiled organizations have designed and structured their crisis management practices. Section IV identifies key relevant resources for in-house counsel.

This Profile features the following four profiled entities and individuals:

- **American University**
- **Nokia Australia**
- **Maryse Bertrand**
- **Corporate Counsel for a Fortune 500 consumer products company**

Contents

I.   Introduction

Since 2008, significant crises have plagued organizations across the globe. These include not only environmental and natural disasters; corporations have also grappled with serious problems such as financial meltdowns, pandemics, product recalls, supply chain interruptions, and even missing aircraft. Devastating earthquakes, contamination from nuclear fallout, and oil spills have cost energy, technology, and industrial companies billions in destroyed and damaged facilities, major interruptions of production and supply lines, burgeoning l e g a l claims, and declining share prices. Yet other crises are of a less tangible nature, such as the public-relations challenges faced by the likes of Chick-fil-A, Hobby Lobby, Sony Pictures, and even the NFL.

The good news continues to be that organizations are mindful of risks and committed to crisis planning to allow business continuity. Organizations featured in this Profile share best practices, which are predicated on the involvement of cross-functional teams. Organizational plans represented here rely on input from in-house counsel, as well as business continuity managers, risk officers, human resources, and sales and manufacturing arms. These groups work together to prevent incidents, provide ongoing training, incorporate solid communications channels and identify first responders. Overall, corporate counsel have a vital role in crisis planning, which requires balancing legal risk with preserving organizational good will and reputation.

A.   Defining Crisis and Crisis Management

What is a crisis in the context of organizational operations? According to American University, a participant in the 2011 Profile with a laudable, multi-dimensional crisis management strategy, a crisis is

any global, regional, or local natural or human-caused event or business interruption that runs the risk of escalating in intensity; adversely impacting the (organization's) financial position; causing harm to people or damage to property or the environment; falling under close media or government scrutiny; interfering with normal operations and wasting significant management time and or financial resources; adversely affecting employee morale; or jeopardizing the (organization's) reputation, products, or officers, and therefore negatively impacting its future.[2]

A 2011 poll of members of several ACC Committees revealed that 64% of the 61 respondents work for organizations that have faced some type of corporate crisis in the past five years. The most frequent types of crises were compliance-related (19%), followed by natural disasters (16%). Tied for third place, with 11.2% each, were tort/accident, workplace (i.e., employee misconduct, harassment, violence), and environmental crises.

> What then is crisis management and when is the strategy triggered? American University defined crisis management as "the intervention and coordination of individuals or teams before, during, and after an event to resolve a crisis, minimize loss, and otherwise protect the university."[3] The need for crisis management is triggered, according to the Salt River Project, another 2011 participant, when an incident or set of circumstances is so serious that it has the potential to cause fundamental changes in the way the organization conducts business, or, worse, even threaten the organization's existence.[4]

An integrated crisis management program incorporates interdisciplinary and cross-functional planning, continuous training and simulations, regular crisis audits, a designated command center, and a high-level response office or executive function that integrates business continuity management and/or crisis management.[5] Consistent with this best-model, the organizations featured here and preparedness experts emphasize that important components of a solid crisis management strategy include thorough risk examination and assessment, a comprehensive business continuity or incident management plan, advance training, communications, a clear strategy for branding and protection of reputation, and a corporate culture that values safety, preparedness and responsiveness.

Between the time that ACC first published the Leading Practices Profile, *Crisis Management and the Role of In-House Lawyers,* in 2004, and the 2011 update, several trends in crisis preparedness emerged. Companies turned more frequently to business continuity methodologies as a strategic tool for incident management. The prevalence of social networking as a communications tool increasingly calls for a digital crisis management strategy that can enable immediate updates, communication with stakeholders and the public, and brand protection.[6] Nevertheless, and perhaps troubling, is the fact that while 15% of respondents to ACC's 2011 survey reported that crisis communications policies make up a core component of the organization's crisis management/response program, a solid majority of respondents (85%) reported that their organizations do not use social media outlets as part of their crisis management programs. Today's best crisis management strategies strive to incorporate enhanced technology developments and social media channels.

Since 2011, our participants have indicated their need to enhance the ability to leverage social media as well as other outlets to communicate within their organization. American University has acquired additional technology including an FM radio station that allows it to communicate with members of its off-campus population. The same communications department uses Internet resources to monitor mentions of the school in various places throughout the web.

Bertrand also agreed that while social media can be a headache for companies, it can also be a crucial tool to warn of possible safety and security threats. Our unnamed participant also noted that social media has created a challenge in the sense that information can spread faster than ever; but he also acknowledged that, thanks to technology, there is no reason a person or department cannot be accessible.

B.   Regulatory Developments

Along with in-house counsel, organizational leaders continuously review policies and procedures around product issues, recalls, and crisis management to ensure compliance. When the Canada Consumer Product Safety Act came into effect in June 2011, for example, hundreds of thousands of consumer products became the subject of direct government regulation for the first time, and the Act requires affected companies (including manufacturers, importers, and retailers) to report serious product incidents within two days of becoming aware of an incident.

In June 2010, the US Department of Homeland Security announced three standards that will be part of the Private Sector Preparedness program, a voluntary certification program enacted as Title IX of the Implementing Recommendations of the 9/11 Commission Act of 2007.[7] Also known as PS-Prep, the program's goal is to "promote private sector preparedness, including disaster management, emergency management and business continuity programs."[8] External

 organizations[9] created the three standards to address preparedness across a broad range of public sector entities. Many helpful tools can be found on the Federal Emergency Management Agency's (FEMA's) website, and the American Red Cross offers a Ready Rating™ service to help organizations assess their preparedness.

PS-Prep™ recently made changes to the list of adopted standards that serve as the foundation of the program. Two of the previously adopted PS-Prep™ standards are no longer current and have been retired, and industry standards have been adopted to replace them. Additional information can be found on FEMA's website under the subtopics About PS-Prep™, How To Participate, PS-Prep™ FAQs, and Program Resources. On October 15, 2012, the American Bar Association (ABA) announced its Third-Party Cerification under PS-Prep™, the first not-for-profit organization and only the second U.S business to achieve this distinction.

Like the US DHS, Public Safety Canada has published its own guide to business continuity planning. Separately, the Canadian Standards Association, a non-profit, independent association serving industry, government and consumers, launched CSA Z1600 in 2008. Standard Z1600 provides public and private organizations with a framework to create and assess their own integrated emergency and business continuity plans within their organizations. In developing the standard, CSA gathered input from Public Safety Canada, Canada's homeland security agency.[10] The second edition of Standard Z1600 was published in 2014 and a summary is available here.

C.   Conclusion

Developing and implementing a strategic crisis management plan that takes into account the values and principles of the organization is an important first step in positioning the organization to weather crises successfully. As the following profiles reveal, organizational leaders, in-house counsel included, leverage cross-functional expertise and utilize strategic planning, risk assessment, training, audits and after-action reviews of lessons learned to respond to incidents in a way that preserves both stakeholder confidence and business reputation.

II.   Themes, Trends, Leading Practices

A.   Themes

The following themes emerged among participants in discussing their crisis management programs. For details on participant programs, please see *Section III, Participant Profiles.*

1.   Cross-Functional Crisis Management Teams

All profiled participants rely on cross-functional crisis management teams composed of leaders from key functional areas (including human resources, legal, operations, sales, supply chain, finance, marketing, IT and others). This cross-mix of representatives helps to ensure that incidents are tackled head on by a team that is both versed in key components of the organization's infrastructure and equipped with the expertise to contain and respond.

Mary Kennard notes that American University makes use of three key groups to lead its crisis management. The Executive Leadership Group, the Emergency Response Team and the Departmental Response Team built for each department have been established to lead a coordinated defense against any crisis affecting the University. The teams work both independently and integrally to help coordinate the efforts needed to lead past the crisis and work through the recovery.

According to Mikka Junttila, Nokia's crisis management team also follows the team-effort approach. The type of crisis determines which groups are called in to participate, although legal teams are almost always part of the equation. The various players are chosen according to their acuity with the specific issue implicated by the crisis. In addition, the Nokia also has the ability to call on outside contractors to help them execute their plan and return to daily activities.

The importance of a cross-functional approach to setting up crisis management teams was also espoused by Mary Bertrand. She noted that, while every crisis management group needs a leader to call the shots and take responsibility, operational people are indispensable to be able to implement the plan.

Our final participant went a step further saying he wants a crisis management team to include members from all factions of the affected organization. As a believer in having a company learn from each new experience, by giving someone from all corporate function a role in a crisis, the company trains them to approach the next event with greater ease.

2.   Individualization of Plans by Contingency, Functional Area

The crisis management plans highlighted here are often individualized for the functional areas they serve. While not all of our participants felt comfortable in discussing the specifics of their company's crisis plans, all agreed on the importance of having one. According to Mary Kennard, the crisis plan for American University was developed as a joint effort of the Risk Management & Safety Services Office, aided by the Legal Department. The Plan designates leadership teams across

University functions to collectively manage the plan which includes providing notification and instructions to affected students, faculty and staff. The University provides the plan on their website to help them address health and safety concerns arising from natural disasters as well as health and man-made concerns. Affected individuals can easily be directed to the appropriate on-campus facilities to obtain appropriate assistance or refuge in the event of an emergency.

One take-away from our anonymous participant was the need for companies to recognize that no plan is perfect. Even the best of plans can leave something out. However, a good plan will recognize the likelihood of that happening and build in responsiveness at higher levels with open communication to fill these gaps as quickly as they surface.

3.   Communications Should Be Accurate and Timely

Corporations and in-house counsel acknowledge that responding quickly and with the right message can decrease or avert a negative outcome. Corporate counsel plays a significant role in ensuring that communications to internal and external stakeholders are consistent with organizational policies and interests. They can also help ensure that key messages are developed in advance and reflect business core values.

Miika Junttila emphasized that communication must go hand-in-hand with an crisis management program in order for it to be effective. Especially when working in multiple jurisdictions, he acknowledged that even knowing where data has been stored can be tricky. It is, therefore, important to have good communication. Inasmuch as technology has increased the number of ways in which a crisis can occur, Junttila noted that technology is a communication boon. The ability to use social media to disperse a crisis cannot be understated.

At American University, Mary Kennard explained they believe that a clear communications strategy is essential. Their approach includes knowing such things as who has the authority to speak on behalf of the board or the school. She also observed that having that information ahead of times is invaluable where many times, waiting too long to speak to the public is itself seen by the public as a problematic. While misinformation in the age of Twitter can result in more issues being created, saying nothing is not the proper alternative. She advocates preparing generic statements in advance to minimize the time needed to approve the content of a release when needed.

B.   Trends

The following practices illustrate the general direction organizations and their legal departments are moving.

1.   Increasing Impact of Regulator Announcements on Crisis Communications

Especially since 2008, as membership in listservs and subscription services has grown substantially, regulator announcements are picked up virtually instantly by news wire services throughout the world. A crisis management plan that recognizes the need for a solid rapport with regulators, in advance of an incident, is highly beneficial. This is an area where in-house counsel can have a significant role. Proactive corporate attorneys who foster relationships with industry regulators may have an advantage in times of crisis, where that pre-existing relationship can facilitate collaboration on press releases before they are disseminated. Crisis response planning

should also incorporate template documents for incidents that may require notice to regulatory bodies. Doing so enables crisis management teams to get information out as quickly as possible.

2.   Technology

Enhanced technology developments, including automated notification solutions, improved databases for managing volumes of customer calls, and applications for tracking and scheduling personnel, continue to advance the field of crisis management. In the wake of 9/11, American University invested in enhanced technologies that provide instantaneous, campus-wide notices in the event of an emergency or campus lock down. Enhancements to the university's website allow communications with parents and students, and closed-circuit televisions situated in large gathering locations enable enhanced communication of emergency messages. In addition, AU has an FM radio station that assists in communication with off-campus populations. Commercial reliance on technology has not only changed the way business is done, but has also diminished the need for the underlying knowledge to perform rote operations.

3.   Use of Social Media in Crisis Communications

Many organizations believe that social media can play an important role in crisis communications. Companies and individuals interviewed for this profile are turning to social media as an additional avenue for communication during a crisis. At American University, social media and IT increasingly play a role in crisis communications, and this avenue of communications is still growing. The Communications Department manages the University's social media presence and addresses social media issues, enlisting the help of the legal department to review media communications in advance. For other organizations, the use of social media for crisis communication is a tool that continues to play a greater role in crisis management.

C.   Leading Practices

Leading practices, our panel of participants agreed, includes not only creating a plan, but practicing the plan. Our participants concurred that the best of plans needs to be tested in order to ensure it can be easily implemented when necessary. Miika Junttila at Nokia also noted the importance of reassessing a plan after it has been put into practice. It is essential to have a "debriefing" after a crisis to see whether or not the plan was successful and efficient at resolving the issue. He acknowledged that what is effective will necessarily vary as a crisis develops and from one crisis to another. By taking a "lessons learned" approach to a crisis once resolved can help a company learn from where the difficulties lie and make future plans accordingly.

Participants were asked to identify aspects of their crisis management practices they considered to be leading or best practices. Our one participant was quick to discourage the use of the term "best practices," explaining that the word "best" implies there is no better way. By inviting feedback a "good" plan can be made better. He also emphasized that a crisis plan should not just work to resolve a crisis, but to help prevent one. A culture of crisis avoidance, supported by risk management training and other internal programs can help avoid a crisis in the future.

The following are the program elements cited as leading or best practices. Program summaries for each participant providing additional details on their leading practices, as well as other preparedness practices and program elements, can be found *Section III* of this resource.

1.   Establish Detailed Crisis, Emergency and Incident Management Strategies in Advance

All participants have mature business continuity and crisis management plans in place. Critical to the success of any strategy is the involvement of the highest levels of leaders from inception of the strategy; executive managers that work cross-functionally on the crisis management team; and small teams that support the individualized unit crisis management plans.

2.   But Be Flexible

Flexibility, combined with a multidisciplinary, cross-functional approach, allows for enhanced team adaptability.

3.   Plans Should Focus on Key Elements

Business continuity management and crisis management plans that focus on key essential elements are a leading practice for Royal Bank of Canada. Instead of attempting to identify individual scenarios and formulate responses based on discrete contingencies, RBC's risk mitigation and incident response planning strategy focuses on those critical areas that need protection, including its personnel, technology systems, and facilities. Organizations that prepare for potential impacts (instead of discrete scenarios) scale down the number of potential eventualities and focus on what, materially, the organization must protect against.

4.   The Corporate Culture Must Embrace Safety, Prevention and Preparedness, Top to Bottom

Companies with clearly defined corporate values and core elements of corporate mission have an edge in responding to and managing emergencies and crises. Healey and Carron of Norton Rose, who each have extensive experience counseling and supporting organizations in crisis, believe that when top leaders support a business culture of responsibility, responsiveness, safety and ethical conduct throughout all levels of the organizational hierarchy, they enable a framework capable of navigating through the extreme uncertainty that comes with a crisis event. This framework facilitates response by staff, including legal counsel, and reassures external stakeholders (including regulators and clients) that the organization is committed to "making things right". For many of the organizations profiled here, the success of crisis management programs is a reflection of the commitment by organizational top leaders to the execution and governance of business continuity and crisis management strategies.

5.   Communicate Before, During and After Incidents or Crises

The ability to gather accurate facts quickly, respond to personnel, partners and clients, and put

risk in context is an important communications leading practice. American University leverages advice and lessons learned from universities facing their own incidents and incorporates these critical lessons to enhance its own readiness.

6.   Continuously Improve Readiness

American University's ongoing commitment to readiness planning is a leading practice. Annual training using "real time" scenarios to test systems, tabletop exercises that allow evaluation and modification of existing plans, and the incorporation of lessons learned from past emergency or critical events are some examples of the University's continuous planning. Incorporating lessons learned to enhance planning and response is also a leading practice for Royal Bank of Canada.

III. Participant Profiles

To learn more about preparedness for small and mid-sized businesses, ACC spoke with Debra Ballen, General Counsel and Senior Vice President of Public Policy at the Insurance Institute for Business and Home Safety (IBHS). Their website, contains a wealth of information and planning tips for individual businesses to use in assessing their risks and developing plans to minimize disruption from unforeseen events.

As a non-profit organization with a mission of helping businesses minimize the impact of disasters through preparedness practices, IBHS developed Open for Business®, a comprehensive disaster planning toolkit designed to help small and mid-sized businesses with business continuity planning.[11] Although it predates PS-Prep, the Open for Business® program shares many of the same goals, including increasing the level of voluntary small business disaster preparedness; training tools to help small business implement and maintain plans; and supporting first- and second-party attestations as lower-cost alternatives to the third-party certification process noted in PS-Prep.

To determine how successful management teams and their companies are planning for and handling these real-life issues, we spoke with a handful of corporate counsel.

A.   American University

1.   Background

American University (AU) is a private, coed, liberal arts University located in Washington DC offering academic programs in international service, public policy and public affairs, international law, and human rights. The University boasts high rates of student participation in study abroad programs, internships, community service, and the Peace Corps. With a total enrollment in excess of 12,000 undergraduate, graduate, law, and non-degree students, and a staff of over 600 faculty and 1,400 other personnel, AU relies on a top-notch emergency and crisis/continuity strategy to respond in the event of a crisis.

The University's legal authority is vested in the 33-member Board of Trustees. Executive and administrative authority resides with the chief executive officer, President Cornelius M. Kerwin. The Provost, a team of C-suite leaders, and functional vice presidents are among the University's leadership staff.

The Office of General Counsel of American University is committed to service, knowledge of the law, and facilitating the educational mission of American University. Its function is to provide, manage, and coordinate all legal services for the University and to minimize legal risks and costs efficiently, reliably, and professionally. AU's legal department consists of five attorneys and two law clerks. Once again for this update, as well as for the previous update in 2011, Vice President and General Counsel Mary E. Kennard responded to ACC's invitation to share AU's crisis and emergency planning program and best practices.

2.   Emergency and Crisis Management and Response: The Plan

As Kennard reported in 2011, American University has a laudable emergency and crisis response plan that incorporates a cross- functional, matrixed management structure and procedures for responding to a comprehensive range of emergencies and crises (including fires, storms, hazmat incidents, and terrorist threats). The Plan, which was developed by the Risk Management and Safety Services Office with assistance from the Legal Department, designates three hierarchical leadership teams composed of leaders from across functions to collectively manage the institution's emergency and crisis preparedness and response.

AU's Emergency Management and Continuity of Operations Plan is a detailed, regularly updated emergency preparedness plan that provides notification instructions and operating procedures to students, faculty, and staff in the event of an emergency. The document is posted on the AU Emergency Preparedness website and provides detailed instructions for a range of potential emergency situations, from severe weather and natural disasters, to health and safety crises (including active shooter, anthrax, bomb threat, civil disorder/demonstrations, hazmat accident, psychological crisis, and violent/ criminal behavior situations). The Plan designates the student health center as the site where provisional medical emergency care will be administered in the event of a medical disaster emergency occurring on campus (i.e., mass food poisonings or viral epidemics). Additionally, the Plan includes discreet, department-specific responsibilities for responding to incidents. Designated leaders from a range of functions (including dining services, public safety emergency, residence halls emergency, and technology emergency response) have specific responsibilities under the Plan. Also part of the plan are detailed guidelines for pandemic preparedness, a link to which is provided on the AU Emergency Preparedness webpage.

3.   Leveraging Cross-Functional Expertise

The University relies on three key groups to assist with implementation of plans and response to incidents: the Executive Leadership Group, the Emergency Response Team, and Departmental Response Teams. In the event of an emergency incident, these teams can be activated simultaneously and work in concert to facilitate a coordinated response.

- **The Executive Leadership Group:** This group consists of eight cabinet executives and includes the University's CFO and Vice President for Finance and Treasurer, who is responsible for and owns the enterprise-wide emergency management and continuity of operations planning program, the University's President, the Provost, the General Counsel, the Chief of Staff, the Executive Director of Communications/Marketing, the Vice Presidents of Campus Life and Development, the Vice President for Finance and Treasurer. This group is the University-wide decision making body focusing on risk assessment and emergency response (but not implementation). In this capacity, the group has an overall responsibility for the recovery and continuity of the University's operations and services. As needed during the crisis, this group will plan and direct activities of the Executive Command Center established for the recovery efforts.

- **The Emergency Response Team:** The team consists of fourteen members, including the Executive Director of Risk Management and Safety Services, the Assistant VP of Facilities and Administration (the Emergency Response Team leader), the Associate Provost, the CIO, and a number of departmental directors. The Emergency Response Team (ERT) is charged with developing and implementing the strategic plan and managing the emergency response. In doing so, this group sets the scope of emergency and continuity planning, guides the enterprise-wide departmental response teams, determines funding for continuity-related programs, and ensures organization-wide compliance with the emergency policy.

- **Departmental Response Teams:** These teams are responsible for developing and implementing departmental plans and for executing recovery and continuity processes. Each is comprised of personnel from functions that include human resources, facilities, IT, risk management, media relations, finance, and others. Response team leaders report to the ERT. DRTs execute recovery procedures for their areas of responsibilities in order of priority identified.

The use and helpfulness of cross-functional teams depends in part on the industry, Kennard says. Most importantly, "[w]e try to learn from each [crisis]. We learn to count on one another. Working together makes a stronger team."

4.   Risk Assessment and Training

Assessing risk and analyzing business impact is a multi-dimensional process involving the Emergency Planning Workgroup (chaired by the Executive Director of Risk Management and Safety Services, who also sits on the ERT), the Director of Business Compliance, and the University departments. The Emergency Planning Workgroup meets periodically to assess and understand likely risks, and also to assess vulnerability. Certain risk categories, such as environmental, man-made (intentional and unintentional), business process, and IT-related risks impacting emergency management and continuity of operations are assessed annually, and the Director of Business Compliance maintains all risk assessment documentation for five years. The Workgroup also leads periodic business impact analyses for each department, examining each critical process and each support function to track priorities and recovery time objectives. Findings are tracked and maintained by the Director of Business Compliance.

The Executive Director of Risk Management and Safety Services and the Director of Business Compliance jointly oversee training exercises, including script development, execution, monitoring and reporting. Emergency management and continuity training is focused on preparing the emergency response team and the recovery teams to execute the Plan and to recover critical processes. These leaders also oversee awareness programs geared toward educating the AU community and concerned parties about what to expect if the Plan is executed.

5.   The Role of In-House Counsel

The University's Legal Department is an important part of the preparedness and response strategy. General Counsel Kennard is a member of the Executive Leadership Group and helps

lead decisions affecting risk assessment and emergency response, business continuity, and directing activities of the Executive Command Center. In its capacity as part of the senior management structure, the Legal Department works directly with other executives to manage critical incidents. In-house counsel also advise on preservation of records, maintaining/protecting student and personnel privacy, and reviewing internal and external communications, and it provides legal support to the University's health care providers, as well as external first responders.

In-house attorneys work with the Executive Director of Risk Management and her team on various aspects of the plan and on response strategies. Depending on the nature of the incident or the response, specialized in-house counsel may work with function leaders on human resources and personnel issues, student conduct and discipline, international law, IP protection, IT issues, environmental law, or research and export controls matters.

6.   During Emergency/Crisis: Activation of Plan and Communications

In the event of an emergency, the Emergency Management and Continuity of Operations Plan is activated. The University President may convene an Executive Command Center off-campus to plan and direct activities. Once the Executive Command Center (ECC) is activated, the ERT convenes at an off-campus Operations Command Center to oversee operational functions and the execution of emergency management procedures on site. The ERT oversees the recovery and restoration process that is executed by the departmental response teams and reports to the ECC. The ERT is also responsible for communicating the status of operations to the Cabinet and making management decisions to support recovery efforts. Collectively, the Command Centers ensure University communications and decision-making during a crisis situation.

The Chief of Staff is the University's spokesperson in the event of an emergency or crisis. Using the most effective means of communication media (including email, text alerts, phone calls, broadcast media and the University's website), the spokesperson communicates vital information, including preliminary impact assessments, immediate course of action, emergency procedures in place, time of safe return to campus, and other significant decisions/information. The University also maintains the American University Emergency Preparedness site, with active links for what to do in an emergency, campus safety, campus connect, as well as links to the Plan and points of contact. Most importantly, "every effort is made to communicate a single, clear message simultaneously to as many students, faculty, and staff as possible," as underscored by the communications component of the Plan.

7.   Leading Practices

a.   The Importance of Practice Drills

The main feature of a strong crisis management plan is, according to Kennard, practice, practice, practice. "You can write all the plans you want, but until you try them out you won't know how they work. Some people do not perform in a crisis the way they thought you would. 'Practice' means practice in drills, not actual crises," Kennard emphasized. In one practice situation, for instance, the plan looked great on paper. The plan rested on the assumption that the "bad guys" would come from the front of the campus, but during the drill the participants could not pinpoint

where they were, and the equipment they needed was not available. In another practice, the building designated as the place to congregate to make decisions did not have good Internet service. "An eighteen-year-old was able to work something up, but we learned that was not a good building to use. In another instance, phone numbers in a phone tree didn't work. People were unable to get calls." Fortunately, these were not actual crisis situations.

b.   The Importance of Communication

It is also key to have a clear communications strategy, and to know who will speak for the board, the University, or the company, as well as to figure out *when* to speak. Sometimes, providing an effective response takes too long because everyone is trying to get in the middle of the crisis and get accurate information. In some cases, Kennard says, "it is better to say *something* than to wait for the perfect statement." In addition, "[d]epending on the crisis, it is sometimes better to have someone other than the obvious spokesperson make a statement. That other person may be better received by the public. Be fluid. It might be better to hear from the CEO, not the communications person."

The speed of the Internet has changed crisis management practices, and as a result responders need to become more comfortable with getting the word out faster. The internet enables people to fill in gaps with misinformation if too much time has elapsed. "Things can get created in the Twitter world that generate issues that wouldn't have existed in reality. . . . The speed at which a broad swath of people may be reached with misinformation adds a new dimension." Accordingly, Kennard advises that it is best to "[g]et a prepared statement in the can, keyed up and ready before an incident. If you can, just fill in the details. You can craft parts of a statement way in advance," advises Kennard. These steps result in shorter down time, reduce the number of people who have to approve a statement, and reduce conflicting information.

Kennard sees the biggest future challenges in crisis management communication as acquiring faster tools and improving the ability to communicate internally and externally. "For external communications, meet audiences wherever they are," Kennard says. "Notice on a website will reach people, but if more people are getting notices on their phones, use Facebook or whatever future platform" is popular. "Make statements long enough for a website, and short enough for a tweet." Kennard has observed that websites can work for providing notice to some groups, but that "eighteen- to twenty-year-olds won't go to a website, but look at social media sites on their phones. [You] can't assume they will go to the web. Other people farther out (parents, alumni) need more context and information. Directing them to a website may be best." These and other external audiences must be considered. "At the moment of a crisis, the [primary] thinking is about the people on campus, but other groups are important in managing the information flow. A communications plan should deal with external stakeholders (including insurance carriers and government regulators)—think of communication needs in terms of "rings out from epicenter."

When it comes to a college-age audience, "[n]ew devices are the new challenge," per Kennard. That being said, "in some crises, new electronics, new devices won't work. Older technologies— bullhorns, signs carried by people—may work better." In one instance, the University had to evacuate the campus and move everyone across the street. The people directing movements had badges and wore red vests to identify them as officials. The technology-free plan worked.

Importantly, communication needs are not one-sided—that is, it is essential to be on the lookout for incoming communications as well. "[You can] [h]ead off some crises with an ear to the ground; know what's going on. Take it seriously. You may not like the messenger, but there could be truth to the message."

8.   New Trends and Developing Issues

American University invested in enhanced technologies after 9/11 to provide instantaneous, campus-wide notices in the event of an emergency or campus lock down. Enhancements to the University's website allow communications with parents and students, and closed-circuit televisions situated in large gathering locations enable enhanced communication of emergency messages. In addition, AU has an FM radio station that assists in communication with off-campus populations.

Social media and IT increasingly play a role in crisis communications, although this avenue of communications is still growing. The Communications Department manages the University's social media presence and addresses social media issues, enlisting the help of the Legal Department to review media communications in advance. The Communications Department also relies on Google alerting technology to track websites mentioning the University. The University utilizes an Acceptable Use Policy to grant access to its technology networks.

B.   Nokia Australia

I.   Background

Nokia is a global leader in technologies that connect people and things. Nokia combines global leadership in mobile and fixed network infrastructure with the software, services, and advanced technologies to transform how smart devices and sensors tap the power of connectivity. With state-of-the-art software, hardware, and services for any type of network, Nokia is uniquely positioned to help communication service providers, governments, and large enterprises deliver on the promise of 5G, the Cloud, and the Internet of Things.

Serving customers in over 100 countries across the world, Nokia is driving the transition to smart, virtual networks and seamless connectivity by creating one single network for all services, converging mobile and fixed broadband, IP routing, and optical networks with the software and services to manage them seamlessly. With an R&D budget of EUR 4.7 billion in 2014, Nokia's 40,000 research scientists and engineers continue to invent and accelerate new technologies that will increasingly transform the way people and things communicate and connect.

Nokia's governance model is aimed at enabling Nokia to shape industry trends and monetize the intellectual property it builds in order to deliver predictable revenue and high-margin profit growth. Its five businesses (Mobile Networks, Fixed Networks, Applications & Analytics, IP/Optical Networks, and Nokia Technologies) report to Nokia President and Chief Executive Officer Rajeev Suri. Each business is run by a group president who reports to Suri. Each business group has strategic, operational, and financial responsibility for its portfolio and is fully accountable for meeting its targets.

In addition to the business groups and their respective leaders, seven additional unit leaders report directly to the President and CEO, including the Chief Financial Officer, Chief Customer Operations Officer, Chief Innovation & Operating Officer, Chief Human Resources Officer, Chief Strategy Officer, Chief Marketing Officer, and Chief Legal Officer. The primary operative decision-making body for the company is the Nokia Group Leadership Team. The Group Leadership Team is responsible for Group level matters, including the execution of company strategy.

Miika Junttila is the head of Legal Compliance for Nokia Solutions and Networks' market unit including Singapore, the Philippines, Australia, and New Zealand. He is based in Sydney, Australia. Junttila spoke recently with ACC about Nokia's crisis management program.

2.   Current Challenges in Crisis Management

According to Junttila, communication and planning are the cornerstones of an effective crisis management program, but there are challenges to crafting and implementing a program even with this foundation. Data protection and cybersecurity continue to be the biggest challenges in crisis management, Junttila says. In the wake of recent security breaches, new legislation has been developed relating to data protection (which can be helpful, but also imposes new requirements). Multijurisdictional interactions can also be tricky — when companies operate in multiple jurisdictions, some individuals will not know what data has been stored, Junttila says, or who manages data and who can copy or store it. In other words, questions remain.

Ever-evolving technology can both prevent and create crises. Technology can *prevent* problems by having work-arounds in place, such as security measures around firewalls. Technology also enables communication. The internet and social media can be used to spread information about crises. On the flip side, technology enables the *creation* of crises, such as when, for instance, targeted network hacking in Europe and Australia bring down important parts of the infrastructure. "Advancements and general developments in technology create different ways and means to enable crisis creation," according to Junttila. Terrorist groups like ISIS use social media and can go undetected (such as by using Snapchat), which "makes crisis creation easier," he says.

3.   The Importance of Cross-Functional Teams

Cross-functional interaction is part of successful crisis management. The first level of a cross-functional team at Nokia consists of the hands-on technical team. First responders troubleshoot network or customer problems. Next, it is important to bring in teams like the legal and management teams to manage customer issues. Teams with specialized expertise that deal with specific issues are also brought in, according to what type of crisis is at hand.

Company-wide crisis responses are driven by management, Junttila reports. The legal department is almost always involved, along with senior management. Crisis management efforts are escalated up one level if more than a technical issue is involved, that is, if s broader, company-wide issue is implicated. In addition, "[i]f it is a matter of the wrong information being communicated, subject matter experts are brought in," Junttila says. External help is also sometimes brought in — e.g., outside contractors and subcontractors may be relied on to execute ongoing projects. "[We] [n]eed to rely on partners for support."

4.   Leading Practices

a.   The Importance of Communication in Crisis Management

As noted above, one of the key features of any effective crisis management program is communicating effectively. The quick engagement of relevant stakeholders is essential in averting or responding to a crisis. "The common feature of any well-managed communications plan, especially for stock market listed companies, is communication," Junttila emphasized. Accordingly, "a company's communications department is the key to informing people, both internally and externally, of a crisis and how it is addressed, containing and managing crisis spill-over, and controlling false rumor damage." Technical people are also key in addressing service disruptions, but first and foremost, corporate-wide crises require communications people.

Communication needs vary by company. There are different requirements if a company is not a listed company. In the telecom industry, it is not always the company's decision as to what information goes public. "Not all the information and facts are on the table; it varies crisis-to-crisis," Juntilla says. Even so, you need to engage stakeholders quickly. At Nokia, bulletins on the internet inform people in relevant areas of problems and let them know that the issue is being addressed. "It is important to communicate that a problem is being fixed," Junttila notes. For major weather events like earthquakes, or political unrest impacting service or travel plans, service providers distribute newsletters and travel alerts internationally.

b.   The Need for a Formal, Written Crisis Plan

Communication is important, but "for any crisis, you need a back-up plan." Experts with sufficient knowledge to draft and implement a plan are an essential part of the crisis management team. "Without a plan, it is very hard to avoid a crisis because the first steps are not put in place," Junttila explains. For example, Nokia experienced a crisis when a company site in India was surrounded by flood waters; two to three thousand workers were stranded. Nokia was able to quickly implement a back-up plan to move the work ordinarily done at that site elsewhere (to the US and Europe). You "[n]eed to have plans in place for key sites," Junttila emphasizes. In addition, the IT infrastructure must ensure that, in crisis situations, internet and wireless LANs keep working. Many clients (especially sophisticated ones in the Asia/Pacific area, but even less-sophisticated clients) now require formalized plans as a condition of contracting. Contracts lasting more than three years, and even some shorter ones, are subject to periodic review. There is more focus on security and cybersecurity, data protection, terrorism (malicious use of infrastructure affecting networks), and hacking. All of these issues should be addressed in the company crisis plan.

c.   Debriefing

Finally, a "lessons learned" approach is taken to debrief to senior management at a higher level after a crisis is averted or controlled. It is also important to debrief functional groups at a more detailed level. The company should ask, "What was done well, what was done badly? How can we improve?"

C.   Maryse Bertrand (Former Vice President, Real Estate Services & Legal Services, and General Counsel, CBC/Radio-Canada; Director, National Bank of Canada)

1.   Background

Maryse Bertrand is well acquainted through her recent work experience, and current Master's Degree studies, with the crisis management practices of CBC/Radio-Canada (Canada's national public radio broadcaster); the National Bank of Canada (the sixth largest commercial bank in Canada, headquartered in Montreal with branches in most Canadian provinces and 2.4 million personal clients); and New York University (with more than 50,000 students from over 130 countries, three international campuses, and 4,500 faculty members). Bertrand, whose focus has been on the financial and academic points of view, agreed to talk to ACC to share what she has learned about crisis management and the cross-functionality of the management team.

2.   Elements of a Sound Plan

According to Bertrand, the essential elements of a crisis management plan—"the rulebook"—are the same across industries. Key elements include:

- Having clean roles and accountabilities. Know who makes decisions, and on what they are making decisions. Who is responsible, and for what are they responsible?

- Having clear definitions. What is a crisis? What triggers crisis management? At the CBC, incidents ranged from national crises (e.g., kidnappings of journalists) to local matters (service outages). When is it time to call in additional resources? Some matters are best dealt with on a local level.

- Establishing a process for gathering and analyzing facts. What is happening? Keep a finger on the pulse. Gather accurate data.

- Granting the appropriate party or group the ability and authority to implement the crisis management program; facilitate executive follow-through.

- Establishing clear reporting channels. Who reports to whom? How and when do you "report up"? Should the matter go to the CEO; if so, how? How about the board? The full board? The crisis management committee? The crisis management manual should specify thresholds for reporting. It is important, Bertrand says, not to disturb the board for minor technical violations.

3.   Cross-Functional Teams

According to Bertrand, you need a diverse team to respond to crises. You need operational people, "you need various talents." Risk professionals, legal specialists, communications experts, and government relations experts are all important members of the crisis management team. In

addition, the crisis management group needs a leader, someone who will call the shots and take responsibility. "The leadership should not be an operations person, but should be a legal or risk management person," Bertrand advises.

4. Leading Practices

In addition to the elements of the rule book discussed above, Bertrand offers the following best-practices advice based on her experience.

- Stay focused. Be clear on your goals. Distractions may not be relevant—they may just be sideshows.

- There is no such thing as "crisis avoidance." There are three main types of risks:

  - Avoidable risks from which no benefits can ever be had;

  - Business risks that need to be taken after an informed decision; and

  - External risks that can only be managed—you can never actually avoid them.

- Debriefing and "lessons learned" exercises are a hugely important part of any crisis management plan. Bertrand's motto is, "Adversity is a way to learn new skills." She adds, "You waste a good crisis if you don't do a 'lessons learned'. Things are much clearer after the fact. You rarely do everything 100% perfectly. It behooves you to see what didn't go well. Hindsight is a gift and provides the opportunity to make adjustments to your plan."

5. Trends, Issues, and Challenges

Bertrand spent six years with the CBC in risk management. What changed during that time, she says, was the growth of social media as a tool for communications. A good example in this regard involves the CBC planning around the Sochi Olympics in 2014. There were about 300 people working there, and there were issues of safety and security, including concerns about possible threats from Chechen terrorists. Social media was used as a part of the plan should evacuation become necessary. It was a crucial tool. "How do you reach all 300 people?," Bertrand queries. Social media simplifies the task of quickly disseminating a message.

On the other hand, Bertrand observed, social media can also be a headache on the communications-management side. There is a potential for communication to get out of hand and amplify the crisis. An example of this phenomenon occurred in the Northern Trust Bank situation in the UK. Rumors were widely circulated, so people thought the bank was unsound, even though it was not. The out-of-hand information caused a run on the bank.

Another relatively new phenomenon, resulting from the 2008 financial crisis, involves crisis-management measures adopted by other industries based on lessons learned in the financial sector (e.g., simulation, stress testing in banks). These measures can provide a robust framework in other

industries: for example, heat maps showing areas of potential risks, and creating a matrix for planning.

6.   Case Study

One of the more notable national crises dealt with by Bertrand at the CBC involved Jian Ghomeshi, a famous radio personality in Canada. He had a variety cultural show that covered books, movies, music, and politics. Ghomeshi was a big star and a big personality at the CBC, something of a "poster boy." Gomeshi was fired by the CBC after accusations were made that he had assaulted a woman.

On the day following the news of his dismissal, the firestorm started. Ghomeshi had a huge following on social media, and fans protested his firing. Gomeshi sued for $55 million. Many viewed this as a private matter involving one's personal sex life. Subsequently, many other women came forward with stories of non-consensual violations and abusive relationships. Most of the women involved were non-CBC employees. Ghomeshi's firing was no longer the big issue but the issue internally became what the CBC knew, and when. CBC had to manage allegations that it had protected a monster. They called in an independent investigator and eventually released the full report on the matter. As a result, two CBC managers were dismissed. As a media organization, the CBC was particularly challenged by the need to respond to the many media inquiries that followed and to deal with the storm in the press and other news organizations. This raised issues of self-coverage that were unique to the organization and for which no real playbook existed.

Twelve different criminal charges were eventually brought against Ghomeshi and the CBC had to cooperate with the police investigation while managing its own private investigation and the union and civil claims filed against it by Gomeshi.

Lessons learned: Have a clear and consistent policy regarding communications with the media. Once interviews were given, there was no stopping the reporting. The desire to protect the integrity of the investigation process must be balanced against the need to demonstrate full transparency and accountability. Be clear about your goals and how you intend to manage disclosure. Communicate your process and provide regular updates to employees and other stakeholders. Don't lose sight of the greater picture in the middle of the media frenzy, and resist the urge to express a view before all the facts have been investigated.

D.   General Counsel – Fortune 500 Consumer Corporation

Our last participant agreed to speak to the ACC about crisis management from his personal perspective, rather than as an official representative of his company.

I.   Key Components of a Crisis Management Plan

According to our final participant, if you try to identify just one or two critical elements of a crisis management plan, "you are going to leave something out." In other words, an effective plan is multi-faceted. For starters, one key point is flexibility, that is, a need to adjust as circumstances require. Next, there must be accountability for responsiveness at high levels. Open lines of

communication "with a 24/7 fail safe" are also essential, he says. Another requirement is to have an "on call" person or persons on board, someone who has a deep, substantive understanding of the business. Rather than just emergency responders, "these people must understand what [the business does]. They aren't necessarily experts, but they must have an understanding of the business." These are the basic elements of a crisis management plan across all industries, we were told, and without them, "your crisis management plan is a non-starter."

a. The Need for a Cross-Functional Crisis Management Team

The crisis management team should include a good cross-section of areas of specialty, and accountability for each area. Individual "teams should represent all the functions in the organization unless you are dead certain that the function will never be involved in a crisis." Some person from each team should be "accessible constantly, and they should be trained in reaction to crisis management." Training is important because a technical person (e.g., a chemist) cannot and should not be an expert in crisis management. It is also important to "have someone who can bring together all specialties. Train them in advance on the basics. Separate but connected programs must work together."

b. Leading Practices

Our interviewee said he prefers the term "good practices" to "best practices." Once something is deemed "best," he says, there is a presumption it cannot be improved. One *good* practice is to eliminate unnecessary layers of communication—to dispense with the obstacles between an incident and the flow of information to those in a position to react. "Above all else, understand that the first people to deal with a crisis often can't deal with it except to the extent of getting in touch with those who can." It is just common sense, he says, to know whom to contact, and how to contact them; know how to digest the nature of the crisis swiftly; and know the resources for dealing with it.

Next, he advises, do not make elaborate rules. "People spend so much time trying to follow rules. Everyone has my number, [and] can contact me or contact those internal resources in the best position to respond."

The risk management function is not just reaction, he emphasizes, but also prevention. Strong risk management training and internal programs are important and should be cultivated. It is best to have crisis avoidance ingrained in the organization and its culture. It is also important to have some form of process to analyze root causes of a crisis and dissect components—areas that that caused the crisis and had an impact on the crisis. "Learn from it and avoid it in the future."

The best piece of advice he said, is to "keep calm and carry on." The most effective crisis management program can be bungled by someone who is not calm and able to react. "They must be able to execute, and do it calmly. Someone not prone to panic, who understands the program from the top down," is the best person to be at the helm, he explains.

2. New Trends and Developing Issues

Technology has made a recent difference in crisis management, he says. As a result of technology, "[i]t is possible to communicate in multiple ways. There is no reason not to be accessible." Social media has also had a huge impact in terms of opportunities to manage consumer perception. A

company is always on defensive regarding internet rumors, which sometimes turn into crises. The speed with which information is disseminated is itself a challenge, and will become a greater challenge in the future. There is nearly instant publication of information. As a result, misinformation can spread like wildfire, and the need to react with similar speed will be critical. He further advised that, "[a]s far as the literal need to react goes, the fundamental rules are so basic that they will remain constant. . . . . The *execution* of a crisis management plan, however, has to be constantly evolving to remain effective."

IV. Sample Business Continuity and Crisis Management Plans

Resources for business continuity planning are widely available to assist counsel in getting started.

A.   U.S. Resources

James C. Barnes, A GUIDE TO BUSINESS CONTINUITY PLANNING, John Wiley & Sons, Ltd. (2007), http://pqm-online.com/assets/files/lib/books/barnes.pdf.

Kim Lindros and Ed Tittel, *How to Create an Effective Business Continuity Plan*, CIO.com (November 2013), http://www.cio.com/article/2381021/best-practices/how-to-create-an-effective-business-continuity-plan.html.

Ready Business Mentoring Guide: Working with Small Businesses to Prepare for Emergencies, Homeland Security / FEMA (May 17, 2006) http://www.fema.gov/media-library-data/1392217307183-56ed30008abd809cac1a3027488a4c24/2014_business_user_guide.pdf

Insurance Institute for Insurance & Home Safety, https://disastersafety.org.

> **Note:** This site contains resources for a variety of disasters ranging from preventing damage to a roof from a wildfire to how to conduct a disaster safety review. For a complete list of the topics covered, hover your cursor over the Resources menu for a drop-down list of their publications.

Every Business Should Have a Plan, Homeland Security / FEMA (January 2014) http://www.fema.gov/media-library-data/1389022685845-7cdf7d7dad7638a19477d01fdbfa820f/Business_booklet_12pg_2014.pdf.

> **Note:** Additional templates and forms are available from FEMA at https://www.fema.gov/media-library/resources-documents/collections/357 to help with inventory of office resources, supplies to have on hand, and the costs expected with the preparation of such a plan. In addition, it provides information on insurance coverage and a case study on the Morgan Stanley business disaster arising from the World Trade Center attacks.

Travelers Insurance, *Business Continuity Planning in Four Steps*, (April, 2016) https://www.travelers.com/resources/business-continuity/business-continuity-planning-in-4-steps.aspx

B.   Canadian Resource

Public Safety Canada, *A Guide to Business Continuity Planning*, GOVERNMENT OF CANADA (2016), https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/bsnss-cntnt-plnnng/index-eng.aspx#a03.

V.   Additional Resources

A.   ACC Resources

1.   Articles

Crisis Management: From Policy to Response (Dentons Canada LLP and ACC Canada Mar. 2014), http://www.acc.com/chapters/canada/upload/Crisis-Management-From-Policy-to-Response-March-2014-3-copy.pdf

M. Hill Jeffries, Kyle G. Healy, Marshall M. Chalmers, *Planning Ahead – The Board's Role in Crisis Management* (ACC Feb. 2013), http://www.acc.com/legalresources/quickcounsel/patbricm.cfm

Ian Ivory & Simon Allan, *Top Ten Strategic Crisis Management for Russian Deals* (ACC Oct. 10, 2012), http://www.acc.com/legalresources/publications/topten/ttscmfrd.cfm

2.   InfoPAKS

Crisis Management in Litigation and Investigations: Parallel Proceedings, Competing Stakeholders and Multiple Venues, InfoPAK, Aug. 2008, http://www.acc.com/legalresources/resource.cfm?show=77428

3.   Education Programs

James Mabon, Robin H. Sangston, & Kathleen Taylor Sooy, Crisis Management Interactive Session, *The Different Hats of In-house Counsel* (July 4, 2013),

http://www.acc.com/legalresources/resource.cfm?show=1344465

When "No Comment" Isn't the Right Answer-How to Get Your Side of the Story Out, AM, Oct. 2010, http://www.acc.com/legalresources/resource.cfm?show=1241592

Crisis Management: Responding When Disaster Strikes, AM, Oct. 2008 (slides contain a Desktop Reference for Crisis Communications), http://www.acc.com/legalresources/resource.cfm?show=154477

Crisis Management: What to Do When a Company/Brand-Threatening Event Occurs, AM, June 2006 (Europe source) http://www.acc.com/legalresources/resource.cfm?show=20231

For more ACC crisis management resources, search for "crisis management" in ACC's Resource Library, http://www.acc.com/legalresources/index.cfm.

B.   Additional Resources

Institute of Business Continuity Management, *Organisation Resilience: Business Continuity, Incident and Corporate Crisis Management*, https://www.continuitycentral.com/OrganisationResilience.pdf (includes extensive bibliography and reading list).

VI. Endnotes

[1] This topic was originally covered in 2004's Leading Practices in Crisis Management and the Role of In-House Lawyers: What Companies Are Doing.

2 American University Emergency Management and Continuity of Operations Plan, p. 8.

[3] *Id.*

[4] See SRP Crisis Management Team Operating Guidelines, attached to this Leading Practices Profile in Section IV.

[5] See Ian I. Mitroff, Managing Crises Before They Happen: What Every Executive and Manager Needs to Know About Crisis Management (New York 2001).

[6] A notable example is Domino's Pizza's response to the 2009 You Tube scandal involving employees defacing the product. The company responded with a viral video to address the crisis and successfully restored customer trust. See Richard S. Levick, Domino's Discovers Social Media, Bloomberg Businessweek, Apr. 21, 2009, available at http://www.bloomberg.com/bw/ stories/2009-04-21/dominos-discovers-social-mediabusinessweek-business-news-stock-marrket-and-financial-advice.

[7] Implementing Recommendations of the 9/11 Commission Act of 2007, P.L. 110-53, Aug. 3, 2007

[8] See FEMA, Voluntary Private Sector Preparedness Accreditation and Certification Program, http://www.fema.gov/voluntary-private-sector-preparedness-program-ps-preptm-small-business-preparedness; http://www.fema.gov/about-ps-preptm#.

[9] The three PS-Prep standards are adopted from the following external standards: ASIS International SPC.1-2009; Business Standards Institution 25999; and National Fire Protection Association 1600.

[10] The PS Prep program is designed to build awareness and enable businesses of all sizes to plan, test, and recover by having disaster management, emergency management, and business continuity programs. Similarly, the Public Health Agency of Canada has published several guides to business continuity planning, available at http://www.phac-aspc.gc.ca/influenza/bcp-eng.php. a guide to business continuity planning for private industry. The Canada Standards Association's Z 1600 (modeled after NFPA's 1600) sets forth standards for establishing and integrating business continuity and emergency management programs. Many other countries have also enacted legislation governing business continuity management (BCM), and crisis, emergency or disaster planning. For a list of BCM authorities by country, see Business

Continuity Institute, BCM Legislations, Regulations, Standards and Good Practice (Jan. 2015), http://www.bcifiles.com/BCMLegislationsandRegulationsJan2015.pdf.

11 Open for Business focuses on two categories of protection: the Business Continuity Plan and the Property Protection Plan. The initiative's BCP consists of 13 forms designed to provide participants with the basics of a customized business continuity plan. For companies with the fundamentals in place, the OFB toolkit also offers an advanced track with modules on crisis communication planning, supply chain risk management, financial controls, vulnerability assessment, etc.