

Crisis Management's Top 10

Something is going to happen. You just don't know what or when. No county is exempt from unanticipated crises and emergencies. Some will require activation of the county Emergency Operations Center, and there is a precise protocol for roles, responsibilities and processes for EOC operations. Others will rest with the Board of Supervisors and executives to manage. In either case, the community and employees will look to their elected and appointed officials to exercise leadership.

Before the crisis occurs is the time for the Board and senior executives to discuss roles and responsibilities, and how they will work together when the unexpected occurs. The following ten strategies are offered as places to start that conversation, and ideas to keep in mind when the unexpected occurs.

1. Act in a way that would make your mother proud.

People watch your feet and follow your lead – both employees and the community. Every action you take, every word you say in a crises situation is watched; particularly elected and appointed officials. Remember that in every opportunity. Be deliberate in words and action. Consider how they will be interpreted. Act in a way that builds trust, is honest and forthright, and establishes confidence that the county is managing the crises.

2. NEVER lie.

We live in a world where the truth can be uncovered quickly. Being caught lying, exaggerating or being deliberately obtuse about a situation or the county's actions can devastate the county and your Board. Attempted cover-ups can turn a reporter into a folk hero. The payoff for uncovering public agency wrongdoing or mismanagement are huge.

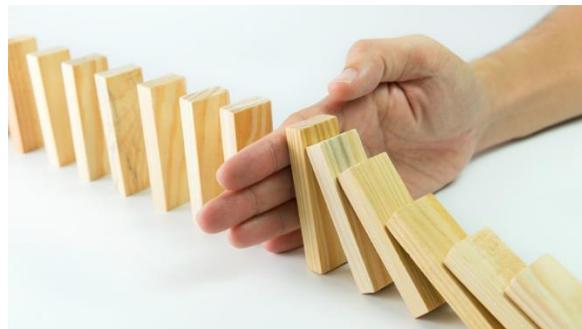
3. Tell the truth and tell it quickly.

Generally, organizations have less than a day to tell their version of the truth. After that, the media and other external stakeholders will have tapped into secondary and tertiary experts who will have their own views on what has happened.

4. Make crisis preparation an ongoing process.

In crisis management, one size does not fit all, and once is not enough. The most effective crisis preparations are those tailored by senior executives and elected officials to fit the needs and vulnerabilities of their county, community,

and stakeholders. Some organizations are tempted to delegate crisis management to a single staff person or office, or to consider the emergency management plan as the ultimate evidence of preparedness. Both are insufficient. Crisis management is an ongoing process that requires careful and constant modification by senior executives as technologies, environments and stakeholders shift. Once preparations are in order, the best-prepared organizations revisit their strategies and consider new contingencies regularly.



5. Remember your employees.

After the smoke has cleared, employees in some organizations lament that they were not able to find out what was going on in their own county while the crisis was occurring. You do not want your employees to have to rely on Twitter or the media as their source of information about their own county. It is demeaning and dangerous to discount those who will be key to your organization's survival. If the crisis has affected the employees of the organization, the board and executives must be prepared to consider and take actions to

address the grieving process for employees and to heal the organization.

6. Designate one spokesperson and surround that individual with experts, as needed.

The easiest way to deliver a consistent message during a crisis is to have one elected official or senior executive as spokesperson. To this end, all senior executives should go through crisis communication training. The lessons are invaluable and relatively easy to learn. When a crisis hits, the spokesperson should be surrounded by experts who can elaborate on answers to technical questions. Elected officials should prepare for how they will respond to media questions outside of news conferences.



7. Support messengers of bad news.

Welcome and pursue the reporting of potential problems. When a crisis is looming, your most valuable resource are the people who inform you about the threatening situation quickly. Reducing internal hierarchical barriers to communication and improving communication with external stakeholders enhances the likelihood the county will hear about the situation early, when responses are easier and far less costly in terms of credibility and resources.

8. Build positive relationships in advance.

The value of maintaining productive relationships with other local, state and federal agencies is even more pronounced in an unfolding crises. Certainly mutual aid in public safety is a given in any crises. But often the management and recovery from a crisis requires the help and support of a multitude of other public agencies. Some officials assume that others will come to their aid when a crisis occurs. This assumption may be ill founded, particularly if there is ill-will among agency policy makers. County Boards and executives can improve the probability for this, however,

by taking time to build and maintain effective relationships with stakeholders well before any crisis situation. Doing so allows you to have a clearer sense of which individuals and agencies you might count on, as well as the ways and extent to which key stakeholders can and will be of assistance. Also, how you may be of assistance should your county be called upon to assist another public agency. During a crisis and recovery avoid (un)intentionally alienating other public agencies (local, state or federal) who may be important allies. It may feel politically satisfying in the moment, but is likely to have much longer negative impact on your county.

9. Make time to learn after the crisis has passed.

When the threshold of the crisis has passed and business is returning to normal, there is a tendency to want to move on, to get past the trauma that has occurred, to get back to the typical rhythm of county business and leave the crisis behind. But, when you do this, you miss extraordinary opportunities for organizational learning. The details that will enable the county to do better next time are best captured when they are fresh, whether through a debrief with the elected and appointed officials involved or through individual discussions with internal and external stakeholders who took part in the crisis response. The time invested in examining what happened, and making adjustments to plans and practices – particularly at the board and executive level – can pay off when the next crisis occurs.

10. During and after crises, have patience with others ... and with yourself.

Make time to pause, refresh and reflect. Trying to think clearly under extraordinary conditions takes a toll on the brain, the heart and the body. It is important to attend to all three during and after a crisis. Step away from the crises for a few moments. Allow time for the adrenaline to subside and your full resources to be restored.

A Leader's Role When Tragedy Strikes

April 2010

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Question: This column frequently addresses core ethical values — trust, respect, responsibility, loyalty, fairness and compassion. I have a question about compassion and responsibility.

Our community just went through a harrowing experience: a group of our young people were innocent victims of a violent crime. As a community leader, I found myself uncertain about what to do. Yet people seemed to look to me and other leaders to do something. In such situations, what are my responsibilities as a responsible and compassionate community leader?

Answer: You are describing a community in crisis. An extremely helpful publication for leaders on communicating in a crisis, *Crisis & Emergency Risk Communications by Leaders for Leaders* (www.bt.cdc.gov/cerc/pdf/leaders.pdf), analyzes

the experiences of federal, state and local government leaders in responding to many kinds of community crises.

This column draws heavily on that publication, which we call the *CERC Guide*. If this topic interests you, it’s well worth reading the entire publication (also available as a resource at www.ca-ilg.org/tragedy).

According to the *CERC Guide*, in a crisis the public wants a number of things from its leaders, including:

- Empathy;
- Prompt, reliable and trustworthy information; and
- A plan of action.¹

Empathy

Empathy is the ability to understand what someone else is feeling. As the *CERC Guide* notes, empathy does not necessarily require that you feel the same emotion, but it does require that you relate to both those who lost loved ones as well as those who fear for their own and their loved ones' safety.²

Experts advise leaders to express empathy right away. Your community needs to hear that you understand what they are going through. This includes acknowledging people's fears.

It's natural to want to reassure people and to remove the sources of fear and anxiety. The *CERC Guide* strongly discourages leaders from simply trying to reassure people that there's nothing to about or fear.³ Empathy involves acknowledging those feelings and, if appropriate, dealing with them.

For example, you may have information that suggests the threat of harm has indeed passed. If you believe this, help people in your community reach the same conclusion — share with them the information that convinced you.⁴

Although grief is a universal emotion, no two people experience it in exactly the same way.⁵ As a result, it can be tricky to communicate empathy by saying, in essence, you know how someone feels (for example, by equating your experience to their experience). If someone doesn't agree that the experiences equate, such an approach can be inadvertently counterproductive. Instead, focus on what you think the universal reaction to such a terrible event is. Also, listen to understand what people are experiencing. This is the primary goal when meeting with victims of loss. Accept moments of silence and understand that some 90 percent of communication is nonverbal.⁶ The *CERC Guide* also notes that how something is said can be more important than what is said.

Prompt, Reliable and Trustworthy Information

The public wants to make well-informed choices about how to keep themselves and their loved ones safe. Research indicates that any reliable information is empowering and uncertainty is more difficult to cope with than knowing a bad thing.⁷

If your agency is involved with catching the perpetrators in your particular situation, explain what's being done to achieve that objective — without sharing information that might undermine that goal. Examples include:

- “Here’s what we know and can share.”
- “This is what we’re doing to get answers to the questions we don’t yet have answers to.”
- “Here’s where we need your help with getting more information.”
- “There are the steps you can take to keep your family safe.”

It’s also important that only reliable information be shared — this is essential for your and your agency’s credibility. Emphasize your interest in giving accurate information to the public. Explain what you’re doing to get correct information and that you will provide updates as more is known.

The *CERC Guide* shares the story of the Washington, D.C., sniper attacks, which resulted in enormous widespread fear and not a great deal of information for local officials to share. Officials offered tips on recognizing signs of mental illness and being a good witness.⁸ This helped empower the community to be part of the law enforcement team’s eyes and ears. With respect to credibility, it’s important not to make promises that you cannot be confident will be kept. Instead of promising that the perpetrators of the violence will be brought to justice, explain that your agency is doing everything it can to catch them.⁹

The *CERC Guide* offers a number of other helpful tips, including:

- In a crisis, people are starved for information. They (and this includes the media) will seek that information anywhere they can find it. Be forthright about what you know, acknowledge what you don't know and explain what you're doing to get more information.¹²
- Help the media report knowledgeably on the event.¹³ Engage experts who can serve as accurate sources for background information on what happened and help put the information in context.
- Include communications planning as well as logistical planning as part of disaster preparedness efforts.¹⁴
- Don't confuse the media with your audience. Your audience is the community members who are feeling frightened, confused and possibly angry. React to them and not the media that serves as the intermediary for your communications.¹⁵ Picture your ultimate audience before you begin speaking.¹⁶

The *CERC Guide* also points out that in terms of trust and confidence, it's especially important for the public to know that all leaders are working together as a team in difficult situations. The media and the public quickly pick up on people who are trying to use a crisis for self-advancement.¹⁷ The guide notes that speaking disparagingly of someone, assigning blame or passing the buck all tend to be unbecoming.¹⁸ If something needs to be criticized, attack the problem and not a person or organization.¹⁹

Tips on Handling Public Meetings After a Tragedy

The *CERC Guide* is fairly direct on this issue: If you are a public official, you owe your community the opportunity to meet with you.¹⁰ The guide also emphasizes that your goal in having such a meeting is not to offer solutions but to help the community discover its own solutions. Here are a few tips on successfully conducting a meeting of this type.

Let people talk. Have experts and public officials there as resources, but don't let them dominate the meeting.

Ask questions. What you think the issues are may not in fact be what's bothering people.

Treat everyone's input with respect.

Tell the truth. Admit when you don't know something, and commit to following up to get the information that attendees are seeking.

Understand the source of people's emotions. They may feel hurt, threatened by risks they can't control, ignored or disrespected. Even if these feelings manifest in angry and disrespectful comments, do your absolute best to be understanding and not respond in kind.¹¹

For more tips on dealing with emotional audiences, see the October 2009 installment of this column, "Dealing with Emotional Audiences" (www.calig.org/EmotionalAudiences).

A Plan of Action

According to the *CERC Guide*, the **number one goal in a crisis is to counteract feelings of hopelessness and helplessness.**²¹ The way to do this is to set people on a course of action. The guide says, “As much as possible, give [people] relevant things to do: things that are constructive and relate to the crisis they are facing. Anxiety is reduced by action and a restored sense of control.”²²

The actions can be symbolic (put up the flag or another display of community solidarity) or preparatory (donate blood or create a family check- in plan).

The actions can also involve honoring the lives that were lost. This can be something the community does together to help support the families of those most directly affected by the loss. It can be very comforting for family members to know that others appreciated a lost loved one’s special qualities and contributions. It won’t stop the pain of the loss, but finding ways to demonstrate that the lost lives mattered can help.

The City of Fairfield applied this concept when the community lost two advocates for youth engagement, Matt Garcia and Frank Kardos, in the same month. Council Member Garcia had been, at age 21, one of the youngest elected officials in California and a champion of youth engagement issues. Council Members Frank Kardos and John Mraz shared this commitment, leading a local push to create a Police Activities League that would provide a safe space for teens after school.

Culturally Appropriate Responses

Just as no two people experience grief in the same way, it’s also important to keep in mind that people react to and recover from tragedies within the context of their individual life experiences, values and culture. They will react differently to gestures (such a physical touch and expressions of caring that have religious overtones, like “I am praying for you”). They also may have a different sense of what information is private.

Listening is perhaps the most important element of responding to a community and people who have suffered a loss. Part of that listening may involve securing translation services so people are communicating in the same language.

Another part of that listening may involve seeking out not only individuals, but civic associations and social clubs, neighborhood groups, faith-based organizations and interfaith groups, service clubs, health care and social service providers, and other kinds of nonprofit organizations. Some questions to ask may include:

- Tell us what you see as the issues in helping the community respond to and recover from this tragedy?
- What are your thoughts on how to address those issues?
- How can we best honor the memories of those we lost?

The *CERC Guide* notes that it is important to be realistic in dealing with potential stakeholders and stakeholder groups — there will be those who want to help, those who are adversarial and those who are ambivalent.²⁰ The key is to anticipate the needs and reactions of all three groups so you can address them.

Tragedy struck the community in early September 2008 when Council Member Garcia was shot and killed. The loss was compounded when Council Member Kardos passed away a few weeks later.

The council decided to honor their colleagues' legacies by redoubling efforts to fund the youth center. Mayor Harry Price explains the process this way, "The youth center was to be named after Billy G. Yarbrough, a long-time Fairfield resident and business owner who had dedicated his life, including his time and fortune, to city youth. In a profound gesture that began the community healing process, the Yarbrough family requested the youth center be renamed the Matt Garcia Youth Center. The community now had an outlet to turn grief into healing. Donations for the youth center began pouring in."

Mayor Price notes that the tragic events of 2008 have led to a legacy of support for community youth and given them a positive place to learn and grow — a fitting tribute to the leaders that the community lost.

Other ways to honor the memories of those lost include flying flags at half mast, adopting resolutions honoring the contributions that people made to the community (or their schoolmates), and writing newspaper or blog articles that pay tribute to the kind of people they were. Physical memorials, such as planting a tree or dedicating a particular piece of playground or other equipment, can also be meaningful. Attending any memorial services the family invites you to is another very important gesture.

For many people struggling to cope with losing a loved one, it can be helpful to know that the loved one's life mattered not only to the family but also to the larger community. While there is nothing you can do to make the pain go away — and it's important to recognize that — such actions make those grieving most deeply feel a little less alone.

What If the Agency Bears Some Responsibility?

It's always okay to say that one is sorry that something happened (what the *CERC Guide* describes as being "regretful as opposed to defensive").²³ This is not the same as admitting responsibility. For a discussion of the ethical issues that arise in such a situation (including whether it is ethical for an elected official to admit liability unilaterally and commit his or her agency's taxpayers to pay the tab for an injury), See "Saying You're Sorry" available at www.ca-ilg.org/tragedy. That piece also examines the issue of whether taking steps to address the immediate needs of a victim can decrease the victim's likelihood of suing.

Find Practical Tips Online

For more information, including tips on handling public meetings after a tragedy, developing culturally appropriate responses and what to do in cases where the agency bears some responsibility for the tragedy, see the online version of this article at www.ca-ilg.org/tragedy.

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The Institute welcomes feedback on this resource:

- Email: ethicsmailbox@ca-ilg.org Subject: *A Leader's Role When Tragedy Strikes*
- Mail: 1400 K Street, Suite 205 • Sacramento, CA • 95814

References & Resources:

Note: Sections in the California Code are accessible at <http://leginfo.legislature.ca.gov/>. Fair Political Practices Commission regulations are accessible at www.fppc.ca.gov/index.php?id=52. A source for case law information is www.findlaw.com/cacases/ (requires registration).

*The citations listed below are to the **first edition** of the CDC's publication, *Crisis and Emergency Risk Comm's for Leaders by Leaders*. The CDC has since released the 2012 version of the publication.*

¹ See Barbara Reynolds, *Crisis & Emergency Risk Communications: By Leaders for Leaders* 4. More completely, the *CERC Guide* lists five things the public seeks: 1) information to protect themselves, their families and pets from danger, 2) to make well-informed decisions, 3) to have an active, participatory role in response and recovery, 4) to evaluate the use of public and donated resources, and 5) to recover or preserve well-being and normalcy. The guide also provides advice in the form of five “don’ts” and another five “do’s.” See *CERC Guide* at 5-8 (“Five Communications Failures that Kill Operational Success”), 9-12 (“Five Communications Steps for Success”). See also *CERC Guide* at 20 (“First Message in a Crisis”)

² *CERC Guide*, at 10-11.

³ *CERC Guide*, at 7 & 12 (“reality check” box).

⁴ *CERC Guide*, at 7.

⁵ *CERC Guide*, at 37.

⁶ *CERC Guide*, at 37.

⁷ *CERC Guide*, at 11.

⁸ *CERC Guide*, at 23 (sidebar).

⁹ *CERC Guide*, at 15.

¹⁰ *CERC Guide*, at 40.

¹¹ *CERC Guide*, at 40. See also Lawrence Susskind and Patrick Field, *Dealing with an Angry Public*, New York: The Free Press (1996) at 16-17.

¹² *CERC Guide*, at 31.

¹³ *CERC Guide*, at 28.

¹⁴ *CERC Guide*, at 4-5 (public perception of an organization's effectiveness turns on speed of information; leaders frequently find that more time is spent on communications issues than logistical issues), 9 (a communications plan is just as important as a logistical plan), 24-5 (elements of crisis communications plan).

¹⁵ *CERC Guide*, at 33.

¹⁶ *CERC Guide*, at 34.

¹⁷ *CERC Guide*, at 8 (on the importance of not having public power struggles), 20 (see comment in sidebar).

¹⁸ *CERC Guide*, at 36.

¹⁹ *CERC Guide*, at 23.

²⁰ *CERC Guide*, at 39.

²¹ *CERC Guide*, at 13.

²² *CERC Guide*, at 13.

²³ *CERC Guide*, at 34.

When Tragedy Strikes: A Leader's Role, Revisited

August 2014

Question: *Recently something terrible happened in our community. The public is demanding answers and information, expressing a strong desire that those responsible be held accountable. Our local agency staff is investigating what happened and whether any wrongdoing has occurred.*

The media is pressuring elected officials to speak out and take a stand. Staff is cautioning us as elected officials to be circumspect about what we say before the investigation is finished. Is that ever the right approach?

Answer: Although transparency and communication are key elements of promoting public trust and confidence, sometimes discretion — as it relates to divulging incomplete or misleading information — is the right approach. A values-based approach provides a useful framework for analyzing the situation.

Leaders can look to a number of universal ethical values in analyzing what the right thing to do is in any given situation. These values include compassion, loyalty, responsibility, trustworthiness, fairness and respect. As in many ethical dilemmas, positive values may compete, complicating the analysis.

As discussed in the Institute's April 2010 article, "A Leader's Role When Tragedy Strikes," (available at www.ca-ilg.org/tragedy) it is helpful and extremely important to promptly acknowledge and express compassion and empathy for families who have suffered a tragedy. Acknowledging the community's loss and people's sense of fear or anger is also consistent with this value.

Responsibility and Fairness

Compassion and empathy are not the only values at stake in a situation. Often circumstances call for an investigation when something bad happens. The goals of an investigation are typically to evaluate whether any wrongdoing has occurred, hold wrongdoers accountable and analyze how to prevent a recurrence of the situation.

To honor the values of fairness and responsibility one must allow those conducting the investigation time and space to do their work. An investigation can have twists and turns, with facts being revealed at one stage that point to one conclusion, while facts revealed subsequently may suggest a different conclusion. Divulging information before an investigation is complete can be inadvertently misleading or present an incomplete picture. It can also change the course of

an investigation and hinder the investigators' ability to determine the truth. This undermines the values of fairness and responsibility.

Accountability

"What about transparency?" some may ask. Transparency is connected to truth-telling and accountability, which in turn relate to the core values of trustworthiness and responsibility. Releasing information that may be incomplete or misleading can be inconsistent with those values. As curious as the media and the public may be about what the agency is learning, waiting until all the information is in and the investigation is complete is the values-based approach.

Due Process

Individuals in the community or the media may believe that they know which conclusions should flow from the facts that they have. While they may ultimately be correct, the purpose of an investigation is to look at all the available facts — without prejudging — to determine what happened and how to prevent it recurring. A fair process does not begin with a conclusion and work backward from there.

If a person's job or key rights are on the line due to an investigation's findings, they may challenge the integrity of the investigation if it appears that those performing it were influenced by people who may have reached a conclusion without the benefit of all the facts. If such a due process claim is successful and the investigation's conclusions are thrown into question, the agency and its leaders will not have achieved the community's goals of getting to the truth of the matter.

Applying the "front page" test to such a situation, local agency officials might foresee the headline "Agency Bungles Investigation," suggesting the agency did not live up to its responsibilities. In fact, the New York Times analysis of the FBI's handling of the investigation of the Atlanta Olympics bombing (see "Investigative Twists and Turns: From Hero to Suspect, But Not Quite Back Again" below) used the word "bungled" years after that case was resolved.¹

As a practical matter, an incomplete or biased investigation may work against the community's need for trustworthy answers that stand the test of time. Even if one ultimately gets to the right answers, people will remember the wrong ones as well.

Investigative Twists and Turns: From Hero to Suspect, But Not Quite Back Again

The Richard Jewell story illustrates the hazards of rushing to judgment and the injustice and damage it can cause. Jewell was the security guard who found the bomb that detonated during the Olympics in Atlanta, Georgia, on July 27, 1996.

In the first few days after the bombing, Jewell was hailed as a hero. He had recognized the pack containing the bomb as suspicious, quickly alerted the police and helped evacuate the area around the bomb.

Public sentiment toward Jewell shifted dramatically when a law enforcement source reportedly leaked information to a local newspaper that Jewell was a suspect in the FBI's investigation. Jewell was subjected to intense, unflattering and hurtful media attention, including speculation that he was an attention-seeker who planted the bomb to become a hero.² Although the FBI was investigating Jewell, it had no actual evidence that he was indeed the bomber.³

After three months of media attention and investigation by the FBI, the federal government announced that Jewell was no longer a suspect in the bombing.⁴ It was two more years before the FBI identified the actual culprit in the bombing, who was later convicted and sentenced.

One print journalist, reflecting on the damage a mistaken accusation can do, observed:

I interviewed Mr. Jewell about his treatment by the news media, which he said had jumped on him "like piranha on a bleeding cow." He said then, as he did in subsequent interviews, that he knew he could never get his name back.⁵

What happened in Jewell's situation has now entered the communication lexicon as "the Jewell syndrome."⁶

The Jewell syndrome holds potential lessons for well-intentioned public officials. The source who leaked the information likely believed that the disclosure responded to the media's and the public's need to have information about the possible culprit of such a heinous act. But the unfairness of what happened to Richard Jewell as a result of attempting to meet that need underscores the potential cost of releasing incomplete or inaccurate information.

Communicating in a Crisis

Having discussed what one cannot or should not say, what should one say? Crisis communications expert Joan Gladstone advises local officials and staff to think in terms of responding with both one's head and one's heart.

She notes, "What people crave is hearing that public officials care. Otherwise the community will perceive officials as being out of touch." Expressing empathy (for example, saying "Our hearts go out to those affected" or "We are so sorry to learn of this tragedy") can address this human need.

To address the “head” part of the response, most agencies appoint a spokesperson to offer prompt information to proactively address the community’s concerns. In Gladstone’s experience, supplementing the spokesperson’s comments with a written statement can provide a source of information for both the media and all local officials to guide their response and reduce the chance of off-the-cuff remarks. Agency counsel and others should review the statement to ensure that it does not include information that could undermine the investigative process.

As part of this consultation with counsel and others, Gladstone advises determining whether it is possible to explain, in broad terms, the process the agency is following on the investigation. This can include a projected date when the results of the investigation will be available (or an updated estimate about when the investigation results may be available). According to Gladstone, explaining the reasons why more information cannot be available at this time can also be helpful.

Finally, preparation and training are also important strategies for communicating effectively in difficult situations. These steps enable local officials to learn, in a less stressful and non-emotionally charged setting, about the processes that the agency follows in responding to a crisis situation (whether that crisis impacts people, property, the environment or some combination of these). Such an approach also enables everyone on the team to understand the logic underlying what information can be responsibly made available and what information needs more time to develop.

Values Reflected in Law

California’s open records and open meetings laws also reflect a balancing of the value of transparency with those of fairness and privacy.

The California Public Records Act promotes transparency by giving the public and the media the right to inspect public records. However, the act contains a number of exemptions.⁷ For example, certain law enforcement investigation records are not subject to disclosure under open records laws.⁸ This includes information that would interfere with the successful completion of an investigation if disclosed.⁹ Peace officer personnel records are also subject to certain confidentiality provisions.¹⁰

The Brown Act promotes trust and transparency by generally requiring that discussions among members of local agency decision-making bodies occur at noticed and open meetings.¹¹ Exceptions exist for such matters as discussions related to evaluation of performance, discipline or dismissal of a public employee; hearing complaints or charges brought against the employee by another person¹² and conferences with legal counsel related to anticipated or existing litigation.¹³

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References and Resources

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- ¹ Kevin Sack, "Richard Jewell, 44, Hero of Atlanta Attack, Dies," *NY Times*, August 30, 2007 ("The investigation by local, state and federal law enforcement officers lasted until late October 1996 and included a number of bungled tactics,")
- ² See Marie Brenner, "American Nightmare: The Ballad of Richard Jewell," *Vanity Fair*, February 1997, available at <http://www.vanityfair.com/magazine/archive/1997/02/brenner199702>.
- ³ Kevin Sack, "A Man's Life Turned Inside Out by Government and the Media," *New York Times*, October 28, 1996, available at <http://www.nytimes.com/1996/10/28/us/a-man-s-life-turned-inside-out-by-government-and-the-media.html>.
- ⁴ Kevin Sack, "A Man's Life Turned Inside Out by Government and the Media," *New York Times*, October 28, 1996, available at <http://www.nytimes.com/1996/10/28/us/a-man-s-life-turned-inside-out-by-government-and-the-media.html>.
- ⁵ Kevin Sack, "Retro Report: A Bombing Suspect, and the Rush to Judgment," *New York Times* (October 7, 2013), available with video at http://www.nytimes.com/2013/10/07/booming/a-bombing-suspect-and-the-rush-to-judgment.html?_r=0
- ⁶ See Marion K. Pinsdorf, *Communicating When Your Company is Under Siege: Surviving a Public Crisis*. New York: Fordham University Press, 1999, at 37.
- ⁷ See Cal. Gov't Code § 6253.
- ⁸ See Cal Gov't Code § 6254(f), which provides:

6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the Office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential

informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be

construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

⁹ Cal. Gov't Code § 6254(f).

¹⁰ Cal. Gov't Code § 6254(k) (exempting records from disclosure which may not be disclosure pursuant to state or federal laws); Cal. Penal Code § 832.7, which provides:

(a) Peace officer or custodial officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) Notwithstanding subdivision (a), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(c) Notwithstanding subdivision (a), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(d) Notwithstanding subdivision (a), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or his or her agent or representative.

(e) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(f) Nothing in this section shall affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

¹¹ Cal. Gov't Code § 54953(a).

¹² Cal. Gov't Code § 54957.

¹³ Cal. Gov't Code § 54956.9.

Notes

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