

Managing a Crisis Event

A guide for law firms



NCLAP
NORTH CAROLINA
LAWYER ASSISTANCE PROGRAM

☎ 704.503.9695 : : 919-719-9267

✉ info@nclap.org

🖱 nclap.org

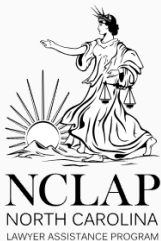
Crisis events are, by their very nature, traumatic in some way. These sudden and unexpected events fall outside normal experience and pose actual or perceived threats of injury or exposure to death. Crisis events can undermine a person's sense of safety and security and overwhelm, or threaten to overwhelm, both an individual's and an organization's coping resources and ability to function.

Examples include, but are not limited to, the sudden, unexpected death of a co-worker including homicide and suicide, workplace violence, assaults on employees/co-workers, accidents causing bodily harm or death, hostage-takings, and active shooter incidents. Crisis events may also include any natural disaster (i.e., hurricane, flood, tornado, fire) with or without loss of life. In the event of a natural disaster, we suggest you also refer to **Lawyers Mutual's Disaster Planning and Recovery Guide**.

The suggestions contained here are things to consider. Every situation is different. Not everything mentioned will be suitable in every situation.

Call LAP as soon as possible: Raleigh office 919-719-9267, Charlotte office 704-503-9695. LAP can be instrumental in the early stages. In most cases LAP counselors can be onsite and/or directly involved helping you get oriented and offering resources with the immediate goals of triage and stabilization for everyone involved.

If you, as firm management/leadership, were directly involved in the crisis event, ask for help in accomplishing these tasks from someone trustworthy and responsible who was not directly involved. If LAP counselors are on-site, feel free to ask them for help with these tasks.



CONTACT LAP
704-503-9695
919-719-9267

Suggested Steps for Law Firm Management in the Wake of a Crisis Event

Close the Office

Even if only for a few days. Everyone needs time to process their emotions and let their nervous systems calm down.

Ethics

Contact the State Bar Ethics Department for confidential ethics advice on how to navigate communication (e.g., where press or law enforcement may be involved), continuances, possible withdrawal from representation, or other issues that may arise.

Notify Relevant Court & Bar Staff and Plan Communication

Plan how to respond to inquiries from, for example, the press, and instruct everyone at the firm as to the specific talking points. If you have a litigation practice, notify the senior resident superior court judge as well as the chief district court judge and other court staff of all relevant tribunals.

Plan to Manage Overwhelming Offers of Support

You and members of your firm will be quickly bombarded with messages of support from those in the community: friends, family, colleagues. Everybody means well, but on the receiving end it is emotionally overwhelming.

Contact Your Liability Insurance Carrier

Relay what has happened. Ask what resources are available to you.

Notify Your EAP

If your firm has an Employee Assistance Program (“EAP”), notify your EAP to relay what has happened and ask what resources are available to you.



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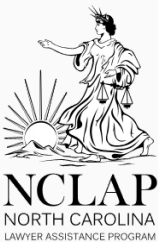
Close the Office

Closing the office, even if only for a few days, will give everyone time to process their emotions and let their nervous systems calm down. Designate someone to monitor the firm's calendaring system while the office is closed to ensure that deadlines aren't missed.

A crisis event throws everyone into an automatic and acute stress response, so no one will be able to concentrate or get any meaningful work done, although they may not recognize it themselves. Even if they recognize they are not capable of fully functioning, lawyers as well as support staff may offer to work right away because they want to appear unflappable, or for reasons as basic as needing to be paid.

- Specify exactly how long the office will close using dates and days.
- Make clear whether or if people will be paid and how the closure will impact accrued time off, like paid time off (PTO), vacation leave, or sick leave. If at all possible and for as long as possible, allow for no impact on their pay/time.
- Set expectations about responsiveness and/or out of office auto-replies.
- Firm management and leadership should be included.

The details can be tailored to your circumstances. Here's an example email:



We have all experienced a trauma and need some time to regroup. The office will be temporarily closed starting today, Wednesday, May 11, for the rest of the week. We will reopen for business on Monday, May 16. You will continue to be paid and the office closure will not impact your accrued PTO. If you wish to respond to client emails, you may, but you are not required to while we are closed. Regardless, please activate your out-of-office auto-reply for email with this note:

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919-719-9267

Our office is temporarily closed. We will re-open on Monday, May 16, and I will reply to your message at that time. Thank you for your understanding.

Ethics

After the event, and as soon as practicable, contact the State Bar for ethics advice. If you elect to call, inform the receptionist that you are dealing with an emergency and need to speak to an ethics lawyer.

Every situation is unique and will require thoughtful consideration of a lawyer's professional responsibilities regarding duties to clients, the court, and third parties. Some common ethical considerations attributed to crisis events for lawyers and law practices may include:

Confidentiality

- What am I allowed to disclose to law enforcement? To the press?
- What can (or should) I tell other clients? The court?

Ethics staff can assist with determining if information about the crisis is protected by the duty of confidentiality, and if so, whether an applicable exception to the rules applies.

Diligence and Communication

- Can (or should) I file continuances or request other time extensions (e.g., discovery responses)?

A crisis event can have a ripple effect on a law practice that impacts other clients, opposing parties, or the court system. Ethics staff can help sort who needs to be contacted, what needs to be communicated, and what needs to be prioritized to maintain the status quo and protect clients' interests.

Conflict of Interests, Competency, and Withdrawal from Representation

- Does the situation require that I withdraw?
- What happens if I need to close the office for a couple of weeks?

If the crisis was caused by a client or a third party connected to the client, continued representation of that client may not be possible and may warrant withdrawal pursuant to Rule 1.7. Additionally, if the crisis materially impacts the lawyer's mental or physical condition such that the lawyer is unable to continue the representation, a lawyer may need to withdraw from the representation for the benefit of the client. Ethics staff can help you navigate all these issues.

Ethics staff can explore these and other ethical considerations in a confidential setting to empower the lawyer dealing with the crisis to remain professionally responsible.

All information provided to ethics staff and any advice given is confidential.
919-828-4620 :: ethicsadvice@ncbar.gov

Notify Relevant Court & Bar Staff and Plan Communication

Notify Relevant Court & Bar Staff

It may be necessary to notify a variety of individuals connected with the court system and your firm's legal services about the firm's status and potential unavailability in the immediate future. As a general rule, it would be wise to notify local bar leaders to assist in ensuring the firm, the impacted clients, and the community receives the support that is needed. Additionally, individuals relevant to the firm's areas of practice and active clients should be notified and may include the following:

- State court judges and clerks of court (district and/or superior)
- Administrative Office of the Court
- Federal judges and clerks of court (district court, circuit court of appeals, bankruptcy, immigration, etc.)
- Relevant tribunals (e.g., the Industrial Commission)
- Register of deeds
- District Attorney Offices
- Public Defender Offices or the Office of Indigent Services
- Local district bar president



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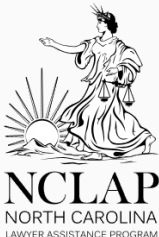
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Notify State Bar Staff for Trustee Appointment

Situations could result in the unexpected death or incapacity of a lawyer. In such cases, arrangements need to be made to wind down a practice: notice to clients, return of files, etc. In mid-size or larger firms, a managing partner may redistribute files or assign work to other lawyers at that firm. In the event of the death or incapacity of a lawyer in a small firm, lawyers in that firm have a professional obligation to wind down the deceased or incapacitated lawyer's practice, even in situations where they do not share the same practice area. Solo practices do not have this option. If the lawyer established a succession plan, contact the designated "inventory attorney" and/or follow the steps outlined in the succession plan. If the lawyer did not have a succession plan in place, contact the State Bar about the possible appointment of a trustee to wind down the lawyer's practice. Be sure to discuss the situation with State Bar ethics counsel.

Communication Outside the Firm

After consultation with the Ethics Department of the State Bar, make a plan as to how to respond to inquiries, for example, from the press. Instruct everyone at the firm as to specific talking points.



For example, in an email to attorneys and staff:

We expect inquiries from the press. Please respond to any inquiries you may receive with, "Due to the on-going criminal investigation, we have no comment at this time."

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Plan to Manage Overwhelming Offers of Support

You and members of your firm will be quickly bombarded with messages of support from those in the community: friends, family, colleagues. Everybody means well, but on the receiving end it is emotionally overwhelming to feel obligated to respond to everyone. Messages will come by phone, by email, by text, and by social media. There are a couple of ways to handle this.

Centralized Messaging

If appropriate, have someone quickly create a CaringBridge (caringbridge.org) page which can serve as a centralized message board. Assign a responsible and trustworthy person to post updates. You can always require that updates be run by you for approval before posted. You can then respond to inquiries by referring them to the website.

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Create a Script

Create a script that you can use to respond to everyone and in all places. You can record it as your voicemail message on both your work and cell phone. You can put it in your email as an out-of-office auto-reply. You can post it on social media. You can copy/paste text it. Then, when you are ready, and only when you are ready, you can begin replying. The message can be something like:

*Thank you for your message. We are [or I am] humbled by the outpouring of concern and support. As you might imagine, we are regrouping. We will [or I will] be in touch once things settle down. *If using CaringBridge: Updates and messages of support are centralized on our CaringBridge site, which you can visit at: [caringbridge.org/example].*

Additional Steps

Contact Your Liability Insurance Carrier

Relay what has happened. Ask what resources are available to you. Your insurance carrier may have resources available to assist you or lawyers in the office, such as a “HELP” (Handling Emergency Legal Problems) team. Your liability insurance carrier can help you triage priorities from a risk management standpoint in terms of your caseload and pending legal work.

Notify Other Insurance Carriers

Depending on the event, you may be entitled to file a claim under different kinds of insurance coverage you carry such as, property and casualty, workers compensation, business interruption, cyber security, or other specialty insurance products. Be sure to contact those carriers as well to ensure you are complying with reporting parameters and to seek guidance for filing a claim.

Notify Your Employee Assistance Program

If your firm has an Employee Assistance Program (“EAP”), notify your EAP to relay what has happened and ask what resources are available to you. These programs often have resources, such as first response, on-the-ground crisis debrief and telehealth therapy assistance. Some EAP’s are more helpful than others, and LAP can help you identify which EAP resources you have that will be helpful or suitable.



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CRISIS RESPONSE PLAN

Immediate First Steps

(Please post where visible and accessible to all staff)

Call the NC Lawyer Assistance Program

(704) 503-9695 Charlotte Office
(919) 719-9267 Raleigh Office

And/Or Email:

Robynn Moraites Robynn@nclap.org
Copy Candace Hoffman Candace@nclap.org

NC LAP can help:

- Serve as communication hub for you
- Help coordinate crisis response plan
- Effectuate discrete steps in crisis response plan
- Immediate on-site support for attorneys and staff
- Make therapy referrals for longer-term support

Call Your Liability insurer

Your liability insurer may be able to:

- Triage caseload/client file situation
- Seek continuances

Call the State Bar Ethics Hotline

(919) 828-4620

And/Or Email

ethicsadvice@ncbar.gov
Brian Oten BOten@ncbar.com

The State Bar Ethics Department can guide you in managing your professional responsibility in a crisis, regarding:

- Law enforcement
- The press
- Clients
- Opposing party/counsel
- The court(s)
- Client files (if destroyed)
- Preserving client confidentiality
- Terminating the relationship/subsequent counsel

Complete Crisis Response Guide can be found here: _____