

Getting Ready For The BIG One (And All The Little Ones)

Disaster Preparedness for Human Resources

CALPELRA Annual Training Conference

Monterey, CA

November 2, 2016



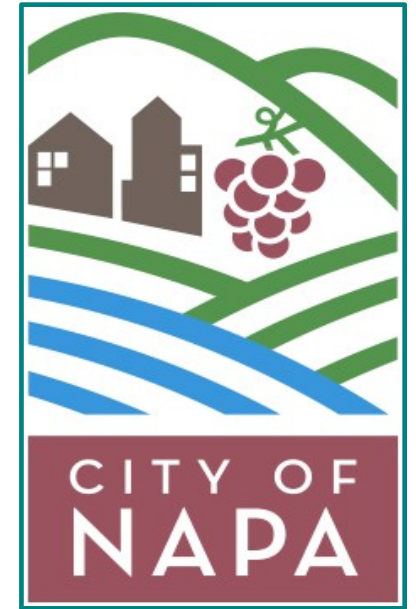
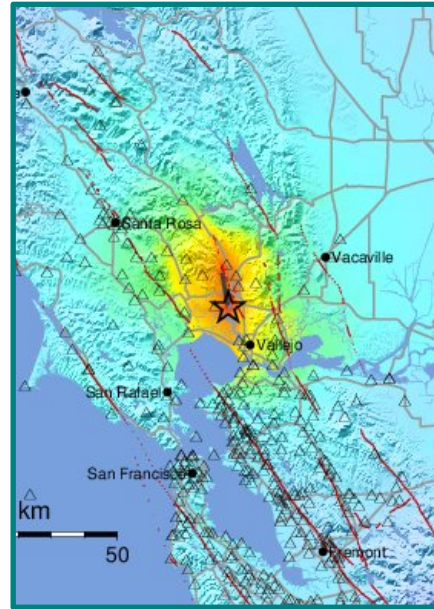
Renne Public Law Group®

Speakers

Nancy Weiss

Assistant City Manager | City of Napa

South Napa Earthquake – August 24, 2014



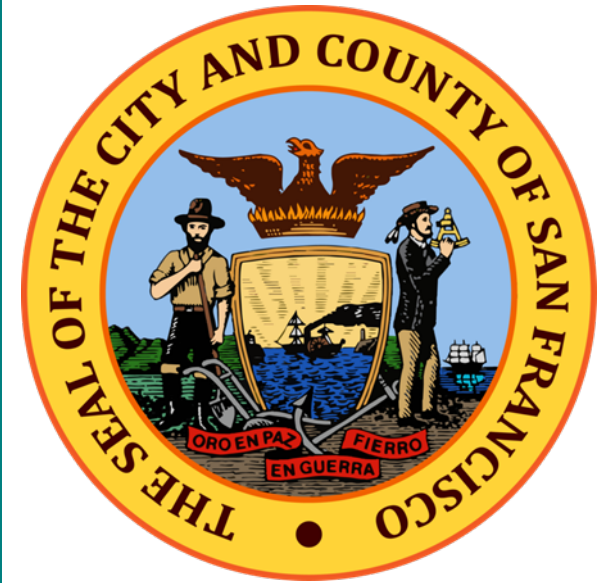
Speakers

Randy Riddle

Partner | Renne Public Law Group

Loma Prieta Earthquake – October 17, 1989

Government Team Attorney, On scene at OES | City and County of San Francisco



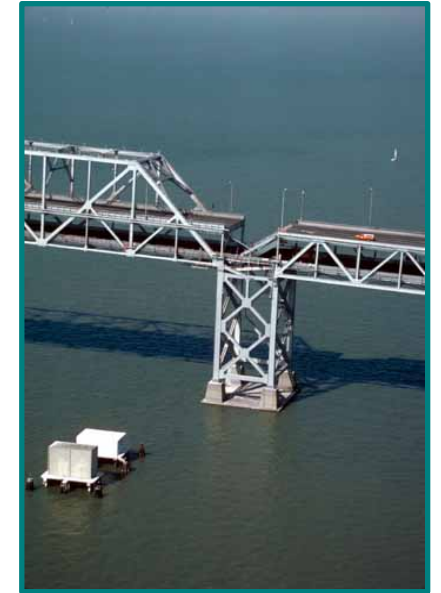
Speakers

Jon Holtzman

Partner | Renne Public Law Group

Loma Prieta Earthquake – October 17, 1989

Chief Labor & Employment Attorney | City and County of San Francisco



Agenda

- Introduction COOP & COG
- HR & COG
- HR & Emergency Law
- Case study: Napa earthquake
- Key takeaways



Continuity of Government & Continuity of Operations

Introduction

- Continuity of Government (C.O.G.)
 - The achievement of the agency's principal functions under emergency conditions **at the same time** as pursuing necessary responses to that emergency
- Continuity of Operations Plan (C.O.O.P.)
 - Guide which provides the framework to effectively respond to an emergency while still ensuring continuity of government
 - Every department should have a COOP, but today we are looking the HR COOP.
 - See our online handout for an example from CCSF
<https://www.calpelra.org/pdf/GettingReady-DisasterPreparedness.pdf>



COG & Human Resources

What do Emergencies Have in Common?

- Need for various public services will increase
- Displacement from facilities
- Displacement of staff
- Need for additional assistance
- Coordination with other departments
- Need to operate core government functions with fewer staff
- Enhanced need to communicate
- Time-sensitivity
- Need to create new organizations and rules on the fly

Emergencies & the HR Function

- The following emergency tasks are within the “HR function”:
 - Staffing
 - Hiring
 - Training
 - Communication
 - Administering benefits
 - Record keeping
 - Compensation
 - Employment law compliance
 - Consulting with other departments

Emergency Management & HR Function

Stage 1: Emergency Response

- The **immediate** response to an emergency is to identify and fulfill the **essential**, emergency-related tasks.

Stage 2 : Continuity of Government

- In addition to the emergency response, the agency must perform essential **operational** functions that cannot be delayed until after the period of emergency response.

Emergency Management & HR Function



Stage 1: Emergency Response

Stage 2 : Continuity of Government

- HR's function is to properly allocate the **people resource** in order to do **both**.

Emergency Law for HR

From Clark Kent to Superman!

Stage 1: Emergency Response

- In the immediate wake of an emergency, the law allows you to do things you otherwise couldn't.

From Clark Kent to Clark Kent



Stage 1: Emergency response

Stage 2 : Continuity of Government

- While emergency powers are broad, some laws remain in full effect even during an emergency.

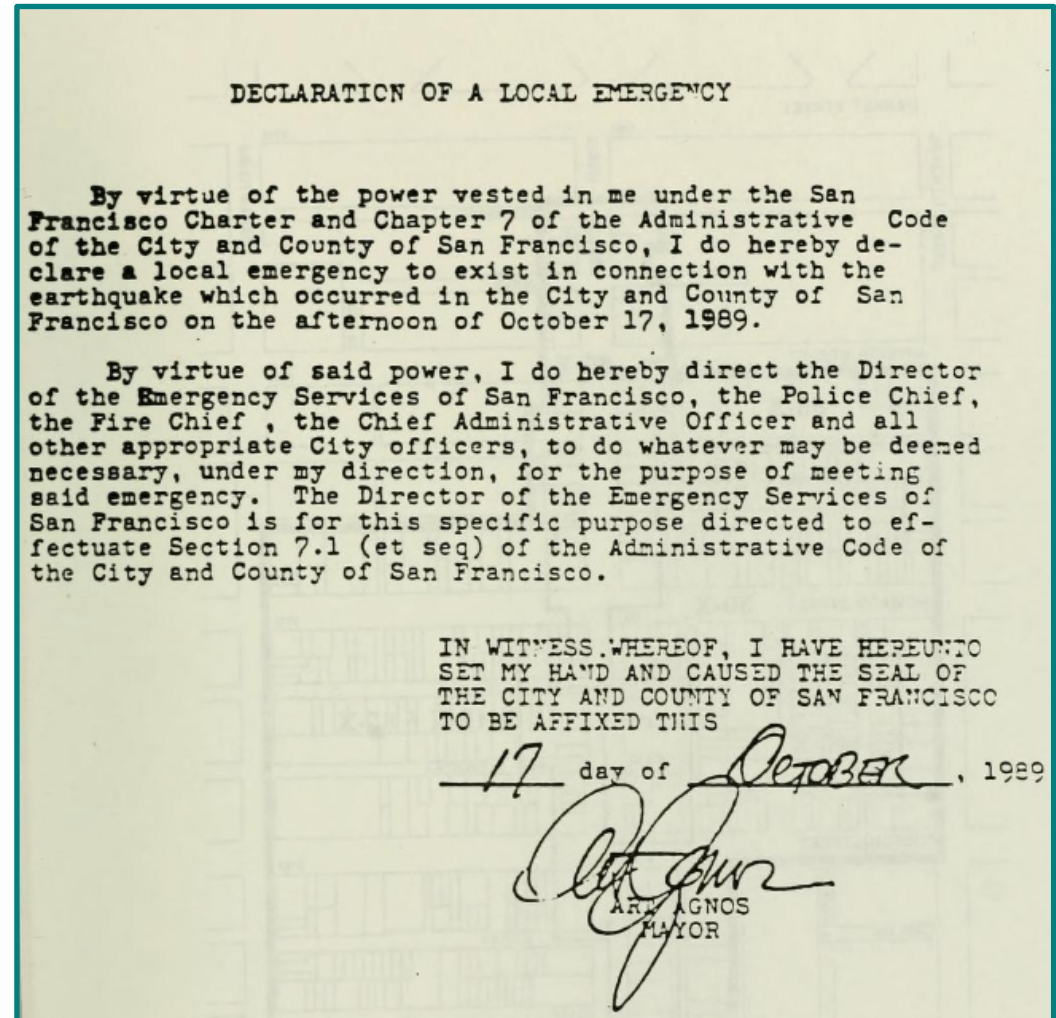
What is an Emergency?

Government Code Section 8557

- **Local Emergency:** “existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city” caused by natural disaster or other specified problems
- **State of Emergency:** “conditions of disaster or of extreme peril to the safety of persons and property within the state”
- **State of War Emergency:** “the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent”

How is an Emergency Declared?

- Local Declaration of Emergency
- State Declaration of Emergency
- Federal Declaration of Emergency



Emergency Declarations

Level	Declared By
Local emergency	City or County: Proclaimed only by the governing body, or by an official designated by ordinance adopted by that governing body
Secretary's Concurrence	Secretary of CA Emergency Management Agency
Governor's Proclamation	Governor of California, where requested to do so by local government, or where local authority is inadequate to deal with the situation
Presidential Declaration of Emergency	President of United States
Presidential Declaration of Major Emergency	President of United States

The Significance of Emergency Declarations

Level	Authorizes
Local emergency	Unusual police power, limited immunity for employees, orders to protect life and property, activates local emergency rules
Secretary's Concurrence	State funds for repair of public facilities and infrastructure
Governor's Proclamation	above, and greater gubernatorial power under Emergency Services Act
Presidential Declaration of Emergency	Federal agencies to provide funding, essential services, e.g. debris removal, temporary food and housing
Presidential Declaration of Major Emergency	Federal agencies to provide funding, services, more broadly defined than "essential"

Duration of Local Emergency Declaration

Government Code section 8630

- Expires after seven days unless ratified by the governing body
- After that, the governing body must renew the declaration every 30 days
- “The governing body shall proclaim the termination of the local emergency at the earliest possible date that conditions warrant.”

Emergency Declarations and Related Orders

- [Cacities.org](https://cacities.org) provides templates for all these important declarations (and more)
 - City council declaration
 - **Mayor/Director of emergency services declaration (in absence of city council)**
 - City council resolution confirming director of emergency services declaration
 - Volunteer waiver form
 - Waiver of liability for use of equipment
 - Resolution to pay workers compensation for DSWs
 - **Declaration of curfew**
 - Declaration of rules & regulations necessary to safeguard life & property
 - Application for 60 day stay of court matters
 - Ordinance suspending automatic approval for all land use, subdivision & zoning applications

Emergency Powers

- *Government Code section 8634:*

Local government may “promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice.”



Labor Issues

Meyers Millias Brown Act

- “*Except in cases of emergency*” local agency must give union notice and opportunity to bargain before changing terms of employment. *Government Code section 3504.5.*
- **What about constitutional ban on impairing contracts?**
 - Impairment justified to address an emergency if proper showing made:
 1. Does the enactment serve to protect basic interests of society?
 2. Is there is an emergency justification for the enactment?
 3. Is the enactment appropriate for the emergency?
 4. Is the enactment designed as a temporary measure, during which time the vested contract rights are not lost but merely deferred for a brief period?



A Special Case: Disaster Service Workers

- Disaster Service Workers include all public employees, as well as volunteers, in any emergency organization accredited by the State OES
Government Code 3100-3109
- They are required to take an oath
- Special worker compensation rules apply to the volunteer Disaster Service Workers who receive no compensation for their emergency work
- More information about Workers Compensation for Disaster Service Workers can be found at <https://www.scc-ares-races.org/disasterworkers.pdf>.

Laws that DO NOT go Away in Emergencies

While emergency powers are broad, some laws remain in full effect.

- **Equal Employment Opportunity Laws**

- It is important for your COOP to consider how related claims will be processed in the event of an emergency
- EEO applies to volunteers if “as a result of volunteer service, s/he receives benefits such as a pension, group life insurance, workers' compensation”

- **Workers' compensation**

- Apply with full force for injuries sustained by agency employees during an emergency
- They also extend to volunteers under special state rules



Fair Labor Standards Act

Find more information here: <https://www.dol.gov/whd/regs/compliance/whdfs72English.htm>

- FLSA does not contain exemptions for emergencies
- Exempt employees may lose exemption if they perform other, non-exempt duties
 - Overtime
 - Maintain timekeeping records – to pay employees and for FEMA reimbursement
- Volunteerism only if work is significantly different than employee's usual job duties
 - E.g., Finance Analyst handing out blankets
 - But not City Legal Assistant or Deputy City Attorney helping to fill out legal forms for insurance or other benefit coverage or reimbursement



Pay and Related Issues

- Nonexempt:
 - FLSA requires employers to pay nonexempt employees only for hours that the employee actually works
- Exempt:
 - An employer is required to pay employee's their full salary even if worksite is closed
 - If transportation difficulties arise from weather emergencies, an employee's absence is considered absence for personal reasons
- On Call time:
 - Employees must be paid for the entirety of time that they are required to be "on-call"
- Waiting time
 - Employees must be paid for any time they are required to wait
 - Ex: waiting for power to restart

<https://www.shrm.org/resourcesandtools/hrtopics/compensation/pages/disasters.aspx>

WARN Act

- Worker Adjustment and Retraining Notification Act (WARN)
 - Federal law
- Notice requirements for employers with 100+ employees
 - Ex: Facility closing or layoffs
- WARN Act emergency exception
 - During an emergency, employers must give notice within *practicable time*
 - If the employers gives less than 60 days notice, proof of emergency conditions is required



Family Medical Leave Act & Unemployment Insurance

- Employees affected by a disaster are entitled to **leave** in the following cases:
 - when affected by a serious health condition caused by the disaster
 - to care for a child, spouse, or parent with a serious health condition
- **State relief: Unemployment Insurance & Disability Insurance**
 - If you are unemployed due to a disaster you may be eligible for UI & DI benefits
- **Federal relief: Disaster Unemployment Assistance**
 - Federal program that provides financial assistance and employment services to jobless workers who are unemployed as a result of a disaster
 - Weekly payments computed in the same way as regular UI payments
 - Duration: begins first day of the week following disaster and ends 26 weeks after
 - http://www.edd.ca.gov/pdf_pub_ctr/de8714y.pdf

CalOSHA & EAPs

- Requirements for certain employers to have an Emergency Action Plan (EAP)
 - such as those that handle hazardous, flammable or explosive materials
- However, there are good reasons for all employers to have in place mandatory procedures for responding to an emergency.
- CalOSHA provides a standardized template for EAP's



CalOSHA & EAPs

- California Code of Regulations, Title 8, Section 3220 specifies that an EAP shall be in writing and cover the following:
 - ❑ Emergency escape procedures and emergency escape route assignments;
 - ❑ Procedures to be followed by employees who remain to operate critical plant operations before they evacuate;
 - ❑ Procedures to account for all employees after emergency evacuation has been completed;
 - ❑ Rescue and medical duties for those employees who are to perform them;
 - ❑ The preferred means of reporting fires and other emergencies; and
 - ❑ Names or regular job titles of persons or departments who can be contacted for further information or explanation of duties under the plan.

NAPA CITY 2014, SOUTH NAPA EARTHQUAKE: HUMAN RESOURCES & ORGANIZATIONAL ISSUES





“It’s snowing still,” said Eeyore gloomily.

“So it is.”

“*And* freezing.”

“Is it?”

“Yes,” said Eeyore. “However,” he said, brightening up a little, “we haven’t had an earthquake lately.”

The Event

August 24, 2014 @ 3:20 a.m.



Photo: Courtesy, UC Davis Children's Hospital



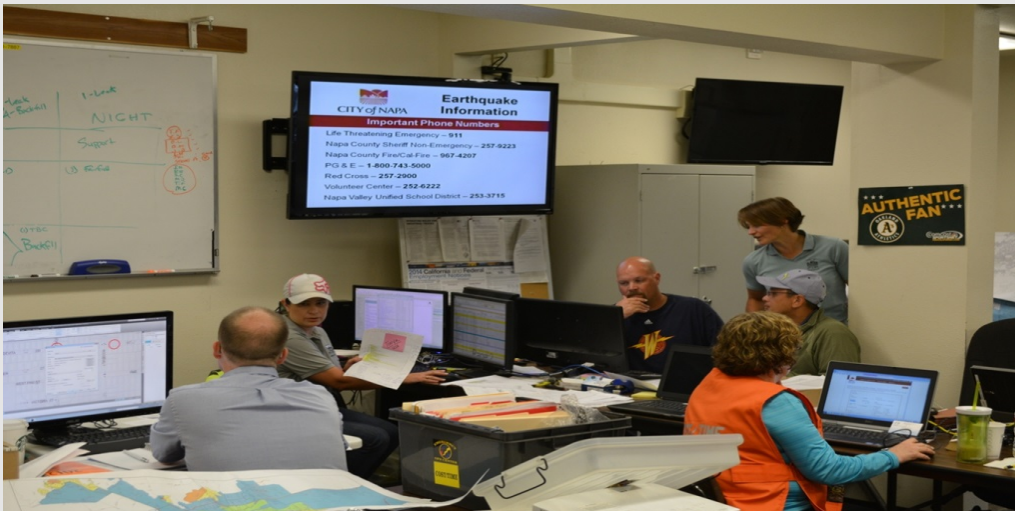
ABC 7 News photo

- ❑ 6.0 magnitude - largest quake in the Bay Area since 1989
- ❑ Presidential Major Disaster declaration for Public Assistance on September 11th; for Individual Assistance on October 27th
- ❑ 300 injuries reported Countywide
- ❑ 234 patients treated at Queen of the Valley Medical Center, 12 at St. Helena Hospital
- ❑ 18 admitted, 4 in critical condition at QVMC
- ❑ 1 fatality
- ❑ Many injuries occurred hours after the quake during cleanup

City Response



- ☐ City opened EOC
- ☐ Fire/Police back to normal operations after 24-48 hrs.



- ☐ Public Works Opened DOC
- ☐ Public Works in 24-hour emergency response for **8 Days**

Damage Assessment



Vintner's Collective



Downtown Historic
Post Office



Carpe Diem



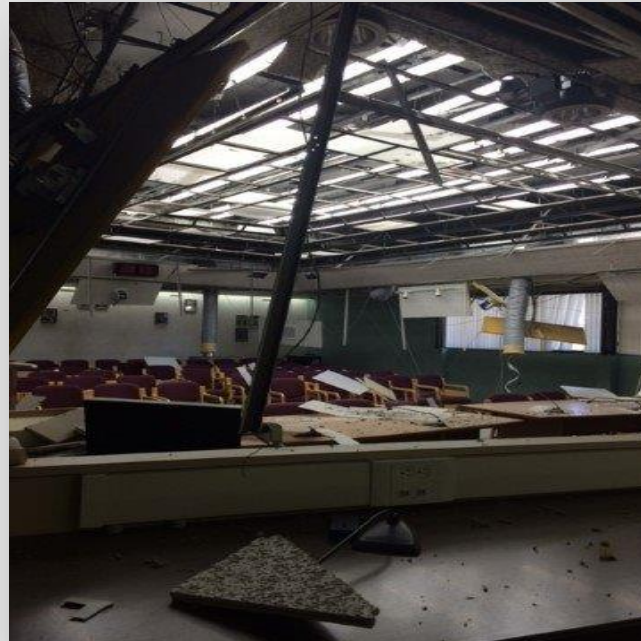
Photograph by Peter
Dasilva, EPA
Hwy 12/121 in
Carneros



Immediately evident damage to roadways, water
lines, buildings

Damage Assessment

14 County Buildings Damaged
400+ Employees Relocated

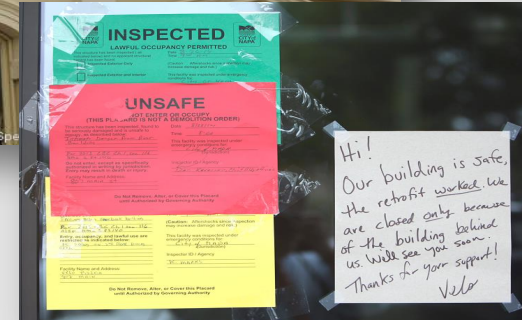


Damage Assessment

When the sun came up, the extent of the damage was more apparent...



Historic Courthouse



Old Sonoma Road
Napa Valley register photo



Old Town, City of Napa
Meg Ragan

- ❑ “Windshield” survey of 20,000+ structures
- ❑ 5,900 structures physically inspected
- ❑ 60+ Building Inspectors for 3-4 weeks
- ❑ 170 RED tags (50 remain)
- ❑ 1,700 YELLOW tags
- ❑ 23 Buildings Demolished
- ❑ Approximately half a billion dollars in economic damages

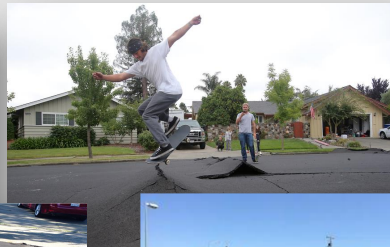
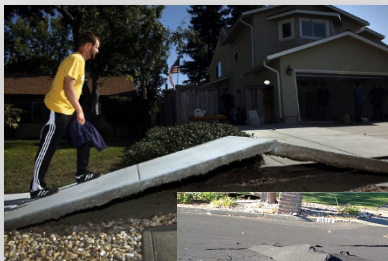
Homes and citizens



San Francisco Chronicle



Streets, sidewalks, water and debris



SF Chronicle photo



Wine damage

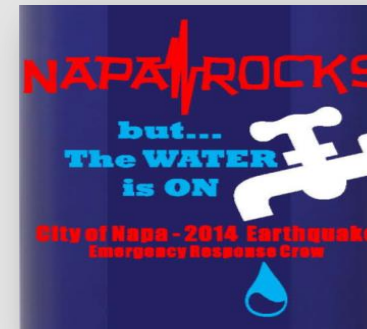


Justin Sullivan/Getty Images

Winemaker –
*“Don’t worry, we
can make more.”*

Water

240 leaks (120 in first few days)




Stage 1: Emergency Response - Reporting to Work

- ☐ Initial Phase lasted about a week
- ☐ Issues and lessons learned
 - ☐ Contacting employees to report to work
 - ☐ Establishing employee communication protocols
 - ☐ Ensuring adequate training to HR staff to assist in staffing Logistical positions



Stage 2: Recovery - Getting back to “normal”

- ☐ Workforce Management
- ☐ Volunteer Management
- ☐ Outside Resources
- ☐ Call Center Setup and Staffing
- ☐ Training
- ☐ Workforce Morale
- ☐ Safety and Security
- ☐ Long-term Ongoing Workforce Needs:
 - ☐ Damage assessment process
 - ☐ Local Assistance Center
 - ☐ FEMA (reporting and documentation)
 - ☐ Communications: media, residents, outside agencies, etc.



RECOVERY is **10x**
more work than the
disaster

Workforce Management

- ❑ Napa is a lean organization without much depth
- ❑ Key staff serve in dual capacity in Emergency Operations Center and then need to manage normal ops
- ❑ Have a clear transition plan when going from EOC into recovery and “normal business”
- ❑ Continuity of Operations Plan (COOP)—important to have staffing plan in place for response and recovery phases including Local Assistance Center (LAC) operations
 - ❑ Departments need to have staffing/shift assignments set up ahead of time (field crews, public safety , admin
 - ❑ Set up LAC staffing structure ahead of time and prepare for “the long haul”
- ❑ Address OT/Callback issues; rest/fatigue time
- ❑ Have mutual aid contracts lined up ahead of time (WARN system for utilities; County OES for inspectors etc.)
- ❑ Temp Agency Contracts



Volunteers



- ❑ Coordination with County EOC and Emergency Volunteer Center on requests and assignment of volunteers
- ❑ CERT (Citizens Emergency Response Team) group: set up and train for additional resources
- ❑ Address liability issues—Disaster Service Workers

Community Resources

- ❑ COAD (Community Organizations Active in Disaster)
- ❑ Important to leverage staff resources
- ❑ Make these partnerships now!!!



Training

- ☐ Training on EOC section roles and responsibilities
- ☐ Grief /crisis training for call center and LAC staff & temps

Workforce Mental and Physical Health & Morale

- ☐ Take care of City employees!!!
- ☐ Leadership needs to acknowledge and show appreciation to all staff, elected officials, volunteers, etc. on regular basis
- ☐ Watch for signs of burnout and address quickly
- ☐ Utilize EAP services for employees as individuals + groups



Safety and Security

- ☐ Safety Officer in EOC: establish this role asap (HR safety and worker comp)
- ☐ Perform regular safety analyses and directives to address compliance issues; provide to EOC for communication to field ops
- ☐ Security: needed training on role of security support position for EOC
- ☐ Responsibility for volunteer safety, same as for city ee's— protected equipment, basic safety info
- ☐ Napa: 1500 personnel response: no significant injuries to responders

NAPA QUAKE- RECOVERY PHASE

Ongoing Workforce Needs

Fun With FEMA– REPORTING AND DOCUMENTATION

- ❑ LOTS of DOCUMENTATION
- ❑ Be prepared to invest significant staff time
- ❑ Make sure current FEMA forms for payroll documentation are kept up to date
- ❑ Recognize that FEMA has rules to follow and you won't like some of them
- ❑ FEMA is only the first step – it can take YEARS to get through Fed process
- ❑ Work together – they have \$'s you need
- ❑ DOCUMENT everything from the start



NAPA QUAKE- RECOVERY PHASE

Ongoing Workforce Needs

Napa Local Assistance Center (LAC)

- ❑ Resulted in ongoing, long-term staffing needs (over 3 months)
- ❑ 8,170 in person visits (English ~70%/Spanish ~30%)
- ❑ 2,401 phone calls
- ❑ 42 Partner Agencies
- ❑ 200 + staff (including 55 volunteers)
- ❑ NapaQuakeInfo.com received 20,400+ hits
- ❑ Joint City & County “Napa Local Assistance Center”; used ICS model
- ❑ Consistent staffing & management - challenging with temporary/volunteers
- ❑ Mental health counselors
- ❑ Crisis training for staff
- ❑ Partner coordination
- ❑ Bilingual staffing



NAPA QUAKE RECOVERY PHASE

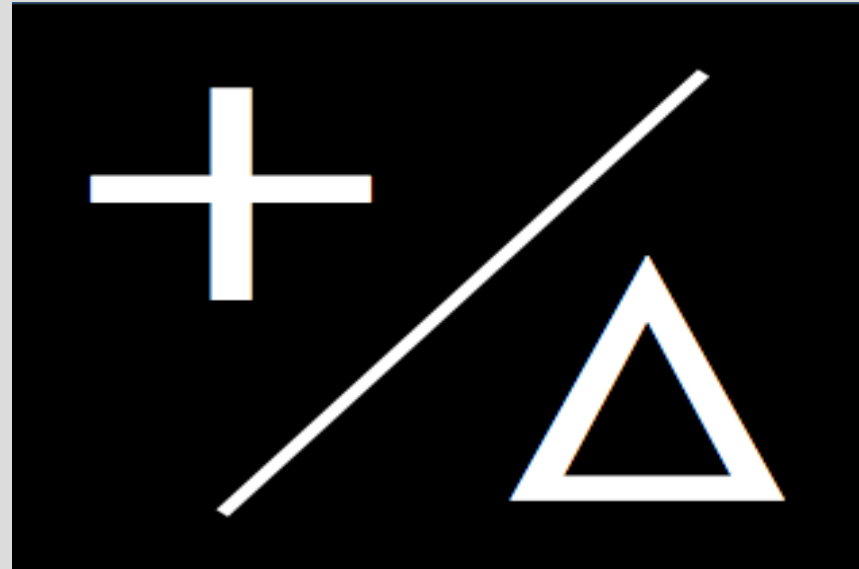
Ongoing Workforce Needs Summary

Be prepared for long-term recovery period

- Total staff hours spent on earthquake response and recovery through 4/17/15
- 27,029 regular hours = 13 FTE's
 - 7,204 OT hours = 3.5 FTE's
- Completion of permanent project repairs will take 18 months to four 4 years
- Impacts to Staff (multiple departments)
 - Preparing Public Works appeals
 - Project design and construction
 - Documentation and cost recovery = ongoing



Overall, what went well, what could have worked better



The “+”

- ☐ Teamwork
- ☐ Continuity of government
- ☐ Mutual aid
- ☐ Media handled well
- ☐ Quick & efficient response to citizens & businesses
- ☐ Good decisions made in the field focused on calming citizens and returning to normalcy
- ☐ Calming citizens and returning to normalcy
- ☐ Constant focus on Resiliency

The



- Establish backup EOC and dispatch center
- Centralize call center sooner
- Establish appropriate role for elected officials in advance and train accordingly
- Recruit and train volunteers in advance
- Command staff should be seen in the field at times
- Make sure other agencies are aware of our actions



The



- Prepare for robust monitoring of all media
- More emergency operations training for all employees
- Debris collection sites should have been pre-determined
- Damage Assessment System
- COOP: Important to dedicate resources to better prepare to ensure continuity of government ops



Lessons Learned

- Quakes are a Napa thing! (Two in 15 years)
And a 6.0 is not “major”
- Most training is focused on emergency response – most problems occur during recovery
- Earthquakes aren’t like fires and flood disasters, declaration is difficult
- Communication is essential – before, during and after disaster strikes
- Non profits/volunteer resources & partnerships play critical role in leveraging resources and need to have a seat at the table



Lessons Learned (cont.)

- Seismic retrofits worked but they are not well understood
- People want and expect government support in emergencies
- Napa is a well-behaved place - lots of broken shop windows and almost no one took advantage
- When the big one comes, the mutual aid will not be available and neither will staff



#NapaStrong





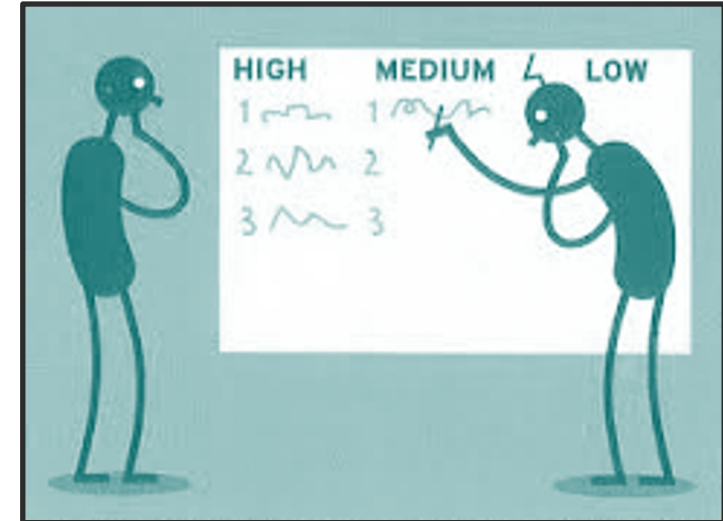
Key Takeaways for Continuity of HR Operations

Have a Continuity Of Operations Plan (C.O.O.P.)!

- COOP Development
 - Developing a successful COOP will take about 6 months
 - You can contract this work out, if need be.
- COOP Management
 - Identify who is in charge of updates
 - Administration
 - Activation/ deactivation
- Be aware of other department COOPs.
 - Make your department's COOP accessible to EOC and to other departments
- Consider creating “COOP Summary Sheets” or “COOP checklists” which can be easily distributed during an emergency

Identify Your Essential Functions

- Identify your department's mission-critical responsibilities
 - Make sure they can be fulfilled in the case of an emergency
- Understand what can wait
 - Reallocate non-essential individuals, as needed
- It is best to have a timeframe with each of these items
 - “Function X” needs to be completed in X days”



Identify Your Emergency Functions

- Most departments will have a predesignated role to play during an emergency
 - What does your agency need from your department?
 - What staff in your department can be allocated to emergency-related functions?
- Designate an authority on emergency–related responsibilities
 - Make sure that your department maintains internal communication
- Will you have to reallocate some resources to support emergency response?
 - Ex: Facilities
 - If so, do you have alternative resources?



Identify Your Communication Protocol

- How will you notify staff of necessary information (including COOP activation, reporting location, work assignments etc...)
- What systems does your department use to communicate?
 - If those systems are down, are there any alternatives?
- How and when will staff report to supervisors?
- What other departments or external entities will you need to communicate with?
 - EOC?
 - FEMA?
- If possible, coordinate regular briefings on status of operations
- Keep records of important communications!



Identify Your Staffing Plan

- Determine availability
 - Which employees will be able to get to work? Can others work remotely?
 - Determine employee availability in both short-term and long-term
- Determine Assignment
 - Assess inter-departmental requirements for staff, hiring and training
 - Designate shift assignments, as needed
- Reevaluate human resources and availability regularly
- Succession plan
 - Identify authority figures in charge of ALL essential functions
 - Include orders of succession because key staffers may not always be available



Consider Workplace Morale

- Employees may be experiencing undue stress from:
 - Being assigned new responsibilities
 - Working more hours than usual
 - Other emergency-related concerns
- Show employees how grateful you are for their continued work!
- As HR, you may need to process and respond to concerns from employees agency-wide

