

**THE NEW YORK STATE BAR ASSOCIATION  
MASS DISASTER RESPONSE PLAN**

**REVISED 1998**

**I. STATEMENT OF PURPOSE**

The New York State Bar Association's ("NYSBA") mass disaster response plan ("Response Plan") sets forth guidelines for the volunteer members of the Disaster Response Team to follow in responding to the needs of victims and their families, as well as to the needs of the public and the media, immediately after a disaster. The plan outlines the procedures to be followed in determining whether the Response Plan should be implemented, taking into account the nature of the particular disaster and the types of legal questions that victims and their families may have in its immediate aftermath.

The Response Plan is not intended to provide victims, or families of victims, with long-term pro bono legal representation.

The principal goals of the Response Plan are:

1. To make victims of a disaster, their families, and the public aware that personal solicitation of clients by attorneys at the site of a disaster is unethical;
2. To monitor conduct of attorneys at a disaster site, receive reports of illegal or unethical conduct by attorneys, and to report attorney misconduct to appropriate prosecutors or attorney grievance committees;
3. To inform victims of a disaster and their families how the legal system functions to resolve disputes that arise out of mass disaster;
4. To advise those who require legal assistance how to make an informed selection of an attorney; and
5. When requested by responsible governmental authorities, to conduct a legal clinic and respond to specific legal questions posed by disaster victims and their families, subject to the understanding that no attorney-client relationship is being created thereby.

**II. WHAT IS A MASS DISASTER?**

A mass disaster is an unanticipated and unexpected event that causes injury, death, or property damage on a scale that may give rise to complex legal issues and/or massive compensation for the victims and/or their families. Examples of such events are aircraft and train crashes, hurricanes/tornadoes/floods, hotel fires, explosions, chemical spills/environmental damages, civil disturbances, and blackouts/brownouts. Not every event that meets the definition of a mass disaster will warrant the invocation of the Response Plan and its delivery of immediate, short-term pro bono legal services. Certain catastrophes may occur that will not give rise to immediate legal needs and likewise do not create a risk of improper solicitation. For such

disasters, traditional pro bono legal services provided through local bar associations may be the appropriate response.

### **III. THE RESPONSE TEAM**

The Response Team shall consist of:

1. The President of the NYSBA ("President"), or the President-Elect in the absence of the President, who shall be the head of the team;
2. The Chair of the Mass Disaster Response Committee ("Chair");
3. The Executive Director ("Executive Director") of the NYSBA;
4. The Director of Media Services and Public Affairs ("Media Director") of the NYSBA;
5. The Director of the Department of Pro Bono Affairs ("Pro Bono Director") of the NYSBA; and
6. Those persons listed on Attachment 1.

### **IV. STEPS TO IMPLEMENT PROCEDURES**

#### **A. Notification And Preparation**

The NYSBA may receive notification of a mass disaster from any one of a number of sources including bar members; media; federal; local or state officials; or other bar associations. Upon notification, the staff of the NYSBA carries primary responsibility to perform three important tasks:

- (I) gather details concerning the precise location of the disaster and determine the extent of personal injury, death, and/or property damage resulting from it as well as information as to any agencies that have already responded to the disaster;
- (II) take steps immediately to obtain a leadership decision whether the bar will initiate its Response Plan by notifying the highest available authority (*i.e.*, the President, the President-Elect or his or her designee); and,
- (III) take steps to aid the NYSBA President in initiating the Response Plan.

#### **B. Decision To Implement Response Plan**

After notification, the President or the President-Elect, if the President is not available, will consult with the Executive Director. The decision as to whether or not to execute the Response Plan should be made by the highest available authority. The President, or the President-Elect if the President is unavailable, after obtaining sufficient data and consultation to allow an informed decision, should determine whether the incident reported is a mass disaster for

which the Response Plan should be implemented or whether another type of response would be appropriate. In making that decision, the President should consider the stated goals of the plan and the definition of a mass disaster. He or she should also consider the type of disaster, the number of victims or potential victims and their families, the size of the Response Team, and the time in which a response is needed.

The President shall implement the Response Plan whenever requested to do so by the Federal Emergency Management Agency, the National Transportation Safety Board, the Federal Bureau of Investigation, or the New York State Emergency Management Office.

C. Initiation of the Response

If the decision is made to implement the Response Plan, the NYSBA President, or President-Elect, with assistance from the Chair and appropriate NYSBA staff, shall notify:

- (I) **Local Response Team Members-** members of the Response Team who are located at or near the disaster site should be asked to provide suggestions as to: the most appropriate site location for the Response Team (at a minimum, the site should provide minimal furnishings, a telephone, a computer and access to photocopying and facsimile machines, if possible); the most effective means of transportation to the vicinity of the disaster site; and appropriate overnight accommodations for members of the Response Team.
- (II) **Response Team-** each member of the Response Team should be provided with information regarding the type of disaster and the extent of damage or injury, location of the disaster, precise directions to the site where members of the Response Team will initially meet, potential problems in traveling to the site, the estimated time of arrival of the President, and the estimated length of time that the members of the Response Team should be prepared to stay.
- (III) **Local Associations-** local bar associations and other similar organizations should be contacted and advised of the NYSBA Response Plan in order to coordinate efforts and obtain additional assistance if necessary.

Depending upon the nature of the disaster, a determination will be made as to whether a response will be made from the NYSBA Bar Center, on-site at the disaster, coordinated from both locations, or from any other appropriate location.

**V. THE RESPONSE STAGE**

**A. Response by NYSBA Staff**

Immediately upon notice of a decision that a response will be made to the mass disaster, NYSBA staff members shall:

1. Make final preparation and production of an appropriate number of copies of the Notice To Disaster Victims And Their Families (Media Director). (See Attachment 3).
2. Complete News Releases and make initial dissemination directly from NYSBA headquarters (Media Director). (See Attachment 2).
3. Make contact with federal, state or local law enforcement or relief agencies such as FEMA and SEMO and any other persons or entities involved in the event to obtain information about known location of any Disaster Field Office and the location of any press center designated by emergency management authorities (Pro Bono Director).
4. Transport supplies to the site, including copies of the Mass Disaster Response Plan, an appropriate media list, completed copies of the Notice To Disaster Victims And Their Families, copies of the Legal Guide for Victims of Mass Disasters (See Attachment 4), extra news releases, fact sheets on the NYSBA and on the Mass Disaster Response Plan, phone numbers for NYSBA officials, name badges for members of the Response Team, appropriate personal credentials and business cards, on-site signs, and appropriate NYSBA stationery (Media Director).
5. Establish responsibilities of persons remaining at the headquarters of the NYSBA concerning ongoing support of the effort of the Response Team, including maintenance of a communications "presence" while members of the Response Team are in transit to and from the disaster site and while they may otherwise be out of communication (Media Director).

**B. On-Site Response by Response Team and Responsibilities**

Immediately after the decision to implement the Response Plan, members of the Response Team should be dispatched to the scene, as selected by the President (or President-Elect) or his or her designee. At a minimum, the Chair, Media Director and Pro Bono Director should be among the members of the Response Team who are selected for dispatch to the disaster scene. All Response Team members are expected to abide by the requirements set forth in Attachment 5. After the team arrives it shall confer regarding information gathering, media contacts, and response to victim requests.

1. President/President-Elect (or his or her designee)
  - ⊆ establish policy
  - ⊆ conduct media interviews
  - ⊆ make official statements
2. Chair

- C consult with President, as necessary C contact Response Team Members at the direction of the President
- C coordinate Response Team efforts
- C responsible for follow-up report

3. Media Director

- C prepare, make copies, and disseminate appropriate news releases by both print and electronic means (Home Page)
- C compile list of media contacts
- C arrange individual media interviews for President
- C compile list of all media contacts and work with outside public relations firm to ensure NYSBA messages are being communicated to appropriate audiences
- C provide copies of victims assistance handbook to media
- C gather background information for response team, as well as monitor TV/radio reports
- C serve as conduit for release of follow-up information to media
- C distribute appropriate public service announcements

4. Pro Bono Director

- C select site for command center
- C establish liaison with involved parties such as the Red Cross, Salvation Army, FEMA, SEMO and victims' organizations to provide assistance to victims and furnish written materials to these organizations
- C maintain communication with Executive Director
- C contact and coordinate with local bar associations and other similar organizations
- C coordinate lodging and transportation to and from site
- C arrange for reimbursement expenses for Response Team Members

5. Other Response Team Members

- C do not approach or seek out victims or victims' family Cserve only as respondents to contacts generated by media publicity
- C distribute written materials to disaster victims and their families

- C respond to general questions by victims or their families about how the legal system functions to resolve disputes that arise as a result of mass disaster
- C when requested by responsible government authorities, the Response Team shall conduct a legal clinic and respond to individual legal questions posed by disaster victims and their families, each of whom shall be given a copy of the Notice to Persons Served by the Disaster Response Team Legal Clinic (See Attachment 7)
- C monitor lawyer solicitation and report instances of illegal or unethical conduct by lawyers to appropriate government authorities, including local district attorneys or attorney grievance or disciplinary committees
- C provide information to disaster victims and their families in response to complaints of alleged violations of the Code of Professional Responsibility

C. Important Points for Response Team Members

- (I) It is crucial that the Response Team not become identified with any faction of a potential controversy, that it abstain from making statements on the merits of claims that might arise from the disaster, and that it not make, even if repeating comments made by other persons or organizations, any statements implying responsibility for the disaster.
- (II) The President of the NYSBA, or his/her designee, is the sole spokesperson for the Response Team. No other person shall make statements of any kind to members of the press.
- (III) While all Response Team members should participate in the distribution of written materials to the disaster victims and their families, all should also be careful not to provide specific legal advice or referrals while acting as a member of the Response Team other than as part of a legal clinic established under Part V.B.5 above.
- (IV) In responding to disaster victims or their families or others, members of the Response Team should emphasize that their major concern is for the persons affected by the disaster and the public interest. Further, they should emphasize that the team is there chiefly to provide information to the victims and their families and to monitor compliance with the Code of Professional Responsibility and to receive reports of any possible violations of those rules.
- (V) To the extent that time and circumstances permit, the Response Team shall confer before any response to a press inquiry is made.
- (VI) Members of the Response Team should also maintain notes of any problems that make performance of their duties more difficult and any ideas for avoiding or diminishing such problems in the event of a future response to a mass disaster.

D. Key Bar Leader Notification

The Executive Director will be responsible for notification of Executive Committee members of the NYSBA and others, as deemed appropriate. The notification should include

information regarding action taken, reasons for such action, and contact person for updates or additional background.

*E. Report on Results*

The Chair will convene a meeting as soon as possible to be attended by as many Response Team members as may be available to obtain input regarding the effectiveness of the plan in that particular situation. The Chair shall prepare a written report of all that occurred at the site or in response to the crisis. The report shall be submitted to the President.