

12-9-2010

# Crisis Management: How to Stay out of Court

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## Recommended Citation

Browning, Adrienne; Kubicek, Kimberly; Rigsby, Sarah; and Roberts, John, "Crisis Management: How to Stay out of Court" (2010). *Parameters of Law in Student Affairs and Higher Education (CNS 670)*. Paper 7.  
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# *Crisis Management: How to Stay Out of Court*

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*December 9, 2010*

*CNS 670*

Crisis Management in higher education is often unpredictable. It requires immediate decision making and quick resolution based on the outcome of an event that has taken place. Institutions have an obligation to reduce uncertainty in the event of crisis and to mitigate the circumstances of potential volatile situations. A crisis management policy should be established and implemented in order to provide a safe and healthy environment for all. In the wake of the Virginia Tech tragedy, a report was provided to the President of Virginia Tech that stated “a strong, vibrant and supportive community is essential in ensuring a safe campus environment. An environment that promotes civility, works toward the acceptance of others’ differences, strives to include rather than exclude and provides assistance to those in need is fundamental to a safe campus” (Rinehart, 2007). This assignment will cover and provide tips on crises currently facing institutions such as: campus security; fraud; disruptive behavior; cheating/theft; technology, rape/assault; hazing and binge drinking; natural disasters; media relations/communication; and training.

## *Disruptive Behavior*

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Disruptive behavior is inappropriate behavior that interferes with normal work functions or activities such as: “yelling, using profanity, waving arms or fists, verbally abusing others, and refusing reasonable requests for identification. Conflict can be normal but must be addressed promptly and effectively, not avoided or suppressed” (University of California, 2007). This type of behavior can occur inside and outside a classroom setting from students, staff, faculty, alumni, and people from the community.

An example of disruptive behavior is the Virginia Tech tragedy in 2007. The school shooter was a current student named Seung-Hui Cho. During his junior year of college, many

incidents occurred involving Cho that indicated warnings of instability in which several school offices did not “intervene effectively.” The failure was miscommunication between three main offices: Judicial Affairs, Counseling Center, and Dean of Students. The incident was an eye-opener not only for Virginia Tech but for all institutions. Virginia Tech assessed the incident and developed a thorough report indicating the “lessons learned” from this experience—number one being to collaborate and communicate (Rinehart, 2007).

**Behavior signs to be aware of:**

- “Repetitive verbal abuse, including sarcasm or poor relationship with customers, co-workers, supervisors, or others.
- Very controlling behavior.
- Blaming others for problems in life or work; being suspicious, holding grudges.
- Persistent complaining.
- Challenging or resisting authority.
- Destruction of University property.
- Becoming unusually upset over recent event(s) (work or personal crisis).
- Withdrawing from normal activities, family, friends, and co-workers.
- Making a major change in lifestyle, demeanor, or appearance” (Stoney Brook University, 2010).

**Tips on handling disruptive behavior:**

- “Depending on the situation, contact the following campus officials: Campus Police, Judicial Affairs, General Counsel, Counseling, Housing, and Dean of Student Affairs, and Human Resources.

- Choose a private place for discussion.
  - Speak slowly and confidently.
  - Encourage the person to talk; listen closely and patiently.
  - Arrange yourself so your access to exits are not blocked.
  - Acknowledge the person's feelings.
  - Point out alternatives; break big problems into smaller problems.
  - Have a means of notifying co-workers or the police if disruptive behavior becomes violent
- (Stoney Brook University, 2010).

## *Campus Security*

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Campus Security has a goal of serving the campus community while ensuring everyone's safety—all done on foot, bicycle, or car. According to Western Kentucky University's website, its campus police are a "professional full service agency operating 24 hours a day, 365 days a year. Officers have police powers, including arrest powers, under Kentucky Revised Statute 164.975. The WKU Police Department has a professional working relationship with the Bowling Green Police Department, the Warren County Sheriff's Office, the Kentucky State Police, The Warren County Drug Task Force, and all Federal Agencies. The Department consists of: 28 sworn officers, ten administrative staff, ten student police Explorers, and student office employees" (2009).

During a time of crisis, it is imperative that "accurate, prompt, and consistent dissemination of information to help the institution assess the safety and well-being of individuals and facilities and to protect the positive reputation of the institution during and after a crisis situation" (Rowan-Cabarrus Community College).

### Tips for Campus Security:

- “Universities should conduct a threat assessment and then choose a level of security appropriate for their campus.
- Campus emergency communication systems must have multiple means of sharing information.
- Share information with appropriate parties.
- Communicate with outside agencies that have relevance to campus or individual safety, while observing the legal and ethical imperatives regarding information sharing.
- Ensure that, in time of emergency, the University is able to contact someone on the student’s behalf if they are not able to do so” (Rinehart, 2007).

## *Fraud*

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Fraud is a crime and can lead to imprisonment. It is a deliberate act of misrepresentation in an attempt to defraud people of money or valuables. Bradley University states how “phishing” is a new kind of credit/debit card fraud that sends an e-mail to its victim pretending to be from a viable source such as a bank or a similar site. “By pretending to be an e-mail from a bank or similar site, scammers “fish” for account numbers, passwords, Social Security numbers and other personal information. Phishing e-mail schemes change frequently and often have links or attachments with links. Users who click on the links are taken to look-alike sites where they are asked to enter personal data. Once identity thieves have your personal information, they may: go on spending sprees; open new credit card accounts; take out auto loans, establish phone or wireless service in your name; file for bankruptcy under your name, or give your name to the police during an arrest” (Bradley University).

### Tips on fraud:

- “If a caller asks for your credit card, bank account, or Social Security number to verify a free vacation, a prize, or a gift, say “No” and hang up.
- If you are calling a 900 number in response to an advertisement or something you receive in the mail, make sure you know all the charges up front.
- Before you agree to support a charity that calls seeking money, ask for written information about its finances and programs, and feel free to hang up if you do not feel comfortable. It is your choice.
- Do not provide personal information through e-mail unless you have verified the business by telephone.
- Call the police if you think you have been conned” (Bradley University).

## *Natural Disasters*

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An important aspect of crisis management in universities and colleges is to develop an emergency management plan that will aid in protecting students, faculty, and staff during natural disasters. Natural disasters are inevitable and prevention is the best way to minimize damage on campus. Prevention of damage simply ensures safety, and to ensure safety, colleges and universities must have individually created plans, which outline how to handle emergencies such as natural disasters. Essentially, the purpose of an emergency management plan is to, according to the University of Kansas Emergency Management Plan, “provide management structure, key responsibilities, emergency assignments, and general procedures to follow during and immediately after an emergency. The University established this plan to address the immediate requirements for a major disaster or emergency in which normal operations are interrupted and special measures

must be taken to: save and protect the lives of students, employees, and the public; manage immediate communications and information regarding emergency operations and campus safety; provide essential services and operations; provide and analyze information to support decision-making and action plans; and, manage University resources effectively in an emergency operation” (2009).

Universities must abide by a disaster preparedness plan to ensure safety to the entire campus during a natural disaster. In 2005, Hurricane Katrina hit Louisiana, which affected universities such as Tulane University and the University of New Orleans. Like many universities on the coast, Tulane has a hurricane plan. According to the Tulane University’s Hurricane Plan, the plan is set in place to coordinate and control the university’s hurricane preparation and response steps (2010). In order to prepare the campus for a hurricane threat, like many university natural disaster plans, the plan contains many facets in executing alerts and instructions to control the campus.

There are many teams that have been developed to aid in university safety, preparedness, response, and recovery in regards to natural disasters. Tulane University’s Administrative Hurricane Plan includes multiple planning and management groups and responsibilities (2010). In the Tulane Administrative Hurricane Plan, there are seven planning and management groups. Listed as the first group is the Executive Operations Group (EOG). The EOG is responsible for obtaining information from the Incident Commander regarding storm progress, providing executive-level authority regarding University preparation and resumption or normal operations, directing and coordinating storm preparation steps, monitoring and coordinating activities during and after a storm, and determining when and if business and academic activities will be suspended



and when they will be resumed. The second group listed is the Incident Commander (IC). The primary responsibility of the Incident Commander is to manage the incident and the university's response activities. Responsibilities of the IC include ensuring well-managed and coordinated response, monitoring storm progress and consulting with Impact Weather, Inc., activating the EOG to execute key decisions, directing and coordinating storm preparation steps, monitoring and coordinating activities during and after a storm, recommending to the EOG when business and academic activities will be resumed, and provide other necessary recommendations to the EOG to ensure safety during and after the storm (Tulane University Administrative Hurricane Plan, 2010, p. 5-6).

The next group is the University Emergency Response Team (UERT), which operates under the Incident Commander. The UERT consist of personnel who will remain on campus at Emergency Operations Centers during the storm. The next management group is called the Student Evacuation Team (SET). The responsibility of the SET is planning and executing on-campus student evacuations. The reason for evacuations is because of the university decision to close, which is a decision made by the EOG. Also, the SET will aid in setting up call centers to provide information to parents about the student evacuation process. The SET will also help in evacuating students to a safe designation that is set by the university. For example, Tulane uses Jackson State University in Jackson, Missouri as an evacuation site (Tulane University Administrative Hurricane Plan, 2010, p. 7-8).

The next group listed is the Business Continuity Team (BCT). The BCT is responsible for directing recovery activities from their designated evacuation site. The BCT contains many of the same members from the EOG. The next group is the Damage Assessment & Early Recovery Team

(DAERT). The DAERT are instructed to return to campus as soon as the storm is over. This team assesses damage done to the campus and help to ensure an early recovery for the campus. The Last group listed is the Office of Emergency Response (OER). The OER is responsible for updating and distributing the Administrative Plan and planning the overall response of the university (Tulane University Administrative Hurricane Plan, 2010, p. 8-10).

Using Tulane's Administrative Hurricane Plan as model is just to provide the outline of a universities response teams and their responsibilities. Obviously, there are universities and colleges who do not have plans for hurricanes, but for other natural disaster scenarios, which require plans to be formatted much like Tulane's Administrative Hurricane Plan. All of these groups are used to help in communicating instructions and the university's disaster plan throughout the entire campus to all faculty, staff, personnel, and students.

In order to convey information to the entire campus, according to Tulane's Administrative Hurricane Plan (2010), information and decisions are passed along through a chain of groups that were explained early. The process of communicating information and decisions campus wide starts with weather advisories and updates to OER and others. Also, the IC activates the requirements of the disaster plan in the event of a natural disaster. Next, the IC activates the EOG via the President or senior administrator (or whoever is in the chain of command). Then, the EOG initiates a storm threat review. The TUPD then monitors alerts and notifies the IC, which then activates the EOG outside of normal business hours. Next is the action made by the chain of command. Execution regarding the disaster plan is made by the President or senior administrator in the EOG chain of command. The next phase of the process is the actual execution, which is where the EOG will monitor the natural disaster's progress, follow to

appropriate response steps, and make a decision regarding the university's closure or evacuation. The IC then communicates the EOG's decisions to groups such as the SET, UERT, DAERT, and other departments. The last part of this process is the university communications. All information conveyed to the university community is directed by the EOG and IC through alert lines, emergency web sites, and an emergency alert system. The last two parts of this process will require the EOG to continue to meet, execute this plan and communications to the university until everything normalizes (Tulane University Administrative Hurricane Plan, 2010, p. 12).

Communication throughout the university is very crucial, outlined in Tulane's Administrative Hurricane Plan (2010) and the University of Miami Disaster Preparation and Recovery Plan (2006) there are various ways in which students are informed. The types of information include websites, hotlines, brochures, media, text messages, and other forms of announcements. With plans, announcements, and other forms of preparations or responses, how would it be possible to end up in a legal or court situation over a natural disaster?

In universities such as the Tulane University and the Universities of Miami, Kansas, and Hawaii (to name a few), these campuses are in danger of serious natural disasters and like many other schools should foresee that at some point in time, there will be a storm or natural disaster that threatens the university community. Some may argue as these natural disasters being an unforeseen danger, but for the listed universities, natural disasters such as hurricanes, tropical storms, and tornados are disasters that can be viewed as foreseeable. Therefore, universities should have a disaster or emergency plan in place. These plans have a duty to protect life in the university community. According to the website FindLaw, natural disasters in the United States are viewed by contract law as "acts of God" (2009). An act of God simply refers to a situation in which no

persons have control. Insurance companies do not usually cover damage caused by an act of God. For coverage to specific situations, one must obtain such coverage separately. Many disputes come from whether or not a natural disaster is foreseeable. An example of the this is the flooding that was caused by Hurricane Katrina (“Can Earthquakes in Costa Rica, Los Angeles Shake up Lawsuits?,” 2009).

Most cases that involve natural disasters are issues of liability. In these cases, if the result of a person’s death or injury on campus such as a student, faculty, or staff is a result of the institution’s negligence, then the institution will be held liable. This could happen if there is a flaw in the emergency management plan or if buildings on campus are not up to code (“Can Earthquakes in Costa Rica, Los Angeles Shake up Lawsuits?,” 2009). However, if an injury or death happens in a natural disaster situation on a university campus, courts must also determine if the defendant or defendants in any litigation under environmental statutes could have prevented their misfortune or exercised better precaution (Kaplan, 2007, p. 179).

To stay out of court, institutions must simply be prepared for natural disasters. The many groups that are cited in each emergency management plan must act responsibly and adhere to the emergency management plan set by the university. Communication about evacuation plans or other vital information regarding a natural disaster scenario must be distributed accordingly and made public to the university community.

**Tips for implementing a plan for natural disasters:**

1. Assessment: Assess the need for an emergency management plan for a natural disaster or other severe storm scenarios.

2. **Emergency Management Plan:** Develop an emergency management plan that will adhere to the needs of the university community. The plan must include a purpose, scope, authority, mission, priority levels, emergency classifications, hazard categories, operations, activation plan, and a recovery and assessment plan.
3. **Observation:** It is important to observe the development of a natural disaster and to continually update the university community.
4. **Communication:** Emergency management teams and executives must open up communication to the university community in order to convey plans, developments, and other information. For example, evacuation plans. Also, it is important communicate important information publicly. For example, universities should allow anyone to gain access to their emergency management plan.
5. **Responsibility:** It is important for executives and other university personnel along with faculty, staff, and students to act responsibly during an emergency situation.
6. **Activation:** When activating an emergency management plan, it is important to do it according to training and university.
7. **Recovery and Assessment:** Once the natural disaster is over, it is important for executives and professionals to determine whether and when it is safe to bring people back to campus. Assessing the damage, the safety hazards, and effectiveness of the university's emergency management plan is crucial.

## *Rape*

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According to the Department of Justice, one in four women will be victims of rape or attempted rape before they graduate college (Strachan, 2010). Rape is the most common violent

crime on college campuses today (Finn, 1995). Recent studies have shown that “date rape” is not the appropriate term to use when describing the rape that college students experience; instead, acquaintance rape is the correct term. Ninety percent of college women who have been raped know their assailant (Fisher, Cullen, & Turner, 2000). These acquaintance rapes most often occur when two people are in the same place together. Fisher, Cullen and Turner found that thirty-five percent of completed rapes and forty-five percent of attempted rapes take place on campus (2000). Less than five percent of college women who are victims of rape actually report it (Fisher, Cullen & Turner, 2000). Since so few victims report, college officials do not understand the extent of the problem; therefore, there is a lack of urgency to provide more preventative measures on campus (Sampson).

Researchers are finding that the problem lies within the college rape prevention plans. The current rape preventative measures are not getting the message across to young women. Most college administrators help prevent rape on campus by installing cameras, emergency phones, offering shuttle services, and patrolling parking lots (Sampson). These measures help prevent stranger rape, but acquaintance rape, not stranger rape, is what most college students are facing today. Acquaintance rapes do not occur mostly where cameras are present or where policemen can patrol, so what can the university do to prevent these rapes? What is the university’s legal duty to the students when it comes to rape prevention?

It is a university’s legal duty to warn students of the risk of rape and provide reasonable protection (Finn, 1995). If a crime is foreseeable, then the college can be held liable for not informing the students of the possible risk and protecting against it. For instance, if acquaintance rape occurs more often at a certain time and place, then preventable measures need to be taken in

account in that location and during that time of day (Finn, 1995). This legality of informing students of possible risk started in 1990 with the Clery Act.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, also known as the Campus Security Act, requires colleges and universities, in the United States, to release information about crime on and around their campuses. It is a federal law that applies to both private and public institutions that participate in federal student aid programs (Complying, 2008).

The Clery Act is named after 19-year-old freshman Jeanne Ann Clery, who was raped and murdered while asleep in her residence hall room on April 5, 1986. She was killed by another student, that she didn't know, who had entered her residence hall through a propped open door. Jeanne's parents decided to start the Campus Security Act after they discovered that students hadn't been told about 38 violent crimes on Jeanne's campus in the three years prior to her death (Complying, 2008).

The Clery Act took effect on September 1, 1991 and the Department of Education was charged with enforcing it. For the first time, institutions of higher education across the country had to release campus crime statistics and security policies to current and prospective students and employees (Complying, 2008). Since 1991, several amendments have been made to the act. In 1998, new categories to the crime statistics were added, along with the obligation to report statistics for public property in and immediately adjacent to the campus, a geographic breakdown of statistics, and a daily public crime log for school with a police or security department (Farahany, 2004).

Besides the Clery Act requirements, there are other preventable measures that can be implemented on college campuses. Every college campus is different, so in order to find out what measures need to be put into place on campus, an assessment is needed. How do you assess a campus? Ask questions. Find out how many reported rape victims there are on the campus or what percentage of rape victims are women/men. Ask questions that will help get an accurate assessment of the campus. The answers to the questions might not be readily available, so the assessment might require some extensive research (Sampson).

After assessing the campus, the next step is to make a plan of action. Depending on the assessment results, possible actions could include: increasing patrol in certain locations and during the time of day when previous rapes have occurred or enforcing security in residence halls by physically making sure that the doors are secure at all times. If the residence halls are not secure at all times, the university could be at risk if something were to happen in the halls.

One example of this occurred in 2003 at Western Kentucky University when a freshmen, Katie Autry, died after being raped and burned by two men in her room on Western's campus (Davidson, 2004). Before this tragedy, Western Kentucky University did not lock the front doors of the residence halls until midnight and visitation was not as enforced as it is today. Since 2003, the university has made the residence halls more secure by installing more cameras, keeping the entry level doors to the halls locked at all times, and strictly enforcing visitation policies.

Securing the residence halls is very important and it should be of high importance in the plan of action, but educational programs have been found to be the most beneficial when it comes to actual rape prevention; therefore, educational programs should be implemented in the plan of action (Sampson). College administrators should educate students about the prevalence of rape in



college by having rape prevention programs during freshmen orientation, so the students can be aware before they move onto campus.

After the tragedy in 2003, Western Kentucky University has not only made the residence halls more safe and secure, but they have also started an educational program called “The Green Dot” to inform students about the prevalence of rape. “The Green Dot” is presented during freshmen orientation by staff and faculty members of Western. During the program, freshmen learn about healthy relationships, learn the definition of sexual consent and sexual assault, and how they can protect themselves from rape or sexual assault.

Even though rape prevention educational programs have been found to be effective, researchers say that most college programs suffer from several weaknesses (Sampson). Two of the weaknesses are a lack of clear goals and a lack of follow-up assessment; therefore, it is impertinent to establish goals for not only the educational programs, but for all initiatives in the plan of action. Also, always provide assessment to see if the programs and initiatives are making an impact on the students and the campus, which is the last step of the process, measuring for effectiveness.

Measuring for effectiveness is the most important part of the rape prevention process. Possible ways to measure for effectiveness can include: looking for reduced numbers of rape on campus in six months or seeing if there is an increase in reported rapes. Measuring for effectiveness provides an insight to the improvements that have been made and the problems that still lie ahead.

Continually assessing and measuring the effectiveness of the rape prevention plans will not only keep the university out of court, but more importantly, the campus can move one step forward to providing a safer environment for students.

## *Crisis Communication*

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When faced with a crisis on campus, keeping the communication lines open with students, faculty, staff and the general public is essential. The horrific events that occurred on April 16, 2007 at Virginia Tech have served as a wake-up call to institutions about the importance of quick communication. The first shots were fired that morning just after 7am and officials were notified shortly thereafter. However, it wasn't until 9:26 that "the school sent an e-mail to students and faculty warning: 'Shooting on campus. The university community is urged to be cautious and are asked to contact Virginia Tech Police if you observe anything suspicious or with information on the case.' Cho opened fire inside Norris Hall about 20 minutes later" (Communication Breakdown, 2007).

The university has received a lot of criticism because of this delayed reaction. In fact, the families of two victims, Erin Peterson and Julia Pryde, have filed a lawsuit against the school alleging that the University failed to take enough action to warn and protect students that morning (Glod, 2010).

Knowing what needs to be done by way of communication during a crisis is crucial. Crises happen quickly and unexpectedly, and without a plan for communication, certain aspects may be overlooked which could land the institution in court.

### **Tips on implementing a crisis communication plan:**

1. **Assessment:** The individual who encounters the potential crisis should gather accurate information.

2. Assemble the Core Crisis Team which consists of faculty and representatives of the areas most closely dealing with the situation (i.e. the university police, divisions of Student Affairs and so on).
3. Designate a spokesperson.
4. Draft a fact sheet of all known details.
5. Notify key constituencies. This includes but is not limited to: law enforcement, students, faculty, staff, administration and parents. This can be done through in a variety of ways including emails and text messages. Don't forget to maintain low-tech levels of preparedness as well. Consider the use of direct access to local radio stations to get the word out (Levick).
6. Alert the media.
7. Determine a strategy for internal and alternative communications.
8. Consider establishing a rumor control-hotline.
9. Follow up within the next ten days to review actions taken to determine the effectiveness and efficiency of the response (Western Kentucky University Crisis Communication).

## *Handling Media During a Crisis*

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Media could include “formal press conferences; interviews for print or broadcast media to responses to individual inquiries or the prep for a press release” (Barr & Desler, 2000). Most campuses have a public relations-information office. Barr and Desler recommend that Student Affairs staff develop close relationships with this office. The PR info person must fully understand not only the context of the crisis but also the response of the campus (2000).

## Tips for Handling the Media

1. Listen to Advice from the PR Officer.
2. Decide who will speak for the institution.
3. Balance student privacy and press interests.
4. Engage the student press - They will cover the stories long after local, regional, and national media have left the campus.
5. Exercise candor - You can't control what is printed or broadcast, but you can manage how your institution is perceived by being cooperative, responsible and truthful.
6. Handle privileged information with care. Although some facts cannot be immediately communicated with the press, hiding behind the "no comment" response is a poor alternative as it fuels suspicions and rumors.
7. Confront errors and misinformation prudently (Barr & Desler, 2000).

## *FERPA*

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Another issue which pointed to poor or incomplete communication in the Virginia Tech tragedy in 2007 relates to appropriate use of health and medical records as they are protected by the Family Educational Rights and Privacy Act (FERPA).

Several university departments knew of Cho's record of instability, however, many falsely believed that such information was protected as private and confidential under the tenants of FERPA. "Several University offices, including Judicial Affairs, the Cook Counseling Center and the Dean of Students explained failures to communicate with one another or with Cho's parents, by stating they believed that such communications were prohibited by federal laws governing the privacy of health and education records" (Rinehart, 2007).

However, one of the most notable exceptions to FERPA privacy rules is the ability for school officials with legitimate concerns of health and safety to disclose student information without prior consent. In the wake of the Virginia Tech shootings, new clarifications were released from the Department of Education to ensure schools were aware of their ability to disclose student information when concerns of the safety and health of students are involved (Block, 2009).

Both FERPA and HIPAA have exceptions for emergencies. Find legal counsel who interpret the tenants of this act fully and weigh the risks of breaching confidentiality against the risks of keeping it (Shuchman, 2007).

## *Training*

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Having a crisis plan in place is the first step towards ensuring that your institution will stay out of court. However, even the best crisis management plan can fail if its users are unaware of how to implement it.

A 2010 study has shown that nearly a quarter of colleges and universities have never tested their crisis management plan. 54% of institutions tested their crisis response plan in the last year, 23% have tested it more than one year ago, and 23% have never at all tested their crisis response plan. Of those who have tested it, only one third said that their plan was effective. Additionally, 51% of institutions surveyed have had an actual crisis on their campus in the last two years (Schaffhauser, 2010).

### **Tips on training for crises:**

1. "Schedule time to test, review and revise your crisis management plan.

- a. Revise the plan based on what was learned from practice tests. Evaluate successes and failures from other schools' emergency management protocol.
2. Develop a graduated set of attainable tests, beginning with basic drills and increasing the complexity over time. Reaching the stage where a full-scale crisis simulation can take place could take years.
3. Mix up the drills and exercises, testing different functions, scenarios, and activities. This will provide practice in responding to the variety of crisis situations that can affect a campus" (Schaffhauser, 2010).

By testing and revising your crisis plan regularly, you can help ensure that the plan will run smoothly in the event of an actual crisis.

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