

# CRISIS PLANNING IN THE FOOD INDUSTRY

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North Carolina State University  
Executive Farm Management Program



# DEFINING A CRISIS IN BUSINESS TERMS

Any situation that could:\*

1. Interfere with normal business operations
2. Fall under close media scrutiny
3. Jeopardize public image of company, its leaders or its product
4. Damage the bottom line
5. Escalate in intensity

Often there is an element of **surprise**.

\*Not all of these conditions need to be present for a potential crisis to exist. Any one of them, if sufficiently serious, could be enough to require a swift response.

# FOOD IS UNIQUE

- Complete avoidance is not possible
- Food choices are often well-established
- Emotional complexities and personal identity
- Involuntary “responsibility transfer”



# THE PARK DOCTRINE

The Park Doctrine allows the government to seek a misdemeanor conviction against a company official for alleged violations of the Federal Food, Drug, and Cosmetic Act (FDCA) ***without having to prove that the official participated in or was even aware of the violations.*** The government need only demonstrate that the official was in a position of authority to prevent or correct the alleged violation. The Park Doctrine, in effect, renders FDCA violations **strict liability crimes for corporate officials** in positions of responsibility or authority.

The United States **Federal Food, Drug, and Cosmetic Act** (abbreviated as **FFDCA**, **FDCA**, or **FD&C**), is a set of laws passed by Congress in 1938 giving authority to the U.S. Food and Drug Administration (FDA) to oversee the safety of food, drugs, medical devices, and cosmetics

# 21 U.S. CODE § 342 - ADULTERATED FOOD

- (a) Poisonous, insanitary, etc., ingredients**
- (b) Absence, substitution, or addition of constituents
- (c) Color additives
- (d) Confectionery containing alcohol or nonnutritive substance. If it is confectionery, and—
- (e) Oleomargarine containing filthy, putrid, etc., matter
- (f) Dietary supplement or ingredient: safety
- (g) Dietary supplement: manufacturing practices
- (h) Reoffer of food previously denied admission
- (i) Noncompliance with sanitary transportation practices**

# 21 U.S. CODE § 342 - ADULTERATED FOOD

- (a) Poisonous, insanitary, etc., ingredients
  - (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health;
  - (2) If it bears or contains any added poisonous or added deleterious substance (other than a substance that is...safe); or
  - (3) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or
  - (4) If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or**
  - (5) If it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter; or
  - (6) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or
  - (7) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption...

# DOJ & FOOD ADULTERATION



The screenshot shows the top portion of the DOJ website. At the top left is the DOJ seal. To its right is the text "THE UNITED STATES DEPARTMENT of JUSTICE". Below this is a navigation menu with links for "ABOUT", "OUR AGENCY", "PRIORITIES", "NEWS", "RESOURCES", and "CAREERS". Under the navigation menu is a breadcrumb trail: "Home » Office of Public Affairs » News". Below the breadcrumb is a black box with the text "JUSTICE NEWS" in white. Underneath that is the title of a news item: "Principal Deputy Assistant Attorney General Benjamin C. Mizer Delivers Remarks at the Consumer Federation of America's 39th Annual National Food Policy Conference". Below the title is the date and location: "Washington, DC ~ Wednesday, April 6, 2016".

April 6, 2016, PDA Attorney General Benjamin C. Mizer: “The Justice Department’s focus on food safety and our recent successful prosecutions...have accomplished a great deal.... In short, aggressive enforcement of the FDCA and other food safety laws helps to ensure that making safe food is not only the best ethical and moral decision, but also the best business decision.”

# WHY PLAN?

You don't have to do anything wrong to find yourself in a crisis situation.

Bad things happen to good companies.

In today's business, regulatory, and public relations environments, being prepared for the unexpected is just good business.

# TYPES OF CRISES

## Facilities Incidents/ Emergencies

- Spills
- Fires
- Releases
- Accidents
- Transportation mishap
- Vandalism
- Worker mishap
- Natural disaster

## Product Incidents/ Emergencies

- Contamination
- Malfunction
- Rumors and allegations
- Misuse
- Sabotage
- Supplier crisis
- Recalls

## Business Incidents

- Regulatory or legislative activity
- Activist attack
- Employee and labor problems
- Layoffs
- Business restructuring
- Vendor crisis
- Supplier crisis
- Customer crisis
- Confidential e-mail leak
- Internet postings
- Reputational

# NOT ALL CRISES (AND THEREFORE RESPONSES) ARE EQUAL

	Green	Yellow	Red
Facilities	Green	Yellow	Red
Product	Green	Yellow	Red
Business	Green	Yellow	Red

# TYPES OF CRISES

	Green	Yellow	Red
<b>Product</b>	<ul style="list-style-type: none"> <li>•Unconfirmed incident involving product</li> <li>•Speculation about product safety</li> <li>•Incomplete information</li> </ul>	<ul style="list-style-type: none"> <li>•Company product safety questioned (e.g. <i>FDA Class III Recall</i>)</li> <li>•Potential for recall</li> <li>•Potential for regulatory action</li> <li>•Potential environmental or health impact</li> <li>•Media coverage</li> <li>•Public officials involved</li> </ul>	<ul style="list-style-type: none"> <li>•Company product safety questioned</li> <li>•<i>Class I, II Recall</i></li> <li>•Regulatory action/ban on use of product</li> <li>•Known environmental or health impact</li> <li>•Extensive media coverage</li> <li>•Public officials involved</li> <li>•Sabotage</li> </ul>

# LEVELS OF REACTIONS

	Green	Yellow	Red
<b>Product</b>	<ul style="list-style-type: none"><li>• Public relations manager notification</li><li>• Standby alert</li><li>• Information gathering</li><li>• Designate situation leader</li><li>• Crisis manager and situation leader begin co-managing situation</li><li>• Crisis team assembled, as necessary</li></ul>	<ul style="list-style-type: none"><li>• Team assembled</li><li>• Senior management notified</li><li>• Additional resources mobilized, as necessary</li><li>• Team creates situation plan</li><li>• Tasks assigned</li><li>• Team follows through to resolution</li></ul>	<ul style="list-style-type: none"><li>• President and CEO directly involved in decision making</li><li>• Team assembled</li><li>• Senior management notified</li><li>• Additional resources mobilized</li><li>• Team creates situation plan</li><li>• Tasks assigned</li><li>• Team follows through to resolution</li></ul>

# CRISIS MANAGEMENT:

What we DO and SAY



**before**, during and after  
an event that rocks our world  
or threatens to do so.

# CRISIS FORECASTING

## Key Questions

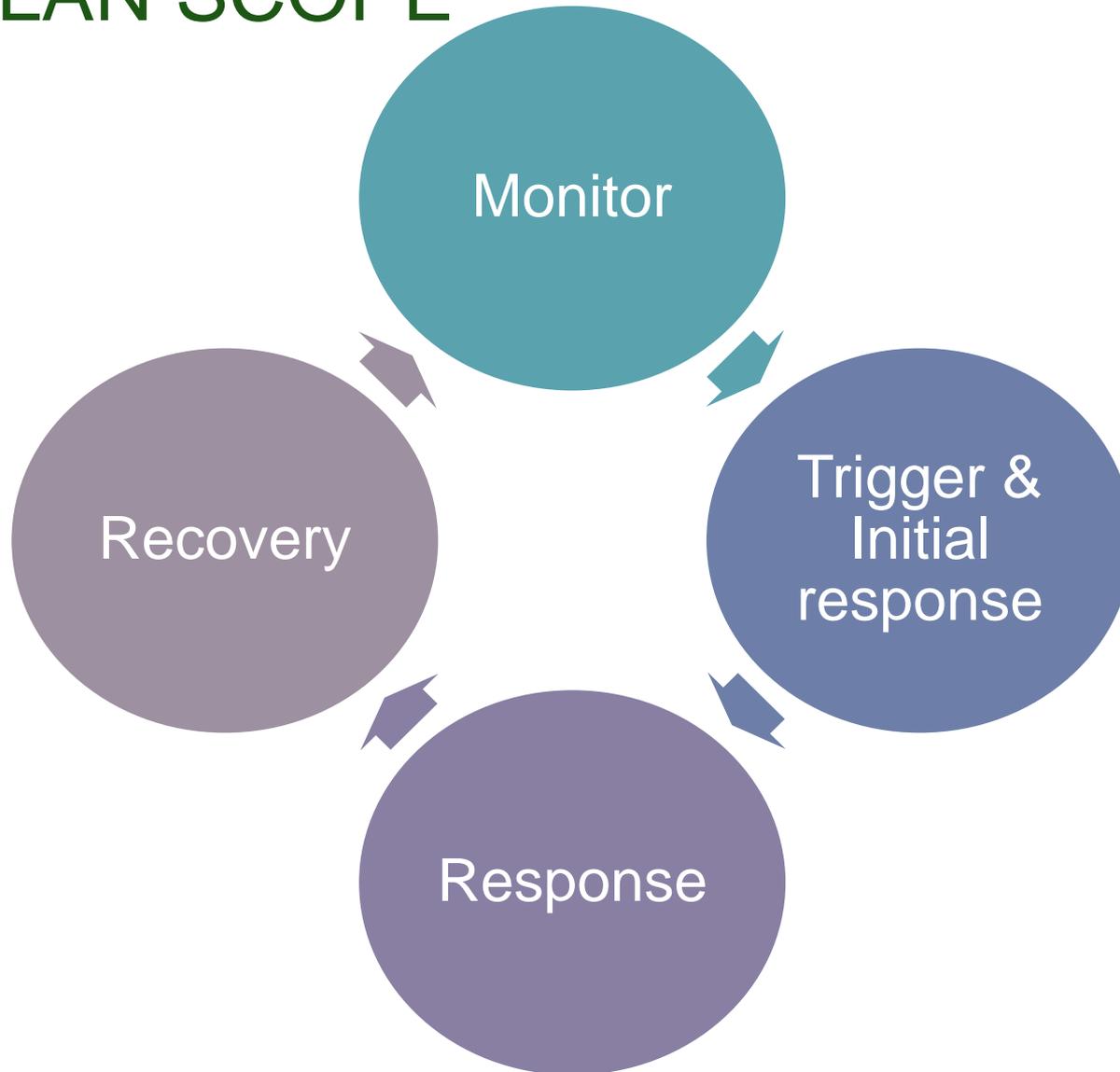
- If the current situation escalates, how bad can it get, how fast?
- Is the situation likely to draw scrutiny by third-parties like the media, government or activist groups?
- To what degree will it interfere with your normal business operations?
- How vulnerable is your company's bottom line?

# SUCCESSFUL CRISIS MANAGEMENT

## Requires:

- Early notification of a situation
- Corporate culture facilitating free-flow of information to decision-makers
- Fostering a “crisis instinct”
- Clear roles and responsibilities
- Being proactive. Think the unthinkable. It is not a question of if, but *when*.
- A Plan: creates a framework that promotes an organized, efficient and timely analysis and response.

# THE PLAN SCOPE



# PRIMARY CRISIS MANAGEMENT OBJECTIVES

- Protect the health and safety of people
- Safeguard the quality and value of our products to completely satisfy our customers
- Protect our brand and reputation

# CRISIS PLANNING INVOLVES ALL BUSINESS FUNCTIONS TO ONE DEGREE OR ANOTHER

*Food Quality and Safety*



**sale**



# THE PLAN

How can your plan help in the minutes and hours after a trigger event?

**WHAT** to do

**WHO** will do it

**HOW** to do it

**WHEN** to do it

# RESPONSE FRAMEWORK

1. Identifying a (potential) crisis
2. Gather information
3. Assemble team
4. Gather more information
5. Assess the situation
6. Prepare to act/communicate
7. Act/Communicate
8. Debrief and recover

# BROWN FAMILY FARM

The TV was tuned to CNN while John ate his breakfast. One of the stories being aired caught his attention – there was a salmonella outbreak in the Southeast, and it seemed to be associated with cucumbers being sold at Wal-Mart stores.

Salmonella is a nasty bacterium, which, when ingested, leads to illness and possibly death. It is carried in animal feces and is easily transferred to fruits and vegetables by workers with poor hygiene, or contact with feces and then produce in the field. Another leading source of contamination is irrigation water.

“Hmmm, “ said John. “I think our cucumbers go to a packer that sells to Wal-Mart. I hope they don’t have a contamination problem.” He went back to his Honey Nut Cheerios and checking the commodity prices on his iPad.

# BROWN FAMILY FARM

What, if anything, should John do at this point?  
Should he activate the farm's crisis plan?

- Monitor situation. How? Who?
- Prepare to receive inquiries from buyers of all farm products. What should the Farm say? Who takes calls?
- Prepare to reply to questions on company's social media platforms. What should the Farm say? Who needs to approve?

# BROWN FAMILY FARM

Later that day, an SUV drove down the road to the farm. As it got closer, John could see it had “USDA” on the side. That was strange.

Two people got out of the vehicle. The driver introduced herself as Jane Smith, the area food safety agent for the USDA. She introduced the passenger as Bill Wilson, the regional VP for Food Safety at Wal-Mart.

“What can I do for you today?” asked John.

“Well,” Jane began. “It seems that you have a problem with salmonella contamination on your cucumbers. Wal-Mart has been using a blockchain-based system called ‘Food Trust’ from IBM throughout its supply chain, and we were able to trace contaminated product back to this farm.”

# BROWN FAMILY FARM

John felt like he had been punched in the gut. He asked a few questions; Bill Wilson showed him the transaction records for the crates shipped from the Brown Family Farm, to the packer, and on to the several hundred Wal-Mart stores throughout the Southeast. It was true – his cucumbers were contaminated.

How could this be? They trained their workers thoroughly in proper handling and hygiene. They tested their irrigation water daily.

“It’s too late for a traditional product recall,” said Jane.

“But because we know exactly where each of the contaminated products was shipped, they’re being taken out of the produce aisle and destroyed,” said Bill. “I hope you have good insurance.”

# BROWN FAMILY FARM

What should John do now?

Since Wal Mart knows “exactly where each of the contaminated products was shipped, (and) they’re being taken out of the produce aisle and destroyed,” does Brown Family Farms need to do anything?

How can the company’s crisis plan help?

- What questions should be asked of Jane and Bill?

FIRST RESPONDER FORM

# BROWN FAMILY FARM

After they departed, John called an emergency meeting with Ann, Kent, and Vicky. He filled them in on what had happened and waited to see what they had to say.

Anne is concerned about the media rodeo that is likely to come and needs to plan for the communication. Her parents in the past would wait for any repercussions and not proactively communicate anything that was of concern unless they were confronted with a question.

In today's social media age, and traceability of the product back to the farm, Anne knows they need to get out in front of this potential firestorm and keep it under control. The reputation of the Brown Family Farm – and the Brown Family itself – is at stake.

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# BROWN FAMILY FARM

How can the company's crisis plan help?

- What questions should be asked?
- What more information is needed?
- Next steps

# TEAM: CALL IN #, PASSCODE

Team member	Cell phone	email	Alternate	Cell phone	email

# EXTERNAL RESOURCES (MAY ASSIST CO)

Name	Title	Contact #s	Email
Legal counsel – regulatory			
Legal counsel – product liability			
Microbiologist/Food Safety Consultant			
Microbiological lab testing facility			
Insurance Company			
Call center services			
Webmaster			
Trade associations (member)			
Social media consultant			
Crisis communication professional			

# KEY CONTACTS (MAY NEED TO INFORM)

Name	Title	Contact #s	Email
FDA recall coordinator			
Other regulatory offices			
SEC (if publicly held)			

# BROWN FAMILY FARM

Who should take the lead in communication with the outside world? Is it John, or the new Marketing Manager? Ann is not sure how Kent and Vicky are going to respond to someone else speaking for the farm but knows she knows she doesn't want her dad in front of the camera or tweeting about anything!

They have been discussing the need for a crisis plan and never got around to creating one.

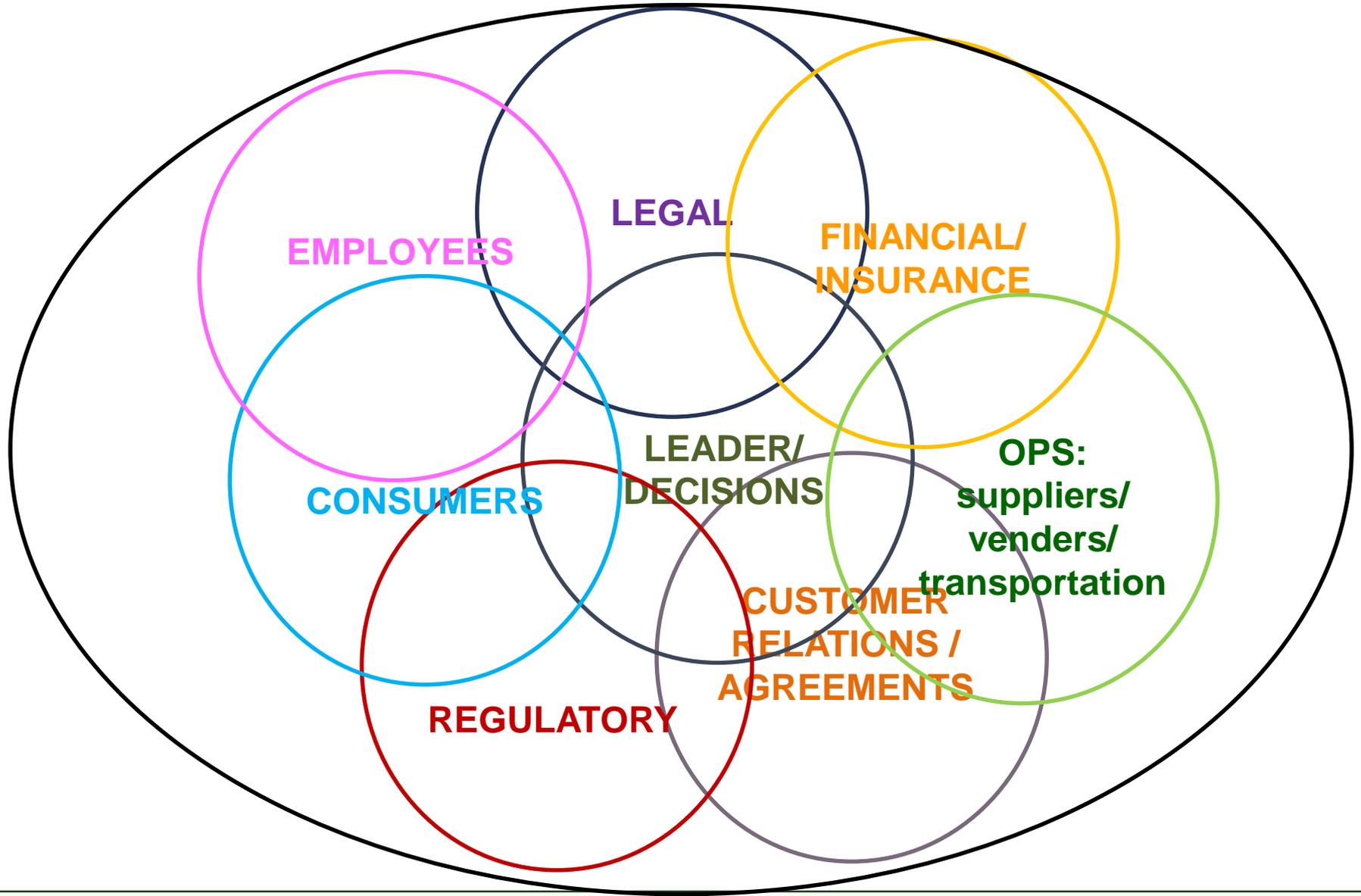
The farm also needs to investigate what went wrong in their food safety procedures but she needs to stay focused on getting ahead of the message. The investigation will come next.

# BROWN FAMILY FARM

## How can a plan help?

- Anticipate the various activities
- What needs to be done to prepare communications?
- Clear roles and responsibilities

# RESPONSIBILITIES



# BROWN FAMILY FARM

Anne knows she needs to get started so she calls a meeting with her brother and the new Marketing Manager.

# MOST COMMON AUDIENCES

## Internal

Response Team  
Employees (response)  
Employees (others)  
**Customers (affected)\***  
Customers (others)  
Suppliers/Growers  
BOD/Stockholders  
Vendors  
Transportation co.

## External

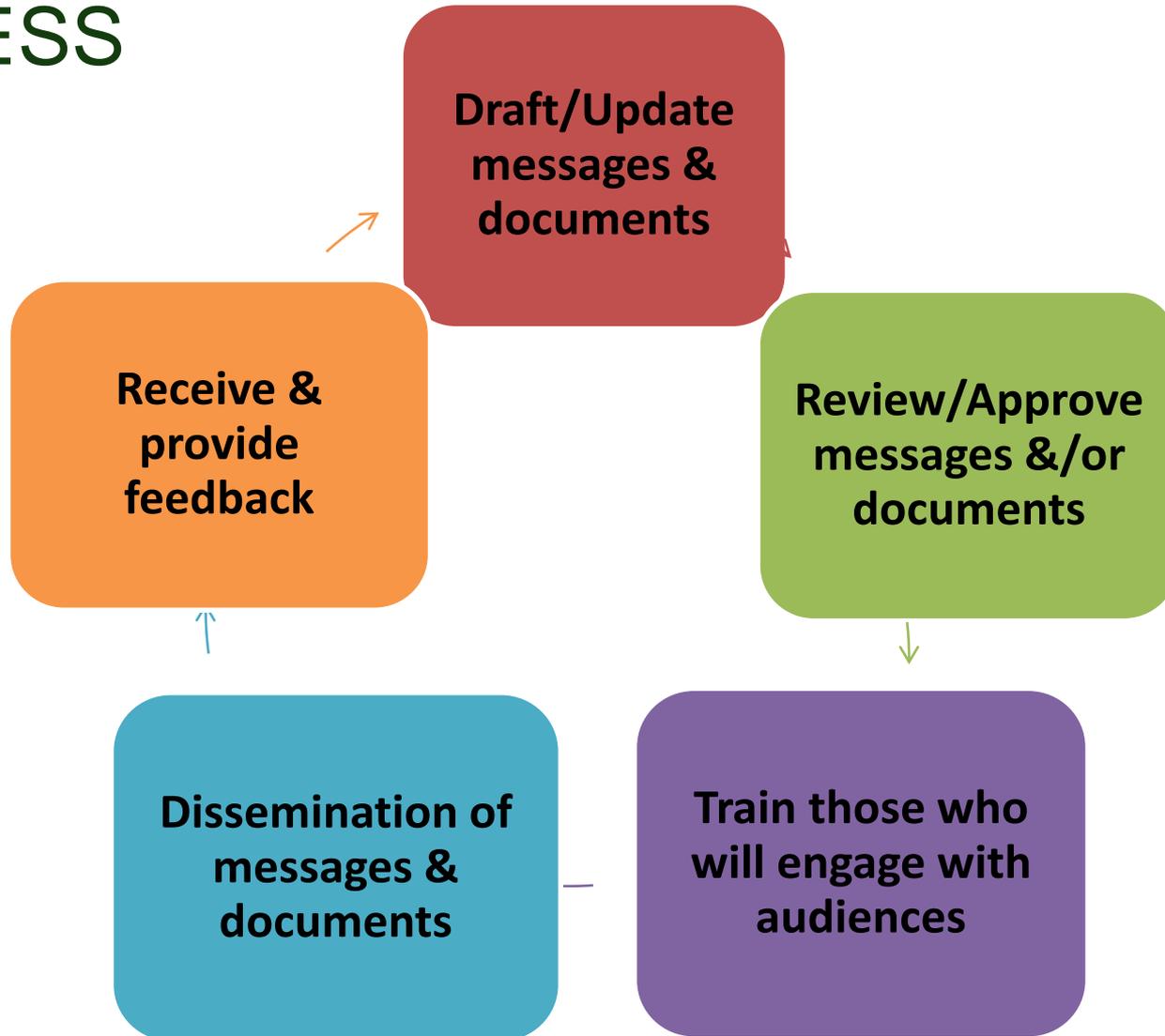
Regulators/Officials  
**Consumers (public)\***

- Media
- Web; social media
- Phones, emails

Resources (SMEs)  
Insurance/financial  
institutions  
Audit/Certification  
bodies

**\*Included in PCHF requirements**

# INTERNAL COMMUNICATION APPROVAL PROCESS



# CHOOSING AND PREPARING A COMPANY SPOKESPERSON(S)

- Select a primary spokesperson and a back up
  - Appropriate level of responsibility in co. for issue
  - Title should be considered but it is not only deciding factor
- Provide BOTH message and media training
- Practice. Stay sharp with annual refresher training.
- Refresher training with issue-specific messages

# PUBLIC ACCESS TO COMPANY

Ways the public can contact us	Account # / Access codes	Staff responsible during a crisis
Website		
800 number on website		
Other numbers provided on website		
info@ email address provided on website		
Other emails listed on website		
Facebook		
Twitter		
Other social media sites		
Blog		
Yellow pages		

# Recall-specific Templates

- Company statement and/or press release
- Customer Recall Notification and response form
- Customer letter
- Memo or talking points to employees
- Voice message recordings

# Requirements for a Recall Plan PCHF (117.139) and PCAF (507.38)

For food with a hazard requiring a preventive control

**(a)** Establish a written recall plan

**(b)** Include procedures that describe the steps to be taken, and assign responsibility for taking those steps, to perform the following actions:

**(1)** Directly notify the direct consignees of the food being recalled

**(2)** Notify the public about any hazard presented by the food

**(3)** Conduct effectiveness checks to verify that the recall is carried out; and

**(4)** Appropriately dispose of the recalled food

# COMMUNICATING DURING A CRISIS

- **Get it right**

- Be sure information is accurate and up-to-date

- **Get it quick**

- Communicate promptly with key audiences

- **Get it out**

- Be the first with the news – express your intentions, and follow through

- **Get it over with**

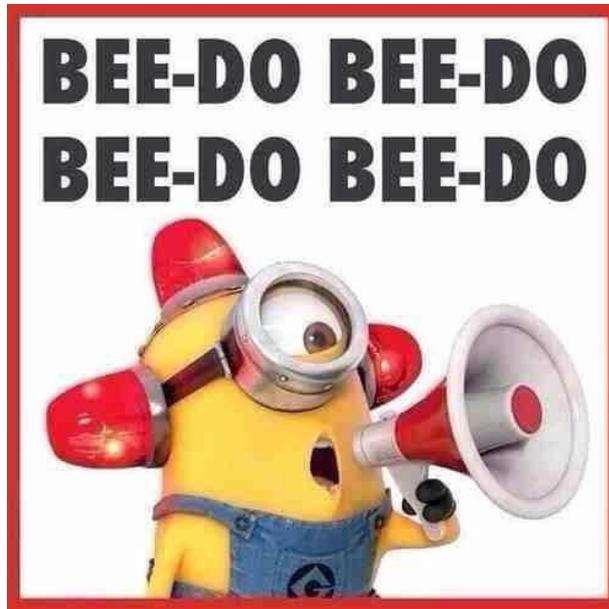
- Resolve the crisis

- Don't prolong it with mistakes

# COMMUNICATION

## Crisis communication

Telling “them” something you don’t want to say and that they generally do not want to hear under circumstances that are stressful at best.



# COMMUNICATION

## Sales/Marketing communication

Telling “them” something you want to say and they want to hear, or at the very least they are neutral to it.



# BROWN FAMILY FARM

## **Part 2: (Set up for policy manual/handbook, goal setting and performance evaluations)**

After investigating the situation, it was uncovered that there are several deficiencies in the training offered, the follow up process and the policies and procedures in place. Anne calls another meeting with the team.

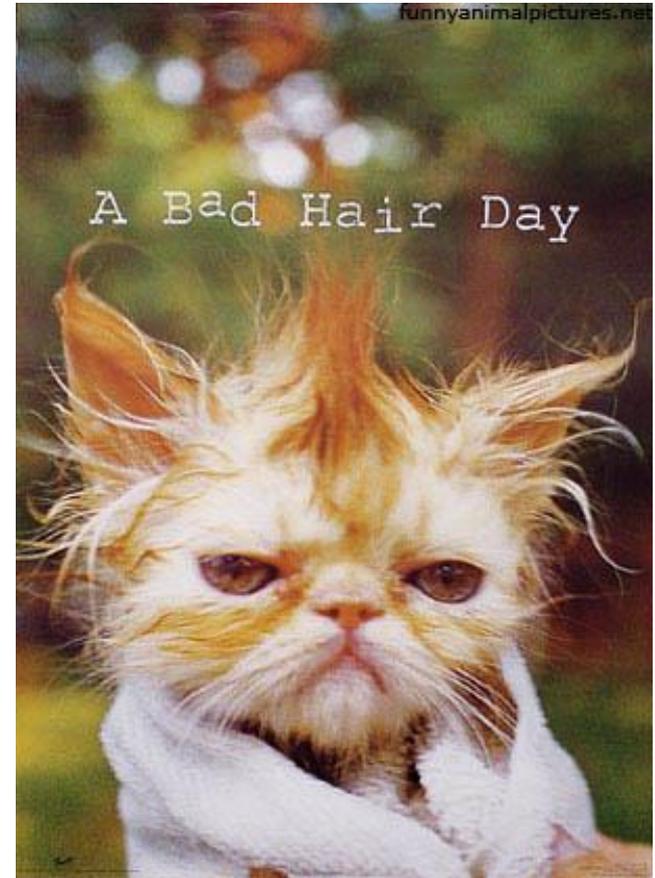
She starts the meeting with the details. Several workers had come down with a stomach bug a few days before the cucumbers in question were harvested and had to make frequent trips to the latrine, carrying their harvesting knife with them. It was also unbearably hot during the harvest, so it turns out that the workers didn't wear the sterile disposable gloves when handling the cucumbers, in violation of company policy.

She says, "So...you've seen the info. What do we do about it? We can't have this happen again."

# DEBRIEF & RECOVER

Rarely a "*The End*"

- Regulatory wrap up
- Process claims
- Debrief/Critique when out of the news
- Express thanks
- Update plan
- Brand recovery and repair strategies



# RECAP



# CRISIS RESPONSE FRAMEWORK

1. Identifying a (potential) crisis
2. Gather information
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# LISTS

- Team members with ALTERNATES and contact information
- Assign responsibilities, but be resilient
- Audiences with whom you may need to communicate
- External Resources (to assist)
- Key Contacts (to inform)
- Public access to company

# KEY PROCESSES:

1. Reporting a suspicious event
2. Determining if team should be assembled
3. Assembling the team
4. Decision-making
5. Routing inquiries
6. Internal communication approval and delivery

# CRISIS-SPECIFIC TEMPLATES

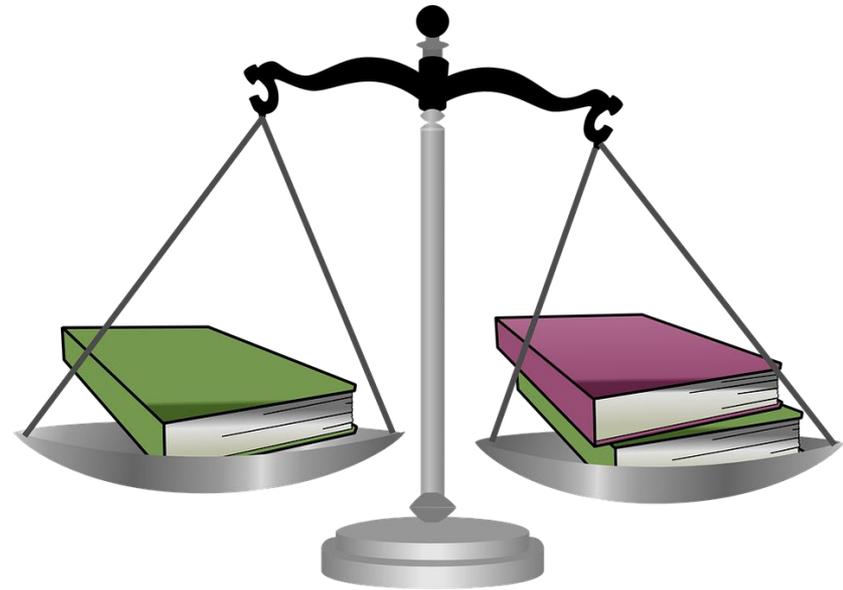
- Food Safety event/recall
- Worker accident
- Labor
- Trucking accident

It isn't feasible to prepare for every possible crisis, but pick the top one or two and then draft most likely templates.

# HOW MUCH DETAIL IS ENOUGH?

If your plan simply stated  
**RESPOND & RECOVER**,  
would it be enough? What  
about as new employees  
join the team?

Write the book  
**THEN** write the Cliff Notes®



# PRACTICE

Tell me and I'll forget;  
Show me and I may remember;  
**Involve me** and I'll understand

-- Chinese Proverb

"I hope this is the biggest waste of time and money the company has ever spent...

but if it isn't - if we actually need this sh\*t one day - it will be worth every penny!"

~CEO talking to management team about the company's first crisis planning efforts

Thank you.

Questions?

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