

RESPONSE MANAGEMENT

TESS KRUGER

TOPICS AND GOALS

- **ASSESS RISK - IDENTIFY AND PRIORITIZE POTENTIAL CRITICAL INCIDENTS**
- **MINIMIZE EXPOSURE - CONTROL RISK**
- **SELECT FEDERAL LAW**
- **CASE LAW REVIEW**
- **WORKING WITH THE MEDIA**

- **Failure to plan on your part does not constitute an emergency on my part...**

... Well maybe it does.

ASSESSING SEVERITY AND LIKELIHOOD OF OCCURRENCE

■ I. MINOR INCIDENTS

- May occur weekly
- Minor impact

■ II. MAJOR DISASTERS

- May occur annually
- High impact

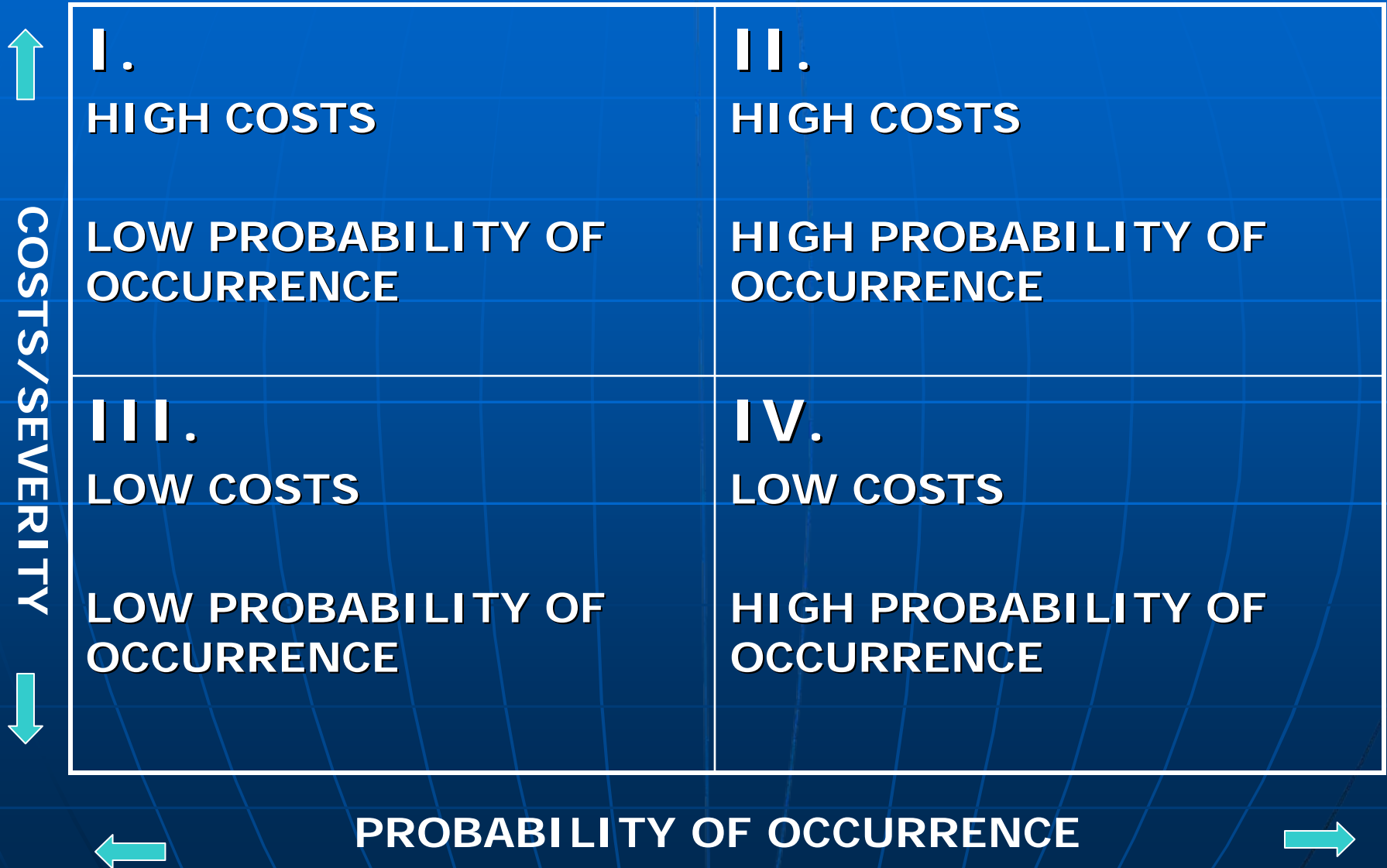
■ III. EMERGENCIES

- May occur monthly
- Low impact

■ IV. CATASTROPHES

- May occur every several decades
- Severe impact

RISK ASSESSMENT



BATH SCHOOL SHOOTING

- BATH, MICHIGAN: SCHOOL BOARD MEMBER ANDREW KEHOE, AGE 55 SET UP A SERIES OF EXPLOSIONS IN THE BATH ELEMENTARY SCHOOL. ONE MORNING HE KILLED HIS WIFE AND DETONATED A BOMB INSIDE THE SCHOOL. AS PEOPLE AMASSED OUTSIDE, KEHOE DETONATED A SHRAPNEL FILLED VEHICLE OUTSIDE THE SCHOOL, TAKING HIS OWN LIFE. THE BOMBING CONSTITUTES THE DEADLIEST SCHOOL MASS MURDER IN U.S. HISTORY --- 45 KILLED AND 58 injured.
- NO LITIGATION.

Major Acts of Violence in Elementary and Secondary Schools

Elementary Schools

	WW	US
■ 1890s	1	1
■ 1920s	1	1
■ 1950s	1	1
■ 1960s	1	0
■ 1970s	2	1
■ 1980s	2	1
■ 1990s	5	0
■ 2000s	9	4

Secondary Schools

	WW	US
■ 1960s	1	0
■ 1970s	2	0
■ 1980s	5	4
■ 1990s	29	25
■ 2000s	41	30

COLUMBINE HIGH SCHOOL

- **ON APRIL 20, 1999, ERIC HARRIS, 18 AND DYLAN KLEBOLD, 17 KILLED 12 STUDENTS AND 1 TEACHER, AS WELL AS WOUNDING 24 OTHERS, BEFORE COMMITTING SUICIDE.**
- **ONE CASE PENDING.**

Major Acts of Violence at Colleges and Universities

	WW	US
■ 1930s	1	1
■ 1940s	1	1
■ 1950s	1	1
■ 1960s	1	1
■ 1970s	5	5
■ 1980s	4	4
■ 1990s	8	6
■ 2000s	20	14

VIRGINIA TECH

- VIRGINIA POLYTECHNIC INSTITUTE AND STATE AND STATE UNIVERSITY APRIL 16, 2007 – SINGLE MOST DEADLY CIVILIAN GUNFIRE INCIDENT IN AMERICAN HIGHER EDUCATION HISTORY. THIRTY-TWO PEOPLE WERE KILLED BY GUNMAN SEUNG-HUI CHO IN TWO SEPARATE LOCATIONS, ABOUT TWO HOURS APART: WEST AMBLER JOHNSTON HALL, TWO WERE SHOT DEAD, AND NORRIS HALL, THE REMAINING 30 WERE SHOT IN AN ATTACK LASTING 9 MINUTES. THE GUNMAN THEN TOOK HIS OWN LIFE. 25 OTHERS WERE INJURED, SOME IN THE NORRIS HALL SHOOTING, OTHERS WHEN THEY JUMPED FROM SECOND STORY WINDOWS TO ESCAPE.
- 33 dead, 25 injured
- PROPOSED SETTLEMENT PENDING.

REALITY CHECK

- LIGHTNING IS THE MOST DANGEROUS AND FREQUENTLY ENCOUNTERED WEATHER HAZARD PEOPLE EXPERIENCE EACH YEAR.
- LIGHTNING IS THE NUMBER ONE CAUSE OF STORM-RELATED DEATHS.
- AMERICANS ARE TWICE AS LIKELY TO DIE FROM LIGHTNING THAN A HURRICANE, TORNADO OR FLOOD COMBINED.
- BUT CHANCE OF BEING STRUCK ARE 1:600,000.
- 300 INJURED AND 80 KILLED PER YEAR.
- FLASH FLOODING KILLS AN AVERAGE OF 40 PERSONS ANNUALLY.

COLLEGE/UNIVERSITY STATISTICS

- Approx. 15-20% of females have experienced rape.
- Approx. 5-15% of College men acknowledged forced intercourse.
- Approx. 5% of completed or attempted rapes against students are reported.
- Approx. 79% of all sexual assaults or rapes are committed by non strangers.
- Approx. 93% of crimes against students occur off-campus. Approx. 15% of students reside on campus.
- Alcohol and other drugs were involved in approx. 55-74% of all sexual assaults on campus.
- Approx. 19% of students who drank reported being physically injured.
- Approx. 1,400 college students die each year from alcohol related injuries.
- Approx. 41% of all violent crime experienced by college students the offender was under the influence of alcohol or drugs.
- 8% of men and 1% of women have a firearm while at college.

"Campus Violence White Paper"

American College Health Association Feb. 5, 2005

MAKE CRITICAL INCIDENTS LAUNDRY LIST

- RIOTS/CELEBRATORY VIOLENCE
- VIOLENT OFFENDERS
 - SHOOTERS
 - SEXUAL ASSAULTS
 - ROBBERIES
 - STALKERS
- REGISTERED SEX OFFENDER ON CAMPUS
- STUDY ABROAD/TRAVEL STUDY
 - ACTS OF TERRORISM
 - MISSING PERSONS
 - ASSAULTS
 - TRANSPORTATION ACCIDENTS
 - PANDEMIC
- BINGE DRINKING

MAKE A CRITICAL INCIDENTS LAUNDRY LIST

- SUICIDES
- HAZING
- DATA SPILLS
- STRUCTURAL FAILURES
- NATURAL DISASTERS
- INFECTIOUS DISEASES
- FIRE
 - ARSON
 - HAZARDOUS WASTE/SPILLS
 - UTILITY FAILURE
 - GAS LEAKS
 - TAINTED MAIL PACKAGES

DRILL DOWN

HAZARDOUS WASTE ON CAMPUS

- LABORATORIES
- ART CLASSES/SHOPS
- ELEVATORS
- PHYSICAL PLANTS
- TRAINS/TRUCK TRAFFIC

COSTS

- **LOSS OF FEDERAL FUNDS**
- **MONETARY DAMAGES**
 - **CIVIL SUITS (NEGLIGENCE)**
 - **STATE/FEDERAL FINES**
- **LOSS OF RESOURCES**
 - **EMPLOYEES**
 - **FACILITIES**
 - **EQUIPMENT**
 - **CASH**
- **BUSINESS INTERRUPTION**
 - **ADDITIONAL DUTY PAY**
 - **LOST OPPORTUNITIES**
- **LOSS OF REPUTATION**
 - **DECLINE IN ENROLLMENT**
 - **DECLINE IN EVENTS ATTENDANCE**
 - **DECLINE IN PHILANTHROPIC CONTRIBUTIONS**

Negligence

- DUTY
- BREACH OF DUTY
- REASONABLY FORESEEABLE
- CAUSAL CONNECTION
- INJURY

CASE LAW REVIEW

- *Almarante v. Art Inst. of Fort Lauderdale*, (Fl. Dist. Ct. App. 2006)

A duty can arise from the creation of a “danger zone” even when the injury occurs on property not owned by the defendant. Location of dorm and cafeteria necessitated frequent trips across a highway.

- *Fernandez v. Fla. Nat’l Coll., Inc.*, (Fla. Dist. Ct. App. 2006)
College not liable for injuries to a student and death of student’s child, which occurred in a car driven by instructor after term ended. Trip did not benefit the college and instructor not acting in the scope of his employment or as the colleges actual agent, no apparent authority either as the college only created a reasonable belief that instructor was authorized to lead trips during the term.

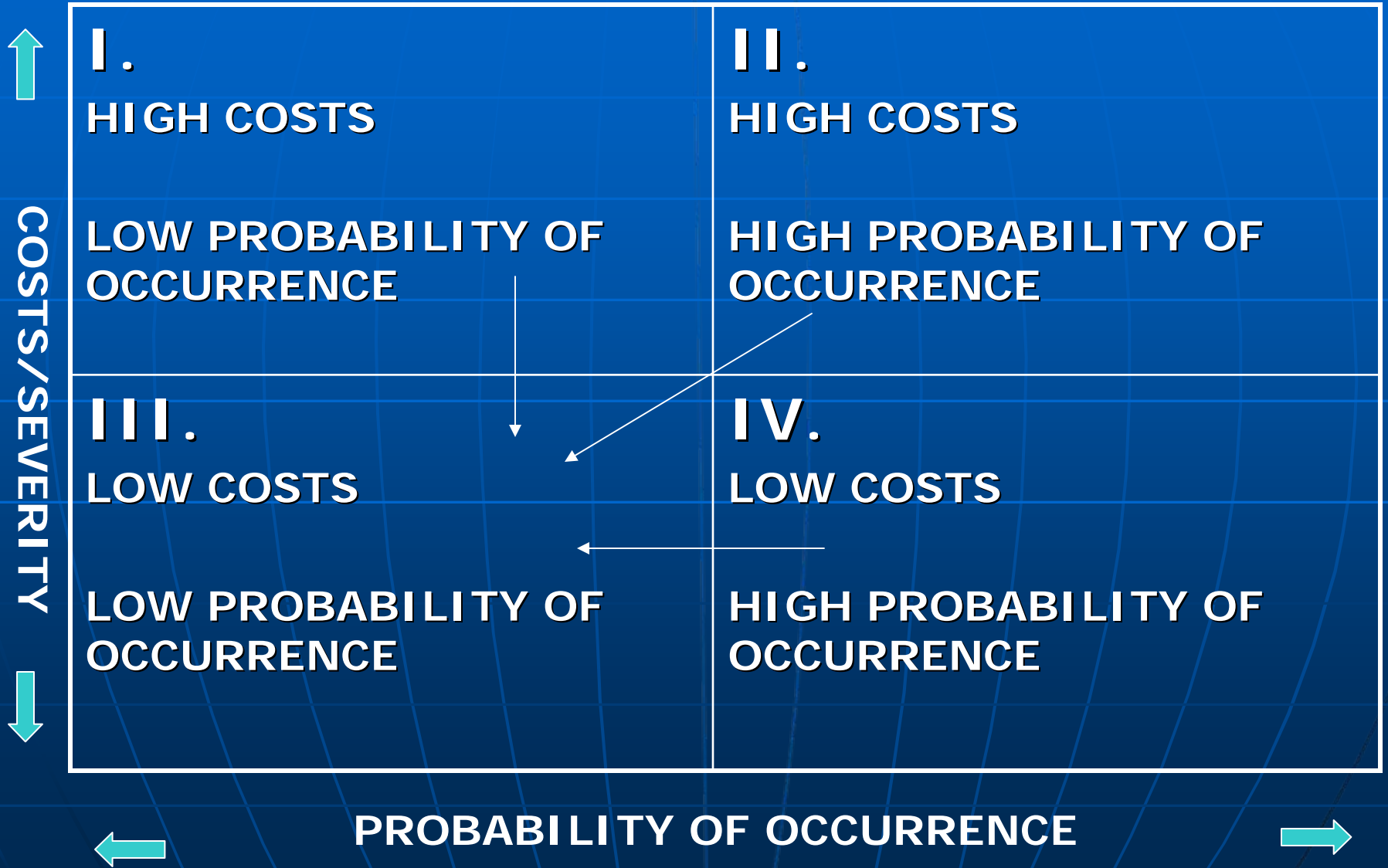
CASE LAW REVIEW

- *Kleisch v. Cleveland State Univ.*, (Ohio Ct. App. 2006)
School had a duty to warn or protect her against reasonably foreseeable criminal acts. However, one rape on campus within the previous 5 years (in a bathroom) did not make the student's rape in a lecture hall reasonably foreseeable.
- *Rogers v. Del. State Univ.*, (Del 2006)
Student injured in an off campus shooting at an off campus inn where the student was staying at the university's expense used as overflow housing. Court reversed lower court - summary judgment – leaving open the issue as to whether the school failed to follow its customary security measures.

CASE LAW REVIEW

- *Zona v. Clark Univ.*, (D. Mass. 2006)
Coach allegedly disclosed the student's bipolar disorder to teammates. Court dismissed the case as FERPA does not provide a private right of action.
- *Shin v. MIT*, (Mass. Superior Ct. 2005)
Dismissed the claims against the school MIT but allowed the claims against the individual administrators to proceed, finding these administrators had a duty to protect the student from reasonably foreseeable harm to herself.

SHIFT RISK



Major Federal Legislative Accomplishments

Six Federal Laws

- Crime Awareness and Campus Security Act of 1990 (1990)-Requires colleges and universities to automatically provide current students and staff with basic campus crime statistics and security policies. Prospective students and staff are to be notified of the availability of this information and to be given it upon request.
- Buckley Amendment Clarification (1992)-Records kept by campus police and security for law enforcement purposes are not confidential "education" records under federal law.
- Campus Sexual Assault Victims' Bill of Rights (1992)- Requires colleges and universities to afford campus sexual assault survivors certain basic rights, including assistance notifying the police. Schools must have policies in place addressing campus sexual assault.

Major Federal Legislative Accomplishments

Six Federal Laws

- Campus Courts Disclosure Provision (1998)-The final results of student disciplinary cases where a student has been found to have broken a school rule in association with a crime of violence or non-forcible sex offense are no longer protected from disclosure under federal student privacy laws. Victim information is protected.
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (1998)-Amends the 1990 Campus Security Act to eliminate loopholes and expand reporting requirements. Statistics for certain off-campus areas have to be disclosed and schools with a security department must maintain a daily crime log.
- Campus Sex Crimes Prevention Act (2000)-Provides for the collection and disclosure of information about convicted, registered sex offenders either enrolled in or employed at institutions of higher education.

DATA PRIVACY

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

When can personally identifiable information from an education record be disclosed without the student's consent? When the disclosure is (non-inclusive list):

- Releasing directory information
- To school officials who have legitimate educational interest
- To officials of other schools or schools systems in which the student seeks or intends to enroll
- To comply with a judicial order or subpoena
- In a health or safety emergency

DATA PRIVACY

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT CON'T

- Releasing the results of a disciplinary hearing to an alleged victim of a crime of violence
- Releasing the final results of a disciplinary hearing against an alleged perpetrator of a crime of violence or non-forcible sex offense if the student is found to have committed a violation of the University's rules or policies
- To a parent of a student under the age of 21 who has violated a law or University regulations pertaining to the use or possession of alcohol or a controlled substance

STATE STATUTES

Generally expand the right of privacy

WORKING WITH THE MEDIA

- **MAKE SURE ALL KNOW WHO CAN AND SHOULD SPEAK ON BEHALF OF THE SCHOOL**
- **CONTROL THE MESSAGE**
 - **ASCERTAIN REPORTER'S NEEDS**
 - **TIMELY OF RELEASE**
 - **CONTENT MAY NEED TO BE REVIEWED BY COUNSEL**
- **ANTICIPATE QUESTIONS**
 - **DEVELOP TWO OR THREE KEY POINTS**
 - **DRAFT CLEAR, DESCRIPTIVE RESPONSES – EASILY QUOTABLE**
 - **DON'T HAVE TO ANSWER EVERY QUESTION**

PLANNED RESPONSE



ASSESS

EDUCATE

DRILL

REMEMBER....

**"PROBLEMS CANNOT BE SOLVED BY THE LEVEL OF
AWARENESS THAT CREATED THEM."**

Albert Einstein

THANK YOU