



State Justice Institute

SJI Court Emergency/Disaster Preparedness Planning Project

*Planning for Emergencies: Immediate Events and Their
Aftermath
A Guideline for Local Courts*

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This *Guideline* is an outgrowth of the observations gleaned from technical assistance visits to 20+ state trial courts located in smaller populated areas in eight states during 2004 and 2005 and conducted under the auspices of the State Justice Institute's (SJI) Court Security/Emergency Preparedness Planning Project. The goal of the Project was to assist trial courts – particularly those in rural areas – in developing court security and emergency preparedness plans and response capabilities. It was designed to complement SJI's Urban Court Emergency Preparedness Project conducted by the Justice Management Institute (JMI), which focused on developing court emergency preparedness plans for courts in metropolitan areas.

The field of court emergency preparedness is evolving constantly, as local officials and industry experts gain more knowledge of and experience with the intricacies of emergency preparedness and disaster recovery. The critical components selected for inclusion in this *Guideline* are the product of many hours of research and review of dozens of governmental and non-governmental emergency management resource and policy guides, numerous federal and state court model plans and templates, and selected state and county court manuals, as well as visits to a number of courts involved in various aspects of court emergency preparedness planning. Many court and other professionals in the field – particularly those who had experienced emergencies affecting court operations – were also consulted and provided their feedback on critical issues and lessons learned.

We are particularly grateful for the insightful suggestions made by Marcus Reinkensmeyer, Trial Court Administrator for the Maricopa County, Arizona Superior Court and Vice Chairperson for the Arizona Supreme Court Committee on Emergency Planning; Gregory Cowan of the Florida Administrative Office of the Courts; Jay Martin, Court Security Planning Office for the Administrative Office of the Courts of Georgia; Melvia Kawashima, Court Security Planner, Office of the Administrative Director–Planning and Program Evaluation Office, the Judiciary of the State of Hawaii; and Ralph Swisher of the U.S. Department of Homeland Security. Judge John Parnham and Wayne Peacock, Court Administrator for the First Judicial Circuit in Escambia County (Pensacola), Florida provided invaluable first-hand perspective on the tasks and issues confronted by local court officials and practical responses that need to be devised when a disaster occurs. Their comments were corroborated by review of preliminary assessment reports from Louisiana and Mississippi following hurricanes Katrina and Rita, which occurred as this document was being finalized.

Although no two “emergencies” are identical, the common thread that runs through both the literature and the first-hand accounts is the critical importance of having a *plan* that can be activated to at least deal with the issues that can be reasonably anticipated to arise; and on-going *communication* among all agencies (court and non-court) involved in making the plan work. We hope that this *Guideline* will assist courts in both beginning the process of developing such plans as well as reviewing those already developed and updating them as may be appropriate.

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I. INTRODUCTION

This *Guideline* is designed for use by courts in rural and smaller populated areas to highlight issues and considerations relevant to court emergency and disaster preparedness planning. The *Guideline* is intended to provide a framework for courts to develop preparedness plans that can be activated to address both the immediate impact of emergency situations as well as ensure the continuity of court operations over a protracted period of time. The *Guideline* should be used in conjunction with other relevant reference materials addressing specific issues relating to court emergency preparedness and continuity of operations, a few examples of which are described in Appendix D.

While the challenges entailed in developing a court emergency preparedness plan for rural courts are not much different from those large metropolitan courts confront, rural courts must also address special additional issues. These relate to (1) the multiple court and non-court users that generally occupy the courthouse in rural areas, each of whom has its own decision-making hierarchy and organizational relationships; (2) the frequent geographic dispersion of facilities and resources that are affected; and (3) the often multiple counties, each with separate governmental and budgetary structures, with which the court must frequently coordinate.

A major impetus for initiating this project was the experience of September 11, 2001, which brought home the urgent need for prompt, aggressive planning at multiple levels to ensure that the institutions basic to our capacity to function as a civilized society – especially the courts – are maintained in the event of a terrorist or other catastrophic emergency. As the project's activities unfolded during the period of its operation, courts experienced other types of serious emergencies, including hurricane Ivan in 2004 that closed several courthouses in Florida for months, disrupted communication systems, and left many homeless; the shooting in the Fulton County courthouse in Atlanta in March 2005 that resulted in the deaths of a judge, a court reporter and a sheriff's deputy; and massive floods in September 2005 resulting from hurricane

Katrina, which submerged most of New Orleans and much of the Gulf Coast as this report was being finalized.

While, historically, courts have managed to effectively address a variety of emergency situations, which have temporarily affected facility access or use, the wide range of potential sources of disruption to normal operations that courts now face requires broad-scale, coordinated planning – both internally and with other agencies – to ensure the continuity of court operations during the immediate emergency as well as its aftermath.

II. DEVELOPING A COURT EMERGENCY PREPAREDNESS PLAN: ISSUES AND CONSIDERATIONS

WHY DEVELOP A COURT PLAN?

Does the court really need a PLAN? It already has checklists for emergencies, a phone tree, and an alarm system. What more does it need?

Checklists of actions to take when various emergencies occur and telephone trees with names and telephone numbers of persons to notify when an emergency exists are important elements of a court emergency preparedness plan – but they are only *elements* and, in and of themselves, will not ensure that the court is adequately prepared for emergencies. What use is a telephone tree if telephone lines are down? What good is a checklist if the resources required to respond to the emergency may or may not be available? If instructions have been published on what to do if a suspicious package is noted, what effect will actions taken pursuant to those instructions have if those required to act – first responders and others – have not previously been trained to respond to the situation?

Moreover, most checklists and phone trees are designed for use during the immediate emergency event but have little utility for the potentially protracted period following the immediate emergency when court operations may still not have returned to

“normal”. The process and resources necessary to re-create communications systems, locate alternate facilities, and re-schedule the court’s dockets, for example, require an interagency effort at multiple levels. This entails developing collaborations, agreed-upon priorities, detailed planning, and interagency agreements to ensure that the resources and infrastructure essential for checklists and “telephone trees” to be effective are in place.

One of the first steps in developing a court emergency preparedness *plan* is, therefore, to distinguish between developing checklists, phone trees, or other procedural instructions for responding to various emergency situations – a suspicious package, an unruly defendant in the courtroom, a power outage, a major storm, etc. – and having a *plan* in place that includes not only *procedures* but also clearly established:

- interagency relationships and agreements;
- decision-making authority;
- mechanisms to access and deploy necessary resources;
- communication mechanisms; and,
- ongoing training and testing.

Regular training and testing of the plan is as essential as developing the plan itself because, regardless of the plan’s merits, its utility will be greatly diminished if courthouse occupants are unfamiliar with it and/or if the emergency systems relied on are not functioning.

The wide range of “disasters” that have affected courts over the past several years has highlighted the importance of developing court emergency preparedness plans that:

- can address a wide range of situations;
- can be put into operation instantaneously;
- provide effective responses to emergencies for both the immediate moment as well as potentially longer periods; and,
- provide assurance to the community that court operations will continue.

As the independent third branch of government, courts have traditionally developed plans for various aspects of court operations in collaboration with other

justice agencies, as appropriate. However, to develop adequate court emergency preparedness plans – including continuity of court operations (COOP) components – courts need to develop working relationships with non-justice system executive branch agencies as well in order to assure their ability to function in a safe and effective manner over both the short- and long-term.

IF THE STATE AND COUNTY ALREADY HAVE PLANS, DOES THE COURT NEED A SEPARATE PLAN?

In most locales, local emergency preparedness plans have been developed by executive branch agencies in which the court *as a facility* may – to varying degrees – already be incorporated. In most cases, these plans address issues involving the courthouse building at the time of the immediate emergency (e.g., a fire, flood, hazardous material infiltration, etc.), usually related to evacuation. Since most local courts are housed in facilities owned by the county, the elements of court emergency preparedness relating to the emergency’s impact on the court facility are generally covered in the county’s emergency plan.

A critical first step for local courts is, therefore, to determine:

- what emergency preparedness planning is already underway in the locale;
- how these plans affect the court; and
- what elements of court operations are not addressed in these plans and therefore need to be the subject of the court’s own emergency preparedness planning effort.

The results of this inquiry will provide the foundation for the court’s development of its emergency preparedness plan. Of particular importance in this regard are the following:

- what issues need to be addressed in regard to the operation of the court in the event of an emergency?, and
- what capabilities and planning does the court need in order to ensure its continuity of operations once the immediate emergency is

over?

The emergency preparedness issues courts now face entail those traditionally part of court emergency planning, such as:

- record preservation;
- building security and access;
- mail and package delivery screening; and,
- potential relocation of facilities.

However, a range of *additional* issues, highlighted by the enormity of the impact on the court process of both “9/11” and recent natural disasters and their aftermath, have also emerged. These include:

- availability of alternative communication systems/mechanisms;
- installation of replacement telephones and phone lines;
- assisting attorneys who may have lost their offices in recreating case files;
- scheduling and rescheduling criminal cases that often involve “absent” police officers who may be detailed to “more pressing assignments”;
- dealing with filing and appeal deadlines and situations entailing statutes of limitations issues; and
- managing jury service, particularly in areas in which transportation routes and/or population centers may be disrupted.

Across all the emergency planning issues, a common need many judicial system officials have also noted is the importance of clearly articulated communication procedures and decision-making authority and responsibility – e.g., designations of who makes decisions in emergency situations – including:

- the decision that an emergency has, in fact, developed;
- that the courthouse must be evacuated or contained, as the situation may warrant; and,
- how the decision to close – and later re-open – the facility is communicated to other staff, to litigants and attorneys, and to the public.

The anthrax scare of several years ago, for example, raised a wide range of issues relating not only to the handling of mail and packages sent to the court, but

also to decision-making, policies, procedures, and communication mechanisms related to managing the flow of people and their belongings, which move through courts daily.

III. GETTING STARTED

STARTING THE PROCESS OF DEVELOPING – AND MAINTAINING – THE COURT’S EMERGENCY PREPAREDNESS PLAN: TYPICAL PLANNING ISSUES

One of the most overriding problems confronting local courts interested in developing court emergency preparedness plans has been figuring out how to start the process.

➤ Who needs to be involved?: The importance of interagency relationships

Three levels of agencies need to be involved in the process:

- major departments involved in the court’s operations, including: court administration, information technology, indigent defense, the prosecutor, the clerk of court, human resources, and payroll;
- all courts and agencies housed in the courthouse;
- those additional local and state agencies and organizations whose participation in preparing and executing the court’s emergency preparedness plan is essential.

These include agencies charged with serving as first responders and providing emergency assistance, including, the sheriff and local police, fire and emergency services, court security, and emergency medical services. Any other agencies involved with courthouse maintenance and facility management should also be involved. County and/or city government should also be represented, including elected, administrative and public information officials. Some of these agencies may have already developed policies and procedures relevant to the court’s plan or into which the court’s plan will need to be integrated.

➤ **Scheduling an initial planning meeting(s)**

The cadre of agencies/individuals identified above can provide the nucleus for an initial meeting called by the court to begin developing the court's emergency preparedness plan. The invitees to this meeting can also provide the nucleus for a Court Emergency Preparedness Planning Task Force or Committee. Depending on the size of the locality, a smaller working committee may be desirable in addition to the full planning committee, and some courts also may want to assign specific tasks to *ad hoc* groups, as dictated by schedules.

In most situations, it will be important for the chief judge of the court to call the meeting and to extend the invitation to attend to the heads of the agencies that need to be involved.

➤ **Preparing for the meeting**

- *Compiling relevant materials developed by state and local agencies*

To supplement the materials that agencies invited to the meeting may provide, an effort should be made to compile materials and plans developed by state and local government agencies charged with emergency management responsibility to determine what elements of these plans apply and/or have relevance to the court.

As noted earlier, many localities have developed general emergency preparedness plans of which the court is a part. However, it is not unusual for the court to be unaware of these plans and to have had no prior communication about them with the local agencies (sheriff and others) involved in their development and critical to their execution.

In addition to compiling information on planning in the locality, it will also be important to find out about planning activities at the state level. In many states, the Supreme Court and/or the State Administrative Office of the Courts (AOC) have developed guidelines or other materials relating to court emergencies and, in some states, standing orders have been issued providing authority to the local court to take requisite actions in emergency situations. Other

local courts in the state may have also developed materials that could be useful to review and adapt, as appropriate.

- *Making preliminary contact with AOC/ Supreme Court staff*

Regardless of the extent of court emergency planning that the Supreme Court or AOC has undertaken, it will be important for any local court embarking on developing a court emergency preparedness plan to maintain close coordination with the state Supreme Court/AOC during the plan development process and, particularly, to alert state officials of actions and resources that need to be addressed at the state level (e.g., court orders, statutes, decision-making authority, etc.) in order for the local plan to be effectuated.

- *Researching existing legal authority regarding responses to court emergency situations*

A review should also be made of existing statutory and/or rule provisions relating to emergency situations affecting court operations. As noted earlier, any court orders that have been issued to address emergency situations should also be identified and compiled.

- *Compiling relevant pre-existing court materials relating to emergency response*

Most courts have developed various instructions, checklists and/or procedures for responding to specific types of emergencies – suspicious packages, fire, weather, etc. These should be compiled and reviewed in terms of their currency, adequacy, and completeness. In addition, the status of their distribution to court staff and related training activities undertaken should also be determined. As noted earlier, some courts, like many organizations, develop “telephone trees”, which assign responsibility for contacting staff throughout the courthouse and ancillary facilities when an emergency situation arises. These should also be reviewed and updated to reflect personnel changes as well as changes in contact information. All of these documents, revised and updated as appropriate, will

become elements of the court emergency preparedness plan that is developed.

○ *Compiling historical data on emergency situations and responses*

Many courts have experienced some type of emergency situation in the past – fire, flood, suspicious package, violent flare-up, etc. Information on the nature of each emergency and the response to it should be compiled. In many instances, there will be no comprehensive records in one single location documenting the nature of the emergency and the court’s response. In many instances, the process may, therefore, require interviewing knowledgeable personnel to supplement the information available. Compiling information on these emergency situations is important for documenting the range of emergency situations the court has faced, how these emergencies have been responded to, and, if relevant, lessons learned.

○ *Assessing the state of court emergency preparedness in the local court*

In preparing for the initial planning meeting, it will be helpful for court officials to identify the strengths and weaknesses in the court’s existing emergency preparedness plan. In developing this assessment, court officials may find the “Technical Assistance Self-Assessment Planning Guide” in Appendix A useful in highlighting major planning issues that need to be covered.

➤ **Topics to include on the meeting agenda**

Among the topics to be addressed at the initial planning meeting(s) include the following:

○ *Finding out what's been done to date*

The initial planning meeting(s) will provide opportunities for determining the nature and extent of emergency preparedness planning already underway and for assessing which functions other agencies perform that may assist the court in developing its emergency preparedness plan. Each invited agency should bring to the planning meeting whatever relevant materials it has developed. These may include:

- memoranda of agreement;
- risk assessment reports;
- staff training or procedural directives, such as those relating to building access;
- policies regarding mail and package deliveries;
- policies regarding evacuation, as well as checklists, “telephone trees”, and standing instructions regarding communication during weather and other emergencies; and,
- training materials that have been developed.

○ *Identifying court-specific issues that need to be addressed*

One of the early agenda items for the planning meetings should be to bring to the attention of the agencies involved some of the issues related to executing county plans, which are particular to courts, including the legalities involved, such as:

- closing and evacuating courthouses;
- closing down courtrooms with cases in progress;
- dealing with and safeguarding records, evidence, other data, and cash; and,
- responding to the many constraints of statutes, case law, and court rules.

○ *Developing a common framework for planning*

It may be useful to develop several alternative scenarios to present at the planning meeting to provide “hands-on” illustrations of the types of court-specific issues that need to be addressed in various emergency situations. Several examples are provided in Appendix B.

○ *Determining gaps that need to be addressed*

The materials developed by each of the agencies participating in the initial planning meeting should be reviewed preliminarily in terms of:

- their adequacy in addressing the range of issues relevant to the court’s emergency preparedness planning; and,
- identified gaps that need to be the initial focus of the planning process.

o *Developing a system for regular incident reporting in the future*

It will also be important to establish a formal mechanism for the future reporting of all incidents that present security threats to the court and potential (or real) emergency situations. Each incident reported should include information on the nature of the incident, the response and the outcome. Regular feedback should be provided to judges and staff as well as other occupants of the courthouse building.

Establishing a mechanism for reporting such incidents is critical to developing the court's plan. Such a mechanism will not only help the court adequately respond to emergency/security situations as they arise, but it will also serve to document their nature and frequency. This documentation will help the court determine which elements of response prove effective, which do not, and what revisions should be made for the future.

While not all of the agencies represented at the meeting may be involved in the incident reporting system, some of them – particularly the sheriff, other law enforcement agencies, and those housed in the courthouse – will play an important role in assuring that the incident reporting system is as comprehensive as possible.

o *Developing a schedule of tasks, timeframes, and responsibilities for further work*

Several meetings may be required in order for the committee to identify:

- all of the necessary agencies that need to be involved in the plan preparation process;
- the range of issues that need to be addressed; and,
- the information (e.g., county ordinances, court orders, plan documents, etc.) needed for the Committee to proceed with its work.

A schedule for performing these tasks and designation of responsibilities for performing them should be developed at the initial meeting and modified, as necessary, as subsequent developments dictate. The chief judge or his/her designee should serve as chairperson of the committee and one or

more individuals should be designated with responsibility for preparing meeting minutes, sending meeting notices, compiling committee materials, and related committee tasks.

o *Determining who has decision-making authority for the court*

As the committee meets and its members begin to state their positions on various aspects of court emergency preparedness functions, it has been common for misconceptions on all sides to emerge regarding the responsibility and authority for dealing with courthouse emergencies, especially in a building jointly occupied by one or more courts and other agencies of state or county government. These misconceptions frequently focus on a critical issue:

- What agency and which person can actually declare that a courthouse emergency exists – particularly in a building in which multiple courts, other justice agencies, and executive branch and other offices are housed?

Many county governments have assumed that they have the authority to determine when an emergency in the courthouse exists because the courthouse is owned and maintained by the county, and they assume they can delegate their responsibilities as building owners to the local sheriff. Most courts, on the other hand, have a somewhat different view: that they alone have legal responsibility for and authority over their proceedings, including the materials and persons involved in them. In situations in which multiple courts and other agencies occupy the courthouse – a situation common in many small/rural court jurisdictions – addressing this issue of decision-making authority will entail reaching agreement among the courthouse occupants. Reaching such an agreement is one of the critical first steps in developing a court emergency preparedness plan.

The issue of determining who has decision-making authority to act for the court is discussed in greater detail in the following section.

IV. ADDRESSING COURT-SPECIFIC ISSUES: PLANNING FOR THE BIG PICTURE

OVERVIEW OF CRITICAL COMPONENTS: DETERRENCE, EMERGENCY ACTIONS, RECOVERY, AND CONTINUITY OF OPERATIONS

Developing an adequate court emergency preparedness plan requires shifting focus from specific types of incidents – e.g., fire, bomb threat, biochemical hazards – to planning for the “big picture” so as to develop comprehensive policies and procedures that can then be adapted to a wide range of specific emergency incidents. “Emergency preparedness”, therefore, needs to be defined in its broad sense, including the development of a full range of plan components addressing:

- deterrent procedures;
- emergency actions (directed primarily by “first responders”);
- immediate post-emergency recovery; and,
- continuity of operations over longer periods of recovery.

Looking at these critical components in their logical time sequence, the following provides a brief description of the capabilities each entails:

○ *Deterrent procedures*

Deterrent procedures are aimed at making it more difficult for courthouse emergencies to materialize in the first place, for example, by:

- installing and operating access controls to detect weapons that might be brought in;
- ensuring that life-safety features (e.g. smoke detectors, alarm systems, etc.) are installed and operating; and,
- having uniformed and trained security officers on duty.

○ *Emergency actions*

Emergency actions entail all measures necessary to take during and immediately following an emergency

event to protect life and property, including, for example:

- getting personnel and property to safe places;
- bringing in medical and other services intended to limit injury and damage; and,
- locating and removing potentially dangerous items.

○ *Immediate post-event recovery actions*

Immediate post-event recovery actions entail all measures necessary to attempt to resume operations at the pre-emergency event status, including:

- reopening the court building;
- taking measures to resume court operations, including:
 - getting staff back to work;
 - recovering files, records, and evidence that might not have been put in safe places or that have to be reconstituted because of damage; and,
 - general cleanup to make the courthouse habitable in the immediate hours or days after an emergency shutdown.

These functions are distinct from:

○ *Maintaining Continuity of Operations over longer periods of recovery (COOP)*

COOP activities are designed to provide the capacity to resume and maintain court operations as soon as possible after the immediate emergency is over, phasing them in as appropriate and feasible.

The COOP plan should provide for alternate policies, procedures, facilities, resources, etc., during the recovery period when the extent of damage, might, for example, necessitate moving court operations to other locations for weeks or months while repairs are made, the building is cleaned and decontaminated, files are reconstituted, etc.

CRITICAL RESPONSE ELEMENTS: TRAINING, DECISION-MAKING AUTHORITY AND COMMUNICATION

While court officials need to be involved in each of the components of the court's emergency preparedness plan development, court personnel are generally not trained security specialists or first responders, so their participation in the activities of the first two components is principally as recipients of security and emergency services provided by others. However, to benefit from those services, court personnel need training in a variety of procedures that enable deterrence and protection to be carried out successfully.

Typical example: what should be done if courthouse safety is threatened (fire, suspicious envelope, telephoned bomb threat, unexpected package in a public space)? What type of emergency preparedness capability is needed?

First element: a protocol already in place for *evaluating* such threats, including procedures for reporting them and designation of an individual responsible for evaluating them –which will lead to

Second element: a decision to evacuate the building, remain in the building in a safe place, or ignore the threat.

Third element: if evacuation or containment is ordered, the decision must be communicated to courthouse users through established communication mechanisms, and implementing procedures must have been tested and employees trained and drilled in them.

The information needed to plan for these situations is generally available from a variety of sources, but the critical task each court needs to address is how to adapt that information to the situation of the individual court and the local resources within the city, county, and state government.

➤ **Determining who has authority to act for the court in an emergency, and, in particular:**

- *To declare an emergency*

- Who has the authority to declare an emergency in the court?
- Who has the authority to make an assessment of a potential emergency situation and determine how to respond? For example, to whom should a suspicious package/briefcase or suspicious article of mail be reported?
- *To close court operations (as opposed to the building) in the event of an emergency*

Judges frequently view the sheriff as more competent than anyone on the court staff to assess the need to close the court *building*, and therefore rely on the sheriff to advise the presiding judge as to whether the building should be closed. If the sheriff advises closure, the judge will formally authorize closing the *court*.

There have been reported instances in which an emergency had been declared and the presiding judge has authorized an evacuation of the courthouse but one judge had refused to stop proceedings, evacuate the courtroom, and leave the building. Each court will need to develop a policy for addressing this type of situation.

One presiding judge who had experienced such a situation developed the following policy:

When the presiding judge orders the court to close and the building (or its court spaces) to be evacuated, all court personnel and all other courthouse visitors must leave; any judge who refuses to accept the order may remain to preside over an empty courtroom.

This policy, of course, leaves unsaid whether rescue efforts would be made on that judge's behalf or the potential liability that might ensue if the potential of the emergency became a reality.

In several states, the Supreme Court has issued an order designating local chief judges with the authority to close down court operations; in other states, either the authority has been vested (formally or informally) in the chief justice (who might not be

readily available to act in an emergency), or no existing authority has been designated. In these cases it is generally assumed that the chief judge would act in such event, and such action would be subsequently ratified by the Supreme Court. The issue of who has authority to close down court operations, and under what circumstances and for what period, should be addressed in each locale. Appropriate judicial authority should also be identified, along with any additional legal action determined necessary to effectuate that authority.

- *To speak for the court*

In the event an emergency situation occurs, who has the authority to speak for the court?

At a recent incident involving a suspicious package at a local courthouse, employees were receiving information regarding the “emergency” via the local media whose reporters had been stationed outside of the courthouse and apparently were receiving information from persons as they exited the building.

Many courts have designated court information officers who can fulfill this function if they receive adequate orientation as to the critical issues (and decisions) that need to be addressed. Many county governments also have public information officers who can be of great assistance in providing information to the public regarding the court’s situation (e.g., schedule, etc.), particularly in an emergency that affects the locale as a whole, not simply the court.

Many courts also have websites on which can be posted information relating to court emergency situations. Most state court administrative offices also have websites on which can be posted information relating to emergencies that involve multiple locales within the state. The Florida Supreme Court has a special webpage devoted to emergencies which, during the post-Katrina period, included a wide range of information relating to both the operations of local courts, extensions of filing deadlines, and other matters of attorney interest. (See Appendix C.)

STATUTORY AND PROCEDURAL REQUIREMENTS THAT NEED TO BE CONSIDERED

- **Dealing with issues relating to applicable statutes of limitations or other time requirements**

Virtually all court processes are governed by some framework of time limitations. These include applicable statutes of limitations and “speedy trial” rules as well as timeframes for performing certain actions, such as filing answers, or achieving service of process. Clearly, the closing of the court, and/or the court facility will have potential implications on the feasibility of complying with these requirements. The impact of such an emergency on time requirements for actions in a matter is an issue to be addressed generally at the state level through applicable statutes and court rules. This issue, however, should be promptly researched as part of the process of developing the local plan, gaps identified, and issues noted which potentially warrant special action to develop statutory, rule or other provisions that can cover emergency situations.

- **Dealing with other issues relating to statutory and procedural requirements of the case process**

In addition to reviewing prescribed time requirements applicable to criminal and civil cases, a careful review should be made of all procedures entailed in the criminal and civil case process to determine what procedures and/or practices may need to be modified temporarily during periods of emergency, such as the location for bond hearings, or jury pool selection.

- **Dealing with evidence being presented in a hearing when an emergency is declared**

What happens to evidence being presented at a trial when an emergency is declared and evacuation of the courthouse is ordered?

Just one simple instance of the situation: evidence introduced into court proceedings often requires that the chain of custody be maintained and validated before the evidence can be accepted. The familiar

example would be substances that are the subject of the case at issue – such as illegal narcotics, where maintaining and demonstrating the chain of custody requires formal documentation and often special precautions of its custodians. If a courtroom is evacuated but the evidence is not appropriately protected and proper custody is not maintained – which may be all too likely in an emergency evacuation – what happens to the case being tried?

➤ Addressing operational issues

In addition to court-specific legal and procedural issues, such as those noted above, careful attention is needed to develop plans for:

- Notifying staff regarding an emergency, including measures to supplement telephone calling lists in the event telephone lines are not operating;
- Evacuating staff - including procedures and routes for evacuation, assigning individuals to be responsible for ascertaining whether everyone in each designated area had been evacuated, publishing agreed upon meeting places for staff to assemble following the evacuation, and ensuring that special arrangements are made to evacuate handicapped staff;
- Evacuating other courthouse users - including procedures for notifying, instructing and evacuating other courthouse users, including jurors, litigants, and other members of the public, including those who are handicapped;
- Having agreed upon place(s)/mechanisms for courthouse personnel to “report in” if the emergency extends beyond the immediate area of the courthouse and/or a defined period of time. Even if a meeting point is designated for courthouse occupants to assemble after a building evacuation, the nature and timing of the emergency may require leaving the immediate area of the courthouse, or, perhaps, the geographic area for safety reasons. Alternative methods for “reporting in” should, therefore, be agreed upon in advance. These may include

accessing a website or emailing individuals designated to serve as points of contact;

- Providing notice to the public of the emergency and its impact on court operations (See above regarding “who speaks for the court”);
- Developing mechanisms for rescheduling cases, including procedures for notifying litigants of the rescheduled date, and possibly the new location and prioritizing cases for rescheduling in the event the court facility is not available (See “Developing a COOP Plan” below).

PROVIDING ADEQUATE COURT SECURITY

➤ Security within the building

Among the most immediate issues for review relating to security within the building are the following:

○ *Screening of courthouse users*

There is an acknowledged need by most courts for some screening of both persons and packages that enter the court facility. At the same time, there is understandably often a desire that any screening and/or other security precautions adopted present minimal intrusion on the use and users of the facility.

These competing philosophies often result in counterproductive policies as to the degree to which courthouse entrants should be screened, with frequently large numbers of entrants excluded (e.g. staff, judges, attorneys, etc.). In some instances, the proportion of those excluded is significant.

Additional critical issues which many courts need to address regarding the screening of entry to the courthouse include:

○ *Assuring continuous monitoring of all entry points*

Most court facilities have a main entrance through which the public enters and, in a number of instances, additional entrances through which judges, court staff and other building employees can also enter with the use of some type of access cards. However, it can often be fairly easy for a non-authorized individual to enter through one of these entrances, either by

accompanying an authorized user or by slipping into the building when others are leaving.

Continuous monitoring of all entry points is, therefore, essential. In addition, authorized users should be continually reminded of the need to be alert to preventing and/or reporting unauthorized users from entering the facility when they enter or exit.

- *Monitoring building access cards that have been issued*

Many courts authorize the issuance of access cards to various courthouse users who need to gain entry to the building during evening and weekend times when the building is officially closed. Frequently, however, no formal process is in place to ensure that these access cards are cancelled when holders are no longer employed by the court and/or no longer need special access to the facility. Courts which issue access cards should conduct regular audits of:

- who has been issued an access card;
 - whether access is still required; and,
 - the current status of all cards that have not been deleted from the registry.
- **Securing additional areas surrounding the courthouse**

Courts need to be alert to assure that the areas surrounding the courthouse – including parking lots – are also secure. Policies for labeling assigned parking places for judges, for example, should be reviewed from the perspective of potential security threats. Areas surrounding the courthouse should also be examined in terms of the potential vulnerability they may present for threats that could be initiated from the outside, such as an incendiary device being thrown in.

- **Assuring that adequate security is provided for ALL court functions and proceedings—civil as well as criminal**

Although security for the courthouse is often provided by the sheriff's department for criminal matters, there appears to be no constitutional or statutory requirement in many jurisdictions that security must be provided for all court proceedings –

civil as well as criminal. The experience of many courts has shown that serious security incidents frequently occur in non-criminal matters – often in situations that are least likely to have been thought of as threatening – and that adequate security services are, therefore, needed for all matters in the courthouse, not simply those involving criminal defendants.

PREPARING FOR NATURAL AND OTHER DISASTERS

Natural disasters have the potential for creating long-term impacts on a court's operations as well as immediately affecting the safety of the building and its occupants. Plans are, therefore, needed for both immediate emergency response and for continuing the court's business over the longer term. The natural disasters considered most dangerous and potentially troublesome to courts often depend on court location. Proximity to large bodies of water, large forests, seismic epicenters, tornado alleys, and/or producers of toxic wastes and other hazardous materials notably trigger significant concerns.

In addition, all courts need to be concerned about fires – historically the most likely cause of courthouse destruction. In fact, a large number of current courthouses are the latest in a line of replacements for earlier buildings destroyed by fire (or tornado).

The short- and long- term impact of potential natural disasters on the immediate safety of the building occupants and the continuity of operations, respectively, raise major planning issues that all courts need to address. These include:

- developing systems and publicizing procedures for communicating with building occupants, courthouse users, and the public;
- developing and publicizing clear, succinct procedures for building evacuation; and,
- developing plans which are as detailed as possible for continuing the operations of the court (COOP) plans, including the prioritizing of essential functions and the identification of

alternate facilities for conducting court operations.

PREPARING FOR PUBLIC HEALTH EMERGENCIES

The recent concerns about the possibility of infectious viruses like SARS (Severe Acute Respiratory Syndrome) and avian influenza creating a public health crisis have important implications for courts. Four of the most significant issues relating to the interrelationship of public health emergencies and the court/legal system include^a:

- Searches, seizures, and other government actions to protect the public health:
 - what circumstances may require bodily or property searches, access to personal health information, quarantine or isolation, and other restrictions on persons or communities?
- Judicial proceedings related to limiting individual liberties in the interest of public safety:
 - what special proceedings may be required to effect isolation and quarantine orders? possible orders for civil commitment?
 - what state and federal laws and court decisions apply to the potential need to disclose medical information?
- Operation of courts amid public health emergencies:
 - what kind of training, immunizations/vaccines, and other special considerations^b need to be developed or examined to ensure the safety of court employees and users?
 - what kind of community relations and public communications strategy needs to be developed

^a See *Public Health Law Bench Book for Indiana Courts* by the Center for Public Health Law Partnerships at the University of Louisville.

^b For instance, the *Public Health Law Bench Book for Indiana Courts* discusses such issues as relocating court facilities and considering telephonic or video appearances by infected individuals (See pages 120-124).

in the event of a public health emergency?

- The role of the courts during a state of emergency triggered by a public health crisis.^c

These subject areas highlight the unique position of the courts in public health emergencies as: (1) entities that will have the authority to issue orders and make decisions in the best interest of the public, and (2) institutions in local communities that will need to protect their employees and consumers in order to continue functioning. When viewed from this perspective, it becomes imperative that courts be actively engaged in communications and emergency planning efforts with public health officials and organizations. Judges and/or court administrators might begin these efforts by contacting their state and local health departments and meeting with the managers of the local area boards of health.

MAKING SURE JUDGES AND STAFF DEVELOP PERSONAL/FAMILY DISASTER PREPAREDNESS PLANS

Even with the best planning, in the event of an emergency, it is unrealistic to expect courthouse occupants to strictly focus on an emergency involving the courthouse and/or court system when their first concerns will be focused on making contact with their families, safeguarding them and/or letting them know their whereabouts. Given the likelihood that in any emergency heavy demand will be placed on communication lines – if they are functioning – it is also highly likely that the communication mechanisms upon which the court is relying may be tied up, in part, by efforts of judges, staff, and other users of the facility to communicate with their families.

All courthouse occupants should, therefore, be strongly encouraged to develop family emergency preparedness plans that can, at least in part, alleviate the stress generated by an emergency and promote the effective carrying out of the court's emergency plan. In addition to routine safety precautions (e.g., smoke detectors, safe deposit boxes and other secure

^c These subject areas are discussed in the Preface to the Bench Book.

storage containers, flash lights and tools, etc.), family emergency preparedness plans should include:

- Having agreed upon places to meet in the event of various types of emergencies, including a place outside of the neighborhood in case it is not possible to return home;
- Designating two or more persons to serve as “family contacts”, at least one of whom is outside of the area since it may be easier to contact someone long distance than in the immediate environment;
- Agreed upon plans for taking care of pets;
- Agreed upon plans for taking care of any persons who are disabled or may need special assistance;
- Instructions for turning off the water, gas, and electricity in the home;
- Instructions for evacuating the home under various emergency conditions; and,
- A store of emergency supplies

DEVELOPING A COOP (CONTINUITY OF OPERATIONS PLAN) PLAN

While one cannot predict the degree to which the extent of damage resulting from a possible emergency will require alternative policies, procedures, facilities and/or other resources to be utilized during the recovery period following an emergency, an adequate court emergency preparedness plan should include basic provisions for continuing the court’s operations. These may need to be supplemented once the nature of a post-emergency situation is assessed.

Resources, policies, cooperative relationships, and interagency agreements necessary to assure the continuity of court operations in the event of an emergency must be developed, established, and tested well in advance of an emergency. They would be next to impossible to improvise during or soon after an emergency. Planning, therefore, needs to be

done when decisions can be made in the context of the normal operating environments of the court and other agencies. This will ensure that the court does not have to compete with other entities for the limited resources that are generally available during an emergency.

Facilities, communications, and other equipment and procedures necessary to maintain the most essential court services while repairs are made to the courthouse (assuming it still exists) will require prior internal and interagency planning. These basic provisions of the court’s “COOP” plan will need to include the following:

➤ Locating alternate facilities for conducting court functions

Looking at the potential need for another place(s) to hold court and the type of advance arrangements that will be needed entails locating public or private buildings capable of being put directly to use or being renovated - preferably in advance of need - to be useful as a courthouse.

Clearly, for many courts, such facilities may not be readily available, depending on the size of the county. If the emergency in the courthouse is a natural disaster, it is likely that there might be other buildings in the vicinity that also have been damaged as well as a concurrent demand for space from other agencies and local businesses. Other potentially useful sites, including those in nearby towns or even counties and, especially, other courthouses need to be considered.

It is clearly advisable for courts to identify in advance sites that offer the space and capacity needed to conduct at least the most essential aspects of the court’s business and negotiate necessary inter-governmental agreements or memoranda of understanding (MOU’s) with their owners. Availability of necessary communications, power, transportation, parking, security, and other needs must all be considered in choosing locations, and the multitude of arrangements necessary to make certain of their future availability must be ironed out long before anything happens.

A good deal of cooperative negotiations may also be needed in the event of competition for the facilities that the court finds suitable. It's unlikely that a court can come in late to the process and develop the alternate facilities needed at a time when an emergency has occurred, and others are competing for the same limited resources.

➤ **Maintaining communications capabilities**

During emergencies, courts may find marked deteriorations in the effectiveness of the communications they depend on to conduct their business. Cell phone systems may become overloaded with traffic and cell towers may be destroyed, thereby making service undependable. Land lines are equally subject to overloading and more vulnerable to physical destruction. Employees and their families will likely be trying to reach each other without success. Courts may also not be able to communicate with employees to notify them of changed working conditions, locations or hours. Witnesses, attorneys, litigants, jurors, probation officers, probationers, suppliers, and all the entities with which normal communications are taken for granted may also be out of contact with each other and the court.

To a degree, and depending on their availability, radio and television broadcast stations may be available to broadcast general information, as they do now for snow closings and other routine disturbances to working conditions. As noted earlier, a Public Information Office and officer should be designated ahead of time to carry out these and, indeed, all public communications. While frequently, this function is performed by a local county government department, if the court decides to use the county government's public information resources, adequate background information on the court and the critical issues that may be relevant in the event of emergency need to be provided in advance to that office.

Several comments are in order here. First responders, helped by federal funding, are gradually returning to the times when they shared one radio channel in common for their vehicular and personal communications. The amount and capacity of such equipment is a significant resource which, because its use is controlled and because the officers are trained

in emergency communications, is valuable to courts and other agencies during emergencies (at times it might even be necessary to use vehicles or runners to physically carry messages between officials). Generally, court officials should work with county personnel in an attempt to broaden the emergency inter-operating capability of their county's mobile and personal communications systems to include the needs of the court.

➤ **Maintaining records/information capabilities**

Courts have come a long way in the last several decades towards professionalizing their records management activities, moving court records into computer-based systems and often tying the systems into networks based in the AOC. Most courts also back up some aspect of their daily work each night – usually docket entries – and many record it on CD or tape and store copies off-premises.

However, most courts have not fully backed up all of the court records needed to resume court operations in the event the court records and files in the courthouse are destroyed. In order to determine the adequacy of existing record backup system, each court needs to ask some basic questions:

- how much information is contained in the backup systems that have been created?
- if the court experienced a fire or other emergency would the backups suffice to pick up all ongoing work where it was left off?
- could the court bring a case back into a courtroom one day, two days, five days, or several months later?
- if not, what information would be needed?

Since it will be critical for courts to quickly resume operations with a minimum of interruption after an emergency, especially during the COOP phase, it will be important for courts to pay special attention to developing strategies to manage information storage and communication in such a way that emergencies will not destroy the court's ability to carry on its business.

Developing this capability will require attention to expanding the current scope of court records backup activities so that relevant orders and other documents potentially necessary for post-judgment/disposition activity are available.

Capabilities and experience with backup systems and data-recovery technology has grown exponentially during the past several years. Insights and expertise relevant to court needs can be garnered from many government agencies and large companies. Relevant insights can also be gained from some courts that have already embarked on large scale records backup initiatives. For instance, some court offices, such as those dealing with land records and probate matters, have frequently developed duplicate /backup systems for their records even in the absence of similar undertakings by the local court for case files. The best prepared organizations have backup files stored on computers at remote locations so that they are not likely to be harmed by natural or other disasters affecting the site where the original records are housed.

➤ **Maintaining the capability to manage the caseflow**

To develop an adequate COOP plan, attention needs to be given to all court case management needs in terms of:

- which court procedures are essential to bring back into operation first?
- which are important but not essential and can be brought back into operation next? and,
- which can be deferred until the capabilities are in place for full operations of the court?

While it is likely when courts first begin to discuss these issues, every court function that is performed is going to be identified as “essential”, after discussion and review, priorities should be established. It is also important to keep in mind the underlying capabilities that may be essential to have in place before any court capacity can be brought back into operation. For example, the court must have a place to conduct

its business; power and light must be in place; voice and data communications systems must be available; and staff must be on the job and associated personnel functions need to be in place, including payroll, that can work around the possibility that normal time records are unavailable.

For those states with case management systems centralized in the AOC, further study needs to address whether statewide communications networks have been designed and implemented with enough redundancy and remote storage practices to rapidly reestablish communications in the event that one or more county communications centers are out or, worse yet, if the AOC center is not online.

Given the nature of emergencies that have occurred, it is unlikely that an entire state would be affected by one incident. Natural disasters might wreak more widespread havoc than other types of emergencies, but even Florida, in the autumn 2004 multi-hurricane season, was not completely affected. By now, many states have communications resources which would allow case management systems to communicate and cooperate in the event of widespread emergencies if they were planned to include alternative connection systems.

The major characteristic of internet communications, the one which makes the internet so available and reliable, is their extreme redundancy. Point A and Point B can communicate by a multiplicity of routes - indeed routinely do - and over long hops no matter how close they are geographically. Hopefully, this feature can provide courts with some support for developing survivable communications networks at state, or, perhaps, even local, levels.

One of the courts visited during the project was served by an AOC centralized case management system, as were all the other courts in that state. This court's communications capability was provided by a system located in a small space in the courthouse. Concerned about the court's potential loss of AOC communications in the event of damage to that local communications space, the court's IT Manager has conceived of a mobile terminal which could be located in a trailer and moved off site to one of several court locations in the county. It would then link to the AOC through a satellite circuit, thus

providing its mobility, assuming the AOC also installed the necessary capability for itself. Part of this concept is that the court would consider two other court locations as alternate sites, one because it contained enough available computing capacity to serve as an alternate court location, if needed, and the other because it contained a dedicated link to the AOC. This approach provides a strategy that might be applicable elsewhere in the state and in other states.

V. TRAINING AND REGULAR DRILLS

Regardless of how well developed a court emergency preparedness plan is, it must be tested regularly, communicated to staff, and the subject of regular drills to test it out. Without ongoing training and regular drills, the most well developed plan has, at best, limited value.

As noted above, some courts have developed checklists in an easily readable form, containing descriptions of typical types of emergencies, simple safety procedures for employees to follow for each, and emergency telephone numbers. In some cases, these lists have frequently been color coded for easy reference and printed in top-bound pamphlet form, ranging from about 2" by 3" up to 8½" by 11". They are designed to be distributed to all judges and court employees and kept on desks or with agency telephone books. Some courts have also printed emergency telephone numbers on cards that are kept with employee ID cards.

If a court hasn't ever tried to evacuate the courthouse – which means the court is without elementary protection in the event of a fire (and bomb threat, suspicious package, chemical spill, etc.) – designing and implementing a fire drill provides a good way to get started. Such a drill will also provide reinforcement to the idea that the staff should prepare itself to take defensive action in the event of *all* kinds of emergencies. (For tornado emergencies, the focus should be upon “moving to safe places” in the building rather than “evacuating” it).

➤ **Posting easily readable building evacuation routes**

In order to vacate the courthouse in an emergency, the routes and exits must be shown on easily readable and understandable diagrams, posted at near eye-level locations throughout the building. Local fire officials can provide good examples of such diagrams.

➤ **Conducting periodic emergency evacuation drills**

Emergency evacuation drills have to be learned and practiced. Repetition is important because it reduces the emergency to a routine and gives people a chance to concentrate more on the evacuation and less on the dangers of the situation – all of which equates to a better chance of success for the procedure. Experience teaches that, while emergencies may bring out extreme responses to danger, plans to deal with them – including evacuation procedures – are too easily forgotten. Refresher drills are therefore very important.

➤ **Regular testing of alarm systems**

In addition to evacuation drills, the effectiveness of alarm systems needs to be tested on a regular basis. It shouldn't be taken for granted that the fire alarms are working as intended. In one of the jurisdictions visited, a newly renovated courthouse in the county, having passed all its checkouts and system tests, was turned over to the court for occupancy. Early on, the court ran its initial fire drill, only to find out that the alarm system was not completely functional; a real emergency might have become a disaster. Sometime between the checkouts and the drill, a setting in the alarm control system had been changed for reasons unknown and unreported. Nothing can be taken for granted.

VI. Resources for Developing Adequate Court Emergency Preparedness Capabilities

An overriding concern in most jurisdictions is the cost for developing court emergency preparedness capabilities: the cost for preparing plans, testing them, training employees to carry out emergency actions – such as evacuations – and acquiring equipment and capabilities sufficient to be able to adequately respond and protect staff, the public, and the court facilities.

While most counties and cities have emergency response plans in place and have received some funding for the process through grants from the Department of Homeland Security, few, if any, courts have been involved with seeking or receiving such grants.

Clearly, courts need adequate resources to establish requisite emergency preparedness capabilities. The planning, collaboration, and interagency coordination that is essential to developing these capabilities, however, can be accomplished without added funds and will provide the foundation for then determining the resources necessary to fully establish this capability.

APPENDIX A

Technical Assistance Self-Assessment Planning Guide

SECTION I: COLLABORATING/COORDINATING WITH COUNTY OFFICIALS ON EMERGENCY MANAGEMENT PLANS

1. Has the court's emergency plan/planning effort been developed in coordination with other city/county agencies, including the agency of first response?
2. Does the court have a representative at the city, county, or state emergency management level to ensure that the court has up-to-date knowledge of emergency protocol and working relationships with local agencies?
3. Has a comprehensive, interagency emergency response and recovery plan been developed in the community? If so, has the court collaborated with other government agencies in the development of this plan? In its implementation and training?
4. Is the court's emergency plan/planning effort consistent with the comprehensive emergency response and recovery plan developed for the community? What aspect(s) of court operations are not addressed in the community's plan, and which need to be addressed by the court's plan?

SECTION II: DEVELOPING THE COURT'S EMERGENCY PLAN

A. Assessing Existing Court Plans

1. Has an emergency response plan been established to ensure quick and effective decision-making during an emergency and/or disaster?
 - § Are emergency procedures easy to implement rapidly?
 - § Are court employees familiar with emergency procedures?
2. Does the court have policies and procedures for assessing the severity of, and appropriate response to, different types of emergencies?

B. Designating Court Officials to Act in Emergencies

1. Has the court designated officials to act in an emergency? If so, who are they?
 - What are their respective responsibilities? Authority?
 - Is an individual(s) designated to make an assessment of the nature and seriousness of different types of emergencies (e.g., floods, fires, earthquakes, storms, power failures, and acts of terror)?
 - Do designated court emergency officials know what agencies and people to notify in the event of different types of emergencies?
2. Who in the court system has authority to declare an emergency and activate response plans?

3. Has the court established orders of succession to leadership positions in the event that designated officials are unavailable?
4. Whom should employees contact if they suspect threatening behavior or feel they are in danger?

C. Prevention and Immediate Response Procedures

1. Does the court have screening procedures for courthouse users, including the public, judges, attorneys, and law enforcement officers?
2. Does the court have working alarm systems?
3. If so, for what type(s) of emergency situations are these alarms activated? Does the court train employees on how to proceed once an alarm has been activated?
4. Are employees trained on how to identify and respond to unusual, potentially dangerous situations and/or emergencies? Is special training provided about bio-hazardous situations?
5. Are employees trained on identifying and handling suspicious mail and parcels?
5. Are appropriate emergency warning signs or posters mounted in common areas of the courthouse?

D. Securing the Facility

1. Has the court developed a plan for securing (e.g., controlling access, screening entrants, conducting building searches, etc.) the courthouse and courtrooms in the event of an emergency?
2. Do security personnel receive special training in how to identify threats and manage people during emergencies?

E. Ensuring Continuous Communication

1. Does the court have clear and consistent procedures for announcing emergencies to courthouse users? To the public?
 - § Does the court have a reliable emergency communication system(s) to announce emergencies?
 - § Do court employees know what to do when an emergency is announced?
 - § Does the court have a clear and consistent system(s) for communicating instructions to courthouse occupants?
2. Have designated officials discussed and/or acquired any emergency communication technology, e.g. cell phones?
3. Do designated officials have emergency contact information for all employees?
4. Are emergency telephone numbers posted in courtrooms and throughout the court building?
6. Does the court have a plan and designated persons and protocol for communicating with the public, including the media, during the period in which the emergency exists?

F. Policies and Procedures for Evacuating and/or Containing the Facility

1. Does the court have policies and guidelines to determine when to evacuate the facility and when to contain the occupants within it? Does it have architectural plans of its facilities on hand in a safe place? Are the locations of all keys or other access-control devices known and available to emergency personnel?
2. Who is responsible for determining which emergencies require evacuation and which require containment (e.g., bio-hazardous material threats)?
3. Does the court have clear and consistent evacuation policies and procedures? Do these policies and procedures describe:
 - § Under what conditions all occupants should be evacuated?
 - § Under what conditions some occupants should be evacuated?
 - § Are there specific evacuation procedures for juries?
 - § Are there specific evacuation procedures for prisoners?
 - § Are there specific evacuation procedures for disabled persons (wheelchair-bound, blind, deaf)?
4. Is there an official designated to ensure that evacuations are properly conducted and successfully completed?
5. Are there officials designated to verify that all occupants have evacuated the building if a building evacuation order is issued?
6. Do occupants know where to go after they've been evacuated?
 - § Are evacuation maps and directions posted in common areas of the courthouse?
 - § Have meeting places been established?
 - § Are meeting places located in areas that ensure that police, fire, bomb, and search squads have unobstructed access to court facilities?
7. Have emergency containment procedures been developed to contain some emergencies (e.g., the spread of a biological agent)?
8. Are the court's evacuation and containment policies and procedures clearly communicated to employees? Is regular training provided to them?

G. Dealing with Biological or Chemical Threats

1. Has the court developed a plan for responding to the specific dangers posed by a biological or chemical emergency?
2. If so, does this plan specify:
 - § How responsibilities are divided between the court and other qualified agencies?
 - § Designated court official(s) to serve as the point(s) of contact for courthouse occupants?
3. Do court officials know whom to notify and what interim measures to take in the event of a

biological or chemical emergency?

4. Have employees received special training related to biological or chemical emergencies?
 - § Do employees know how to identify suspected hazardous materials?
 - § Do employees know whom to contact if they suspect a hazardous material situation?
 - § Have employees been provided with special procedures for dealing with suspected biological or chemical agents (e.g., shutting off air conditioning or heating units, remaining in their work areas, etc.)?

H. Planning for Public Health Emergencies

1. Has the court developed a plan for responding to the specific dangers posed by a public health emergency (e.g., an outbreak of SARS or avian flu)?
2. If so, does this plan specify:
 - § Which public health organizations and officials should be involved in the court's response to a public health emergency?
 - § What circumstances may require bodily or property searches, seizures, or other government actions including issuing orders for quarantine or isolation?
 - § What laws and court decisions enable or restrict courts from fulfilling their duties to the public?
 - § What kind of training, immunizations/vaccines and other special considerations need to be developed or examined to ensure the safety of court employees and users?
 - § What kind of community relations and public communications strategy needs to be developed in the event of a public health emergency?
 - § What role will the court play during a state of emergency triggered by a public health crisis?

SECTION III: MAINTAINING CONTINUITY OF COURT OPERATIONS

A. Preservation of Vital Records, Resources, and Information Technology

1. Has a determination been made as to which records stored in the courthouse are deemed essential to preserve? If so, has a plan for preserving/protecting them been developed?
2. Have procedures been developed for preserving both paper and electronic files for all other records maintained in the court facility (e.g., personnel, budget, and historical documents)?
3. Is there an established disaster recovery and business continuity plan for information technology systems?
4. Have drills been conducted to test the effectiveness and feasibility of information technology disaster recovery plans?

B. Relocation

1. Does the court have a plan to relocate court operations to an alternate site(s) if the courthouse is damaged during an emergency and/or disaster?
2. Has the court identified alternate facilities both within and outside the local area? Has the court tested plans and procedures at those facilities?

3. Has the court established a disaster recovery location for all information technology systems?

C. Management of the Caseload

1. Has a policy been developed for prioritizing the court's caseload for scheduling and disposition in emergency situations?
2. Has a policy been developed for notifying litigants about the rescheduling of their cases?

SECTION IV: TESTING AND MAINTAINING THE PLAN

1. Has the court's emergency plan been communicated to all judges and employees?
2. Are emergency plans regularly reviewed and practiced?
3. Are employees surveyed after drills to gauge the effectiveness and efficiency of emergency plans?
4. Is emergency equipment regularly tested and inventoried?
5. Are emergency contact lists current and regularly updated?

Appendix B: Hypothetical Emergency Scenarios for Discussion/Planning Purposes

HYPOTHETICAL SCENARIO No. 1: COURTHOUSE FIRE

BACKGROUND

Each of you holds the same job with the same responsibilities you now exercise in a courthouse similar to your own. It is a normal, everyday, Tuesday morning, about 10AM when the smoke and fire detection and alarm systems come to life and staff and public occupants throughout the building begin to have the first feelings of concern, perhaps even panic. After some telephone tag, you are notified that smoke has been found coming from a basement storeroom, close to a records storage space. As you receive this notification, you realize that you have some responsibilities in this situation to take some actions to respond to the emergency.

QUESTION 1:

What are your responsibilities?
What is the first thing you should do? The next thing? And so on?

QUESTION 2:

Whom do you contact first? Next? Next?

QUESTION 3:

Is there an emergency plan for you to follow? Can you carry through with it as the fire situation continues and the phone lines become clogged with traffic? Does it provide for you to have a means of notifying your family of the fire and your situation? Does it contain a provision for notifying the press and the public generally of the emergency? Of changes in the situation? Are you the official designated to make that notification? If not, should you make such a notification, anyway?

QUESTION 4:

As the fire continues, how, in general, do you deal with your role throughout the passage of time during and after the active emergency? Who's in charge? What is your role in reference to that person? Do you stay at your desk, on the bench, or at your post at the public counter? What about the records you are dealing with – can you protect them? If you are dealing with the public, what is your role towards them – do you advise them of whether to evacuate and, if so, when and how to leave?

If you are a law enforcement officer, what are you supposed to do? Do you have standing orders and procedures, do you call for advice, do you get out of the building as quickly as possible? What kind of advice, if any, do you give the public?

QUESTION 5:

As you go through this exercise, do you have any suggestions about the adequacy of your current emergency plans for dealing with this and other emergencies? What process would you suggest for addressing any inadequacies in the plans?

HYPOTHETICAL SCENARIO No. 2: *Suicide Bomber Attack*

While at work you are discussing local rules procedures with two attorneys who are new to the Bar. You hear a muffled explosion. The blast rattles the pictures on the wall. A feeling of uneasiness comes over you, and the members of the public remark, "what was that?" Before you can answer, a co-worker opens the door reporting that an explosion has just happened in the foyer of the front public entrance of the courthouse. The co-worker then asks you what should be done. You are the designated official for the courthouse. Describe the actions you should take and directions you should provide.

Basic Facts for Discussion Scenario

- A state courthouse with criminal and civil jurisdiction
- 5 story building of stone construction
- Approximately 200 employees
- 3 General Courts, 1 Clerk's Office, DA's Office, Public Defender's Office, and Pre-Trial Services Office
- On the day of the scenario, one court is in session with a high profile trial. About 50 people are in the gallery.

HYPOTHETICAL SCENARIO No. 3: *Bioterrorist/Chemical Attack*

It is a clear, mild day in the middle of spring. You are finishing up a training presentation you've been preparing for an upcoming conference when you hear raised voices and hurried movement outside your office. Just as you are getting up to investigate the situation, a colleague rushes into your office and tells you that there's been an explosion at a nearby power plant, and a vapor cloud is headed in the direction of the courthouse. Your colleague then asks you what should be done. You are the designated official for the courthouse. Describe the actions you should take and directions you should provide.

Basic Facts for Discussion Scenario

- A state courthouse with criminal and civil jurisdiction
- 5 story building of stone construction
- Approximately 200 employees
- 3 General Courts, 1 Clerk's Office, DA's Office, Public Defender's Office, and Pre-Trial Services Office
- On the day of the scenario, one court is in session with a high profile trial. About 50 people are in the gallery.

Note: Scenario 1 adapted from a presentation given by Joseph W. Trindal, Director, Federal Protective Service, National Capital Region, on February 17, 2004.

SJI Court Emergency/Disaster Preparedness Planning Project. *Planning for Emergencies: Immediate Events and Their Aftermath. A Guideline for Local Courts.* Justice Programs Office, School of Public Affairs, American University, November 2005.

Appendix C

Supreme Court of Florida: Emergency Court Operations Website

Supreme Court of Florida

Emergency Court Operations Website 2005 Hurricane Season

Information about closures affecting the Florida State Courts and related programs is provided below. Please use the Florida Supreme Court Website and the Florida State Courts System Website for other court-related information. The Court also has established three emergency webpages, including this one, in case any one of them fails. Bookmark all three and be sure to rely on the one with the most up-to-date information in case one of the others fails. They are at:

<http://www.floridasupremecourt.org/emergencv.html>

<http://www.firn.edu/supct/>

<http://www.appellatecourtclerks.org/flcourts/>

Meeting Cancellations Due to Hurricane Wilma

STATEWIDE PUBLIC GUARDIAN VIDEOCONFERENCE. This videoconference scheduled for Friday, November 4, at 1:30 is cancelled and will be rescheduled later this fall. The circuits involved in this meeting were 2nd, 5th, 6th, 8th, 9th, 10th, 11th, 12th, 13th, 15th, 17th, 18th, 20th. Updated 10/27/2005, 3:00 p.m. ET

Open Enrollment for State Workers' Insurance

EXTENSION OF TIME. Open enrollment for state insurance has been extended for 2 weeks

SJI Court Emergency/Disaster Preparedness Planning Project. *Planning for Emergencies: Immediate Events and Their Aftermath. A Guideline for Local Courts.* Justice Programs Office, School of Public Affairs, American University. November 2005.

for persons affected by Hurricane Wilma, according to a Memorandum released by the Department of Management Services. Updated 10/25/2005, 6:00 p.m. ET

Closures Due to Hurricane Wilma

APPELLATE COURT CLOSURES

FOURTH DISTRICT COURT OF APPEAL. This West Palm Beach-based appellate court will be closed the entire week of Oct. 24. Any further closures will be announced once a decision is made. Arguments previously scheduled for this week will be rescheduled. For more information check the court's website at <http://www.4dca.org/> or call the phone hotline at 561-596-5829. Updated 10/27/2005, 1:00 p.m. ET

TRIAL COURT CLOSURES

BROWARD COUNTY. This trial court will be closed the week of Oct. 24 and continued closure is likely for much of the week of Oct. 31. Staff members are requested to come to work on a voluntary basis starting Monday Oct. 31 except for emergency staff contacted earlier by court administration. The court will continue to handle emergency legal matters such as domestic violence petitions and first appearances. For more information call 954-831-7777. Updated 10/27/2005, 1:00 p.m. ET

COLLIER COUNTY. This trial court will be closed the entire week of Oct. 24. Employees should report to work Friday Oct. 28 to prepare for reopening Monday Oct. 31. The court will continue to handle emergency legal matters such as domestic violence petitions and first appearances. For more information call (239) 335-2299 or see <http://www.ca.cjis20.org/>. Updated 10/27/2005, 1:00 p.m. ET

MIAMI-DADE COUNTY. Courts will be closed the entire week of Oct. 24. Several courthouse facilities expect to open Monday Oct. 31. The court will continue to handle emergency legal matters such as domestic violence petitions and first appearances. For up-to-date and more detailed information call the court's hotline at (305) 349-7777 or check its website at <http://jud11.flcourts.org/>. Updated 10/27/2005, 1:00 p.m. E.T.

MONROE COUNTY. Courts will be closed the entire week of Oct. 24. The court will continue to handle emergency legal matters such as domestic violence petitions and first appearances. More recent information is available at the court website <http://www.jud16.flcourts.org/> or at its hotline (305) 295-3644. Updated 10/27/2005, 1:00 p.m. E.T.

OKEECHOBEE COUNTY. Courts will be closed until further notice. The court will continue to handle emergency legal matters such as domestic violence petitions and first appearances. For

more information see <http://www.circuit19.org/>. Updated 10/27/2005, 1:00 p.m. ET

PALM BEACH COUNTY. This trial court will be closed the entire week of Oct. 24. The court will continue to handle emergency legal matters such as domestic violence petitions and first appearances. For more information call the court's hotline at (561) 355-6744 or check <http://www.co.palm-beach.fl.us/cadmin/>. Updated 10/27/2005, 1:00 p.m. ET

Emergency Order on Out-of-State Attorneys

An **Emergency Order** has been issued to allow out-of-state attorneys to practice law in Florida under certain circumstances, including attorneys affected by Hurricanes Katrina and Rita.

Tolling Orders

Orders Extending Legal Deadlines(Tolling Orders) due to Hurricane Wilma will be added here as they become available. PLEASE NOTE: Tolling orders will be entered only after the court closure is final and verified and will be issued *nunc pro tunc*. If a court is closed on specific days, the orders will be issued, but not while the closure is still in effect. You will be protected by the tolling order even if it is entered after your deadline has expired. Tolling Orders in areas affected by the earlier 2005 hurricanes and tropical storms are now available and will be updated as new orders are signed. Updated 1:00 p.m. ET 10/27/2005

Emergency Contact Information

**Telephone Hotline for Supreme Court Staff,
the Public, & Media: (850) 921-8552**

Other Inquiries:

Supreme Court Press Office: (850) 414-7641
publicinformation@flcourts.org

Appendix D

Selected Resources Relating to Court Emergency Preparedness and Continuity of Operations Planning (COOP)

In the wake of September 11, 2001, a new body of emergency management literature has emerged. Much of this literature addresses the need for aggressive planning to ensure that certain institutions which are basic to our capacity to function as a civilized society—among which are the courts—are maintained in the event of a terrorist or other catastrophic emergency. For courts, emergency management entails not only response activities such as evacuating and securing facilities, but also large scale preparation and recovery functions ranging from the establishment of alternative communication strategies to the development of procedures to handle cases, juries, and prisoners.

Emergency management is an evolving field, changing daily, as industry experts and government officials gain more knowledge and discover new approaches. The resources included below provide a sample of some of the innovative thinking that is reflective of the field of contingency planning. They were selected with the special case of courts in mind and represent the most salient resources available, to date, for judges and court managers charged with the task of designing or revising emergency plans.

I. Courts and Emergency Management

American Bar Association Task Force on Emergency Management and Homeland Security. 2002. *Draft Checklist for State and Local Government Attorneys to Prepare for Possible Disasters*. Available at <<http://www.abanet.org/statelocal/disaster.pdf>>.

Checklist of issues, policies, and legal questions to be addressed under emergency conditions.

Arizona Supreme Court Committee on Court Security and Emergency Preparedness. December 2003. *“Preparing for the Unthinkable”: A Report to the Arizona Judicial Council*.

Guidelines for developing court emergency preparedness and business continuity plans.

Center for Public Health Law Partnerships. May 2005. *Public Health Law Bench Book for Indiana Courts*. Louisville, KY: University of Louisville.

Bench Book for judges that provides guidelines, legal references, and procedural frameworks for dealing with emerging public health threats and emergencies.

Federal Emergency Management Agency. *Emergency Management Guide for Business & Industry: A Step-by-Step Approach to Emergency Planning, Response and Recovery for Companies of All Sizes*. Prepared by Thomas Wahle and Gregg Beatty. Available at <<http://www.fema.gov/pdf/library/bizindst.pdf>>.

General recommendations and steps for establishing comprehensive emergency plans. Designed as an all-purpose guide for any type of business.

SJI Court Emergency/Disaster Preparedness Planning Project. *Planning for Emergencies: Immediate Events and Their Aftermath. A Guideline for Local Courts*. Justice Programs Office, School of Public Affairs, American University, November 2005.

The Judges' Journal. Fall 1998. *When Disaster Strikes, Will Your Court Be Ready?*. American Bar Association, Volume 37, Number 4. Chicago: Judicial Division, American Bar Association.

Special issue dedicated to court response and recovery to natural disasters. Articles of particular interest include:

“Understanding Disasters and Other Impacts on Courts: Overview, Comparisons, and Propositions” by Thomas A. Birkland

“A Case of Judicial Restoration: A Court System Responds to and Recovers from the Red River Flood of 1997” by Theodore B. Pedeliski.

The Justice Management Institute. August 2005. *Developing and Evaluating Courthouse Security and Disaster Preparedness: A Collaborative Process between State and Federal Courts*. Denver: The Justice Management Institute.

Project report that provides information and curriculum materials from a demonstration and education project conducted by The Justice Management Institute aimed at helping courts develop effective security and business continuity plans.

Justice Programs Office. May 2003. *Impact of 9/11 and Other Emergency Situations on Court Administration: Report of Survey of Local Trial Courts*. Prepared by Allison L. Hastings. Washington, D.C.: School of Public Affairs, American University. Available upon request. Email inquiries to justice@american.edu for a copy.

Summary report of results from an exploratory survey of local trial courts on the effects of September 11, 2001, on emergency planning.

National Association for Court Management. June 2005. *Court Security Guide*. Williamsburg, VA: National Association for Court Management, <www.nacmnet.org>.

Updated “mini-guide” outlines the factors for courts to consider in developing and maintaining a strong security program.

National Association for Court Management. Summer 2000. *Disaster Recovery Planning for Courts: A Guide to Business Continuity Planning*. Williamsburg, VA: National Association for Court Management, <<http://nacm.ncsc.dni.us/>>.

“Mini-guide” to help judges, court administrators, and staff begin thinking through the emergency planning process. Focus is primarily on natural disasters, though man-made disasters like computer viruses are also considered. A good introduction to identifying the elements of a plan and organizing response and recovery teams.

National Center for State Courts. 2003. *Emergency Management for Courts*. Report prepared by the National Center for State Courts' Best Practices Institute. Available at <http://www.ncsconline.org/WC/Publications/Comm_CtSecEMfCtsPub.pdf>.

Overview of seven best practices in emergency management for courts. Designed as a starting point for courts to review their current plans. Contains helpful examples and resource lists.

***Nineleven Summit: Courts in the Aftermath of September 11th*. September 25-27, 2002. New**

SJI Court Emergency/Disaster Preparedness Planning Project. *Planning for Emergencies: Immediate Events and Their Aftermath. A Guideline for Local Courts*. Justice Programs Office, School of Public Affairs, American University. November 2005.

York City. Summit materials available at <http://www.9-11summit.org>.

Website containing extensive listing of materials related to emergency management. Articles of particular interest include:

“Coping with Disaster” by Judith S. Kaye, available at <http://www.9-11summit.org/materials9-11/911/acrobat/26/P1LeadingtheCourts/KayeCoping.pdf>.

“COOP [Continuity of Operations] Self-Assessment Guide & Checklist” prepared by the Federal Executive Branch, available at <http://www.9-11summit.org/materials9-11/911/acrobat/27/P3&C10EmergencyPreparednessPlans/SelfAssessGuideChecklist.pdf>.

“September 11th: The New York Experience” by Hon. Jonathan Lippman, available at <http://www.9-11summit.org/materials9-11/911/acrobat/26/P1LeadingtheCourts/911NYExperience.PDF>.

Vera Institute of Justice. January 2002. *The Administration of Justice Under Emergency Conditions: Lessons Following the Attack on the World Trade Center*. Report prepared by Oren Root. Available at http://www.vera.org/publication_pdf/148_188.pdf.

Documentation of the administration of justice in New York City in the days following the terror attacks of September 11, 2001. Identifies issues essential to court administration in the immediate aftermath of a catastrophic event.

II. Court Plans: Examples

A. MODEL PLANS

State Emergency Management Office, New York. Empire County Comprehensive Emergency Management Plan, available at <http://www.nysemo.state.ny.us/Planning/Empire%20County%20CEMP%202003.doc>.

General guidelines for county officials developing emergency management plans.

State of Minnesota, Conference of Chief Judges. *Court Security Plan*, available at <http://www.9-11summit.org/materials9-11/911/acrobat/26/C6NewThreats/MinnesotaCtSecurityManual.pdf>.

Comprehensive manual containing general and specific information designed to help practitioners improve court security.

B. SAMPLE PLANS

Eleventh Judicial Circuit of Florida (Dade County/Miami), Administrative Office of the Courts. *Emergency Preparedness and Recovery Procedures Manual*, available upon request. Email inquiries to justice@american.edu for a copy.

Manual detailing procedures and emergency contacts for court personnel.

Michigan Supreme Court, State Court Administrative Office. *Michigan Court Security Manual*, available at

SJI Court Emergency/Disaster Preparedness Planning Project. *Planning for Emergencies: Immediate Events and Their Aftermath. A Guideline for Local Courts*. Justice Programs Office, School of Public Affairs, American University. November 2005.

<<http://courts.michigan.gov/scao/resources/standards/index.htm#sec>>.

Manual containing planning strategies, procedures for specific emergencies, checklists, and detailed appendices.

Polk County, Iowa. *Courthouse Security Plan*, available upon request. Email inquiries to justice@american.edu for a copy.

Plan containing the appropriate protocol for various emergency situations.

Superior Court of California, County of Ventura. *Health and Safety Handbook with Emergency and Disaster Planning Guidelines*, available upon request. Email inquiries to justice@american.edu for a copy.

Practical guide for government employees in Ventura County, California.

III. General Government Resources

International City/County Management Association. 2003. *Homeland Security: Best Practices for Local Government*. Edited by Roger L. Kemp. Excerpts available at <<http://bookstore.icma.org/freedocs/Homeland%20Security%20Excerpt%2042858.pdf>>.

Journal of Homeland Security < <http://www.homelandsecurity.org/journal/>>

U.S. Department of Homeland Security <www.dhs.gov>

U.S. General Services Administration, Mail Resources
<http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=10074&contentType=GSA_OVERVIEW>