

The Public's Health and the Law in the 21st Century
5th Annual Partnership Conference

Concurrent Session

The Courts: Guardians of Health *and* Liberty

Monday, June 12, 2006
4:00-5:30 pm

Moderator: Francis Schmitz, JD, Crisis Management Coordinator, U.S. Department of Justice, Counterterrorism Section. Washington, DC

Panel: Gregory J. Cowan, Court Operations Consultant, Office of the Florida State Courts Administrator, Tallahassee, FL

Hon. Carolyn Dineen King, Circuit Judge, United States Court of Appeals for the Fifth Circuit, Houston, TX

William J. Lehman, JD, Deputy Assistant Director, Office of Facilities and Security, Administrative Office of the United States Courts, Washington, DC

Session Purpose:

This session will explore the impact of public health emergencies on court operations and the potential consequent effect on public health, with particular focus on pandemic influenza and lessons learned from Hurricane Katrina. The goal will be to sensitize session attendees to the interrelationship between the court system, the judiciary, and public health, and to identify legal and operational issues that must be jointly explored and addressed. Judge King will describe the Hurricane Katrina impact on court operations in New Orleans and suggest lessons learned from the crisis. Mr. Lehman will further expand on the lessons learned from Katrina and will also describe the current status of the federal court's pandemic flu planning. Mr. Cowan will discuss the Florida Supreme Court pandemic flu strategy.

Learning Objectives:

By the close of this session, conference participants will be able to:

- Advise colleagues about the threat public health emergencies pose for continuity of court operations;
- Describe the general interrelationship between the court system and public health; and,
- Encourage exploration of public health-judiciary mutual planning for continuity of court operations and identification of associated legal issues.

Session Convener:

The Public Health Law Program, CDC

Lessons Learned:

1. Judge King:

The Big Picture: In an emergency in which the lives of employees and their families are threatened, no matter what the COOP provides, the entire focus of each employee at every level shifts abruptly from handling the business to: first, making sure that the employee and her family are safe; second, making sure that all other employees and their families are safe and have adequate living and schooling arrangements; and third, handling the business. The COOP should be structured around and make provisions for that basic human response if it is to have a realistic chance of success.

Specific Lesson Learned - Communications: Locating and communicating with employees after Katrina was extremely difficult. Cellular telephones and local area code land lines ceased to function.

Solutions: Ensure that all employees carry the Agency Recorded Message Announcement (ARMA) telephone number with them on a wallet phone card. The ARMA is a recorded message service located outside of New Orleans. Court leadership can update the message on ARMA from any location in the country which has telephone service. Since the service is outside New Orleans and not impacted by local telephone service, any employee having telephone access can listen to the frequently updated message on the Court's openings, closings, and relocation.

Have a commercial based emergency web-site, independent of the Court's Local Area Network (LAN, the Court's LAN is referred to as the Data Communications Network (DCN) normally). This site can be accessed via the internet as any commercial website is. Court leadership has access to the official message board and can post information concerning Court operations. Any employee can access the "chat room" and post information or ask questions.

Have a list of the commercial email accounts of all employees so that commercial email traffic may be used when access to the DCN is impossible.

Have a list of employees' cell phone numbers and numbers of friends and relatives they may be staying with during an evacuation of New Orleans.

Ensure that all Court laptop computers have a copy of the COOP on the hard drive of the computer.

Ensure that key personnel are trained in the use of the Court's satellite telephones, that the phones are tested quarterly, and emergency numbers are preprogrammed into the phones.

Procure and issue to key Court leadership cellular telephones with area codes other than the New Orleans area code.

Be sure Court employees are adequately trained in the identification of the multiple avenues of communications with Court leadership following an evacuation.

2. William Lehman:

When Hurricane Katrina struck the Gulf Coast, there was a major disruption of the judicial system in the area. In New Orleans and the surrounding parishes, attorneys were instantly separated from their offices and had no access to their files, computer systems, court calendars, or any of the other tools necessary to carry on a law practice. Recognizing this considerable problem, the judges of Western District of Louisiana and representatives from the federal and state bar associations sat down to consider alternatives to alleviate the situation. The concept of a Communications Center for Displaced Attorneys (Communications Center) emerged from these discussions.

A proposal was drawn up to provide assistance to displaced attorneys in determining matters such as where court officials could be contacted, what special orders resulting from the hurricane were in place, how to seek extensions or continuances, and other information necessary to protect their clients' interests. The proposal also called for establishment of a system of communication whereby attorneys could receive court notices, contact other attorneys, and generally be in touch with the legal community. Getting the word out to displaced attorneys as to the existence of the Communications Center was critical. Several announcements were made on both radio and television spots to spread the word. There were also articles and notices printed in the newspapers and bar periodicals.

Another helpful facet of the Communications Center was establishment of communication capabilities for the displaced attorneys. They were spread all over the state and, indeed, all over the country. Therefore, a Web site was leased by the Communications Center from an internet provider for a nominal sum, (under \$100), along with mailboxes for attorney e-mail communication. All three Louisiana clerks of federal court were notified of a mailbox address whenever an attorney registered with the Communications Center. This allowed the displaced attorneys easy access to communication from the court, or anyone else in or out of the legal community, regardless of their location. While impossible to measure the absolute success of the effort, in total, nearly 800 attorneys signed up for the mailboxes. The Web site is still up and running through the beginning of September 2006 at: <http://www.laspecialmaster.com>.

Hopefully, the tragedy which struck the Gulf Coast in 2005 will not be repeated in the near future anywhere in the country. However, if disaster does strike in the future, legal communities need to be aware of the unique problems facing attorneys displaced by the occurrence and know that there are solutions available to meet their professional needs.

3. Greg Cowan:

Leadership stands alone as the single most important factor in ensuring a successful response and recovery from an emergency event. Long before the outset of any emergency event, leadership must make emergency preparedness a priority. That is, leadership must commit the organization to the continuous hard work necessary to prepare for emergencies long before they happen. Without this level of commitment, a successful response and recovery is made virtually impossible.