

ARIZONA COURT RESPONSE TO PUBLIC HEALTH EMERGENCIES

INTRODUCTION

In December 2003, the Committee on Court Security and Emergency Preparedness issued a report “**Preparing for the Unthinkable**”. That report focused on court emergency response planning and security. It provided the courts a structure from which to develop an emergency response plan. It also recognized that only individual courts can provide the detail needed for a successful emergency response plan and thus left the responsibility of preparing plans to the courts. Among the most important issues raised and tasked to the courts by that report were:

- Determining strategic and operational priorities
- Pre-determination of Authority/Chain of Command
- Developing Communication plans
- Developing Evacuation plans
- Designating Emergency response teams
- Identifying alternate court facilities
- Protection of records
- Identifying critical court functions
- Pre-identifying emergency court orders
- Training and testing staff regarding emergency plans

In response to the report, many though not all, courts developed emergency response plans. This supplement to the original report expands its scope in two significant ways. First, it asks the courts to extend their planning process from emergency response into continuity of operations planning. Second, it expands the range of emergency scenarios to include pandemics which could impact the courts in a markedly different manner than other disasters. This report is intended to encourage courts that have engaged in disaster planning to expand those efforts, while providing courts that are lagging in their planning with a chance to catch up.

PANDEMICS AND INFLUENZA

*If a pandemic influenza outbreak occurs in the United States, it is essential that governmental entities at all levels continue to provide essential public safety services and maintain public order.
(National Strategy for Pandemic Influenza, Homeland Security Council, May 2006)*

Pandemics

From time-to-time diseases arise for which the population has little or no natural immunity. If these diseases spread rapidly and cause serious illness they can present the risk of widespread social disruption and death. That rapid

spread of disease across the globe affecting a large proportion of the population is a pandemic. The last extensive pandemic was the Spanish Flu of 1918, during which approximately 500,000 Americans died. No one knows what disease will cause the next pandemic, but based on past experience it is likely to be influenza, plague, SARS or smallpox.

Currently, the most discussed pathogen is the H5N1 virus that causes avian influenza. This virus is now confined largely to the bird population, but if it mutates into a form that is easily passed from human-to-human, it could fuel the next pandemic. Although there is a wide range of opinion among experts about the possible impact of a pandemic, there is agreement that a worst case influenza pandemic has the potential to cause massive social disruption, interrupt supply chains, stall transportation, damage organizational infrastructure and halt education. Up to 40 percent of the workforce may become ill at one time and absenteeism could rise to 60 percent as the well population cares for out-of-school children and ill family members. The duration of this disruption could be from three to eighteen months as the disease ebbs and flows through the community in two or three waves.

The Health and Human Services (HHS) Pandemic Plan, released in late 2005, reinforces that grim view when it lists some characteristics of an influenza pandemic to consider when planning for a pandemic. They include:

- The ability of the virus to spread rapidly worldwide
- The fact that people may be asymptomatic while infectious.
- Simultaneous or near-simultaneous outbreaks in communities across the U.S., that limit the ability of any jurisdiction to provide support and assistance to other areas
- Enormous demands on the healthcare system
- Delays and shortages in the availability of vaccines and antiviral drugs
- Potential disruption of national and community infrastructures including transportation, commerce, utilities and public safety due to widespread illness and death among workers and their families as well as concern about the on-going exposure to the virus.

STRATEGIES AND RESPONSE

Global Concern

Experts at the World Health Organization (WHO) and elsewhere believe that the world is now closer to another influenza pandemic than at any time since 1968, when the last of the previous century's three pandemics occurred. WHO uses a series of six phases of pandemic alert as a system for alerting the world

to the seriousness of the threat and the need to launch progressively more intense preparedness activity.

The designation of phases (see below) is made by the Director-General of WHO. Each phase of alert coincides with a series of recommended activities to be undertaken by WHO, the international community, governments, and industry. Changes from one phase to another are triggered by several factors, which include the epidemiological behavior of the disease and the characteristics of circulating viruses.

The world is presently in phase 3 (at publication), as characterized by a new influenza virus subtype that is causing disease in humans, but is not yet

WORLD HEALTH ORGANIZATION (WHO) – PANDEMIC PHASES	
Phase 1 – Inter-Pandemic Period	<i>No new influenza virus subtypes have been detected in humans. An influenza subtype that has caused human infection may be present in animals. If present in animals, the risk of human infection or disease is considered to be low.</i>
Phase 2 –	<i>No new influenza virus subtypes have been detected in humans. However, a circulating animal influenza virus subtype poses a substantial risk of human disease.</i>
Phase 3 – Pandemic Alert Period	<i>Human infections have occurred with a new subtype, but no human-to-human spread or at most rare instances of spread to a close contact.</i>
Phase 4 -	<i>Small cluster(s) but human-to-human transmission, spread is highly localized, suggesting that the virus is not well adapted to humans.</i>
Phase 5 -	<i>Large cluster(s) but human-to-human spread still localized, suggesting that the virus is becoming increasingly better adapted to humans, but may not yet be fully transmissible (substantial pandemic risk).</i>
Phase 6 – Pandemic period	<i>Increased and sustained transmission of the virus in the general population.</i>
Post-Pandemic Period	<i>Return to inter-pandemic period.</i>

spreading efficiently and sustainably among humans.

National Strategy for Pandemic Influenza

The Federal Government has developed the *National Strategy for Pandemic Influenza* as a guide for the country's preparedness and response to an influenza pandemic. The *National Strategy* sets three goals:

- stopping, slowing or otherwise limiting the spread of a pandemic into the United States,

- limiting the domestic spread of a pandemic while mitigating disease, suffering, and death; and
- sustaining infrastructure and mitigating impact on the economy and functioning of society.

The strategic principles offered to guide federal, state and local health agencies include:

- **Preparedness and Communication:** Activities that should be undertaken before a pandemic to ensure preparedness, and the communication of roles and responsibilities to all levels of government, segments of society, and individuals.
- **Surveillance and Detection:** Domestic and international systems that provide continuous “situational awareness,” to ensure the earliest warning possible to protect the population.
- **Response and Containment:** Actions to limit the spread of the outbreak and to mitigate the health, social and economic impacts of a pandemic.

The *National Strategy* also states that department pandemic plans should include additional considerations such as protecting employees, maintaining essential functions and services, and ensuring effective communication about pandemic planning and response between departments or agencies and their constituents or stakeholders.

Arizona’s Plans

The Arizona Department of Public Health Services (ADHS) is the key state level agency planning for a pandemic and has prepared a detailed pandemic response plan that is available at www.azdhs.gov. Under the plan, if the Governor declares a State of Emergency, ADHS will be the primary agency and will provide the Incident Commander to oversee all statewide pandemic activities. As stated in their plan, the Arizona Department of Emergency Management (ADEM) and ADHS will work together in conjunction with local health departments, local emergency management, and other partners and stakeholders. Arizona’s courts will become partners in the plan and should be prepared for that role.

Situation and Assumptions

The ADHS Arizona Influenza Pandemic response plan is based on the following assumptions:

- An influenza pandemic is likely to occur sometime in the future
- A new virus subtype will likely emerge in a country other than the United States, although a novel strain could first emerge in the U.S.

- Although there may be isolated pockets, the pandemic could affect all geographic areas of the state.
- When the pandemic occurs, vaccines and drugs will be in short supply and will have to be allocated on a priority basis
- Arizona's temporary residents, winter visitors, migrant workers and tourists will create a potential vaccination target population of nearly double that of the permanent resident population.
- The emergency response element will require the substantial interaction of state and local agencies in addition to the local health departments.
- All health care and related service providers will be under extreme strain

The plan is keyed in part to the WHO phases and activity will increase as the pandemic moves from phase to phase. Court emergency planning staff should monitor the pandemic phases and use them as alerts and triggers for their pandemic related activity as well. County health officers and ADHS have considerable powers that can be invoked in a health emergency and their pandemic plan anticipates the possible use of these powers.

Any public health response to a disease outbreak will depend on the nature of the pathogen involved: its virulence, mode of transmission, communicability and the availability of vaccines and treatments. For diseases capable of either droplet or airborne transmission, prevention measures may typically include:

- Surveillance and monitoring of the incidence of disease by medical providers and the state monitoring system;
- Investigations of outbreaks and testing of potentially infected persons and animals;
- Isolation of human cases,
- Quarantine of individual or groups that have been exposed.

Additional measures that may be implemented by public health officials include:

- Mandatory treatment or vaccination (with some limitations);
- Mandatory sanitation requirements (hand washing, wearing masks, health screenings, cleaning requirements);
- Closure or evacuation of public and private buildings, areas, or events where the potential for transmission between people exists (this might include temporary courthouse closures and limits on travel);
- Disinfection or destruction of contaminated property; and
- Rationing of vaccines, drugs or healthcare.

In extreme cases it is anticipated that the Governor will, at the appropriate time, declare a state of emergency and put the ADHS plan into full effect which could include even more drastic and intrusive measures.

Declaration of an Emergency

Although a pandemic may develop rapidly into an acute situation in a given area, there will be adequate warning time to begin an orderly implementation of emergency plans. A pandemic is not like an unanticipated fire or flood.

In the event of a pandemic it is anticipated that in addition to a Federal declaration of emergency, the Governor will declare a state emergency. That declaration should be a critical trigger point in any court's emergency plan. When the Governor declares a State of Emergency, the State's emergency management structure is put into place as described in the State Emergency Response and Recovery Plan. The Arizona Department of Health Services (ADHS) will provide the Incident Commander to oversee all statewide activities. The Arizona Division of Emergency Management (ADEM) will operate the State Emergency Operations Center (SEOC) and provide other logistical support. The pandemic related responsibilities of many agencies will increase with each successive stage of the pandemic and the courts must respond accordingly. The Governor's declaration will likely include instructions to citizens, businesses, and state government entities. Those instructions, whether applicable to the courts or not, are important and will play a role in the emergency response and recovery of the court system. To the extent possible and to insure a consistent interpretation of instructions affecting the courts, the Supreme Court and Administrative Office of the Courts will provide direction through the presiding superior court judge of the county.

Prior to, or in response to the Governor declaring a state of emergency, the Chief Justice or designee will declare a court emergency either locally or on a statewide basis and implement the emergency chain of command.

There is also statutory authority for mayors or chairman of the board of supervisors to declare a local emergency which may allow for closing the Justice of the Peace and municipal courts.

STATUTES RELATING TO DECLARATION OF EMERGENCY

ARS 35-192 Authorizes the Governor to declare an emergency arising from a major disaster and make certain expenditures

26-303 Authorizes the Governor to proclaim state of emergency in a area effected or likely to be effected by conditions of disaster or extreme peril. Provides complete authority over all agencies of state government and the right to exercise all police powers. Powers terminate when Governor terminates proclamation or legislature declares end.

36-782 Authorizes the Governor in consultation with the Director of ADHS to issue an enhanced surveillance advisory.

26-311 Allows mayors or chairman of the board of supervisors to declare a local emergency. Curfews, closing of businesses, public buildings, additional law enforcement, notifying constitutional officers that the county office for which they are responsible may remain open or close for the emergency. (may allow for the closing of JP and Municipal courts by BOS or mayor respectively).

CONSIDERATIONS FOR ARIZONA'S COURTS

Arizona Court Strategic Goals

When planning to meet a pandemic emergency, the Arizona courts should focus on two strategic goals:

1. Ensure that the courts are available to provide justice for Arizona's citizens and maintain their critical justice system role.
2. Conduct court business in a manner that protects the health and safety of the court and its customers.

Possible Impacts on Arizona Courts

As a public health emergency unfolds and as public health officials exercise their considerable powers, their actions will begin to impact the personal liberties and property rights that citizens normally enjoy. In response the courts may experience an increase in caseloads as individuals exercise their due process rights and seek judicial relief from restrictions imposed on them.

The very nature of the caseload that the courts handle could change significantly as the pandemic limits personnel available for activities that generate cases (traffic law enforcement, probation revocation). An increase in death and incapacity due to illness can be expected to significantly increase probate and child custody activity. Incarcerated persons will likely seek release or protection from exposure to disease. The caseloads and activity of probation officers may change abruptly if they are redrafted for other public health related duties.

An additional challenge for courts will be to protect their own personnel, jurors and the public from infection in the courthouse. Courthouses, as public

gathering places, could themselves become a factor in spreading disease unless activities are carefully managed.

The size of court operations and the numbers of persons involved raise a number of considerations, including:

- Significant numbers of persons who are necessary to the court's mission critical functions may be unavailable because of illness or death,
- The face-to-face contact that characterizes many court activities may be drastically limited or unavailable, and
- The operation of court facilities, infrastructure and services may be affected by lack of adequate staffing due to isolation, quarantine, illness or death of the persons necessary to maintain operations.

Depending on the severity of the epidemic, court administration may come under pressure as the disease causes attrition among court employees, judges, court security personnel, jurors, witnesses, litigants, attorneys and other support personnel. To the extent that the courts rely on other city, county or state services those are likely to be compromised as well. Police and sheriff's deputies may be reassigned to more critical law enforcement duties. Probation officers and detention personnel may be diverted to other duties.

Judicial Emergency Orders

In past emergencies it has been necessary for the Chief Justice of the Supreme Court and the Presiding Judge of the Superior Court to issue emergency orders to address immediate concerns regarding the operation of the courts. Pursuant to the Arizona Constitution Article VI, Sec. 3 and 5 and Rule 28, Rules of the Supreme Court, the Supreme Court can adopt administrative orders extending emergency administrative authority to close courts, alter hours of operation, adopt, amend and suspend rules and orders and take other necessary administrative actions concerning court staff and operations. When communication and time are available the local court should consult with the Supreme Court to determine by whom and in what form the order is to be issued. However, when communication is not available the local court must be prepared to act on its own. In those cases, any local order should invoke any state emergency declarations by the Governor or Supreme Court orders on emergency authority, specify the nature of the emergency, be effective for only the duration of the emergency and include a provision for immediate transmittal to the Supreme Court for review. Justice of the Peace and Municipal courts should consult and coordinate with the county presiding judge who will assist with local and countywide orders.

A court facing an emergency may be required to adopt any or all of the following by emergency administrative order. Unless a state declaration of emergency

provides otherwise, courts must remain aware that state law and state statutory requirements will continue in effect and cannot be abrogated by local administrative orders. AOC legal staff will provide assistance regarding these orders.

Court operations:

- Provide for 24-hour operation of one or more courts and “on call” status for judges to handle emergency matters.
- Assign cases to neighboring courts and reassign judges
- Relocate court operations
- Cancel court calendars and subpoenas
- Assign custodial responsibility for court funds
- Provide for alternate signing and delivery of filings, orders, and other documents.
- Cancel jury trials and suspend jury duty
- Continue trials and exclude reset time
- Continue in-custody matters involving transport
- Authorize constables or other court personnel to serve process
- Establish a telephone hotline or web site for court information

Personnel:

- Cancel leave and vacation for court employees and extend leave usage periods
- Make certain staff is available “around-the-clock” or on-call
- Approve overtime for court staff
- Reimburse court employees for use of personal vehicles and phones
- Expand duties of staff to handle emergency matters
- Establish rosters of volunteers and provide authority

Probation:

- Make special assignments of personnel to emergency units
- Suspend reporting requirements and conditions that may be impossible to perform
- Vacate transport orders
- Vacate hearings where parties are unable to attend
- Defer payment and assessment due dates

Juveniles:

- Arrange for evacuation of detention centers and treatment facilities
- Provide for emergency supervision and counseling

Facilities and equipment:

- Close or consolidate courts if facilities and staff are not available
- Transfer court functions to alternative facilities

- Transfer files for safekeeping
- Move equipment and data to a secure offsite location
- Open detention centers and other facilities for housing
- Authorize use of vehicles and facilities by emergency personnel (under supervision of court staff)

ARIZONA COURT STRATEGIES

Unlike many other catastrophic events, an influenza pandemic will not directly affect the physical infrastructure of an organization. While a pandemic will not damage power lines, banks, or computer networks, it will ultimately threaten all critical infrastructure by its impact on an organization's human resources by removing essential personnel from the workplace for weeks or months. Employers should include considerations for protecting the health and safety of employees during the pandemic in their business continuity planning. (National Strategy for Pandemic Influenza, Homeland Security Council, May 2006, Chapter 9)

The Challenge for Arizona's Courts

Planning for a pandemic expands the considerations for planners beyond those raised in planning for disaster response and traditional disaster recovery. In the case of a pandemic, special attention must be paid to maintaining or restoring the business operations with special attention to protecting staff and court customers. Continuity of operations planning (COOP) becomes the focus. Ideally, all courts should have a COOP that addresses all hazards. The federal judiciary has identified 11 areas essential to developing effective judicial COOP plans including:

- Plans and procedures
- Identification of essential activities and functions
- Identification and protection of vital records, systems, and equipment
- Determination of succession and delegation of authority
- Identification and preparation of alternate work sites
- Identification and training of a team of employees to perform essential activities in an emergency
- Development of a system of warning to alert employees, visitors, and the public of potential threats and what to do in an emergency
- Development of a system for identifying the location and status of employees following an emergency
- Development of ways to communicate with employees, visitors and the public after an emergency
- Development of a system for restoring normal functions as soon as practicable
- Establishment of regular COOP training and exercises (reference)

Since many of Arizona's courts are small and have limited resources, they may not have the capacity for developing both detailed disaster recovery and COOP plans. A single comprehensive plan addressing the issues of both can be

sufficient. Each court's plan should address the basic response to any disaster or emergency situation plus the special considerations arising from a pandemic. Courts without a COOP plan can refer to _____ and download a template of the plan at _____.

It is worth remembering that courts are not the first institutions that people think of in a disaster and in a pandemic they are likely to close for some period of time during the height of illness. It is essential, however, that they reopen as soon as possible, if only with limited services, to assume their role in the justice system.

Because statutes and court rules set time limits for many court actions, delay is the court's enemy. There are serious legal ramifications if a court loses evidence and records and is unable to hold mandated hearings. Disaster or not, a court must continue to support local justice systems by holding hearings, setting bail for pretrial detainees, issuing warrants, and issuing emergency orders. The importance of making advanced decisions about which court operations are essential in light of statutes and rules and the need for creative thinking about how to conduct hearings during and after a disaster...(BCM Miniguide, page 8)

Courts that engage in some continuity planning process, by whatever method they choose, are likely to recover from a disaster more quickly than those that did not.

Planning Horizon and Assumptions

To ensure courts are available and conduct business in a healthy and safe manner, courts should address both short and long term planning horizons. Courts should plan for a short run of up to 90 days following COOP activation, during which they to have the capacity to perform all mission critical functions, plus the additional capacity to address cases and matters which arise from the pandemic. These functions will have to be performed with limited staff and when little or no face-to-face contact is possible. Judges, attorneys, litigants, law enforcement and staff may be seriously affected by illness and death, and consequently unavailable.

In a long run of 90 days or more, during which the courts should plan for the capacity to handle all criminal matters within acceptable time frames, including jury trials, emergency civil matters, and other mission critical functions where limited face-to-face contact is possible and where all parties involved in the matters have limited availability due to illness or death. The courts should be prepared to operate in this mode until they are capable of terminating the COOP and returning to "normal" operations.

Significant planning assumptions that should be considered include:

- An increase in cases related to the emergency such as individuals or communities seeking judicial relief from restrictions imposed by health authorities.
- Impact on the courts may extend for a year or more.
- Local court officials, particularly presiding judges and their designees should be prepared to cooperate with local public health personnel on response and recovery efforts. Local judicial personnel will be primarily responsible for the response and recovery of court operations in their area with very limited support from the state or federal level
- Up to 40 percent of court staff may be absent at any time due to illness, death or family obligations resulting from the emergency.
- Up to 40 percent of judges, attorneys, parties, clerks, law enforcement officers, prosecutors, public health officials, jurors and other involved parties will not be available due to illness, death or family obligations resulting from the emergency which will severely limit the ability of the courts to conduct business.
- Court facilities, like all private and civil facilities though physically intact, may be able to provide only limited services due to supply shortages, isolation and quarantine measures, illness or death within their communities.
- The emergency response of the courts triggered by, and adjusted to, the phase of the pandemic, the emergency actions of the Governor and ADHS, and local demands for court services.
- Each court should ensure that it has the capacity to perform its mission critical functions for the first 90 days of COOP activation, and if full operations cannot be restored in 90 days, each court should ensure that it has the capacity to begin to address non-emergency matters:

Post-Epidemic Recovery

Criteria for determining when the court has adequate resources to resume normal business functions should be considered in the COOP. When normal operations resume, the impact of the pandemic on court operations, staff and other stakeholders should be assessed and an evaluation conducted and report drafted. This kind of after-action report can be valuable for updating the COOP and emergency response plans. It also serves to document costs and impacts of the emergency for inclusion in future plans and budgets.

ARIZONA COURT PLANNING

State and Local Relationships

The HHS Pandemic Influenza Plan advises that the first step in planning for state and local governments is the establishment of a coordinating committee to oversee epidemic preparedness planning to ensure integration with other emergency planning efforts. The committee should be composed of a cross-section of employees from all levels of the organization. This provides valuable perspective on planning efforts and disburses knowledge of the planning efforts throughout the court. This diversification makes it possible for the team to continue to operate even if the executive component is ill or incapacitated.

In addition, the committee should include representatives of local law enforcement, local bar associations, volunteer organizations that work with the court and other criminal justice partners. Inclusion of a broad representation from other agencies will allow them input into the courts plan, provide a valuable communication link with these organizations and alert them to the courts plan. It is important to remember that all agencies will be operating with limited staff and on emergency plans during an epidemic and that planning in isolation can lead to very perverse results.

In their planning processes the courts must reach out to state and local officials and to other groups that will be integral to the court's pandemic operations. These groups include:

- a. Prosecutors to determine what they are going to prosecute if they are faced with a shortage of personnel;
- b. Custody personnel to determine if they are going to shut down intake or be looking for ways to reduce the in-custody populations;
- c. State and local bar associations to determine plans for how workload will be handled and what support can be provided for single attorney offices and sole practitioners;
- d. Contractors and suppliers of critical goods and services to court operations and detention;
- e. Government entities critical to the administrative operations of the courts including human resources, finance, procurement and transportation; and
- f. Law enforcement regarding their emergency staffing plans and priorities for their critical functions.

Regardless of whether a court has the personnel or resources to form a committee it is vital that it establish contact with local public health officials. They should be contacted to ensure that the courts are aware of, or even involved, in local pandemic planning efforts, that the courts are kept up to date on changes

and prepared to respond to local needs during and epidemic. See Appendix ____ for a listing of Arizona Health Officers.

If local health officials are aware of the role of the courts and their functions during an epidemic, they are more likely to be prepared to work with the courts and avoid enacting measures that might hinder the court's functions (e.g. a closure of a court facility and quarantine of court personnel).

The AOC will establish a working relationship with the ADHS at the state level during an emergency and serve as a point of contact for information to the courts.

Legal Preparedness

To the extent possible, courts should address legal considerations during the planning process. Even though many of the possible issues can only be described in broad and general terms, some advance preparation may be possible. Examples of areas where courts will likely be involved include:

- Ensuring that judges are aware of the authority of health officials and the legal implications of actions such as quarantine and isolation.
- Appropriate protocols to address how persons who are subject to isolation and quarantine can access the courts.
- Appropriate protocols for hearing cases and appeals resulting from actions by public health officials.
- Issuance of emergency orders that address the operation of the courts and the implementation of the court's emergency plans.
- Appropriate protocols for the provision of legal assistance to persons when many members of the bar are ill or incapacitated.
- Appropriate protocols for delivering service
- Appropriate protocols for renewal of orders for isolation and quarantine
- Ensuring hearing and trials are properly recorded.

Some of these issues are being addressed by the preparation of a Public Health Law bench book for Arizona. Other specific legal questions will arise that are unique to a court's particular situation. Many of these questions will have to be addressed as they arise with the assistance of AOC legal counsel. Others for which broad legal guidance may be appropriate will be addressed as they are identified and information distributed.

Communications

Each court should review both their internal and external communication plans to ensure they can communicate with judges, court staff, attorneys, jurors, litigants, law enforcement and the general public during an epidemic.

To save time and reduce error, when the COOP is implemented basic materials can be prepared ahead of time to communicate with court staff, jurors and the public. Media relationships should be established before they are required and documented so that backup personnel will have access to them. A carefully developed media strategy will allow the court to communicate with all its stakeholders and mitigate fear, concern and misinformation.

Any communication strategy should include:

- Frequent and timely communication with staff.
- Communication with criminal justice partners.
- Accurate information about the nature of the threat.
- Clear communication of the court's capacity to manage its operations during the emergency.
- Use of multiple communication channels (For example IVR, phone, web)
- Communication in a timely manner of changes in court operations that will affect others.

Particular attention should be paid to communicating the court's emergency plans to court staff so they are aware of actions that they may need to take and that the court is acting to protect their personal safety. When changes are made in court operations, staff should generally be informed prior to the public release of information.

Emergency communication strategies that were previously developed should be tested and modified where necessary to meet the needs that arise during an epidemic.

Mission Critical Functions

An essential element in any COOP is an identification of mission-critical functions that the court must perform "no matter what". These involve life, death, liberty and the most basic rights of individuals. When evaluating the court's functions it is important to consider the nature of the emergency, which may change the priorities of some functions. With the unique impact that an epidemic presents, a court should also identify and consider mission-critical functions that pose a significant risk of infection (extensive public interaction, cash management, detention operations) and begin planning to mitigate such risks because these risks cannot be avoided by avoiding the function.

While mission-critical functions may vary from court-to-court, there should be close agreement among courts of like jurisdiction. Many of the most critical functions performed by the court involve the types of matters to be heard and determined. During a pandemic, matters involving custody and liberty may

become life and death issues. For the superior court these include, but are not limited to:

- Initial appearances
- Orders of protection
- Injunctions against harassment
- Actions related to the ongoing emergency (enforcement of isolation and quarantine)
- Hearing juvenile dependency cases
- Judicial consent for minor abortion
- Special actions – injunctive
- Bond hearings
- Mental health calendars where custody is involved
- Other in-custody issues

It is also important to understand that there are other functions other than hearings that are either mission-critical or are required to perform mission-critical functions. Supervision of high risk probation cases, provision of interpreters, juvenile detention, some ITD services may all become critical.

For limited jurisdiction courts, where many matters have statutory time frames the list of mission-critical functions may look very different. It may include:

- Misdemeanor first appearances
- Actions related to the ongoing emergency
- Forcible detainer cases
- Orders of protection
- Injunctions against harassment
- Small claims

Determination of mission-critical functions is essential for planning for the use of scarce resources. Courts should determine the absolute minimum of functions to provide and then if resources become available they can move down their priority list and begin performing additional functions.

Human Resource Planning

Epidemics have been characterized as “human resources disasters”, and special attention is necessary to head off potential problems. Because no one can predict who will become ill or when, courts should develop an inventory of skills that are necessary to perform the court’s mission critical functions. Cross training and skill development are fundamental to preparing staff to carry out duties beyond their normal scope of responsibility.

When developing a skills inventory, courts should pay special attention to positions with specialized training and qualifications for which cross-training is

not possible (e.g., court reporters, interpreters). A contingency plan that identifies, in advance, temporary replacements or workarounds for these positions is critical.

There are also concerns that arise about basic human resources policies and practices that will be affected by an epidemic. Because Arizona's courts operate in a decentralized manner, each court or group of courts operating under a single human resources system must develop its own HR plan. Although the resulting approaches may be different, the issues that must be addressed are universal. They include:

- General review of HR policies to determine which policies may need to be adjusted or may need to include special triggers to deal with an emergency.
- Review use of earned leave policies to determine if they are flexible enough in an emergency.
- Review administrative leave (paid or unpaid) to determine how it can be used.
- Determine if illness policies allow for mandatory "send homes".
- Determine if staff may be laid off or reassigned in response to workload changes.
- Prepare for staff day care problems as schools close.
- Be familiar with labor law implications and pay issues that may arise.
- Review crisis support and employee assistance programs.

Protection of Employee and Customer Health

The health and safety of court staff and the customers are critical to fulfilling the mission critical functions of the court. Efforts to educate staff, minimize exposure and maintain safety at court facilities are crucial elements in planning.

Courts should begin to educate their staff to the threats posed by an epidemic, and the steps to take when the epidemic actually strikes. Employees should be encouraged to make advance preparations for the protection of themselves and their families. Personal protection and exposure reduction should be stressed. See Appendix ____ for a sample educational flyer.

During a pandemic, the goal of conducting court business in a manner that protects the health and safety of the court and its customers can be addressed by:

- Reducing face-to-face contact between staff and customers where possible.

- Maintaining a social distance between staff persons either working or conducting business in the court.
- Encouraging safe behaviors in staff and customers that reduce the possibility of spreading disease.
- Screening staff and customers for the obviously ill and isolating those persons from the well staff.
- Providing safety equipment and supplies to support and encourage safe behaviors and social distance.
- Adopting policies that mandate that obviously ill persons be excluded from the court or wear appropriate protective equipment.

Employees should be trained and encouraged to pay special attention to good health and hygiene practices, such as:

- Eating a balanced diet, exercising and getting plenty of rest
- Covering coughs and sneezes
- Frequent and correct hand washing
- Using gel and other sanitizers
- The proper disposal of waste
- Appropriate practices for handling mail, documents and money.

Prevention is an important healthy practice and in the event of an epidemic the court may want to provide employees with the following:

- Seasonal influenza vaccines and anti-virals where appropriate
- Masks and personal protective equipment (PPE)

Changes may also be appropriate in facility, custodial and maintenance procedures to reduce the risk of infection.

In addition, the courts through staff education, training and example should encourage staff develop their own personal and family plans for coping with a pandemic. Topics of value would include:

- Distribution of family guides, checklists and information sheets
- Dealing with social disruption caused by the pandemic
- Potential work scenarios during a pandemic
- Closed schools and childcare needs
- Interruptions to transportation
- Coping with interruptions to utilities and infrastructure
- Sources of information and help

In the event of an epidemic, employee travel may be restricted to include only travel necessary for mission essential functions. Meetings should be

reduced to a minimum and then conducted through alternative means such as teleconference.

Jury Trials

Determining when to suspend jury trials as disease increases and when to resume them as it subsides will be difficult. The COOP planning time frame suggests that the capacity for conducting jury trials should be available at about 90 days into the COOP. The decision to stop conducting them may be more difficult or may be made easy by a declaration of emergency or other events. Regardless, the conduct of jury trials during an epidemic raises a number of issues:

- What will be the impact on summoning yield
- How will jurors report for service
- How will jurors be assembled
- How will voir dire be conducted and juries selected
- How will jurors hear and deliberate on cases

Depending on the severity of the outbreak, each court will need to determine its capability to respond to a lack of jurors. Several options have been suggested:

- Suspension of all jury trials
- Short term reductions in the number of jurors summoned each day
- Reductions in the size of juries
- Limited calendaring of jury trials
- Notifying jurors to report directly to courtrooms rather than assembly halls

This issue will require further research and additional legal guidance as it becomes available.

Managing During a Epidemic

Managing during an epidemic may be complicated by the widespread absence or limitation of resources and personnel. Business operations such as payroll, procurement and financial transactions may become problematic because the courts often rely on other state, city or county departments for those functions. When planning, consideration should be given to maintaining operations when external support departments are not functioning well or at all. For example, alternate procurement or payroll procedures should be developed that can be implemented under emergency conditions.

Courts that rely on vendors to provide supplies or services for essential functions will need to identify those vendors. Determine what their plans are for coping with an epidemic. Alternate suppliers should be identified and other

strategies examined to maintain operations. In some cases it may be necessary to keep a larger inventory of supplies on hand. In the case of services it may be necessary to look at other ways to support a function. For example a food service vendor for a detention center may be temporarily replaced with food from jail or hospital or even by quick meals provided by detention staff. A limited stock of MRE's or equivalent could also serve in an emergency.

Succession and delegation of authority are particularly important. The substantial risk of illness and absence requires that succession orders go as deep into the organization as possible to allow for several backups for mission critical functions. Delegation of authority can go deep into the organization and still be well controlled if delegation orders specify the areas of authority delegated, the extent of the authority and its duration.

Staffing a court during an emergency will be largely determined by the seriousness of the epidemic and the essential functions performed by the court. High absence rates will require managers to actively manage staff to ensure that available staff is used most effectively based on skills, cross-training and experience. Courts may want to set staffing levels at which certain policies will trigger. For example, detention intake may be cut off when staffing levels reach 50 percent.

Technological Support

Although an epidemic does not directly damage a court's information technology (IT) infrastructure, reductions in the availability of staff can have a serious negative impact on IT service and support. It has also been predicted that as an epidemic increases in severity and businesses and individuals turn to web based activities to reduce face-to-face contact, the internet will slow and, in the short term, fail from overload. In the long term the internet, like any other infrastructure system, requires service and support that may not be available in an emergency.

Nevertheless, efforts that reduce face-to-face contact and limit the impact of absenteeism should be identified. Alternative means of work and communication should be explored which could include:

- Allowing staff to telecommute. This includes determining which functions are appropriate for telecommuting and the equipment and protocols that should be acquired and implemented.
- Implementation of videoconference and teleconference technologies. For planning purposes assume that most court proceeding included in the mission-critical functions can be held using these technologies.
- Increase the use of video initial appearances and arraignments
- Increase electronic filing of documents and use of e-mail.

If these technologies are identified as a workable solution for some functions then every effort should be made to acquire them as soon as possible and to ensure that the IT infrastructure is available to support them under scenarios with limited staffing.

Persons Under Court Jurisdiction or Direction

All courts must be prepared to manage persons under their jurisdiction or direction during an epidemic. These populations may include:

- Adult and juvenile probationers
- In-custody detainees (in the courthouse)
- Juvenile detainees
- Persons under the protection of the court
- Persons on pre-trial release

Jails and detention centers will likely be identified early on as a hotspot for the outbreak and spread of illness. In addition these facilities may become difficult to support as vendors and suppliers of supplies and services become less able to meet their obligations. Populations will likely be reduced to the minimum and alternatives sought.

- Specialized education and training for staff
- Protocols for screening, evaluating and isolating potential detainees for illness
- Contingency plans to limit admissions to only detainees who present the highest risk to the community
- Procedures to identify, transfer and treat ill detainees
- Evaluate essential vendors and possible backups for an emergency
- Stockpiling personal protective equipment (PPE) and training staff in its proper use
- Develop plan for backup staffing of facility or short notice transfer of detainees.

A detailed checklist for juvenile detention planning is attached as _____.

Since probation populations are as 'at risk' for infection as the general population 'normal' probation operations will probably be suspended for some portion of the epidemic. Reporting requirements will likely be modified for all but the highest risk offenders and those on intensive probation. Emphasis will likely shift to public safety as opposed to supervision. The availability of probation and surveillance officers will be limited by illness and incapacitation as well as any diversion of staff to other emergency duties.

Epidemics may also create special problems for persons under the courts protection. Enforcement actions of public health personnel such as isolation and

quarantine may require special attention from the courts when they are directed at minors or persons who are incompetent or whose actions may suggest incompetence. The courts will be particularly involved in guardianship issues if the epidemic is particularly virulent.

APPENDIXES

APPENDIX A -----	Terms and Definition
APPENDIX B -----	Arizona Health Officers
APPENDIX C -----	Juvenile Detention Checklist
APPENDIX D -----	Sample Educational Flyer
APPENDIX E -----	Judicial Actions Based on WHO Phases
APPENDIX F -----	Pandemic Influenza Resources