

INTERIM PLAN

To Ensure

JUDICIAL READINESS

In Times of Emergency

**A REPORT FROM THE COMMITTEE TO DEVELOP AN
INTERIM PLAN**

**TASK FORCE TO ENSURE JUDICIAL READINESS IN TIMES
OF EMERGENCY**

1.0 Executive Summary

On November 19, 2007 the Supreme Court of Texas in Misc. Docket No. 07-91 94 issued its “Order Creating Task Force to Ensure Judicial Readiness In Times of Emergency.” The Task Force has the responsibility of recommending to the Supreme Court of Texas a Judicial Continuity of Operations Plan (JCOOP) for all courts in Texas.

1.1 Introduction

Disruptive events early in this millennium have alerted Texans to the need for the executive, legislative and judicial branches of government to establish coordinated, state-wide Continuity of Operations Plans (COOPs) to ensure that, even during times of disaster, state government can provide uninterrupted essential services to its citizens. Texas judges must be able to continue to provide essential juridical services during emergency situations, whether the crisis arises from natural disasters, terrorism, technical breakdowns, civil unrest, pandemic or other catastrophes. As highly visible symbols of government under the rule of law, judges have a duty to provide a stabilizing influence during periods of disorder and to help return society to a semblance of normality. This duty includes resuming normal governmental operations as quickly as possible.

This document is an interim plan; if a county wishes to make provisions for additional sites to conduct court within the county and does not need assistance from its neighbors, it is encouraged to do so. This interim plan is designed to assist local judicial officials to continue essential operations during emergencies until the Legislature passes future legislation addressing these issues and/or individual counties create their own COOPs.

1.2 Purpose

The goal of the JCOOP is to ensure that essential juridical services are available to those who seek access to the court when a courthouse is unavailable or inoperable. Adjunct court services provided by executive branch personnel, including court clerks, court reporters, security personnel, etc. should be the subject of their respective COOPs.

1.3 Definitions

CJ - The Chief Justice of the Supreme Court of Texas.

CJA - The Chief Justice of any intermediate Appellate Court.

COOP - The Continuity of Operations Plan is a plan for the executive, legislative and judicial branches of Texas state government to provide coordinated, state-wide essential services to its citizens in the event of an emergency.

Disruption of court operations – The ceasing of normal court business because of a large scale emergency.

Emergency – A disaster or unforeseen event that precludes a court from conducting business.

Essential court personnel – The minimum amount of staff needed for justice administration in the event of disaster or emergency.

JCOOP – The Judicial Continuity of Operations Plan is the plan for the state judicial branch of Texas government to provide essential court services to its citizens in the event of an emergency.

LAJ – The Local Administrative Judge as defined in section 74.091 of the Texas Government Code.

M.O.U. – Memorandum of Understanding between the Supreme Court of Texas and any county supporting the continuity of court operations of another county in the event of an emergency. (Appendix B - Form MOU attached)

Necessary court proceedings – Judicial proceedings, which may require court action or issuance of an order, and must take place within a specific time period to ensure due process of law for all citizens.

PJ – The Presiding Judge of an Administrative Region as described in Chapter 74 of the Texas Government Code.

Supreme Court – Shall mean the Supreme Court of Texas.

1.4 Applicability and Scope

This JCOOP, while voluntary in nature, applies to all members of the state judiciary – from trial to appellate courts. When a county LAJ or CJA determines that a disruptive event has occurred that will interfere with essential judicial services, the JCOOP shall be implemented immediately. At the CJA or the LAJ’s discretion, the MOU shall be activated to ensure that essential court operations in a designated county can continue with minimal delay and interruption. During the period of disruption, the CJ of the Supreme Court of Texas and/or the PJ of the affected Administrative Region has the discretion to implement such MOUs as necessary to provide essential services to the citizens of the State of Texas.

1.5 How to Use this Plan

This JCOOP is organized so as to provide notice to judges and officers of the court who wish to provide essential judicial services during periods of disruption. The Supreme Court and specific counties will implement the appropriate MOUs.

2.0 JCOOP Implementation

To implement this JCOOP, judicial officers within an affected county who wish to provide essential judicial services during a period of disruption shall give such notice in writing. Once the CJ of the Texas Supreme Court or the PJ of the affected region receives such notice, the CJ or the PJ shall make a written designation that the assistance of a specific county is required to ensure the continued operation of the essential business of judges of a designated county.

Such written notice shall be by internet website and activated emergency e-mail addresses for the judges of the designated courts. Designation shall be made in accordance with the MOUs with the several specific counties. Once the MOU is implemented, the judges of the designated county shall conduct their essential operations in the specific county in accordance with the terms of the MOU. (See Appendix A for Communication Plan recommendations)

3.0 Planning Assumptions

Regardless of the cause of the disruption, this JCOOP is designed to ensure that essential juridical services will be available to the citizens of the State of Texas as soon as possible.

3.1 JCOOP Plan Phases

Phase I: This JCOOP shall be executed by activation of one or more MOUs in accordance with the discretionary decision of the elected local judges, the Chief Justice of the Supreme Court of Texas, the Chief Justice of any intermediate Appellate Court, and/or the Presiding Judge of an Administrative Region.

Phase II: Once activated, subsequent alternate sites for essential operations may be required and activated at the discretion of the elected local judges, the CJ, CJA, and/or the PJ of an affected region.

Phase III: Recovery and reconstitution of juridical services by the judge/judges of the designated county/counties shall proceed rapidly in accordance with recovery plans of the appropriate adjunct services which assist the judges in performance of juridical services.

4.0 JCOOP Elements

4.1 Alert and Notification

Court officers shall receive notice by appropriate postings on the designated county's website. Notice should be sent to three e-mail addresses maintained for the subject judge/judges (e.g. hotmail, gmail, SBC, EarthLink, etc.) To avoid notification default because a service provider fails, judges should maintain three e-mail addresses. During periods of disruption, the subject judge may personally survey e-mail communications from parties seeking essential juridical services, or designate an adjunct service provider to maintain communication surveillance and report the needs of affected court officers to the judge.

4.2 Essential Juridical Functions

Upon receiving a request of a court officer for access to juridical services, the subject judge shall address the necessary essential juridical functions. The subject judge shall provide the requested resources in the priority established at the judge's discretion or in the order in which the judge is notified of the request for juridical services.

4.3 Order of Succession

Each judge shall respond to the instructions of the Supreme Court of Texas or the Presiding Judge of an Administrative Region. Such instructions may modify the order of succession as needed to provide essential juridical services. The Supreme Court or the PJ of the affected region shall give appropriate notice to the subject officer of the court seeking essential juridical functions.

4.4 Delegations of Authority

Unless delegated to another entity or judge, all administrative authority shall remain with the Supreme Court or the PJ of the affected region.

4.5 Alternate Sites

As deemed necessary by the implementing authority and/or the local elected judge, alternate court sites shall be identified in accordance with the terms of MOUs.

4.6 Communications

Communications with a judge shall be maintained through the e-mail addresses published on the subject county website.

4.7 Devolution

Whenever requested, each judge's essential juridical services shall devolve as directed to the Supreme Court of Texas or the Presiding Judge of an Administrative Region.

4.8 Recovery/Reconstitution

Transition from designation status to pre-disruptive event status shall be in accordance with the MOU. The implementing entity shall direct resumption of normal services as it deems appropriate.

5.0 Specific Procedure

5.1 Delineations

Within the framework of the plan, the necessity arises for specific instructions to be carried out in the event of an emergency. To simplify the process, emergency events have been categorized into with warning and without warning.

5.2 Immediate Actions

This plan is designed to provide guidance in times of emergency; however, certain preparations must be made before an emergency exists. To fully maximize the potential of this interim plan parties should:

- 5.2.1 Review COOP for county and instruct staff to follow.

- 5.2.2 If no County COOP exists, provide leadership in creating COOP for County; or
- 5.2.3 Create JCOOP for court.
- 5.2.4 Discuss with staff regarding an offsite meeting place and obtain at least two contact numbers for each member of staff.
- 5.2.5 Get contact numbers for I.T. people to obtain access to court docket information.
- 5.2.6 Review MOU and determine best specific county if possible.
- 5.2.7 Become familiar with and bookmark the informational websites for Presiding Judge of the Administrative Region and the Supreme Court of Texas. (e.g. Obtain contact information for the PJ, including Blackberry numbers, etc.).
- 5.2.8 Provide PJ and Supreme Court with your contact numbers and websites.
- 5.2.9 Make sure that all judges in county have contact information for all other judges and essential staff. (e.g. telephone and e-mail).
- 5.2.10 Have contact numbers and alternate e-mails for all personnel both in designated county and several specific counties.
- 5.2.11 Review communication plan recommendations in Appendix A.

5.3 Procedure - Loss of Courthouse Without Warning

- 5.3.1 Notify the Supreme Court and/or the PJ of the loss of courthouse facilities.
 - 5.3.1.1 Notification may be via personal contact, telephone, cell phone, pager, e-mail, radio and TV broadcasts, court emergency information line (e.g. 1-800-number) or any combination thereof.
- 5.3.2 Contact staff by any means listed above. (N.B. It is essential to have these numbers on and off site.)
- 5.3.3 Locate docket for the day and the week.
 - 5.3.3.1. Review docket for essential hearings. (Essential hearings are defined at the local judge's discretion.)
- 5.3.4 Contact the LAJ, who, in turn, contacts the PJ with a Memorandum of Understanding (MOU) request.
 - 5.3.4.1 In the event the judge is unable to contact LAJ, the judge should contact the PJ directly.
 - 5.3.4.2 The judge should request activation of the MOU.

- 5.3.5 The judge should instruct staff to provide the parties notice of the time and place essential hearings will be held. In the event staff cannot be located, the judge may rely on the terms of the MOU to have the staff provided by the specific county to give notice to the parties, as well as canceling the remaining docket.
- 5.3.6 If possible, locate the clerk and request the essential files. If clerk cannot be reached, or file cannot be located, acknowledge the court can work from attorney's files and accept any new filings on behalf of the clerk in a previously opened file. Any new files must be opened by the clerk of specific county.
- 5.3.7 Determine if a Visiting Judge is needed for hearing. Judges may:
- (1) Hear their own cases.
 - (2) Request a Visiting Judge to hear cases. (N.B. An elected statutory county court judge cannot be assigned to hear an out of county case.)
 - (3) Request the Elected Judge from the specific county to hear cases. (i.e. exchange of bench)
 - (4) Determine if one Judge of designated county will hear all essential proceedings. (N.B. It is recommended one judge hear **all** essential cases.)
- 5.3.8 Review dockets as far out as expected recovery time. Provide necessary notice to insure due process and to disrupt cooperating county as little as possible.
- 5.4 **Procedure - Loss of Courthouse With Warning**
- 5.4.1 Notify the Supreme Court of Texas and/or the PJ of the anticipated loss of courthouse facilities.
- 5.4.3 Contact the LAJ about an MOU, determining which specific county the designated county is to use as an alternate site for court operations. If unable to contact LAJ, contact the PJ with request to activate the MOU. If unable to contact the PJ, contact the Supreme Court to request activation of the MOU.
- 5.4.4 The judge reviews the docket and cancels hearings except for essential hearings.
- 5.4.5 The judge contacts the specific county, confirms location of borrowed space as well as contact numbers for borrowed location.
- 5.4.6 Provide the parties with notice of new location and time by the most effective means available. (i.e. telephone, e-mail, hardcopy (mail) etc.)
- 5.4.7 Contact the clerk for files related to essential cases on docket. Notify where and when hearing is to be held. (N.B. The judge can accept filings in event of emergency.)

- 5.4.8 Determine if clerk will go to the specified county. Instruct coordinator and court reporter relative to hearing. (N.B. The form MOU **does** provide that the specified county will provide essential staff in addition to location and facilities.)
- 5.4.9 Determine if a Visiting Judge is needed for hearing. Judges may:
- (1) Hear their own cases.
 - (2) Request a Visiting Judge to hear cases. (N.B. An elected statutory county court judge cannot be assigned to hear an out of county case.)
 - (3) Request the Elected Judge from the specified county to hear essential proceedings (exchange of bench).
 - (4) Determine if one Judge of designated county will hear all essential cases.
Note: It is recommended one judge hear **all** essential cases.
- 5.4.10 Review dockets as far out as expected recovery time. Provide notice to ensure due process and to disrupt specified county operations as little as possible.

APPENDIX A

Communication Plan Recommendations

Recommendation: Our recommendation is the use of a mobile smartphone:

<u>Type</u>	<u>PROs</u>	<u>CONs</u>
iOS (iPhones)	<ul style="list-style-type: none">• Significant market share• Intuitive touch screen• Can be connected to a WiFi network• In addition to voice and text features, many additional applications to assist in recovery efforts	<ul style="list-style-type: none">• Requires cell phone data network to operate voice calls and texts.
Android (HTC, Samsung, etc.)	<ul style="list-style-type: none">• Significant market share• Intuitive touch screen• Can be connected to a WiFi network• In addition to voice and text features, many additional applications to assist in recovery efforts	<ul style="list-style-type: none">• Requires cell phone data network to operate voice calls and texts.
Blackberry	<ul style="list-style-type: none">• Full keyboard	<ul style="list-style-type: none">• Requires cell phone data network to operate voice calls and texts.• Market share is in decline

Reason for Mobile Smartphone: During the last few major incidents that have affected the Texas Gulf Coast, there have been valuable lessons learned regarding communication and the ability to effectively disseminate critical information to key management personnel. Traditional “land line” voice communication is often not available or is overutilized and not reliable during a disaster, therefore a need exists for a secondary and possibly a tertiary method of communication.

One of the more reliable methods is the use of mobile smartphones. These devices allow the user many different communication options with one device such as voice, e-mail, and text messaging. Using smartphones can maintain communications in several different ways:

1. You can send and receive e-mails using the corporate messaging system.
2. You can send standard text messages using the cellular service provider, possibly with an additional charge by the cellular service provider per text message sent and received.
3. You can place voice calls.

Encryption: Most smartphones have the ability to encrypt the device’s file system to prevent users from gaining access to locally stored data in the event of theft or loss. You have the ability to manage the device’s email access individually as well. You can load software updates to the devices, manage settings, and even completely wipe the file system clean in the event of theft or loss.

Need for IT Professional: To implement high security, you will need an IT professional with the ability to oversee and manage mobile devices.

When an IT Professional is not available: If you do not have the resources to manage an enterprise-wide solution, each individual can manage their own device. Most mobile devices come with software that can be used in conjunction with a PC to change the device's settings or even send emails.

Text message alternative: In the event that corporate e-mail systems are unavailable, you can still maintain communication between users using text messaging provided by your cellular service provider. Keep in mind that the cellular service provider sometimes charges per text message sent and received.

Availability: The ability to use voice calls, emails and text messages using your cellular provider could possibly be limited in the event of disaster. When a large percentage of users try to connect to their cellular service at the same time, the cellular service can be overwhelmed and a large number of subscribers will be unable to communicate using voice, data or text messaging.

Appendix B

**MEMORANDUM OF UNDERSTANDING
BETWEEN
_____ COUNTY AND THE SUPREME COURT OF TEXAS
FOR
SUPPORT OF CONTINUITY OF COURT OPERATIONS
IN THE EVENT OF AN EMERGENCY**

This memorandum of understanding (MOU) is between _____ County and the Supreme Court of Texas.

I. PURPOSE AND SCOPE OF MOU

The purpose of this MOU is to define the assistance and cooperation that _____ County will provide to a county that is designated by the Supreme Court, the presiding judge of the _____ Administrative Judicial Region, the Chief Justice of any Appellate Court or a Local Administrative Judge (“designated county”) as requiring _____ County’s assistance in order to continue the operation of the courts of the designated county.

The Supreme Court’s intent in executing this MOU is to provide a framework for the continuity of court operations in any Texas county that has experienced a disaster or unforeseen event that precludes a court from conducting business. This MOU is not limited to assistance to first tier or second tier coastal counties as defined by Sec. 2210.003, Texas Insurance Code.

All counties agreeing to provide assistance under this agreement shall be entitled to receive assistance as described herein from all participating counties

II. PROCEDURE AND ASSISTANCE

In the event that the Supreme Court or the presiding judge of the _____ Administrative Judicial Region designate in writing that the assistance of _____ County is required to ensure the continued operation of the courts in a designated county, or assistance is requested by any Local Administrative Judge _____ County agrees to provide the following to enable the Appellate, District, Statutory, and Constitutional County Courts of designated county to continue court operations:

- A. adequate facilities for court sessions;
- B. adequate office space for judges and essential administrative staff, including essential county and district clerk staff; and
- C. adequate telecommunication and information management tools necessary for the judges and essential administrative staff to conduct court business.

_____ County agrees to provide assistance within 24 hours of notice of a designated county requiring its assistance. _____ County agrees to provide assistance under this MOU without any further contractual requirements for a period of up to seven working days. If it is anticipated that assistance will be required beyond seven working days, _____ County and designated county will negotiate an interlocal agreement for the additional support.

III. REIMBURSEMENT OF COSTS

Designated county will be responsible for reimbursing _____ County for reasonable costs associated with the assistance provided. Costs will be limited to extraordinary expenses for County, such as supplies, equipment, personnel costs above normal salaries and benefits, security, and utilities.

IV. TERM

This contract is to begin upon the date of execution and shall terminate on _____, or until rescinded in writing, upon 15 days written notice, by either party.

Supreme Court of Texas

_____ **County**

 Wallace B. Jefferson
 Chief Justice

By: _____
 Name:
 Title: _____

Date: _____

Date: _____

Appendix C

SAMPLE PUBLIC ANNOUNCEMENT

TO: All Interested Parties

FROM: Judge _____ (Name and Court Number)

DATE: _____

SUBJECT: Public Access to Court Information and Operations

Please use the following resources to obtain information during this emergency:

Supreme Court Information:

Website: www.supreme.courts.state.tx.us

Clerk's Office: 512-463-1312

Regional Presiding Judge:

Name: _____

Court Number (if applicable): _____

Website and/or General Phone Number: _____

Local Administrative Judge:

Name: _____

Court Number: _____

Website and/or General Phone Number: _____

County Clerk:

Name: _____

Address: _____

Website and/or General Phone Number: _____

District Clerk:

Name: _____

Address: _____

Website and/or General Phone Number: _____