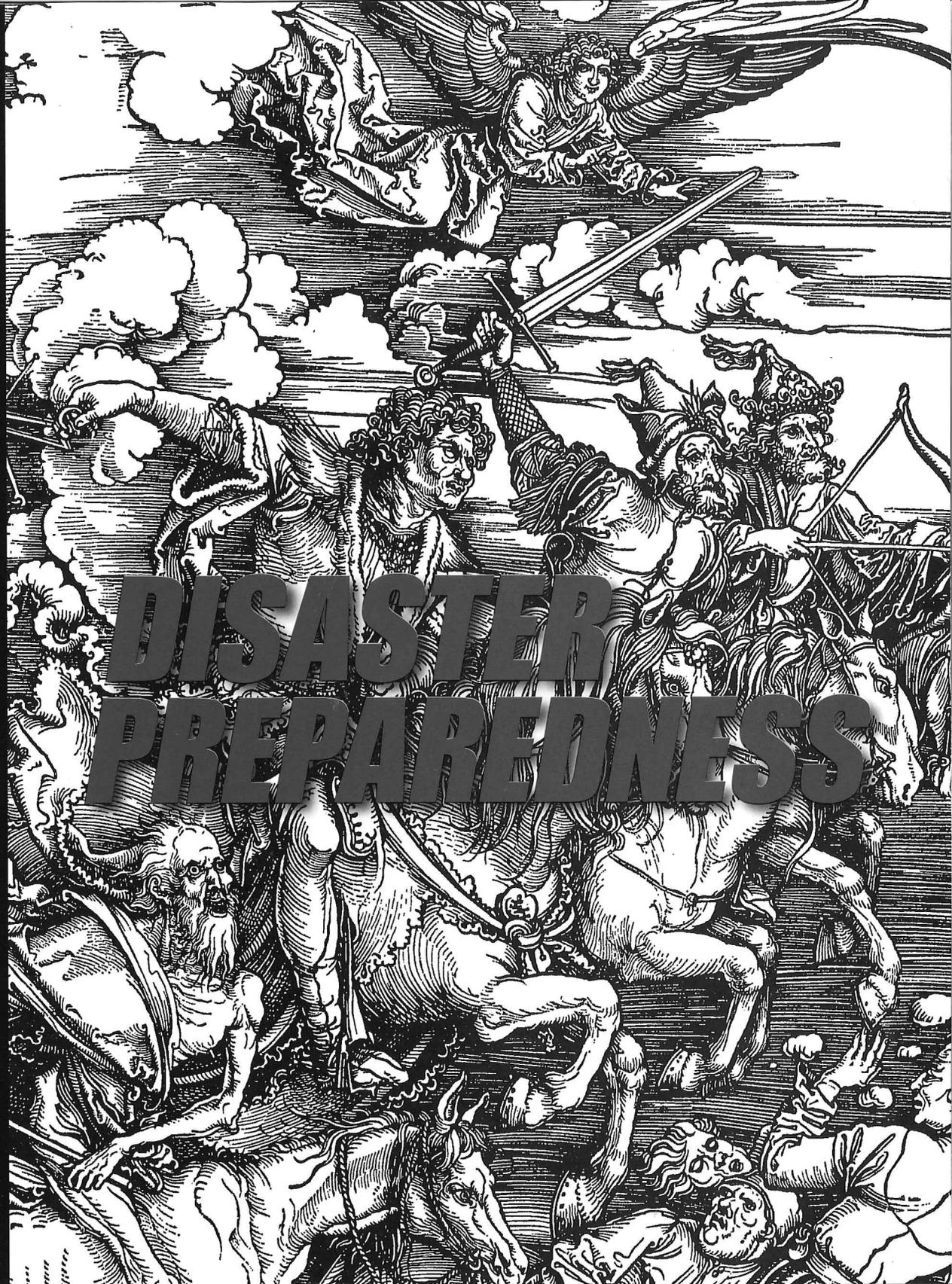


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DISASTER PREPAREDNESS

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DISASTER PLANNING

A View from Michigan's Highest Court

By John Ort

Wednesday, April 17, 2013, was like any other beautiful, sunny spring morning in the city of Mount Clemens, a suburb of Detroit—that is, until an electrical fire started in the Old County Building, next door to the six-story Macomb County Circuit courthouse. Emergency first responders arrived and began evacuating the county building, as anxious court staff watched from their office windows. They wondered: How serious was the situation? Just as the court administrator began making phone calls to find out, all telephone lines and computer network connectivity went dead.

As it turned out, the courthouse did not need to be evacuated, and, fortunately, no one was hurt. The same could not be said of the county's information technology (IT) systems, however. All internal and external electronic communication and recordkeeping systems were down. It took county IT technicians a week to put together a patchwork of remotely shared IT systems to get back

online before the court could regain its recordkeeping, e-mail, and communication capabilities. Three weeks after the incident, court employees were still catching up on data entry.

As you can imagine, this brief summary of the Macomb incident did not begin to address all the court's challenges. Unfortunately, this is not an isolated example. A quick Internet search reveals how often courts have had to suspend or severely limit their operations due to disasters.

Disasters, whether natural or human in origin, can overwhelm local emergency response capabilities and seriously affect a community's social and economic welfare. The Federal Emergency Management Agency (FEMA) has encouraged disaster planning for all branches of government for decades. Certainly, the tragic events of September 11, 2001, were a stark reminder of the importance of disaster planning, or what is also commonly referred to as a Continuity of Operations Plan (COOP).

Disaster planning is an essential part of

court leadership. In the aftermath of natural or human-caused disasters, individuals, families, businesses, and institutions will turn to, and expect, the courts to quickly address their problems—including opportunistic and violent crime that often follows in a disaster's wake. For example, in the aftermath of Hurricane Katrina (2005), the city of New Orleans suffered looting, theft, vandalism, assaults, and increased gang activity. Law enforcement had to contend with increased arrests and detentions, which in turn meant that courts had to be open and ready to handle those cases.

Keeping our courthouses open and operational in times of crisis is fundamental to maintaining the rule of law and protecting individual rights. In the midst of a disaster, local leadership from law enforcement, public health, environmental protection, natural resources, transportation, and others may need emergency access to the courts to protect human safety and public property. And individuals have their needs: child

Continuity of Operations Plan (COOP)



- Is an extension of the court security and emergency preparedness plan designed to safeguard lives and property during emergencies.
- Ensures that the capability exists to continue court essential functions in response to a comprehensive array of potential operational interruptions (e.g., all hazards).
- Proactively identifies and resolves issues regarding court leadership, decision-making authority, and delegation of responsibilities and provides a blueprint to mitigate, prepare for, respond to, and recover from an emergency or disaster.
- Is an ongoing federal/state/local government and private sector (e.g., business continuity) initiative.

custody and support, domestic violence, landlord-tenant matters, insurance claims, and other matters all require the courts' attention.

But historically, the judicial branch has lagged slightly behind in its emergency planning efforts. In my 34 years in state law enforcement and emergency management, it has been my experience that more attention and resources have been directed to disaster planning for executive branch agencies. Also, court leaders may be more comfortable planning in areas where they have more expertise, such as court operations.

The task may seem overwhelming, given all the considerations that have to go into creating a COOP. (See "Continuity of Operations Plan" above.) An old adage says, "How do you eat an elephant? One bite at a time." Let's approach this large but essential task step by step.

Planning for the Worst

Developing a comprehensive, all-hazards disaster or COOP for your court will require top-down leadership participation and commitment. Several components of the plan will need leadership's outreach, input, review, and final approval. Because of the detail required in this type of planning, court leadership can keep the planning team focused and establish timelines or milestones for plan development. If the chief judge and court administrator

are not actively engaged, don't expect the rest of the project team to be.

Establishing a Planning Team

The COOP planning process begins with assembling the planning team. Take into account your court's size, operations, requirements, and resources. All key persons with a stake in court operations should be considered. Team members should include and not be limited to

- Upper administration/management
- Line management
- Public information officer
- Human resources
- Finance
- Supplies procurement
- Information technology department
- Records management
- Engineering/facilities management
- Court security
- Law enforcement/prosecutor

When identifying and prioritizing the court's essential functions, or other tasks specific to court operations, consider establishing a special work group or subcommittee of court personnel only. Each courthouse or court facility should have its own COOP. If your courthouse includes more than one court or judicial branch office, this will also affect the organization of your planning team or teams and your COOP. Courts located in multi-tenant

facilities that house other branches of government will have to take that fact into consideration when developing a COOP and the planning structure to facilitate it.

All-Hazards Threat Analysis

One of the first items of business for the planning team is to complete an all-hazards threat analysis of your courthouse. This type of analysis compares all potential hazards in and around your facility and how they may impact court operations. Hazards would be ranked by probability of occurrence, human impact, property impact, and business impact. The table on p. 14 contains a list of all hazards to consider in your threat analysis.

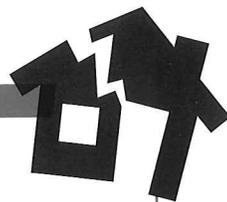
While the probability of many of these hazards is extremely low, it does give one food for thought on just how vulnerable your courthouse might be. There is a good chance that your security or IT department has already completed this assessment in some form.

In conducting a threat analysis of your courthouse, I recommend that you give special attention to human (accidental) hazards. Depending on your geographical location, potential for crime, or potential for severe weather, one of your highest threats may be a catastrophic utility failure. It is no secret that many metropolitan public works departments across this country are struggling to provide uninterrupted services while battling against an aging infrastructure plagued with many



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POSSIBLE HAZARDS

<p>Geological Earthquake Subsidence Tsunami Volcanic events Meteor/asteroid strike</p> <p>Meteorological Drought Dust storm Extreme cold Extreme heat Flood Hail Heavy snow/blizzard High winds Ice Lightning strike Tornado Wildfire</p> <p>Biological Animal infestation Food-borne illness Foot & mouth Insect infestation Pandemic Plague Smallpox West Nile virus</p>	<p>Criminal/Intentional Armed/unarmed robbery Armed assault Armed attack w/ballistics (small arms) Armed attack w/standoff weapons (rocket-propelled grenade, mortars) Arson/incendiary Biological (anthrax) Burglary/breaking & entering Chemical agent (blister, blood, choking/lung/pulmonary, incapacitating, nerve, riot control/tear gas, vomiting) Civil unrest/protest Cyber attack Direct aircraft assault Direct vehicle assault Hostage Improvised explosive device (mail, package) Improvised explosive device (moving vehicle, stationary vehicle, supply, thrown, placed, personnel, suicide) Kidnapping Property damage/vandalism Radiological dispersal device Sabotage (fuel contamination, etc.) Sniper shooting Theft/larceny Unarmed assault Workplace violence</p>	<p>Human (Accidental) Air pollution Building fire Building structural failure Hazardous materials spill Hazardous materials release HVAC failure Nuclear accident Telecommunications failure Transportation accident Utility failure—chilled water Utility failure—potable water Utility failure—electricity Utility failure—natural gas Utility failure—steam Waste/drainage control (flooding) Water pollution</p> <p>Others Adjacent hazards Federal/state/local economic issues Food shortage Fuel/energy/resource shortage Loss of key staff/leaders Strike/work stoppage Water shortage</p>
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problems. When evaluating this threat, include your facility engineer or manager in your deliberations. Local law enforcement or court security can be a big help in assessing criminal or intentional threats. It is not until you understand the vulnerabilities and their impact on your facility that you can begin to write plans or procedures for responding to and recovering from an emergency or disaster.

Identify and Prioritize Essential Functions

This task is central to development of your COOP and can be one of the most challenging. As a starting point, I would recommend the following:

1. Have each court work unit or entity

list all its functions. Focus on internal and external customers and their service needs/requirements.

2. Review each entity's list and determine which functions are necessary under *all* circumstances.
3. Prioritize the necessary functions based on the importance of the court's mission, its statutory or administrative requirements, and its role in maintaining civil order.

Essential functions include, among others, custody arraignments, juvenile detention and shelter hearings, initial appearances, domestic and civil injunctions, administrative responsibilities (e.g., payroll, insurances, etc.), and matters triggered by an emergency or disaster,

such as public health quarantine and isolation orders.

Design and Build the Plan

When developing your court COOP, do not make the mistake of working in a vacuum or isolating yourself from the many resources that are available to you. (See "Recommended Planning Resources" on p. 15.) Many federal, state, and local government branches and private sector business are very experienced at developing COOPs. These groups can provide or recommend alternative operating facilities, restore or fulfill temporary IT systems (e.g., websites, e-mail, data storage, etc.) requirements, supply temporary workers, and provide just-in-time office supplies. Identifying support

contacts and resources and having contracts, agreements, or memorandums of understanding (MOUs) in place ahead of time are critical to successfully executing your COOP, or any other emergency response plan for that matter.

Test, Train, and Exercise

Implementing a regular testing, training, and exercising (TT&E) program allows the planning team to test the plan's effectiveness. Educate court staff regarding their roles and responsibilities during COOP activation. Practice and rehearse the plan to determine if modifications, enhancements, or updates are needed. A good TT&E program will help ensure that the court is ready to respond to an emergency. I recommend, at a minimum, an annual TT&E event. Invite other content or emergency discipline experts to evaluate your plan.

Distribute, Maintain, and Update the Plan

Post your COOP to a secure (nonpublic) website so that it's available to all court staff—but make sure key personnel have hard copies in the event IT systems go down. Also, be sure to keep copies of the plan in a secure offsite location. The plan should be updated and refreshed annually or when key personnel or operational changes are made. Updating changes in court staff is one of the more common maintenance tasks. You may find that the plan is much easier to update if you identify key persons (positions) and responsibilities by giving them a title or label. An independent index in the plan's appendix can be created to link a staff person's name and contact information with the title or label. This will make it simpler to keep the plan current and accurate; a staff name that is repeated throughout the plan will not be overlooked.

The Best-Laid Plans of Mice and Men

As the old idiom goes, no matter how well you plan something, always expect the unexpected. There is one element in your plan that's required in all circumstances:

Have *key personnel* assigned to execute the plan. If you are faced with a disaster that affects an entire community and your court's staff don't know where their next meal, drink of water, or day care is going to come from, you will have trouble executing the court's COOP. FEMA has been beating the family preparedness drum for years, yet many families located in some of the most common natural disaster areas

of the United States still do not prepare ahead of the storm. Unfortunately, we have the tendency to react rather than plan for disasters because in times of trouble we expect someone to come to our rescue. Help will eventually come, but it may take days to arrive. In the meantime, your staff are too consumed with basic survival to report to work.

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Recommended Planning Resources

National Center for State Courts (NCSC)

A Comprehensive Emergency Management Program (2007)
<http://www.ncsc.org/services-and-experts/areas-of-expertise/emergency-planning-and-security/~media/files/pdf/services%20and%20experts/areas%20of%20expertise/emergency%20preparedness/a%20comprehensive%20emergency%20management%20program.ashx>

Continuity of Court Operations: Step for COOP Planning (September 2007)
<http://www.ncsc.org/~media/files/pdf/services%20and%20experts/areas%20of%20expertise/emergency%20preparedness/toolkit.ashx>

Conference of State Court Administrators (COSCA)

Position Paper on Emergency Preparedness in State Courts (December 2006)
http://cosca.ncsc.org/~media/microsites/files/cosca/policy%20papers/emergencypreparednessstatecourts_dec06.ashx

National Association for Court Management (NACM)

Business Continuity Management Mini Guide (June 2006)
<https://nacmnet.org/publications/index.html>

Louisiana District Judges Association

2006 Disaster Recovery Template
http://www.georgiacourts.org/aoc/r_p_docs/Louisiana%20District%20Judges%20Association%20Disaster%20Recovery%20Template.pdf

Arizona Supreme Court

Preparing for the Unthinkable (December 2003)
http://www.georgiacourts.org/aoc/r_p_docs/Arizona%20Judicial%20Council%20Preparing%20for%20the%20Unthinkable.pdf

Florida Supreme Court Workgroup on Emergency Preparedness

Keep the Courts Open (March 2002)
http://www.flcourts.org/gen_public/emergency/bin/final_report.pdf

Federal Emergency Management Agency (FEMA)

Continuity Plan Template and Instructions for Non-Federal Entities (February 2011)
http://www.fema.gov/pdf/about/org/ncp/coop/continuity_plan_non_federal.pdf



Elements of a Viable COOP Capability

- **Essential functions** are those functions that enable a court to provide vital or legally mandated services, exercise civil authority, maintain the safety and well-being of the public, and sustain the economic base of a community. The identification and prioritization of court essential functions are prerequisites for COOP because they establish the planning parameters that drive the court's efforts in all other planning preparedness areas. As a side benefit, your list of essential functions can be used to help make important budget decisions during economic hardships when employees may have to be furloughed and/or services curtailed or eliminated.
- **Vital records** must be identified, physically protected, confidentially protected, and readily available to support essential functions during a COOP situation. This includes electronic and hard-copy documents, references, records, and information systems.
- **Orders of succession** are necessary. Courts should establish, promulgate, and maintain orders of succession to key positions. Court staff need to know who has the authority and responsibility if court leadership is incapacitated or unavailable in a COOP situation. Depending on the size of the court, orders should be of sufficient depth to ensure the court's ability to manage and direct its essential functions and operations throughout any emergency.
- **Delegations of authority** are needed to ensure rapid response to any emergency situation requiring COOP implementation. Courts should pre-delegate authorities for making administrative, policy, and financial determinations and other decisions as appropriate.
- **Alternative operating facility(ies)** must be identified and prepared for the possibility of unannounced relocation of essential functions and court personnel to these facilities. At a minimum, alternative operating facilities must provide
 1. Sufficient space and equipment to sustain the relocating court;
 2. Capability to perform essential functions as soon as possible with minimal disruption of operations, but in all cases within 12 hours of activation and until normal business activities can be reconstituted;
 3. Reliable logistical support, services, and infrastructure systems;
 4. Consideration for the health, safety, security, and emotional well-being of relocated employees;
 5. Interoperable communications, including means for secure communications, with all identified essential internal and external stakeholders; and
 6. Computer equipment, software, and other automated data processing equipment necessary to carry out essential functions.
- **Interoperable communications** give the court the ability to execute its essential functions at its alternative operating facility. Connectivity among key government leadership, support services, other agencies, and internal and external stakeholders depends on the identification, availability, and redundancy of critical communications and information technology (IT) systems. The development of an independent IT Disaster Recovery Plan (DRP) cannot be overstated.
- **Human capital** encompasses the following areas:
 1. Court planning and readiness;
 2. Designation of emergency employees and other special categories of employees;
 3. Dismissal or court closure procedures;
 4. Public relations and media announcements on the court's operational status;
 5. Coordination of the activities and status of nonemergency employees and nonspecial categories of employees;
 6. Emergency guidelines for contacting and communicating with employees;
 7. Identified methods of employee communications;
 8. Employee awareness of changes in facility operations;
 9. Pay flexibilities;
 10. Staffing flexibilities;
 11. Employee benefit issues; and
 12. Employee roles and responsibilities.
- **Plans and procedures** must be developed and documented that, when implemented, will provide for continued performance of the court's essential functions under all circumstances. At a minimum, operational components of the plan must
 1. Outline a decision process for determining appropriate actions in activating and implementing COOPs and procedures;
 2. Provide procedures for the notification and relocation of COOP personnel to one or more alternative operating facilities;
 3. Provide procedures for orientation of COOP personnel and for conducting operations and administration at alternative operating facilities;
 4. Provide for operational capability at the COOP site as soon as possible with minimal disruption to

operations, but in all cases within 12 hours of activation; and

5. Establish reliable processes and procedures to acquire resources necessary to continue essential functions and sustain operations until normal business activities can be reconstituted, which could be up to 30 days or more.

■ **Testing, training, and exercising** of COOP capabilities are essential to assessing, demonstrating, and improving the ability of the court to execute their COOP. Tests and exercises serve to assess, validate, or identify for subsequent corrective action specific aspects of the COOP plans, policies, procedures, systems, and facility used in response to an emergency situation. Training familiarizes COOP personnel with the procedures and tasks they must perform in executing the COOP.

■ **Devolution of control and direction** also should be included. Planning supports overall COOP planning and addresses the full spectrum of threats and all-hazards emergencies that may render a court's leadership and staff unavailable to or incapable of supporting the execution of its essential functions from either its primary or alternative location(s). The devolution option of COOP should be developed to address how an agency will identify and conduct its essential functions during increased threat situations or in the aftermath of a catastrophic emergency or disaster.

■ **Reconstitution/recovery** requires extensive coordination plans to procure a new operating site once a court suffers a facility loss or in the event that collateral damage from a disaster renders the structure unsafe for reoccupation. Likewise, it may take considerable time to repair a severely damaged structure and consolidate the necessary resources that allow the court to return to a fully functional new or repaired facility.

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For these reasons, I highly recommend that your plan include a section on family preparedness. It is important to the plan and your employees that they understand and be informed about the need to be prepared at home. Two of the best resources for family preparedness can be found at Ready.gov and RedCross.org. When identifying key personnel for your COOP, take into account the distance between each person's home and the court and your alternative operating facility.

10 Essentials for Success

COOP planning helps ensure that courts continue essential functions across a wide range of all-hazard emergencies—it is simply “good business practice.” At a minimum, your plan needs the following essentials to guarantee success:

1. Identify all essential activities and functions of the court.
2. Identify and protect vital records (electronic and hard copy), systems, and equipment.
3. Determine succession and delegations of authority.
4. Identify and prepare alternative work-sites and supplies.
5. Identify and train a team of employees

(key personnel) to perform essential activities in an emergency.

6. Develop a system for warning employees, visitors, and the public of potential threats and what to do in an emergency.
7. Develop a system for identifying the location and status of employees following an emergency.
8. Develop ways to communicate with employees, visitors, and the public after an emergency.
9. Develop a system for restoring normal functions as soon as practicable.
10. Train, exercise, and evaluate your plan on a regular basis.

AND

11. To ensure that your plan will be effectively executed, make sure you and your staff have engaged in emergency family planning and preparedness activities.

No Court Is Immune

Do you have a written plan to effectively and efficiently manage unexpected disruptions to court operations? If not, why not? No courthouse is immune to all the hazards that can prevent the delivery of essential public services. A good COOP will prepare your court to meet disaster and not only survive, but to be a beacon of stability in a chaotic environment. ■

