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# Planning for Disasters

## Emergency Preparedness, Continuity Planning, and the Federal Judiciary

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In the brief portion yet witnessed of this century, the U.S. court system—federal, state, and local—has experienced traumas that rival anything encountered by our nation's court system. No American will forget the September 11, 2001, terrorist attacks, although some no doubt have forgotten that the disasters closed down the Second Circuit Court of Appeals and the District and Bankruptcy Courts for the Southern District of New York. Just days later, anthrax contamination within the postal service forced the closing of

the U.S. Supreme Court Building; for the first time since its opening in 1935, the Court heard arguments in another location. More recently, Hurricanes Katrina and Rita swept across the Gulf region with devastating effect, forcing the closing and relocation of the Fifth Circuit Court of Appeals and the district courts for the Eastern District of Louisiana and the Southern District of Mississippi, not to mention many other local courts. Yet, despite the worst that nature and man have wrought, these courts, too, were up and functioning

again in record time.

The reasons for these successes are many, but the judiciary's energetic response to and restoration of court services are best explained by extensive preparation of occupant emergency programs (OEPs) and continuity of operations plans (COOP plans) for all federal courts throughout the country. An OEP is a short-term emergency response plan that establishes procedures to safeguard lives and property during emergencies. A COOP plan oversees the safety of employees and the public, ensures

that essential functions and activities are conducted without unacceptable interruption, and allows for resumption of normal services as quickly and safely as possible. Continuity planning programs predate the September 11 terrorist attacks.<sup>1</sup> Since the attacks, however, judges, court staffs, and administrative professionals at the Judiciary Emergency Preparedness Office of the Administrative Office of the U.S. Courts (AO) have more rigorously outlined expectations for continuing court operations in the event of disasters or other interruptions.<sup>2</sup> Indeed, judges today are necessarily more involved with issues of security, emergency preparedness, communications, and continuity planning than at any previous point in American history.

### What Is a COOP Plan?

Let us posit that a disaster has occurred. After the court has been evacuated and all persons made safe—as directed by the OEP—what does a court do? Can or should the court remain open? If not, where does it transfer operations? Where and when are employees told to report to work? If employees have to be with their families in the aftermath of the disaster, which jobs are essential to resume court operations? How will people contact the court if computer and phone networks are incapacitated? What is the best way to ensure that court users can file documents and the business of the court can continue? Questions such as these are the meat and potatoes of the COOP program.

Continuity planning refers to the internal efforts of a court or court office to ensure that the capability exists to continue essential operations in response to a comprehensive array of potential operational interruptions.<sup>3</sup> On April 19, 1995, prior to inception of the COOP program, the 4,000-pound explosive device that destroyed the Alfred P. Murrah Federal Building in Oklahoma City shattered more

than 160 windows in the Western District of Oklahoma's U.S. Courthouse, just south of the federal building and separated only by a plaza. The blast sent shards of glass, some as long as ten inches, into offices. In 25 percent of the courthouse, ceiling tiles and fixtures, wiring, and plaster fell, damaging furniture and computer equipment. Utilities were disrupted and fire and life safety systems rendered inoperable. One block south of the courthouse, separated by an alley, the Old U.S. Post Office Building, housing the bankruptcy court, federal public defenders' office, and the post office, also sustained damage, destroying the windows in the unshielded tower-floors five through nine that rise above the courthouse.<sup>4</sup> A court's COOP plan is specifically designed to minimize the human effects of a sudden disaster, such as a bombing or terrorist-like attack. The federal judiciary's adopted policy is that those courts with a viable COOP plan will perform their essential functions from alternate operating sites during any emergency or situation that may disrupt normal operations. Localized operational interruptions that could require activating a court's COOP plan may include routine building renovation or maintenance, mechanical failure of heating or other building systems, fire, severe weather, or other acts of nature. Other events that may interrupt a court's activity include failure of information technology (IT) and telecommunications installations due to power loss, malfunction, or cyberattack.<sup>5</sup> A COOP plan covers all these potential disruptions to operations.

It is important to note that the federal judiciary is highly decentralized both geographically and administratively. Courts of appeals and district courts are dependent on executive branch agencies to provide office and courtroom space and physical security. Consequently, emergency preparedness and continuity planning in the judiciary are carried out at the

local level in accordance with the general guidelines issued by the AO.<sup>6</sup> Each federal court, after consulting the appropriate executive branch agencies, is responsible for planning for its own continued operation. Overall responsibility for these court contingency guidelines belongs to the Judicial Conference's Committee on Judicial Security,<sup>7</sup> yet day-to-day program implementation is the work of the AO's Judiciary Emergency Preparedness Office—and, of course, the individual courts.

The AO's emergency preparedness program provides for an "all hazards" approach to contingency planning, which means that a COOP plan must be able to respond to any and all situations that may arise. By design, COOP plans are meant to be living documents, revised regularly on the basis of emerging issues and needs assessments. Thus, each court's COOP plan may be altered to address a particular threat, be it an outbreak of avian influenza, violence directed against legal professionals, or the seizure of a courthouse by a band of disaffected citizens or foreigners. An emergency preparedness Web site on the AO's internal J-Net assists judges and court staff to develop the components essential to their emergency preparedness activities.<sup>8</sup> One major component of the COOP revision process is ongoing staff education and training on the operation of essential functions at alternate sites.

### Devising a COOP Plan

The Federal Emergency Management Agency (FEMA) is one of three executive branch agencies that have taken the lead on working with all federal departments and agencies to generate COOP plans. (See "Additional Guidance," page 11.) FEMA specifies ten elements required to produce a viable COOP plan, one that maintains essential functions under all hazards.<sup>9</sup> At a minimum, government entities are required to:

1. Delineate the essential functions and activities of an agency, as well as the other agencies that are needed to complete those tasks, and determine the resources needed to perform all activities.
2. Settle on the orders of succession for key agency positions, establish and maintain current rosters of personnel who have been trained in contingency operations and equipped to carry out all essential functions, and create a devolution of control plan.<sup>10</sup>
3. Identify and prepare alternate operating facilities for continuity operations.
4. Define a process for determining appropriate actions when implementing COOPs and the procedures for putting them into practice.
5. Provide procedures for notifying and relocating continuity personnel to one or more alternate operating facilities.
6. Establish procedures for orienting continuity personnel and for conducting operations and administration at alternate operating facilities.
7. Provide for operational capability at the alternate site as soon as possible and with minimal disruption to operations, but in all cases within twelve hours of COOP activation.
8. 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 thirty days—the recommended planning and resourcing guidance for the departments and agencies of the Executive Branch.
9. Establish a means to coordinate with noncontinuity personnel.

10. Plan for reconstituting full agency capabilities and transitioning from continuity operations back to normal operations.<sup>11</sup>

The sensitive nature of contingency planning and the specialized nature of federal courts and court units are factors that explain the lack of publicly available, detailed, court-by-court information regarding COOP plans. However, court leadership succession is loosely defined in the U.S. Code, where various sections address the precedence and seniority of circuit and district judges; dates of designation and appointment of bankruptcy and magistrate judges; and incapacity, absence, or unavailability of clerks of courts.<sup>12</sup>

While FEMA has provided the skeletal structure for the COOP program, in autumn 2001 AO Director Leonidas Ralph Mecham created the Judiciary Emergency Preparedness Office to assist units in the judiciary to develop their own detailed crisis response and continuity operations. The official policy for the judiciary's continuity activities is based on the inherent administrative duties of the AO's director, as supervised and directed by the Judicial Conference,<sup>13</sup> and on the inherent directive responsibilities of each circuit judicial council to exercise administrative control of the nonjudicial activities in its jurisdiction.<sup>14</sup> Thus, no express statutory authority was sought for the judiciary's emergency preparedness program.

Initially, the AO adopted the executive branch's guidelines for developing COOP plans but subsequently fashioned its own unique responses based on judicial experience and perceived needs. Specifically, much of the judiciary's continuity planning was developed from the bottom up, with individual courts identifying critical operational infrastructures and resources and creating COOPs to maintain those capabilities in the event of a wide range of circumstances. Nonetheless, the AO's 2001 guidelines on emergency preparedness specified

several items best included in contingency plans, as follows:

1. detailed outlines of responsibilities and scope of the plan
2. lists of emergency telephone numbers, such as toll-free numbers, recorded telephone messages, and contact numbers for key employees, enterprise systems, alternate sites, and other government agencies
3. information about the court building and its occupants
4. procedures for periods when the court facilities are closed
5. detailed plans for alternate communications capabilities
6. plans for maintaining mail delivery
7. means of establishing and staffing a command center team of court employees and appropriate staff from other agencies who would be responsible for implementing emergency response procedures or tasks
8. detailed response plans for specific types of emergencies, including fire, hazardous materials, threats, attacks, and natural disasters

In June 2002, the AO expanded the scope of its instructions for developing model COOP plans for the federal judiciary. The Second Circuit Court of Appeals and the District and Bankruptcy Courts for the Southern District of New York were chosen to lead the way because of their experience in reestablishing normal court functions following September 11.<sup>15</sup> Three model templates for COOP plans—covering appeals, district, and bankruptcy courts—were developed to assist court administrators with continuity planning. Each identifies essential matters to consider when developing a judicial COOP plan; they were distributed to allfederal courts in November 2002. The AO later developed an additional template for federal public defenders and Community Defender Organizations.

## Training

Court personnel and members of several court advisory groups have received training to develop individual court COOP plans. The two-day training workshops introduced court staff to the nature, function, and details of COOP plans; discussed the specific model COOP template for courts of appeals; and offered strategies to customize the model plan and implement it at individual courts. As plans were developed and deployed, some courts of appeals and other court units appointed emergency preparedness coordinators to oversee continuity planning. Others incorporated the planning into routine administrative activities. COOP plans have now been implemented in all judicial circuits and districts, although specific details regarding spending, planning, and training are not publicly available.

The Judiciary Emergency Preparedness Office, working with FEMA, has offered ongoing training opportunities. During 2004 and 2005, almost 200 court personnel attended the COOP “Train-the-Trainer” courses at several sites.<sup>16</sup> Court and AO professionals have also participated in “Exercise Forward Challenge,” a series of federal-government-wide continuity of operations drills conducted under the auspices of FEMA, a part of the Department of Homeland Security, for federal personnel. (See “The Forward Challenge,” page 14.) Similarly, training programs for court professionals—“Exercise Steadfast Response”—have been held in principal cities to improve coordination among federal activities and programs outside of Washington, D.C.

## Leadership

Federal judges recognize that the safety and well-being of court employees and the physical integrity of courthouses are vital to the operations of the judiciary.<sup>17</sup> To effect these goals, leadership from the top is critical; court security and emergency pre-

paredness affect the lives of all judges, staff, and possibly the public. Effective judicial leadership is essential to moving courts toward best practices, establishing the court’s culture and thereby its prevailing values.<sup>18</sup> Judicial leadership ensures that an “awareness” focus pervades the court that nurtures a culture of improving performance.

The identification and prioritization of essential functions within the court’s enterprise systems (i.e., IT systems supporting all federal courts) are prerequisites for COOP plans because they establish the parameters that support the court’s efforts in all other preparedness efforts. Court staffs continually update the plans, revisiting, for example, the suitability of alternate sites to which judicial personnel and the court system may have to relocate. Thus, maintaining a viable COOP plan requires a cohesive team of volunteers who continuously monitor the court’s essential functions, as well as those of the alternate site or sites chosen for each court unit.

For emergency preparedness and COOP planning to succeed, chief judges, senior court managers, and emergency preparedness coordinators must actively assist court staffs with developing strategies for implementing clear and effective plans. The strategy for success first involves identifying institutional infrastructures critical to the business of the courts. Judges and court planners then categorize the “key nodes” of their infrastructure—those functions essential for business continuity. By doing this, judges can be prepared to issue prepackaged emergency orders and to make decisions on oral arguments, closing courts, and filing extensions. Further, after emergency and recuperation time have run their courses, a well-planned COOP plan provides for a smooth transition back to the court’s permanent location, and includes maps for replacing equipment, directions for recovering shared systems, and counseling for court personnel, if necessary.

## Integrating the Lessons Learned

As judicial continuity planning moves from its initial phases to a more stable, routine element of administrative operations in all federal courts, judges and AO professionals have continued to improve and maintain continuity planning nationwide. Specifically, the 2005 hurricane season provided a number of test cases for the courts in how to address emergencies and to recover from them. Hurricanes Katrina and Rita immensely affected court operations in Alabama, Florida, Louisiana, Mississippi, and eastern Texas even though every federal court had fully prepared and tested its COOP plan. Nonetheless, because of continuity planning, court files and property were generally protected.

On August 29, 2005, the Fifth Circuit’s John Minor Wisdom U.S. Court of Appeals Building and the Hale Boggs Federal Building, housing the district and bankruptcy courts, both located in New Orleans, were closed until further notice. Judges and staff divided their work among alternate sites in Baton Rouge, Lafayette, and Houma, Louisiana, and in Houston. The District Court for the Eastern District of Louisiana initially suspended operations for ninety days but was able to resume its business at alternate sites outside the district on September 10, after emergency legislation was signed by President George W. Bush.<sup>19</sup>

Other courts affected by the hurricanes included district courts in the Middle and Western Districts of Louisiana, the Eastern District of Texas, and the Northern District of Florida (which experienced telecommunication problems). The Southern District of Mississippi reported that the homes of four district judges were totally destroyed and that court operations in the divisional office in Gulfport would have to be relocated. In total, seventy court units from Houston to Miami experienced at least some break in telecommunications during the 2005 hurricane season. And, of

course, many other government employees were affected.

Within days of Katrina's devastation of New Orleans, Chief Judge Carolyn Dineen King of the Fifth Circuit Court of Appeals, encapsulated the importance of continuity planning:

At both the circuit and district court levels, our intensive efforts to install and test COOPs have really paid off. . . . The Fifth Circuit and the District Courts for the Eastern District of Louisiana and the Southern District of Mississippi have activated their COOPs, and we are on course. The best feature of the installation and testing process is that it equips court employees to ask the right questions as we try to recover from the disaster. In a manner of speaking, we are on familiar territory. We know our space and equipment requirements, and we know which employees are critical to the resumption of operations. The employees themselves know their roles. We have a head start on all kinds of other business organizations that are equally affected by the disaster.<sup>20</sup>

As a result of Hurricanes Katrina and Rita, judicial COOP planners and emergency preparedness coordinators have reordered and perhaps reinvigorated their thinking regarding various phases on the emergency planning and response process. For example, before a disaster, they recommend that court COOP teams do the following:

- Develop relationships with local FEMA representatives, Federal Executive Boards, local law enforcement, emergency responders, and disaster recovery planners.
- Conduct continuity functional exercises addressing a particular essential function for each staff office and a unit tabletop exercise.<sup>21</sup>
- Validate and practice using the court's enterprise systems, such as the national intranet data communication network (DCN), the local court's LAN, servers for the public access network (PACER)

and Web services, and servers for case management and electronic case files (CM/ECF).

- Practice using the agency recorded message announcement system via a toll-free phone number and the government emergency telecommunication service cards.
- Notify the AO before shutting down operations or evacuating buildings.
- Ensure that members of court COOP teams have "go-kits" (prepacked food and water, tools, and backup material, if applicable); a copy of the COOP plan;

and lists of alternate site procedures kept in multiple locations and formats (home and office; CD and memory stick).

- List alternate e-mail addresses for all members of the judicial family in the COOP.
- Take home laptops if circumstances indicate that a continuity response will occur.

Judicial COOP developers point to the importance of prior preparations in the areas of communications, human resources, IT, administration, facilities and equipment, budget and travel, and reconstitution. For exam-

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## Additional Guidance

Three executive branch entities currently oversee national continuity planning: the National Security Council (NSC), the Federal Emergency Management Agency (FEMA), and the Homeland Security Council (HSC), which is creating the federal government's guidance relating to the COOP program. Their roles have changed over time, especially with establishment of the federal Department of Homeland Security. The oversight authorities for these entities and their various directives drive the national continuity planning picture and should be consulted for a broader understanding of the COOP program, especially for information on the interaction of the judicial and executive branches.

- Executive Order No. 12,656, Assignment of Emergency Preparedness Responsibilities, 53 Fed. Reg. 47,491 (Nov. 18, 1988) describes the NSC's responsibilities for emergency preparedness policy.
- FEMA Federal Preparedness Circular 65 (June 15, 2004) describes the federal executive branch's approach to continuity of operations planning and lists the ten essential elements for a COOP plan.
- Presidential Decision Directive 67 (Oct. 21, 1998) outlines plans to ensure continuity of government operations and established FEMA as the lead agent for executive branch continuity oversight; its contents are classified by the NSC.
- Executive Order No. 12,656, Establishing the Office of Homeland Security and the Homeland Security Council, 66 Fed. Reg. 51,812 (Oct. 8, 2001).
- Homeland Security Act of 2002, 6 U.S.C. § 491 (2005) establishes the HSC as a statutory entity of the Executive Office of the President.
- Executive Order No. 13,286, Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security, 68 Fed. Reg. 10,619 (Feb. 28, 2003) directs the transfer of authorities to the Secretary of Homeland Security of a variety of policy matters, including the emergency preparedness responsibilities previously assigned to the Director of FEMA in Executive Order 12,656.

ple, in the critical area of communications, the following actions are recommended for courts:

- Maximize the use of all available media, especially e-mail, radio, TV, external Web sites, and other electronic media for both internal communications and for communications to the local bar and the public.
- Develop, with the assistance of the ABA and local bar associations, ways for attorneys to inform the courts and clients how to contact them.
- Remember that remote access to the courts' DCN via private broadband Internet and dial-up services is critical for all essential functions, which means that the more laptops the court has available in emergencies, the better. If local servers are down at a primary site, laptop users may access national enterprise systems, using PC remote software, such as the judiciary's DCN and the intranet that take over in emergencies.
- Keep satellite phones charged and be sure personnel know how to use them.
- Keep in mind that emergency communications and calling cards are dependent on surviving voice networks.
- Use alternate telephone carrier access codes to bypass inoperable long-distance services; in addition, reprogramming local phone switches may be necessary.<sup>22</sup>

One particularly important continuity innovation born of the aftermath of Katrina and Rita was the Communications Center for Displaced Attorneys.<sup>23</sup> In New Orleans and surrounding parishes, many lawyers were instantly separated from their offices and had no access to their files, computer systems, court calendars, and most other practice tools. Judge Rebecca F. Doherty, of the Western District of Louisiana, and representatives of the

local Federal Bar (FBA) and Louisiana Bar Associations drew up a proposal to provide lawyers with information regarding where to contact court officials, what special orders were in place, how to seek extensions or continuances, and other tasks. They also recommended another communications system so that lawyers could receive court notices, contact other attorneys, and generally interact with the legal community. To fund this effort, the Eastern and Western Districts of Louisiana provided monies from their nonappropriated funds—often known as library or attorney admissions funds—to the local FBA, which assumed the role of financial coordinator for this project.

The plan also established online mail capabilities for the displaced attorneys by leasing a Web site (less than \$100) with the capability to establish a huge number of mailboxes; lawyers were then able to send and receive e-mail. Thus the communications center was able to post pertinent information for the legal community on the site *and* to facilitate direct e-communications for relocated lawyers with Internet access. All three Louisiana clerks of federal court were notified of an address whenever an attorney registered with the center. Setup, maintenance, and administration of the site and the mailboxes were provided solely by the court.

The center also was able to help lawyers who had lost client files and other day-to-day practice tools, and to facilitate access to a judiciary that was “on the move.” The court appointed a special master who, with an assistant, provided one-on-one advice to displaced attorneys and posted widely relevant information on the Web site. The court was able to secure a waiver of PACER fees for a limited period of time for these attorneys, to give them time to reconstruct missing files. Several toll-free lines were necessary to handle the volume of calls.

The safety and privacy of various

sorts of communications and information is obviously an issue in continuity planning. Within the executive branch, a number of statutes and regulations mandate that departments and agencies protect their computers, the information they process, and related technology resources including telecommunications.<sup>24</sup> According to the National Institute of Standards, the most important of these are the Computer Security Act of 1987,<sup>25</sup> the Federal Information Resources Management Regulation,<sup>26</sup> and Office of Management and Budget Circular A-130.<sup>27</sup> In contrast to COOP plan development, the many specific and executive-only requirements tend to specify performance standards rather than overall security approaches with built-in cost controls.

In the judiciary, the AO is responsible for IT security and for privacy policies, standards, and procedures, and is subject to the oversight of the Judicial Conference and its Committee on Information Technology.<sup>28</sup> Courts have the responsibility to develop local procedures and business practices that may be more restrictive than national standards, but they must at least meet those national standards. IT managers at the AO have developed extensive safeguards for essential enterprise systems, based on redundant servers that courts can remotely access and manage. These redundant systems support case management, electronic case filing, and public access. Other systems provide emergency Web services, e-mail messaging, and toll-free recorded announcements. Communications for judges, court executives, and essential staff have been enhanced through the use of an enterprise Blackberry network and cellular phones or wireless personal digital assistant devices. These are essential to provide courts personnel with critical information when other modes of communications fail.

Court IT managers make regular, global backups of each court's enter-

prise system files and data. Usually, backups on new and recently changed files are performed daily. It also includes systematic scanning and retention of electronic images of irreplaceable paper documents. Due to the complexity of continuity communications systems, a court's IT manager often creates an annex or supplement to a court's COOP plan that addresses the spectrum of communications media likely to be available and needed in an emergency.

## Conclusion

Today, more than ever, federal judges are acutely aware that the safety and well-being of court employees, as well as the physical integrity of courthouses, are vital to the operations of the judiciary. The Judicial Conference, judges, court executives, AO and court staffs, and court continuity teams are working to be fully prepared for any and all hazards that may arise. Court security, emergency

preparedness, and continuity planning have become integral parts of the business of the courts. Because judges, court staffs, and AO professionals are involved every day with safety, preparedness, and continuity planning, we are assured that, in the face of disaster, an appropriate response is readily available, so that courts can be operational as quickly as possible.

## Endnotes

1. For an overview of continuity issues related to the federal judiciary, see R. ERIC PETERSEN, EMERGENCY PREPAREDNESS AND CONTINUITY OF OPERATIONS (COOP) PLANNING IN THE FEDERAL JUDICIARY (Congressional Research Service, CRS Report RL31978, 2005). Reports are available to the public through members of Congress.

2. *Emergency Preparedness in the Judiciary*, 33/11 THE THIRD BRANCH (2001), available at [www.uscourts.gov/ttb/nov01ttb/emergency.html](http://www.uscourts.gov/ttb/nov01ttb/emergency.html).

3. Office of National Security Coordination, Federal Emergency Management Agency, Department of Homeland Security, *Federal*

*Preparedness Circular 65, Federal Executive Branch Continuity of Operations (COOP)* at 2 (June 15, 2004), available at [www.fema.gov/onsc/docs/fpc\\_65.pdf](http://www.fema.gov/onsc/docs/fpc_65.pdf) (last visited Dec. 30, 2005).

4. Repair crews worked around the clock and, seven days later, the U.S. Courthouse and the Old Post Office Building were open for business. *Judicial Family Responds to Crisis in Oklahoma City*, XX/5 THE THIRD BRANCH (1995), available at [www.uscourts.gov/ttb/mayttb/bomb.html](http://www.uscourts.gov/ttb/mayttb/bomb.html).

5. A cyberattack on IT facilities can range from simply penetrating a system and examining it for a personal challenge or interest, to breaching a system to steal information, seek revenge or embarrassment, extort money, or cause deliberate localized harm to computers or data or damage to a much larger infrastructure, such as a telecommunications facility. CLAY WILSON, INFORMATION WARFARE AND CYBERWAR: CAPABILITIES AND RELATED POLICY ISSUES (Congressional Research Service, CRS Report RL31787, 2005).

6. Memorandum from Leonidas Ralph Mecham, Director, Admin. Office of U.S. Courts, to all Chief Judges, United States Courts (Oct. 17, 2001).

7. The Judicial Conference's Executive Committee created this committee, effective October 1, 2005, "to devote its efforts entirely to security matters." Admin. Office of U.S. Courts, *Report of Proceedings of the Judicial Conference of the United States* 5-6 (Sept. 20, 2005).

8. The J-Net is the federal judiciary's corporate intranet.

9. FEMA, *Federal Preparedness Circular 65*, *supra* note 3.

10. FEMA defines "devolution" as the "capability to transfer statutory authority and responsibility for essential functions from an agency's primary operating staff and facilities to other employees and facilities, and to sustain that operational capability for an extended period." *Id.* at L-2.

11. *Id.* at 4-5.

12. See 28 U.S.C. §§ 45, 136, 154, 631, 954 (2005).

13. *Id.* § 604 (2005).

14. *Id.* § 332 (2005).

15. *Court Continuity of Operations Plans Get Assist*, 34/6 THE THIRD BRANCH (July 2002), [www.uscourts.gov/ttb/july02ttb/essentials.html](http://www.uscourts.gov/ttb/july02ttb/essentials.html).

16. FEMA's Office of National Security Coordination posts electronic versions of instructional materials about emergency preparedness and continuity planning, including COOP templates, online COOP training, and COOP program management, at [www.fema.gov/onsc/docs/fpc\\_65.pdf](http://www.fema.gov/onsc/docs/fpc_65.pdf) (last visit-

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## The Forward Challenge

Forward Challenge 2004 established the framework for testing the quality of interoperability and interconnectivity among federal departments and agencies, as accessed from individual COOP sites throughout the United States. In an actual event, notification, communication, and coordination with state, local, and private sector partners would be a top priority, but the exercise was focused at the federal level. Federal departments and agencies evaluated their individual responses.

Objectives for the Forward Challenge exercise include the following:

- Establishing an operation capability at an alternate facility;
- Implementing succession and delegation of authority plans;
- Demonstrating an interoperable communications capability;
- Demonstrating a redundant communication capability;
- Demonstrating the ability to access vital records necessary to conduct normal operations from a designated alternative location.

*Source:* U.S. Dep't of Homeland Security, [www.dhs.gov/dhspublic/display?content=3553](http://www.dhs.gov/dhspublic/display?content=3553).

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ed Dec. 30, 2005).

17. Lisa Novak, *Federal Courts Adapt for Maximum Security*, 42 JUDGES' J. 22 (Spring 2003).

18. Michael Eric Siegel, *Court Management in an Environment of Scarcity*, 69 FED. PROBATION 13 (June 2005).

19. In June 2005, the Judicial Conference asked Congress to pass emergency legislation allowing circuit, district, and bankruptcy courts to conduct special sessions outside of their geographical boundaries when the court determines that emergency conditions require it. It did so again in September, following Hurricane Katrina. To effect this, H.R. 3650 was introduced on September 6, 2005; passed by the House on September 7; and passed by the Senate and sent to President Bush on September 8. On September 9, he signed the Emergency Special Sessions Act of 2005, Pub. L. No. 109-63, 119 Stat. 1993 (2005) (as codi-

fied at 28 U.S.C. §§ 141(b), 152(c)(2), 636(a)).

20. *Courts Regroup After Katrina*, 37/10 THE THIRD BRANCH (Oct. 2005), [www.uscourts.gov/ttb/oct05ttb/](http://www.uscourts.gov/ttb/oct05ttb/).

21. A tabletop exercise provides a simulation of emergency situations in an informal, stress-free environment.

22. A carrier access code directs an outgoing long-distance call via a specific company's lines, e.g., Sprint, MCI, AT&T, etc. Prepaid phone-calling cards provide a quick and inexpensive way to place calls.

23. E-mail from Robert H. Shemwell, Magistrate Judge (Clerk of Court), U.S. District Court, Western District of Louisiana, to William J. Lehman, Judiciary Emergency Preparedness Coordinator, Admin. Office of U.S. Courts (Jan. 11, 2006, 17:06 EST) (on file with author).

24. See generally National Institute of Standards & Technology, U.S. Dep't of Commerce, *Contingency Planning Guide for*

*Information Technology Systems* (NIST Special Publ. 800-34, June 2002), <http://csrc.nist.gov/publications/nistpubs/900-34/sp800-34.pdf>.

25. Pub. L. No. 100-235, 101 Stat. 1724 (1988).

26. The General Services Administration's regulations pertaining to the Information Resources Management Service's programs are published in 41 C.F.R. ch. 201, Federal Information Resources Management Regulation (FIRMR), and 48 C.F.R. chs. 1, 5 (2005).

27. Office of Management & Budget, Executive Office of the President, *Management of Federal Information Resources*, Revised, OMB Circular A-130, (transmittal memo No. 4) (2005), [www.whitehouse.gov/omb/circulars/a130/a130trans4.html](http://www.whitehouse.gov/omb/circulars/a130/a130trans4.html).

28. Admin. Office of U.S. Courts, *Report of the Proceedings of the Judicial Conference of the United States* 25 (Sept. 23, 2003), available at [www.uscourts.gov/judconf/sept03proc.pdf](http://www.uscourts.gov/judconf/sept03proc.pdf).