



Leading During the Chaos of a Pandemic

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COVID-19 has put a tremendous strain on society, and the courts are not immune. The Texas judiciary was forced to respond to two simultaneous threats to its operations: the pandemic and a cyberattack.

As many of us celebrated the dawn of a new decade, the COVID-19 pandemic was beginning to take hold. Even though the state courts fortuitously participated in a pandemic summit last summer, none of us could be fully prepared for what was to come. The COVID-19 pandemic has since challenged courts in ways that we have not seen or could have imagined in our lifetimes, but the state courts' response to the challenges has been remarkable. As leaders charged with preparing and guiding the Texas judiciary through this pandemic and in our roles as members of the Conference of Chief Justices' and Conference of State Court Administrators' Pandemic Rapid Response Team, as well as the latest state court afflicted by a cyberattack, we have seen firsthand the challenges of disruption and have learned many lessons on how to lead during chaos.

Preparation

“We don’t rise to the level of our expectations; we fall to the level of our training.”—Archilocus

No one can prepare for a once-in-a-lifetime event like a pandemic or a cyberattack. Instead, we must train ourselves in the smaller challenges that we face to prepare for the big event. This preparation involves building trust, making mistakes and learning from them, and being contemplative about how one should respond when faced with a challenge. In the combined six decades that the two of us have been leaders within the judiciary, we have confronted several difficulties that had to be addressed. Assuredly, not all our responses were successful. However, with each one we sought to learn from our mistakes and be better the next time. One of us said to the other during the height of the pandemic, “We train for hard times and often never see them. These are for us.”

Gather Whatever Information Is Available

Even during the chaos of a crisis, it is important to gather whatever information is available at the time from all accessible resources. Whether it was reaching out to public-health officials for real-time information on the pandemic; asking judges, attorneys, or litigant groups for feedback from the front lines; or simply researching how others, including those outside of the courts, have responded, we have gathered information on what is working and what is not, as well as suggestions on what we should do to address the pressing situation. If court leaders can embed or have someone embedded with the source of the information, that action should be taken. When Governor Abbott first convened Texas’s pandemic response task force in February, one of us was there at the table, and our staff have since remained. This real-time access to information and ability to inquire about potential actions has been vital.



Urgent Action Without Fear

Our training has taught us to gather information, analyze it, propose and refine a solution, and implement—sometimes over months or years. The chaos of the pandemic and cyberattack have not fit well within that mold. In fact, during the challenges of recent days, the information sometimes changes hourly or by the minute. Thus, we were faced with making decisions without all the information, but the alternative was to delay a decision—a delay that could cost lives or cause further damage. Rather than being paralyzed with inaction due to fear of making a mistake, court leaders must act without fear. This does not assume that the court leader should make reckless decisions but, rather, that delaying a decision that needs to be made is unacceptable. We worked together to develop emergency orders to accommodate the crises we faced and acted on those within hours in many cases. The Supreme Court of Texas issued its first emergency order that gave courts the ability to suspend or modify deadlines and to require virtual hearings within five hours of the governor’s state-of-disaster proclamation.¹ Others that could spare a little more time took days—the time from the court’s order permitting remote virtual hearings to the statewide implementation was 11 days, a decision that has resulted in more than 100,000 virtual hearings with over 317,000 participants in the first 60 days. The bottom line was that we have strived to act quickly when we needed to do so and when the stakes were high.

¹ Texas Government Code 22.0035(b) provides the supreme court with authority to modify or suspend procedures for the conduct of any court proceeding affected by a disaster during the pendency of a disaster declared by the governor.



Communicate ... and then Communicate Some More

One of the biggest challenges during a crisis is ensuring that those who need information have the fullest amount that can be shared. Undoubtedly, there will be those that feel that leaders are not communicating enough. Therefore, it is vital to overcommunicate the situation and the response during a crisis. We began distributing information to the Texas judiciary the day before our first reported case of COVID-19 in Texas and have continued to do so through weekly or more frequent broadcast messages to everyone in the branch. We set up ways for the members of the branch and the public to get answers to their questions, which were frequent and to which we rapidly responded. We provided regular updates to members of the other branches of our state government. We used both traditional and social media to communicate to the public. During the cyberattack response, we have held at least daily conferences with those affected to give them updates.

Gather Feedback and Modify as Necessary

Taking decisive action will undoubtedly result in a need to adjust as the situation changes or more information becomes available. There have been multiple situations during the pandemic and cyberattack response where our previous actions needed adjustments. Several of those adjustments were the result of feedback received from those affected by our actions. Court leaders should admit where those previous actions fell short and make the necessary adjustments.





Focus on the Goal ... and Settle In

Undoubtedly, there will be detractors who are not delighted with our actions—generally a small but vocal group. It is important to listen to those detractors, but it is perhaps even more important to focus not on the negative reactions and instead on the goal of the actions. In our two most recent crises, we have had the goal of 1) protecting the health of our judges, court staff, public, litigants, and jurors while at the same time preserving access to justice in ways that promote the public’s trust and confidence and the rule of law, and 2) recovering from a cyberattack as quickly as possible while ensuring the future security of our information technology infrastructure. Constantly remembering the goal grounds court leaders’ actions and increases focus. Court leaders must continue to focus on that goal until the crisis has ended.

Conclusion

Challenging times will occur again—hopefully, not to the same degree as during the last few months—and court leaders should be ready for those. In the midst of chaos, however great or small, court users need to be able to trust in the stability of the Third Branch. The actions of court leaders will directly impact the courts’ ability to deliver needed stability. In the end, court leaders who have prepared, gathered information, communicated, gathered feedback, acted, adjusted, and focused on the goal should remember that each was placed in this position “for such a time as this” (Esther 4:14).