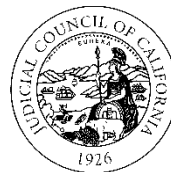




EPIDEMICS AND THE CALIFORNIA COURTS

DRAFT REVISION MARCH 26, 2020*
ORIGINAL DISTRIBUTION OCTOBER 2006

*Appendix C emergency order memos to courts
were redacted in this publicly-shared version.



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**Special Thanks to the
California Department of Health Services**
Division of Communicable Disease Control
Office of Legal Services

March 10, 2020

Epidemics and the California Courts is a resource for courts as they create and continue to enhance continuity of operations plans and emergency protocols. This guide provides important information that California's judges and court administrators should know about epidemics and pandemics, describes how the courts may be affected, and details the measures that can be taken to prepare and respond effectively.



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EXECUTIVE SUMMARY

Epidemics, which are outbreaks of a disease that occur within a short period of time and in a defined region, have the potential to significantly affect court operations and the health and safety of court personnel, jurors, and the public.¹

This handbook identifies key information that California’s judges and court executives should know when confronted with an epidemic. It also describes how the courts may be affected, and what measures can be taken to mitigate those effects. In addition to education, this report provides guidance on developing a course of action should an outbreak occur.

A pandemic could extend for a prolonged period. Courts, therefore, are encouraged to develop and implement strategies essential to maintaining court functions and to inform court employees and other stakeholders that the courts are actively involved in planning for pandemic preparedness.

Short-term and long-term strategies for maintaining court functions during an epidemic, when absenteeism among employees could be high, will require enhanced continuity of operations plans that include workforce planning to perform mission-critical functions with reduced staff levels. Seven planning elements are provided in Chapter 6 to assist courts in accomplishing their short-term and long-term strategies, which will require continuous monitoring of recent developments as well as flexibility in implementation and response.

Unlike other disasters in which the period of disruption may last from weeks to months, an epidemic has the potential to disrupt court operations from months to several years. The public health response to an epidemic will directly affect court personnel and will require strong partnerships with other local and state agencies, the cooperation of the public, and the leadership of the California courts.

¹ Unless otherwise noted, all references herein to epidemics also refer and apply to pandemics.



1 INTRODUCTION

1.1 HISTORY OF EPIDEMICS

Throughout history, human populations have endured epidemics. In the United States today, the population has developed some level of immunity to most pathogens, whether bacteria or virus, through natural exposure or immunization. Although a large number of people may become ill during an epidemic, such as during “flu season,” most recover without lasting effect.

From time to time, however, a pathogen for which the population has little or no immunity evolves or is introduced. If that pathogen is highly communicable, or easily transmitted from person to person, and virulent, causing severe illness or death in a significant percentage of persons, an epidemic can become a worldwide pandemic, infecting millions of people and potentially causing destabilizing social disruption.

California experienced an extensive epidemic in 1918, when the “Spanish flu” swept the nation, and the world was affected by the H1N1 pandemic in 2009. The Spanish flu of 1918 was not a highly virulent pathogen in terms of mortality—only 2.5 percent of those infected died—but it was highly communicable. As a result, a large percentage of the U.S. population fell ill, approximately one-half million Americans died, and during the waves of the pandemic essential public services were threatened. The Centers for Disease Control and Prevention estimated 12,469 deaths (2009–2010) occurred in the United States due to H1N1. The H1N1 virus that caused that pandemic is now a regular human flu virus and continues to circulate seasonally worldwide.

1.2 EPIDEMIC TRANSMISSION

Communicable diseases can be transmitted to humans in several ways. The pathogen can be transmitted directly person-to-person, from an animal or a plant, or through contact with food, water, or inanimate objects contaminated by the pathogen. Some forms of transmission, such as vector-borne, blood-borne, or sexual transmission, do not have a strong potential of affecting a court or court operations. (Refer to Appendix A for definitions of terms.)

Other forms of transmission, including person-to-person droplet, airborne, and contact transmission, do carry the potential to affect courts and court operations.



Additionally, contact transmission through contaminated inanimate objects is possible in a court environment.

Three types of person-to-person transmission can occur:

- Droplet transmission occurs when the pathogen is suspended in aerosolized droplets or mist expelled when an infected person coughs or sneezes. These tiny droplets can travel 3 to 6 feet and be inhaled by other persons, or can deposit themselves on mucous membranes around the eyes or mouth of uninfected persons.
- Airborne transmission occurs when a pathogen is suspended in the air in inhalable-sized particles that remain infectious and are subsequently inhaled through the nose or mouth. Such pathogens can also be transmitted by droplet transmission or contact transmission.
- Contact transmission occurs when an infected person has physical contact (e.g., shakes hands) with an uninfected person.

Contact transmission through contaminated inanimate objects can also occur:

- Infectious respiratory droplets can be deposited on objects that other persons would likely touch with their hands (e.g., arms of chairs, door handles, documents, exhibits, restroom fixtures, desks, countertops, stair rails, elevator buttons). When uninfected persons touch the contaminated surfaces or items and then rub their nose, mouth, or eyes, transmission may occur.
- Similarly, if infected persons rub or wipe their nose, or sneeze or cough into their hand, then touch one of these common surfaces or objects, the surface or object can become contaminated. For example, if a person coughs, covering his or her mouth, then exchanges money, the pathogen can be transmitted on the money to the court clerk. If the clerk becomes ill or begins shedding the pathogen, the pathogen can then be transmitted to every person to whom the clerk provides change.

1.3 EPIDEMICS OF CONCERN

If there emerges a highly communicable and virulent human pathogen to which there is little or no immunity and for which there is no reliable and available treatment or vaccine, the only way to avoid large numbers of cases of serious disease or death is to prevent or minimize transmission within the population, including within court facilities.

While the communicable diseases discussed below are not an exhaustive list, they provide an understanding of other types of diseases that could affect court functions.



1.3.1 Novel Coronavirus (COVID-19)

Coronavirus is a respiratory disease. Chapter 2 focuses specifically on Coronavirus and the unique challenges that it could pose to our communities and to the function of normal court operations.

1.3.2 Influenza

Influenza, also known as the flu, is a disease that attacks the respiratory tract in humans and differs from a viral “cold” in that it usually comes on suddenly and includes fever, headache, tiredness, dry cough, sore throat, nasal congestion, and body aches.

1.3.3 Plague

Plague is a disease caused by the bacterium *Yersinia pestis* found in some rodents and their fleas around the world, including in California. It has been responsible for some of the most devastating epidemics in history, including the Black Death that swept Europe starting in 1347. Plague takes two forms, bubonic and pneumonic. Both forms are caused by the same pathogen, but their transmission and symptoms differ.

Naturally acquired plague is rare and is usually in the bubonic form. Persons with bubonic plague, characterized by chills, fever, vomiting, diarrhea, and swelling of the lymph nodes, may subsequently develop the pneumonic form, which is similar to pneumonia. Pneumonic plague can be readily transmitted person-to-person by airborne or droplet transmission. Aerosolized dissemination of plague bacteria as a deliberate act of bioterrorism would likely manifest primarily as pneumonic plague.

Both forms of plague are treatable with antibiotics if treatment commences promptly. Nevertheless, the mortality rate for treated plague is approximately 14 percent. Untreated plague would most likely result in death.

1.3.4 Severe Acute Respiratory Syndrome (SARS)

Severe acute respiratory syndrome (SARS) is a respiratory illness caused by a virus. SARS was first reported in Asia in February 2003. Over the next few months, a total of 8,098 people worldwide became sick; of these, 774 died (approximately 10 percent). SARS was spread by airborne route, by droplet transmission, and by close contact. In the United States, only eight people had laboratory evidence of SARS infection. Currently, there are no known SARS transmissions anywhere in the world.



1.3.5 Smallpox

Smallpox is caused by the variola virus and is a serious, sometimes fatal, infectious disease, with an overall fatality rate of 30 percent. Smallpox was eradicated after a successful worldwide vaccination program. The last case of smallpox in the United States occurred in 1949, and in the world in 1977. In the 1970s, routine vaccinations against smallpox ended, resulting in large numbers of Americans' now lacking immunity. The routes of transmission include airborne, droplet, and contact transmission. Historically, no specific treatment for smallpox existed, and the only prevention was vaccination. Although eradicated, stocks of the virus are known to exist in two approved laboratories in the United States and Russia. Smallpox could potentially be a significant weapon if developed and utilized for bioterrorism. The United States maintains a secure supply of smallpox vaccine sufficient to vaccinate every person in the country, should an outbreak occur.



2 NOVEL CORONAVIRUS DISEASE (COVID-19)

As reported by the Centers for Disease Control and Prevention (CDC):

CDC is responding to an outbreak of respiratory disease caused by a novel (new) coronavirus that was first detected in China and which has now been detected in almost 90 locations internationally, including in the United States. The virus has been named “SARS-CoV-2” and the disease it causes has been named “coronavirus disease 2019” (abbreviated “COVID-19”).

CDC has shared the following information about how the virus spreads:

Person-to-person spread

The virus is thought to spread mainly from person-to-person.

- Between people who are in close contact with one another (within about 6 feet).
- Through respiratory droplets produced when an infected person coughs or sneezes.

These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.

Can someone spread the virus without being sick?

People are thought to be most contagious when they are most symptomatic (the sickest).

Some spread might be possible before people show symptoms; there have been reports of this occurring, but, currently, this is not thought to be the main way the virus spreads.

Spread from contact with infected surfaces or objects

It may be possible for a person to contract COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to be the main way the virus spreads.



How easily the virus spreads

How easily a virus spreads from person-to-person can vary. Some viruses are highly contagious (spread easily), like measles, while other viruses do not spread as easily. Another factor is whether the spread is sustained, spreading continually without stopping.

The virus that causes COVID-19 seems to be spreading easily and sustainably in the community (“community spread”) in some affected geographic areas.

Community spread means people have been infected with the virus in an area, including some who are not sure how or where they became infected.

Global efforts are focused on containing the spread and mitigating the impact of this virus. The federal government continues to work with state, local, tribal, territorial, and public health partners to respond.

California State of Emergency Declaration

On March 4, 2020, Governor Gavin Newsom declared a State of Emergency for California in order to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19. The proclamation was made as the number of positive California cases rises and following several official COVID-19 deaths.

Judicial Branch Information Sharing Resources

With the emergency declaration and state and local health officials’ actions to keep Californians safe, all government entities including the judicial branch are working through protocols and precautions for this fast-moving health crisis. The Judicial Council and courts are keeping informed of the facts and recommended practices provided by the US Centers for Disease Control and Prevention, the California Department of Public Health, and the Office of Emergency Services.

A Coronavirus webpage on the Judicial Resources Network—the password protected website for the judicial branch—contains all of the latest postings and information being shared by the Judicial Council.

The Judicial Council’s Emergency Planning and Security Coordination Unit is continuing to serve as a point-of-contact for fielding questions and sharing information (415-865-8991 or EPSCU@jud.ca.gov). The unit is working closely with the council’s Legal Services and Human Resources offices and has already directly responded to requests from a number of courts.



A questions and answers document based on these requests and additional information is posted and maintained on the Judicial Resources Network's Coronavirus webpage as issues evolve. (Access to this document on the website is for court leadership and other authorized users only.)

2.1 IMPACT

The impact of an actual pandemic cannot be accurately predicted, as it depends on multiple factors, including virulence of the virus, rate of transmission, availability of vaccines and antivirals, and effectiveness of containment measures.

A pandemic could last from months to several years. According to the U.S. Department of Health and Human Services, the characteristics of a pandemic that must be considered in strategic planning include the following:

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

Absenteeism across multiple sectors related to personal and family illness, fear of contagion, or public health measures to limit contact with others could all threaten the functioning of critical infrastructure, the movement of goods and services, and operation of institutions such as the courts.

2.2 VACCINES

At this time, there is no vaccine to protect against COVID-19 and no medications approved to treat it. Possible vaccines and some specific drug treatments are under investigation. They are being tested through clinical trials. [Nonpharmaceutical interventions](#) would be the most important response strategy.



3 STRATEGIES AND RESPONSE

3.1 NATIONAL AND STATE STRATEGIES

The United States Centers for Disease Control and Prevention (www.cdc.gov) is guiding the country's preparedness and response to an epidemic, with three goals: (1) stopping, slowing, or otherwise limiting the spread of a pandemic to the United States; (2) limiting the domestic spread of a pandemic, and mitigating disease, suffering, and death; and (3) sustaining infrastructure and mitigating impact on the economy and society's functioning.

Strategic principles guiding federal, state, and local health agencies include:

Preparedness and Communication: Activities that should be undertaken before a pandemic to ensure preparedness, and the communication of roles and responsibilities to all levels of government, segments of society, and individuals.

Surveillance and Detection: Domestic and international systems that provide continuous "situational awareness," to ensure the earliest warning possible to protect the population.

Response and Containment: Actions to limit the spread of the outbreak and to mitigate the health, social, and economic impacts of a pandemic.

Information on the global impact and response to the Coronavirus is being tracked and reported by the World Health Organization (www.who.int/health-topics/coronavirus).

Further, the national strategy also states that department pandemic plans should include such additional considerations as protecting employees, maintaining essential functions and services, and ensuring effective communication about pandemic planning and response between departments or agencies and their constituents or stakeholders. Chapter 5 of this handbook discusses each of these topics in detail for courts.

3.2 PUBLIC HEALTH RESPONSE TO DISEASE OUTBREAKS

In addition to information and guidance from the CDC, the California Department of Public Health website is updated daily with the latest information and advice guiding communities in responding to the evolving situation (www.cdph.ca.gov).

Each of California's 58 counties, and also a few cities, has a health officer.



Appendix B provides a directory of public health officers by county and three cities. Health officers are required by law to observe and enforce the statutes, ordinances, orders, and regulations of the State Department of Health Services pertaining to public health. Their responsibilities can include the power to take “such measures as may be necessary to prevent the spread of disease or occurrence of additional cases,” and to isolate and quarantine infected persons.

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

- Surveillance of the incidence of disease by medical care providers and laboratories through disease reporting systems;
- Investigations, including examinations and testing of potentially infected persons or animals;
- Isolation of human cases; and
- Quarantine of individuals or groups that have been exposed.

Other measures that a public health official might implement include:

- Mandatory treatment or vaccination;
- Mandatory hand and respiratory sanitation requirements (e.g., hand washing, wearing masks, covering coughs);
- Closure or evacuation of public and private buildings, areas, or events where the potential for transmission between people exists, which could include temporary courthouse closures;
- Disinfection or destruction of contaminated property; and
- Rationing of vaccines or preventive drugs.

In extreme circumstances, a state of emergency could be declared, under which the Governor could commandeer equipment, facilities, and personnel. Individuals could be drafted as disaster service workers. Curfews could be established to prevent interaction.



4 CALIFORNIA COURT CONSIDERATIONS

4.1 COURT GOALS

Although the circumstances described above paint a dark picture, our courts, to the best of their ability, must continue to provide Californians with equal access to the courts and equal ability to participate in court proceedings, and must ensure that all parties are treated in a fair and just manner. California’s courts must maintain a leadership role in our communities and continue to uphold the mission of the judiciary:

The judiciary will—in a fair, accessible, effective, and efficient manner—resolve disputes arising under the law and will interpret and apply the law consistently, impartially, and independently to protect the rights and liberties guaranteed by the Constitutions of California and the United States.

4.2 IMPLICATIONS FOR THE COURTS

The exercise of the local health officer’s powers during an epidemic may impinge on personal liberties or affect property rights that members of the public normally enjoy. During large epidemics, courts may experience an increase in caseload if affected individuals or communities seek judicial relief from restrictions imposed by health authorities.

A secondary challenge for the courts will be to assist appropriate public health officials in protecting court personnel, jurors, and the public from transmission within the courthouse. Given the large numbers of individuals who enter court facilities each day, those facilities—like other public facilities in which large numbers of persons interact and congregate—could themselves become a spreading center for the disease.

This raises a number of considerations for courts, including:

- Significant numbers of persons who are necessary to the court’s mission-critical functions (e.g., judges, court staff, court security personnel, jurors) may be unavailable because of illness or death;
- Face-to-face contact between judges, attorneys, litigants, clerks, sheriffs, court administrators and staff, and jurors necessary for performing mission critical functions may be dramatically limited or unavailable; and
- Facilities, infrastructure, utilities, and services may all be affected by a lack of adequate staffing caused by isolation, quarantine, illness, or death of those persons necessary for maintaining operations.



Depending on the severity of the epidemic, court administration may come under pressure as the disease causes attrition among court employees, court security personnel, jurors, witnesses, counsel, litigants, and maintenance personnel. To the extent that courts rely on their local sheriffs for security services, an additional concern is the possibility that, during an outbreak, sheriff's deputies may be reassigned to other critical law enforcement duties, thus resulting in a shortage of deputies available to serve the courts.

In addition, the county public health officer or the California Department of Public Health itself could close a court facility, or could quarantine or isolate court personnel. Such measures could, however, be subject to constitutional challenge, if they were determined to materially impair the exercise of fundamental judicial functions (e.g., deciding disputes among parties).

Finally, depending on the nature and severity of the circumstances confronting it, a court may need to request a Judicial Emergency Order, as detailed in the next section.

4.3 REQUEST FOR JUDICIAL EMERGENCY ORDERS

Government Code section 68115, as amended, effective January 1, 2019, authorizes the Chair of the Judicial Council (the Chief Justice) to issue judicial emergency orders, at the request of a superior court's presiding judge:

When war, an act of terrorism, public unrest or calamity, epidemic, natural disaster, or other substantial risk to the health and welfare of court personnel or the public, or the danger thereof, the destruction of or danger to the building appointed for holding the court, a large influx of criminal cases resulting from a large number of arrests within a short period of time, or a condition that leads to a state of emergency being proclaimed by the President of the United States or by the Governor pursuant to Section 8625, threatens the orderly operation of a superior court location or locations within a county or renders presence in, or access to, an affected court facility or facilities unsafe.

Most requests for emergency orders are submitted by courts affected by serious earthquakes, blizzards, fires, or other extraordinary circumstances that render a court facility partially or fully unusable.

In an emergency order, the Chair of the Judicial Council can authorize a court, "notwithstanding any other law," to do one or more of the following, depending on the emergency circumstances:



- Hold sessions anywhere within the county;
- Transfer pending civil cases to a superior court in another county;
- Declare a holiday for purposes of computing time under certain statutes;
- Extend the time provided to bring an action to trial under the Code of Civil Procedure;
- Extend the duration of a temporary restraining order;
- Extend the time period to hold a criminal preliminary examination; and
- Extend the time period within which a criminal trial must be held.

If the President of the United States or the Governor has declared a state of emergency, the emergency order can also include authorization for the court to:

- Extend the time period within which a defendant charged with a felony offense must be taken before a magistrate;
- Extend the time period within which a minor taken into custody pending dependency or wardship proceedings must be released, absent certain filings and/or proceedings;
- Extend the time period within which a minor taken into custody pending dependency proceedings must be given a detention hearing;
- Extend the time period within which a minor taken into custody pending wardship proceedings and charged with a felony offense must be given a detention hearing;
- Extend the time period within which a hearing on a juvenile dependency petition must be held; and
- Extend the time period within which a hearing on a wardship petition must be held for a minor charged with a felony offense.

The specific procedure for requesting Judicial Emergency Orders is provided in Appendix C. Up-to-date information on requesting emergency orders is maintained on the Judicial Resources Network site.



5 CALIFORNIA COURT STRATEGIES

Unlike other emergency situations, an epidemic could seriously disrupt court operations for an extended period, lasting approximately from months to several years. Therefore, both short-term and long-term strategies are necessary to manage the potential extent and duration of the impact.

Each court's continuity of operations plan (COOP) should address the basic response to any disaster or emergency situation. Courts lacking a continuity of operations plan can download a template plan specific to a pandemic virus outbreak on the Judicial Resources Network website at: <https://jrn.courts.ca.gov/programs/security/>.

Given the unique challenges posed by an epidemic, the information and strategies discussed below are not exclusive, but rather are designed to enhance courts' current emergency protocol.

5.1 SHORT-TERM STRATEGY

In the first 90 days of COOP activation, each court should have the capacity to:

1. Perform all mission-critical functions as defined in each court's COOP; and
2. Address all emergency matters and cases generated by issues associated with quarantines, isolation, civil liberty challenges, and other public health-related cases.

The above functions may need to be performed with limited staff, and when little to no face-to-face contact is possible for an extended period. Judges, attorneys, litigants, jurors, sheriffs, and court staff alike may be significantly affected by illness or even death.

As soon as possible, courts should transition to full operations. If full operations cannot be initiated within 90 days of COOP activation, courts should implement the long-term strategies described below.

5.2 LONG-TERM STRATEGY

Within 90 days of COOP activation, courts should have the capacity to perform all criminal matters: conduct jury trials, address all emergency civil matters, and perform all other mission-critical functions when little to no face-to-face contact is possible for an extended period. Judges, attorneys, litigants, jurors, sheriffs, and court staff alike could be significantly affected by illness or even death.



When developing its specific response to an epidemic, a court should consider these issues:

- Cases filed may increase if individuals or communities seek judicial relief from restrictions imposed by health authorities.
- Operations may be significantly impacted for months to several years.
- Local court officials, with assistance from the Judicial Council, should be prepared to cooperate with appropriate public health personnel on response and recovery efforts. Because state and federal resources may be stressed during an epidemic, courts should be prepared to operate with only minimal support from state and federal agencies.
- Each court should ensure that it has the capacity to perform its mission critical functions, deal with all emergency matters and cases associated with the quarantine and isolation of individuals, and handle other cases brought by public health officials for the first 90 days of COOP activation.
- If full operations cannot be restored within 90 days, each court in the interim should ensure that it has the capacity to:
 - Conduct arraignments.
 - Hear juvenile dependency and delinquency cases.
 - Issue restraining and protective orders.
 - Perform other mission-critical functions as best it can.

5.3 POST-EPIDEMIC RECOVERY

Recovery from an epidemic begins when a court determines that it has adequate staff and resources to resume normal business functions. Once normal operations resume, the impact of the epidemic on court operations, staff, and other stakeholders should be assessed and an after-action evaluation of the court's response should be drafted. Such an evaluation can assist courts in updating their continuity of operations plans as well as other emergency response plans, as appropriate.

5.4 MISSION-CRITICAL FUNCTIONS

Each court's continuity of operations plan should already have identified mission-critical functions. With the unique impact that an epidemic presents, a court should further identify those key processes and functions that pose significant risk for infection (e.g., extensive public interaction, cash management) and begin plans to mitigate such risks. Several safety



measures are discussed in Chapter 6 for courts to consider in refining their specific response plans. While mission-critical functions may vary from court to court, several of these functions are likely to be common to all courts. These include, but are not limited to:

- Conducting arraignments;
- Hearing juvenile dependency and delinquency cases;
- Issuing restraining orders and protective orders;
- Assisting litigants with court filings, and processing paperwork and requests;
- Managing all court calendars, including criminal, civil, family law, probate, small claims, traffic, and juvenile calendars;
- Summoning jurors for selection, and empaneling juries for civil and criminal cases;
- Hearing criminal and civil cases;
- Processing traffic citations; and
- Processing small claims filings.

5.5 WORKFORCE PLANNING

Because an epidemic may not spread evenly through the employee population, courts should consider creating a skills inventory for those positions that are essential to continuing their mission-critical functions. Courts should then consider cross-training and skill development for employees who can assume responsibility for carrying out those functions, which may lie beyond their normal scope of responsibility. Should key personnel fall ill, critical functions would then continue with minimal impact. Employees should also be informed that they may be asked to exercise authority or perform duties outside their typical job responsibilities.

When developing a skills inventory, courts should pay particular attention to those positions for which cross-training is not feasible, such as those that require specialized training or qualifications (e.g., court interpreters, court reporters, mediators). The court should consider having a contingency plan in place, should the personnel in those positions be unavailable. This may include identifying, in advance, possible sources for temporary replacement personnel.



6 CALIFORNIA COURT PLANNING

This section, developed in anticipation of an influenza epidemic, is being adapted for a potential COVID-19 outbreak. Effective advance planning by the California courts is essential to their ability to respond quickly to the outbreak of an epidemic. Below are seven planning elements to assist courts in achieving the short-term and long-term strategies discussed in Chapter 5. A checklist has been provided in Appendix D to assist courts in their planning efforts.

6.1 KEY STATE AND LOCAL RELATIONSHIPS

The *HHS Pandemic Influenza Plan* advises that the first step in planning for state and local governments should be establishing a coordinating committee to oversee epidemic preparedness planning and ensure integration with other emergency planning efforts. Courts that choose to form such a committee may want to include a cross-section of employees, rather than executive leadership exclusively. In the event that some or all of the executive team falls ill, the committee could still function, providing critical leadership and real-time decision making.

In addition to a cross-section of employees, including those responsible for employee health and safety, courts may wish to include sheriffs, local bar associations, and other criminal justice partners, as a way of alerting them to the court's plan and soliciting their input. Assuming the courts remain open, it is essential that key partners be fully aware of the court's efforts to ensure that all parties work together in accomplishing the court's mission-critical functions.

A coordinating committee would prove crucial in providing leadership, ongoing planning and preparedness, and flexibility of approach and implementation due to rapidly changing circumstances and events throughout an epidemic or pandemic cycle.

Regardless of whether courts have the personnel or resources to form such a committee, establishing contact with local public health officials is essential for local planning efforts. Again, each county's (and several cities') public health officer is listed in Appendix B. These officials should be contacted to:

- Ensure that the courts are aware of and possibly involved in current local preparedness and planning efforts;
- Ensure that courts are kept informed of current local efforts; and
- Ensure that courts are locally prepared to respond to and recover from an epidemic.



In addition, advance contact with the appropriate health authorities will increase the likelihood that those authorities are aware of the courts' mission-critical functions, and the resources that will be required to carry out those functions. This, in turn, may lessen the possibility that a later-enacted health measure (e.g., a court facility closure or a quarantine of court personnel) will jeopardize a court's ability to carry out those functions.

The Judicial Council's Emergency Planning and Security Coordination Unit has established a working relationship with the California Department of Health Services, and the California Department of Human Resources, allowing the council to remain engaged in statewide developments. The Judicial Council will forward all critical information to the courts.

6.2 LEGAL PREPAREDNESS

The *HHS Pandemic Influenza Plan* has provided two items for legal consideration during a pandemic: (1) the "Checklist of Legal Considerations" and (2) the "Fact Sheet: Practical Steps for Legal Preparedness." Both these documents can be found on the HHS Web site at <https://www.hhs.gov/about/agencies/oga/global-health-security/pandemic-influenza/index.html>.

These documents describe, in very broad and general terms, advance preparations that communities may wish to consider in advance of a possible epidemic outbreak. Such preparations could involve a number of local public entities, including courts. Examples of advance preparations that a court could be called on to participate in are:

- Ensuring that judges are aware of the authority of health officials, as well as of constitutional implications of quarantine, isolation, and court closure;
- Making appropriate court personnel aware of the procedure for requesting Judicial Emergency Orders;
- Considering implementing protocols that address how persons who are subject to quarantine or isolation may continue to access court resources or legal counsel; and
- Working with health officials to develop a plan for hearing cases and appeals in the event of quarantine or isolation.

The Judicial Council anticipates that, in the event of an epidemic, specific legal questions will arise that are unique to each court's particular situation. Any such questions should be directed to Emergency Planning and Security Coordination Unit, which will then work with Judicial Council Legal Services to provide prompt legal guidance. In addition, Legal Services will continue to identify the major legal issues that are likely to arise in the



event of an epidemic and that lend themselves to broad guidance. Relative to Coronavirus, this Question and Answer (Q&A) information will be posted on the Judicial Resources Network’s Coronavirus webpage and will be continually updated. (Access to this Q&A document is for court leadership and other authorized users.)

6.3 COMMUNICATIONS

Each court should review its internal and external communications plans to ensure that it is prepared to successfully communicate with judges, attorneys, litigants, jurors, sheriffs, court staff, and the general public under pandemic circumstances.

Having an advance communications plan can help a court provide timely information at critical junctures to court staff, jurors, and the public. As media coverage increases, regular communication with the court’s stakeholders will become essential in mitigating fear, anxiety, and possible misinformation.

Core elements of an effective communication strategy include:

- Frequent and timely communications with employees;
- Communication with the court’s criminal justice partners;
- Accurate explanations of the nature of the threat;
- Clear communication of the court’s capacity to manage the threat;
- Information dissemination through multiple channels; and
- Communication made in a timely manner concerning any change in the level of a pandemic threat.

Court staff should be informed of the court’s epidemic plan to ensure that court functions continue and that employees are aware that their personal safety is of high priority to the courts. Regular communication with staff regarding the court’s planning efforts will allow employees to feel included, informed, and assured that the strategies in place will be effective. Court users should also be kept updated via court websites and posted announcements.

Courts should also have a strategy in place to communicate with the Judicial Council’s Emergency Planning and Security Coordination Unit regarding any incidents or developments related to epidemics. Judicial Council staff can then communicate with other court systems any developments, including effective and ineffective strategies. Courts can call 415-865-8991 or email EPSCU@jud.ca.gov to report developments directly to the Judicial Council.



6.4 EMPLOYEE EDUCATION AND SAFETY

The health, safety, and well-being of employees are essential for accomplishing mission-critical functions during an epidemic. Employee education and safety are key components in maintaining the health and availability of court employees. Therefore, efforts to educate staff, minimize exposure, and maintain safety at the court facility are crucial to all epidemic planning efforts.

6.4.1 Education and Training

Courts should begin efforts to educate judges, attorneys, jurors, sheriffs, and court staff about the threats posed by a pandemic. Educational efforts should include advance preparation as well as preventative and protective measures to be taken once a virus is present in the community. Educational flyers could be posted around the facility or distributed with employee paychecks (see Appendix E).

Courts should consider hosting employee training on how to remain safe during a pandemic. Topics to discuss include:

- The need for sick employees or those with sick family members to remain at home;
- The need for employees to practice good health and hygiene habits, as discussed below;
- The need for employees to stay informed; and
- The need for employees to prepare at home, with plans and emergency items that should include a two-week supply of food and the prevention items listed below in 6.4.3.

6.4.2 Health and Hygiene

Employees should be encouraged to pay special attention to health and hygiene practices, including:

- Eating a balanced diet, exercising daily, and getting plenty of rest.
- Covering coughs and sneezes with tissues.
- Washing hands frequently with soap and water for a minimum of 20 seconds.
- If soap and water are not available, a secondary option is gel sanitizers. For gel sanitizers to be most effective, hands must be rubbed together until they are completely dry. The germs are killed when the alcohol evaporates.
- Avoiding touching eyes, ears, nose, and mouth.



The length of time that protective measures may be necessary will vary, depending on the availability of treatments or effective vaccines or treatments. For Coronavirus, there is currently no vaccine available. Thus, it may be necessary to maintain protective measures for extended periods.

6.4.3 Prevention

In the event of a virus outbreak, courts may want to consider providing employees with the following assistance:

- Seasonal flu shots will protect employees from the seasonal flu and will help to prevent seasonal influenza strains from further mutation. For other available options to remediate the impact of the flu, individuals should contact their personal physician.
- Particulate respirators or masks: N-95 respirators are effective for preventing inhalation of airborne pathogens if professionally fit-tested on the individual. Surgical or cloth masks that fit loosely over the face can be worn by sick people to prevent the spread of droplets when they cough or sneeze. If worn by a healthy person who is around sick people, masks may capture some droplets but do not effectively prevent inhalation of pathogens because of unprotected gaps between the mask and the face. If any mask is used, employees should be trained on how to remove it properly without exposing themselves to any pathogen on the outside of the mask.
- Disposable gloves. Gloves should not replace frequent hand washing and should be removed inside out to prevent the contaminated surface from coming in contact with hands. Gloves could be particularly useful for employees handling cash.

6.4.4 Facility Maintenance

Several preventive measures can be taken by the court and cleaning staff to reduce the risk of infection. Where feasible, courts may wish to consider the following:

- Using damp rather than dry dusting to avoid spreading dust particles;
- Heightening cleaning in offices and common areas, such as frequently wiping doorknobs, railings, telephones, restrooms, and so forth;
- Moving restroom wastebaskets next to restroom doors so that employees can use towels to open the doors; and
- Placing hand sanitizer in communal locations for court staff and visitors to use.



6.4.5 Travel

In the event of an outbreak, consider restricting employee travel to only those trips essential for continued operations. In a severe pandemic, travel will most likely be shut down.

6.5 HUMAN RESOURCES ISSUES

As part of the court's Injury and Illness Prevention Program, courts should consider staff and human resources issues that may be raised during an outbreak, including:

- Sick leave policies;
- Telecommuting policies;
- Review of insurance policies, including health, disability, salary continuance, business travel, and life insurance; and
- Crisis support or employee assistance programs.

The Judicial Council's Legal Services office can assist courts in developing answers to their questions about these matters.

6.6 JURY CONSIDERATIONS

One of the greatest challenges during a pandemic will be conducting jury trials within 90 days of COOP activation. Multiple issues that need to be addressed include:

- Impact on summoning yield;
- How jurors report for service;
- How jurors will be assembled;
- How voir dire will be held and how juries will be selected; and
- How jurors will hear and deliberate on cases.

Depending on the severity of the outbreak, each court will need to determine its capabilities in responding to a lack of full juries. Several options for consideration include:

- Short-term reductions in the number of jurors summoned each day;
- Increased use of Internet and telephone communications; and
- Notifying prospective jurors to report directly to a courtroom, rather than to the jury assembly room.



6.7 TECHNOLOGY PREPAREDNESS

While an epidemic will not compromise the integrity of a court's information technology (IT) infrastructure, a decrease in available court personnel and increased use of technology to reduce face-to-face interaction will affect supporting IT infrastructure components.

Technologies required for performing mission-critical functions should be identified and included in the court's technology disaster recovery plans. A court's systems will generally fall into four categories:

- Supported in-house;
- Supported by the county;
- Supported by a third party; and
- Supported by the CCTC (California Courts Technology Center).

In all cases the court needs to ascertain if a technology disaster plan exists. The court then needs to develop a business resumption plan that integrates the technology plan.

Applications hosted at the CCTC include the Court Case Management System, California Courts Protective Order Registry, Appellate Court Case Management System, Integration Service Buss (interfaces), and the Phoenix Financial and Human Resources systems. Each has an associated disaster recovery plan in the event that the CCTC in Newark, California, becomes unavailable.

The ability of court staff to connect into their systems from noncourt locations will require support from their telecommunications provider to establish secured connectivity.

As discussed in section 5.5, key IT processes, procedures, and personnel should be identified. Also, to the extent possible, personnel should be cross-trained to assume responsibility of mission-critical functions, which may be beyond their normal scope of responsibility.

In an effort to reduce face-to-face interaction and adapt to employee absenteeism, alternative means of work performance and communication should be explored, which could include:

- Allow staff to telecommute. If a telecommuting policy is implemented, the court should determine the hardware and software requirements for staff working off site as well as the telecommunications protocols and associated security to establish connectivity to the mission-critical applications.
- Use videoconference or teleconference technologies, or both, when authorized by law.
- Increase use of video arraignments, when authorized by law.



If videoconferencing is identified as a workable technology and the resources are available to a court and its justice partners, efforts should begin to prepare for supporting those IT infrastructure components necessary to perform mission-critical functions by:

- Identifying and documenting all the supporting IT infrastructure components;
- Identifying the custodial entity for all supporting IT infrastructure components;
- Developing and finalizing any memorandum of understanding or other necessary agreements to secure the use of all supporting IT infrastructure components;
- Implementing, training, and exercising all supporting IT infrastructure components; and
- Identifying any fiscal or other resources needed to develop and implement all supporting IT infrastructure components.

If the above technologies are not available, the court should update manual contingencies or develop new strategies that will enable it to perform all mission-critical functions, including those that must be conducted in person.

If the court has questions on remote video solutions or telework solutions, please reach out to the Judicial Council's Information Technology office for assistance at JCITSupport@jud.ca.gov.



7 APPENDICES

Appendixes will be distributed with this guidance and will be posted with it at <https://jrn.courts.ca.gov/programs/security/>.

APPENDIX A – Terms and Definitions

APPENDIX B – Health Officers by County (and City)

APPENDIX C – Requesting Judicial Emergency Orders

APPENDIX D – Planning Checklist

APPENDIX E – Sample Educational Flyer

APPENDIX F – Additional Resources

**For additional
resources,
appendixes, and
updates,
please contact:**

**Emergency Planning and
Security Coordination Unit,
Judicial Council of California**

Telephone: 415-865-8991

E-mail address: EPSCU@jud.ca.gov



Appendix A

TERMS AND DEFINITIONS

Airborne transmission—Occurs when a pathogen is suspended in the air in inhalable-sized particles that remain infectious and are subsequently inhaled through the nose and mouth. Some airborne pathogens (e.g. TB) can travel considerable distances before finding a new host, while others are less likely to remain viable as long.

Antiviral medications—Medications presumed to be effective against potential pandemic influenza virus strains. These antiviral medications include the neuraminidase inhibitors oseltamivir (Tamiflu) and zanamivir (Relenza).

Asymptomatic—Exhibiting or producing no symptoms of disease.

Blood borne—A disease or pathogen carried by blood.

Bubonic—A contagious, often fatal epidemic disease caused by the bacterium *Yersinia pestis*, transmitted from person to person or by the bite of fleas from an infected host, especially a rat, and characterized by chills, fever, vomiting, diarrhea, and swelling of the lymph nodes.

Communicable—Transmissible between persons or species.

Contact transmission—Occurs when an infected and contagious person has physical contact with an uninfected person.

Droplet transmission—Occurs when a pathogen is suspended in aerosolized droplets or mist expelled when the infected person coughs or sneezes. These tiny droplets can travel for 3 to 6 feet and be inhaled by other persons, or can be unknowingly deposited on mucous membranes around the eyes or mouth of uninfected persons.

Epidemic—A pronounced clustering of cases of disease in humans within a short time and in a defined region; more generally, a disease whose frequency of occurrence is in excess of the expected frequency in a human population during a given time interval.

Epizootic—A pronounced clustering of cases of disease in animals within a short time and in a defined region; more generally, a disease whose frequency of occurrence is in excess of the expected frequency in an animal population during a given time interval.

Incubation period—The time between acquiring the infection and becoming ill.

Isolation—Separation of infected individuals from those who are not infected.

Pandemic—A worldwide epidemic that occurs when a new or novel strain of influenza virus or other pathogen emerges in which humans have little or no immunity, and develops the ability to infect and be passed between humans.

Pathogen—An agent that causes disease, especially a living microorganism such as a bacterium or virus.

Pathogenicity—Refers to the condition or quality of being pathogenic, or the measure of severity of the disease caused.

Plague—A highly fatal infectious disease that is caused by the bacterium *Yersinia pestis*, is transmitted primarily by the bite of rodent fleas, and occurs in bubonic, pneumonic, and septicemic forms.

Pneumonic—Relating to, affected by, or similar to pneumonia.

Quarantine—Separation of individuals who have been exposed to an infection but are not yet ill from others who have not been exposed to the transmissible infection.

Variola virus—A virus of the genus *Orthopoxvirus*, which causes smallpox. Also called *smallpox virus*.

Vector-borne transmission—Indirect transmission of an infectious agent that occurs when a vector bites or touches a person.

Virulence—Refers to the disease-evoking capability of a pathogen.

Virus shedding—Excretion of virus from the infected host by any route.

Appendix B

HEALTH OFFICERS BY COUNTY (AND CITY)

As of March 6, 2020—For an updated list of public health officers, please visit
<https://www.cdph.ca.gov/Programs/CCLHO/Pages/CCLHO-Health-Officer-Directory.aspx>.

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Appendix C

REQUESTING JUDICIAL EMERGENCY ORDERS

For the most current procedures, see <https://jrn.courts.ca.gov/programs/ogc/jeo.htm>.

Appendix D

PLANNING CHECKLIST

Continuity of Operations			
Completed	In Progress	Not Started	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Locate and review continuity of operations plans (COOP)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Ensure that mission-critical functions are identified in the COOP
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Identify key processes and functions that pose significant risk for infection
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Create a plan to mitigate risks to employees in high-exposure positions
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Create a skills inventory
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Begin employee cross-training and skill development

Planning			
Completed	In Progress	Not Started	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Form a Coronavirus Coordinating Committee, if possible
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Communicate the court's planning efforts with other entities that support the court's operations (sheriffs, local bar associations, and other criminal justice partners)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Establish contact with the local public health officer
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Review internal and external communications plans
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Form a communication plan specific to epidemic response
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Begin efforts to educate staff and court stakeholders on pandemic influenza
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Consider hosting employee training on safety during an epidemic
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Notify facility maintenance staff of preventive measures that can be taken to reduce the risk of infection

Planning (cont.)

Completed	In Progress	Not Started	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Determine capabilities in responding to jury shortages
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Explore alternative means of work performance and communication
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Identify key IT processes and procedures as they relate to mission-critical functions
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Cross-train IT staff to assume responsibility for mission-critical functions

Appendix E

SAMPLE EDUCATIONAL FLYER

STOP THE SPREAD OF GERMS

Help prevent the spread of respiratory diseases like COVID-19.

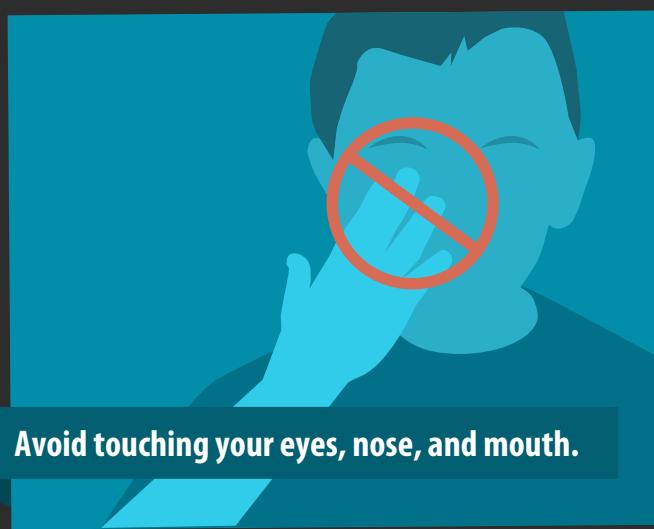
Avoid close contact with people who are sick.



Cover your cough or sneeze with a tissue, then throw the tissue in the trash.



Avoid touching your eyes, nose, and mouth.



Clean and disinfect frequently touched objects and surfaces.



Stay home when you are sick, except to get medical care.



Wash your hands often with soap and water for at least 20 seconds.



For more information: www.cdc.gov/COVID19

Appendix F

ADDITIONAL RESOURCES

California courts can find information on the Judicial Resources Network website at:
<https://jrn.courts.ca.gov/> (access is for court leadership and other authorized users.)

For further information, court personnel and staff are encouraged to contact their court executive officer, who can coordinate with local county health officials.

For further information on specific diseases, visit the following Web sites:

Coronavirus

www.cdc.gov/coronavirus/2019-ncov/index.html

www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/nCOV2019.aspx

Pandemic Influenza

www.pandemicflu.gov

www.cdc.gov/flu/pandemic

Plague

<https://www.cdc.gov/plague/index.html>

SARS

<https://www.cdc.gov/sars/index.html>

www.who.int/csr/sars/en

Smallpox

<https://www.cdc.gov/smallpox/index.html>

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