

FINAL REPORT

FROM THE COMMITTEE TO DEVELOP AN INTERIM PLAN

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

OVERVIEW

On November 20, 2007, the Supreme Court of Texas issued an advisory forming the Task Force on Judicial Readiness in Times of Emergency. The Committee to Develop an Interim Plan was formed within that Task Force with the following charges:

1. Study the Supreme Court order creating the Task Force and, consistent with the order, develop and recommend an interim plan in order to ensure that essential court operations can continue in the event of an emergency;
2. Study existing statutes, rules, and other legal authorities to ensure that basic due process rights are protected in the event of an emergency; and
3. Submit final recommendations to the Task Force by May, 2008.

The members designated to the Committee to Develop an Interim Plan include the following:

Hon. Olen Underwood, Chair

Clay Cossey

Denise Davis, Ex Officio

Hon. Bob McGregor

Hon. Kelly Moore

Hon. Kathleen Olivares

Hon. Michael Peden

Hon. Sue Walker

In accordance with these charges, the Committee Chair, Olen Underwood, presented the Interim Plan to the Supreme Court on June 23, 2008. A copy of the approved Interim Plan is attached to this final report, labeled Exhibit A.

LESSONS FROM DOLLY AND IKE

On July 23, 2008, Category 2 Hurricane Dolly struck the South Texas coast. With the help of Presiding Judge Manuel Bañales of the Fifth Administrative Judicial Region in Corpus Christi, the local judiciary along the Lower Texas Coast was made aware of the recent developments in emergency preparedness in the courts effectuated by this Task Force.

On August 4, 2008, a letter was sent out from the Chief Justice of the Supreme Court of Texas to the Constitutional County Judges of each county in the State. In this correspondence, a method of counties assisting neighboring counties in the face of disaster or emergency was prescribed. A Memorandum of Understanding was attached to that correspondence wherein the neighboring counties unaffected by the disaster assures court space, personnel and facilities to conduct necessary proceedings for counties in which courts have been closed as a result of the diasaster and are in need of assistance.

On September 10, 2008 in anticipation of Hurricane Ike, Judge Olen Underwood sent an e-mail to the district and statutory county courts in his Administrative Judicial Region entitled “Communication Through the Storm” in which the advisory regarding Blackberry PIN messaging was extolled to those judges as the best way to communicate during and after the hurricane.

On September 13, 2008, Hurricane Ike made landfall along the Upper Texas Coast. 127 courts in coastal, as well as second tier coastal counties were closed Friday, September 12.

After the storm, a survey was sent to 19,702 members of the local bar associations in the areas affected by Hurricane Ike and 6,408 attorneys affected by Hurricane Dolly with the help of the Office of Court Administration and the State Bar of Texas. The overwhelming response was that all necessary proceedings were heard in a timely manner. The survey generally demonstrated the local judiciary's ability to function in exigent circumstances. Respondents to the survey also offered suggestions as to how to integrate communication between the local bar and the local judiciary as to court closings, openings, and contact information. A copy of the results of this survey is included with this final report, labeled Exhibit B.

MEMORANDUM OF UNDERSTANDING

The Memorandum of Understanding (MOU) was designed to accomplish a three fold purpose. First and foremost, the MOU acts as a reminder to local governmental bodies of the absolute need for the judiciary to have a participatory role and place in the creation of Continuity of Operation Plans to protect the general public in times of emergency.

Secondly, the MOU is designed to focus attention on the need for advance planning by the local courts. By offering assistance to neighboring counties in dire straits, the courts of a necessity must be prepared for the eventual acceptance of that offer. In order to protect the people of this great State, our judiciary must be prepared to continue essential operations notwithstanding natural or manmade disasters.

Finally, the MOU exposes areas of need in planning for disaster. In so doing, the judiciary can and must develop a plan for personnel, statutory changes, rules, procedures and funding to accomplish protection of the rights of the people in

times of disaster. This Interim Plan, of which the MOU is an integral part, is ultimately designed to bring the judiciary to the COOP planning table.

As of this final report, 120 counties out of the 254 in Texas have signed a Memorandum of Understanding ensuring essential court space, facilities and personnel to counties in need. A copy of the Memorandum is part of the Interim Plan attached to this final report, labeled Appendix B.

In accordance with the charge to “study the Supreme Court order creating the Task Force, and consistent with the order, develop and recommend an interim plan to ensure that essential court operations can continue in the event of an emergency,” the Committee to Develop an Interim Plan has presented its Interim Plan to Ensure Judicial Readiness, attached to this final report as Exhibit A. In addition, the Committee has worked and is continuing to work with the Legislation/Judicial Procedures Committee to “study existing statutes, rules, and other legal authorities to ensure that basic due process rights are protected in the event of an emergency.” It is this Committee’s assertion that the presented Interim Plan ensures the basic due process rights of the citizens of Texas and the continuity of court operations to serve the public until the template for response plans for addressing natural, man-made, and terrorist threats is finalized.

Olen Underwood, Chair