

# THE STATE OF TEXAS



## EMERGENCY MANAGEMENT TIPS FOR TEXAS DISTRICT AND COUNTY CLERKS

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**EMERGENCY MANAGEMENT TIPS  
FOR  
TEXAS DISTRICT AND  
COUNTY CLERKS**

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# **Emergency Management Tips for Texas District and County Clerks**

## **Introduction**

This document is intended to provide district and county clerks with useful, practical tips on how to prepare for, and continue operations after, a disaster. It is based on the lessons learned by the district clerk in Galveston County during Hurricane Ike, with the understanding that: 1) all disasters are different in nature; 2) the operations of the courts and clerks' offices vary throughout the State; and, 3) due to the differences in the subject matter jurisdiction exercised by the district and county-level courts throughout the State, the matters handled by the courts and the clerks who serve them vary. Moreover, this document does not address the non-court functions performed by the county clerk (e.g., elections, real property records, and vital statistics). While all the issues discussed in this document may not apply identically to each clerk's office, it addresses many issues that are common to all and is intended to provide clerks with "food for thought" when preparing for a disaster.

Because clerks are extremely busy with their normal, day-to-day functions, they typically feel that they do not have the time or staff to plan and prepare for an unlikely emergency. But, an emergency, whether natural or man-made, can strike at any time. Our clerks' offices need to be prepared to continue their operations after a disaster.

## ***I. Preparedness***

### **A. Contact Information**

The most commonly cited "lesson learned" from those who have gone through a disaster is the need to have current contact information for staff and critical partners. It is very difficult to obtain that information during an emergency.

#### **1. Clerk Staff**

It is imperative that the clerk have current personal contact information for his/her staff, so that the clerk may contact them during and after an emergency. For each staff member, the clerk should have the following contact information:

- home phone number
- cell phone number
- email address
- home address
- spouse name and cell phone number
- spouse work phone number
- spouse email address

The clerk should create a staff contact information list similar to the example shown below. In larger offices, the clerk may want to designate in what area of the office each employee works (e.g., criminal, civil, family, etc.) and whether an employee is a member of the clerk’s essential functions team (EFT).

**Figure 1 – Example of Personal Contact Information for Staff Members**

Name	Home Phone #	Cell Phone #	Email	Spouse Cell #	Spouse Wk #	Spouse Email	Home Address	Location Worked	EFT? (Yes or No)
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If, during or after an emergency, an employee plans to leave his/her home to go to a family member’s house, a friend’s house, or a hotel, the employee should email the clerk the phone number where he/she will be.

**2. Critical Partners**

It is also imperative for the clerk to have the current work and personal contact information for all individuals he/she may need to contact during and after an emergency (i.e., critical partners). The clerk should have the following information for each critical partner:

- name
- title
- department or office
- location or address worked
- work phone number
- work cell phone number
- work email address
- personal email address

Critical partners include:

- judges
- sheriff
- chiefs of police departments
- constables
- chiefs of fire departments
- county emergency team members
- elected county officials
- heads of every county department
  - *Do not limit contact information to the heads of justice system-related departments, as the clerk may also need to contact the heads of non-justice system-related departments.*
- designated defense attorney(s) who handles cases in an emergency situation
- local managing attorney of the Attorney General’s Office

- local Child Protective Services contact
- local Department of State Health Services (DSHS)/health department contact
- postmasters
- local bar president
  - *The president of the local bar or his/her designee may need to notify the members of the local bar of the status (i.e., open or closed) and location of the courts and clerks' offices if they have moved to an alternate site.*
- local Department of Public Safety (DPS) representative
  - *It may be necessary for the clerk to obtain technical assistance on how to obtain Incident Tracking Numbers (TRNs) to enter on court disposition records. [See Lack of Incident Tracking Number section of this document]*
- local bail bond companies and, if applicable, local bail bond company professional organization or union
  - *For public safety purposes, the county bail bond board or commissioners court may want to consider requiring bail bond companies to submit to them an emergency management plan to quickly identify and provide the county bail bond board or commissioners court with information on the location of alleged sexual offenders who are on bail during an emergency. [Note: During Hurricane Ike, the district clerk contacted the primary bail bond company in Galveston County for their emergency management plan, and they had no plan.]<sup>1</sup>*
- primary court facility maintenance staff members
- purchaser(s) for clerk's office
  - *The clerk will likely need emergency and other supplies and services ordered during an emergency.*
- presiding judge of administrative judicial region.
  - *In counties with an executed Memorandum of Understanding Between the County and the Supreme Court of Texas for Support of Continuity of Court Operations in the Event of an Emergency (MOU), the county may request that the presiding judge implement the MOU.<sup>2</sup>*
- clerk of the Texas Supreme Court
  - *The local administrative judge or clerk<sup>3</sup> may need to submit a request to the Supreme Court asking for the issuance of an administrative order, such as an order to extend the time for filing documents.*
- administrative director of the state Office of Court Administration
  - *The local administrative judge or clerk may need to contact the state court administrator in the event the clerk of the Texas Supreme Court is not available for the local administrative judge or clerk to submit requests for the issuance of administrative orders, to provide further information regarding court closures, etc.*

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<sup>1</sup> Additionally, prior to an emergency, the local administrative judge and/or other judges may want to meet with the community supervision and corrections department to ask the department to develop an emergency management plan for sexual offenders, which would include keeping track of their location, having them regularly report to their community supervision officer, and if they require temporary shelter, keeping them in a special shelter during an emergency.

<sup>2</sup> A list of the counties with an executed MOU may be found at: <http://www.supreme.courts.state.tx.us/emtf/pdf/ContinuityOfCourtOperations-MOU.pdf>

<sup>3</sup> The local administrative judge and the clerk should discuss whether it will be the judge or clerk who will take the lead on making these requests.

**Figure 2 – Example of Personal Contact Information for Critical Partners**

Name	Title	Department/ Office	Location Worked	Work #	Work Cell #	Work Email	Personal Cell #	Personal Email
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Also, the clerk should maintain a contact list for local attorneys, which contains their email addresses. While the Galveston County district clerk’s office had the office phone numbers for local attorneys, they did not have everyone’s email address. After the hurricane hit, a number of the attorneys no longer had offices, so it was not possible to phone them. Consequently, the district clerk began to require attorney email addresses so her office could get in touch with them in the event of an emergency.

## **B. Communications**

### **1. Government Emergency Telecommunications Service**

The federal Government Emergency Telecommunications Service (GETS) is an emergency phone service that can be used by qualified users in an emergency or crisis situation, when the ability to complete a call by normal or other alternate telecommunications means is significantly decreased. GETS provides emergency access and priority processing in the local and long distance segments of the public telephone network (also known as Public Switched Telephone Network or PSTN). Judges, district clerks and county clerks are considered qualified users and may apply for a GETS “calling card” to access the service. Currently, the only charge is for usage when making a call using a GETS card. GETS calls are currently billed at a rate of 7 cents or 10 cents per minute (depending on carrier and other factors) for calls within the United States. Information on GETS and how to request an account can be found at: <http://gets.ncs.gov/index.html>.

### **2. Satellite Phones and Satellite Internet Service**

The clerk should keep in mind that an area may lose phone (both landline and cell) or Internet service after a hurricane or other disaster. In counties where the probability of hurricanes is high, the county may want to have arrangements in place to allow judges, clerks, and other county officials to obtain satellite phones and/or satellite Internet service from private vendors in advance of a hurricane. Satellite phones do not depend on land-based telephone lines or cellular towers; and satellite Internet service does not depend on land-based telephone lines or cable systems. Thus, they allow individuals to communicate when there is damage to land-based communications.

If a disaster occurs and a county has not made arrangements to obtain satellite phones and/or satellite Internet service from private vendors for judges, clerks and other county officials, the county judge can make a request for satellite phones and satellite Internet service to the Texas Department of Public Safety (DPS) Disaster District Chairman (DDC) responsible for disaster response for the district in which the county is located. The DDC will review the request and if

they cannot fill the requirement from district resources, the DDC will forward the request to the State Operations Center operated by DPS's Texas Division of Emergency Management. A county judge can also make a request to the county's District Coordinator or DC (previously known as the RLO or Regional Liaison Officer) who can process the request on behalf of the DDC.

Also, the clerk should keep in mind that if cell phone service and Internet service are available, the clerk can use the tethering function of a smartphone to connect to the Internet. In other words, the smartphone can function as a mobile modem when it is connected to a laptop computer with Bluetooth capabilities.

### **C. Essential Court Functions**

It is critical to identify essential court functions and time sensitive work prior to an emergency. The courts and clerks' offices must take all steps necessary to remain open during an emergency.

Essential court functions are defined as court hearings and matters that cannot be continued indefinitely. They include hearings involving situations where there is immediate harm to life, limb, or property. The courts and clerks should discuss which essential functions are necessary within 24 hours, 48 hours, 30 days, 31 to 90 days, and 91+ days of activation of the continuity of operations plan (COOP).

In Galveston County, the following were identified as essential court functions:

- Magistrations - criminal initial appearances under article 15.17 of the Code of Criminal Procedure, which statutorily have to occur within 24 to 48 hours of arrest;
- Juvenile detention hearings, which must be conducted by the second working day after the child is taken into custody (or the first working day if the child is detained on Friday or Saturday);
- Protective orders (including magistrate emergency protective orders);
- Removal of children orders (e.g., during Hurricane Ike, several children were left behind on Galveston Island by their parents and they were picked up and placed in the custody of Child Protective Services); and
- Temporary restraining orders.

Certain matters handled by the clerk's office have statutory deadlines and require immediate attention. If it is necessary for the clerk's office to move to an alternate site, clerk staff must closely check the work on their desks to identify those matters and bring them to the alternate site. Below are two examples:

- Issuance of writ of execution

A writ of execution must be issued in a case in which the judgment is about to become dormant unless the writ is issued. [**Note:** a judgment will become dormant if a writ of

execution is not issued within 10 years after rendition of the judgment or within 10 years of the issuance of the last writ of execution on the judgment.]; and

- Appeal of judgment denying minor's application to have an abortion without parental notification

When a notice of appeal is filed in a case in which the court has denied a minor's application to have an abortion, the clerk must deliver a copy of the notice of appeal and record on appeal to the clerk of the court of appeals. Due to the time sensitive nature of these cases, the clerk may have to arrange for the notice and record to be driven to the court of appeals if the emergency has adversely affected mail delivery.

Note that the Supreme Court of Texas may 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. See Texas Government Code Sec. 22.0035. A clerk experiencing a disaster will need to check the "court closures" webpage of Texas Courts Online, see: <http://www.courts.state.tx.us/courtlosures.asp>.

#### **D. Hot Site (or Off-site Data Protection)**

To allow a clerk's office to continue computer operations after an emergency, it is highly recommended that the clerk have a "hot site." A hot site is an alternate computer facility located at a remote site, which has critical systems and information updated continuously so that computer operations can be resumed almost instantly when a disaster at the primary site occurs.

At a minimum, the clerk's computer server should be backed up nightly and the backup tapes should be stored offsite. It is important that the offsite location be a significant distance, at least several miles and not just across the road, because some disasters cover a larger area than a single building or city block. However, an emergency such as a fire in a server room would likely result in a number of days of downtime while an emergency data center is being assembled. Even with nightly backups, some data loss will be incurred, at least for the data entered since the backup from the previous night.

#### **E. Meet with Other Officials Prior to an Emergency to Establish an Emergency Plan**

The clerk should meet with various officials prior to an emergency to establish a plan to continue operations after an emergency.

##### **1. Postmasters – Delivery of Mail**

In the wake of Hurricane Ike, mail was not delivered to the courts or the clerks' offices. No one knew where the mail was, and the clerks and courts had a very difficult time tracking down the postmasters to get it delivered.

Based on the experience in Galveston County, it is highly recommended that clerks meet with their postmasters to develop a plan for mail delivery in the event of a disaster, including informing the postmasters of the location of alternate site(s) for the clerk's office and courts. Also, the clerk should discuss with the local administrative judge whether the clerk's office should receive mail for all the courts.

## **2. Sheriff – Magistration Hearings**

Magistrations<sup>4</sup> are typically conducted by justices of the peace. However, in an emergency situation, the judges of the district or county-level courts may handle magistrations. For example, in Galveston County during Hurricane Ike, one of the district judges handled some magistrations. Also, in some counties, magistrations are conducted by videoconferencing. In the event both the power and backup generators are down, there should be a plan as to whether the prisoners will be brought to court for their magistration hearing or a team consisting of the judge, district attorney, clerk, and bailiff will be sent to the jail to conduct magistration hearings and accept potential pleas. Also, the Galveston County district attorney's office made plea offers to inmates at the jail docket to help ease the crowding of the jail. If a decision is made to follow this practice, the clerk will need to coordinate with the community supervision and corrections department and defense attorney(s) to appear at the hearings, in the event a plea offer is accepted by the defendant.

## **3. Chiefs of Police, Constables or Sheriff – Service of Protective Orders**

Protective orders are one of the emergency matters that a court will handle during and after a disaster. The law enforcement agency(ies) responsible for the service of protective orders will vary from county to county. It may be the police, constables, or sheriff. Depending on who serves protective orders in the county, the clerk should have a plan with the head of each appropriate law enforcement agency as to how protective orders will be delivered to the agency to be served. For example, the law enforcement agency may have an officer call the clerk's office each day at a designated time to find out if any protective orders should be picked up, or an officer may come to the clerk's office each day at a designated time to pick up any protective orders.

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<sup>4</sup> Texas law requires that any individual detained in custody be given an opportunity to appear before a magistrate promptly after arrest. Guidelines for this post-arrest proceeding, informally referred to as the "magistration," are specified in Article 15.17, Code of Criminal Procedure. Though the term "magistration" is not actually found in the law, it is commonly used to describe the Article 15.17 hearing. A magistration is distinct from an "arraignment," though the expressions are sometimes (incorrectly) used interchangeably. Article 26.02, Code of Criminal Procedure specifies that an arraignment takes place for the purpose of fixing the identity of the accused and taking his or her plea. The terms "initial appearance" or "probable cause hearing" more accurately describe the Article 15.17 hearing but are seldom used.

## **F. Lack of Incident Tracking Number (TRN)**

To allow for the successful reporting of criminal history data to DPS for each person arrested of a Class B misdemeanor or greater offense, the arresting agency must be able to fingerprint the defendant and assign an Incident Tracking Number (TRN) and Incident Tracking Number Suffix (TRS) for each charge on a TRN.<sup>5</sup> This enables the outcome of each arrest charge to be tracked from arrest through disposition.

Clerks are required to report the disposition of a court case to DPS so that it may be included in the Computerized Criminal History System (CCH) maintained by DPS. Without a TRN, they are not able to do that.

A TRN may be assigned as follows: 1) DPS provides each law enforcement agency in the county with paper fingerprint cards and Criminal History Reporting forms (CR-43) with the TRN pre-printed on them; 2) in larger counties with their own automated booking systems, the local DPS representative provides a “range” of TRNs to each law enforcement agency, then the law enforcement agency assigns the TRN to an incident when they electronically submit the arrest report and arrested person’s fingerprints to DPS; and 3) in smaller counties that use an automated live scan booking system, the local DPS representative provides a “range” of TRNs for the live scan system. The system then automatically assigns a TRN.

Successful criminal history reporting to DPS is dependent on each reporting agency within the county passing the TRN and TRS to the next level (i.e., the arresting agency sends that information to the prosecutor, and the prosecutor sends that information to the clerk of the court). Counties that use an automated system to send TRN and TRS information to the next reporting level in the county and to DPS must be prepared to transmit this information manually in the event of an emergency in which there are power outages.

During Hurricane Ike, most of Galveston County had no power. Thus, law enforcement agencies were not able to use the county’s automated booking system (AFIS or Automated Fingerprint Identification System) to attach a TRN to an incident and a TRS to each charge. As a result, law enforcement agencies, the prosecutor, and the clerks had to switch to a manual system using the paper CR-43 form to transmit the TRN and TRS information to the next reporting level and to DPS.

At times the most difficult part of court disposition reporting for clerks is trying to determine the correct TRN and TRS to submit to DPS. When this information cannot be obtained from normal sources, the clerk can access DPS records to verify the correct TRN and TRS prior to submission. DPS has made available to county and district clerk staff a Criminal History website that is secure and contains all Texas Criminal Justice Information System (CJIS) records associated to defendant records. The web address is <https://secure.txdps.state.tx.us/DPS>. After securing a user name and password from DPS, county and district clerk staff can obtain arrest data, including the TRN and TRS for defendants statewide. With the correct TRN and TRS, the

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<sup>5</sup> For example, a defendant commits an armed robbery, tries to evade arrest, and then assaults a police officer upon arrest. This incident would be assigned one TRN number with three corresponding TRS numbers for each of the three charges. Each TRN number is a 10-digit number and TRS numbers are formatted as A001, A002, etc.

clerk can then report the court disposition information to DPS. **Access to this site should be applied for prior to an emergency.**

The ability to correctly report criminal history is critical. For example, a day care center may not have enough staff after an emergency. As a result, they may expedite their hiring process and end up hiring an accused or convicted sex offender since the criminal justice agencies, including the clerks, were not able to transmit criminal history data to DPS due to the lack of a TRN.

## ***II. Response***

### **A. Notify State Office of Court Administration of Court Closure and Reopening**

The state Office of Court Administration (OCA) maintains a “court closures” web page in the event a court is closed due to an emergency (e.g., hurricane, flooding, fire, ice or snow storm, or bombing). The web page is a centralized source for court closures for the entire state. The State Bar has agreed to direct people to this one centralized site. OCA updates information about the closure and reopening of courts when it is received. The web page can be found at: <http://www.courts.state.tx.us/court closures.asp>.

If the district or county-level courts in a county are closed due to an emergency the clerks are asked to notify OCA of the closures and reopenings. The forms and instructions for reporting closures and reopenings, as well as examples of completed forms, can be found at the OCA web address listed above. The completed forms can be emailed to [websupport@txcourts.gov](mailto:websupport@txcourts.gov) or faxed to (888) 415-6895.

### **B. Alternate Work Site**

In the event of an emergency that disables operations in the primary court facility, the clerk’s office must have the ability to continue operations at an alternate site. The clerk will need to plan for a number of items, including the items that are discussed below.

#### **1. Starter Kit for Alternate Site**

The ideal scenario for the clerk is to have the county I.T. or other staff load all the needed software, documents, and forms to existing computers at the alternate site. An alternative is to have laptop computers pre-loaded with all the necessary software, forms and documents needed to perform daily duties, which can be taken to the alternate site. However, if neither of these alternatives are available (or even if they are available, the conditions in the area may be so unstable that power or the clerk’s computer system at the alternative site may be disrupted), the clerk will need to take paper forms and documents, which are pre-populated with standard verbiage used in common processing, to the alternate site. Suggested forms include:

- all magistration forms, such as probable cause affidavits
- bond forfeiture forms

- order on bond forms
- bond reduction forms\*
- personal recognizance forms\*
- judgment forms
- modification (motion to revoke probation) forms
- dismissal forms
- service request forms for all divisions (e.g., civil, family)
- various service forms
- pauper oath forms
- paper receipt forms (i.e., manual cash receipts books, service pick-up sheets, and any and all forms used in daily operations, such as paper time sheet forms for employees to record the hours they work or take leave time)

**\*Very important** – the courts may want to release non-violent offenders from the jail. The clerk must make sure all forms associated with releasing jail inmates are included in the starter kit.

In addition to the forms listed above, it is suggested that the clerk take the following items to continue operations at the alternate site:

- general office supplies (paper clips, staplers, case jackets, etc.) needed for at least a two-week period
- manual docket books created for each area of the law (i.e., civil, criminal, family, etc.) to assign cause numbers and generate case styles
- manual file stamp
- seal of office for service and other documents
- mid-sized safe (the safe should be purchased in advance of an emergency, so that it can be moved to the alternate site for cash and other valuables storage. Confidential files and documents can be stored in the safe; or, as an alternative, cabinet space at the alternate site can be designated for the storage of those files and documents and locks installed prior to an emergency.)

## **2. Moving Computers and Other Office Equipment**

After an alternate site has been selected,<sup>6</sup> the clerk should determine:

- whether sufficient electrical outlets and appropriate data lines are installed to support the clerk's essential functions staff; and
- what equipment is needed at the alternate site to continue operations. For example, if the alternate site does not have scanners or mail sorting equipment and that equipment is needed, the clerk must make arrangements to have it moved to the alternate site.

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<sup>6</sup> Ideally, an alternate site should have been selected prior to an emergency as part of the county/clerk's continuity of operations plan.

To assist the county IT or other department responsible for moving computer and other office equipment to the alternate site, a highly visible unique identifier should be assigned and attached to each computer or essential piece of equipment. Below is an example of a system that may be used:

- Assign and attach a letter (A, B, C, etc.) to each essential functions employee and his/her work station, along with a number (1, 2, 3, etc.) to each piece of essential equipment assigned to that employee that is needed to complete their essential tasks. For example, John Doe and his work station, are assigned the letter “A.” John has four pieces of essential equipment that must be relocated to the alternate site. Thus, his equipment will be assigned the unique identifiers A1, A2, A3 and A4. This system allows for easy identification of which essential equipment should be delivered to which work station. The clerk may want to create an essential equipment relocation log similar to the example below.

*[Note: At the alternate site, it is very important to clearly label each work area so that the IT or other staff will know where to deliver and set up the equipment.]*

**Figure 3 – Example of Essential Equipment Relocation Log**

Name	Letter	Number of Equipment	Equipment ID	Current Location	Alternate Site Location
John Doe	A	4	A1 – A4	Cubicle A – 3 <sup>rd</sup> floor	Desk 1
Jane Doe	B	5	B1 – B5	Cubicle B – 4 <sup>th</sup> floor	Desk 2

### 3. Check Voice Message System

Before leaving the primary site for the alternate site, have staff check the voice message system for the clerk’s office to make sure that it is working.

### 4. Security Passwords to Enter Alternate Facility

If a password is required to enter the alternate facility, disseminate that information to the appropriate staff.

### 5. Producing Case Files for Attorneys

If the clerk’s records are not online, case files requested by an attorney, which are stored at the primary site, will have to be brought to the alternate site. The clerk should establish a protocol for the production of case files requested by an attorney. For example, the clerk will produce the case files within 24 or 48 hours of the request.

Also, the clerk will need to determine how the county has allocated vehicles to various county departments during an emergency. The clerk's office will need to be able to bring files and other items back and forth between the primary site and the alternate site.

### **C. Must Have the Ability to Run the Clerk's Office Manually**

In the event the clerk's computer system is disabled, the clerk's office will have to operate manually, rather than by computer.

#### **1. Manual Filing System**

To enable the clerk to assign a unique and sequential cause number for each new case that is filed after the emergency, the clerk will need to determine what cause number was given to the last case filed in every section (e.g., criminal, family, civil, and juvenile) of the clerk's office prior to the emergency. If there is advance notice of an emergency, such as a hurricane, it is recommended that the clerk capture the needed information **prior** to the emergency (e.g., landfall of a hurricane). If the clerk's office must move to an alternate site, it may be days before the clerk and his/her staff can return to the primary site. However, the clerk may need this information within 24 or 48 hours after the emergency (e.g., hurricane) has subsided.

#### **2. Random Assignment of Cases Filed**

If the local rules provide that cases are to be randomly assigned to the dockets of the courts, the clerk can cut up pieces of paper and write the name and number of each court on a separate piece of paper. The clerk can then put the pieces of paper in a container, shake, and select a piece of paper. The case must be assigned to the court written on that piece of paper.

*[Note: The clerk must make sure all new original petitions are filed-marked showing the date and time of filing, as soon they are received (a manual file stamp can be used if there is no electricity). The petitions should then be placed in a manual notebook, based on the time and date filed. If possible, the clerk may want to separate the initial filing procedures between two deputy clerks. One deputy clerk can file-mark all incoming new petitions, while the other deputy clerk can assign the cause number to each case, randomly assign each case to the docket of a court, and manually enter the required information (cause number, date of filing, names of the parties, etc.) for each case into the clerk's file docket and the clerk's court docket. By separating these functions, it may reduce the chance of an attorney asserting foul play in the random assignment of a case to a court.]*

### **D. Processing of Payments Made in Child Support Cases**

The Child Support Division of the Office of the Attorney General (OAG) reports that the receipt and disbursement of child support is handled in one of the following three ways:

1) **Non-OAG Cases** - the clerk manages the receipt and disbursement of child support payments on orders established prior to January 1, 1994, and the county has not entered into an agreement with the OAG to process these (pre-1994) payments;

2) **Registry Only Cases** – the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) required each state to establish a central location to receive and process child support payments for orders established on or after January 1, 1994. The OAG is responsible for operating the State Disbursement Unit in San Antonio; and

3) **OAG Cases** – the OAG manages the receipt and disbursement of child support payments and can enforce the child support order.

### **1. Non-OAG Child Support Cases**

In those jurisdictions where the clerk manages payments made in non-OAG child support cases, it is critical for the clerk to develop a plan for receiving and distributing the child support payments during an emergency, as this is a time when the custodial parent will likely be in the most need of child support.

If the computer system is disabled, the clerk will have to use a manual process for receiving child support payments. Most clerks employ two ledgers: a ledger card for each case and a master ledger list.

The ledger card (a hard copy) for each individual case should contain:

- Name and address of the person making support payment;
- Name and address of the person receiving support payment;
- Case number of the civil action leading to the support judgment; and
- Entry for every receipt of payment and its subsequent disbursement

A master ledger list (a hard copy) shows all payments received and disbursed. The master ledger list should always show receipts equal to disbursements because all money received is immediately passed on to the recipient. The exact format of the ledger will vary depending on the accounting of the local clerk's office.

In processing child support payments, the clerk merely acts as the middleman for the person making the payment and the person receiving the payment. Some clerks require that all support payments be in the form of a check or money order made out to the recipient. Other clerks prefer to deposit all payments into a support fund checking account and issue checks to the recipients from that account. Some clerks accept both forms of payment. However, when cash is received, it is deposited into the clerk's account and a check is prepared and mailed to the recipient.

Prior to an emergency, the clerk should develop a plan to distribute payments as quickly as possible to custodial parents. The plan will depend on local procedures. However, regardless of the procedures, the clerk must appropriately divide the responsibilities so that no single deputy clerk handles a transaction from the beginning to the end. For example, in a county where the

clerk issues checks to the custodial parent from their support fund checking account, one deputy clerk should receive and prepare a handwritten receipt for the child support payment. Another deputy clerk should enter the payment into the ledger card and master ledger list and manually issue the check that is made payable to the custodial parent. Finally, the deputy clerk who originally received the payment should mail the issued check to the custodial parent. The county auditor will be pleased with the separation of duties.

## **2. OAG Child Support Cases (Including Registry Only Cases)**

All payments in Registry Only cases (i.e., cases for which the OAG has agreed to serve as the registry only) and OAG child support cases are made to the state disbursement unit in San Antonio; thus, the clerk is not involved in that process.

The OAG has been strongly encouraging custodial parents to receive payments electronically. The receipt of child support payments electronically is the best option available to families who live in areas affected by hurricanes, due to the extreme difficulty in getting payments to them after a disaster. Among other things, the OAG sent letters in 2008 and 2009 that targeted custodial parents residing in counties along the Gulf Coast, encouraging them to sign up for direct deposit or enroll in the Texas Debit Card program. Current law requires the OAG to disburse all child support collections electronically (debit card or direct deposit) unless the recipient notifies the OAG in writing that the electronic transfer of funds creates a hardship. The OAG reports that over 95% of their payments are currently processed through direct deposit into bank accounts or onto the Texas Debit Card.

## **E. Safe Storage of Cash**

An alternate site may not have a vault available to store: 1) cash or checks that have been received by the clerk's office for the payment of fees; or 2) other items, such as blank checks, checks waiting for pickup by minors who have recently turned 18 and are now eligible to receive their monies from the registry of the court, or the container holding the pieces of paper with the court number assignments for the random assignment of cases [*Note: it is important to make sure there is not general access to the pieces of paper with the court number assignments.*] Thus, the clerk must determine procedures for the safe storage of cash and checks received during the emergency. Ideally, the clerk should have purchased a mid-sized safe prior to an emergency, which can be moved to the alternate site. However, while far from ideal, at a minimum, the clerk's office should use a locking cash bag or box. The person assigned responsibility for the safekeeping of the bag or box must not be given a key to it.

## **F. Jail Inmates**

If the county jail is adversely affected by an emergency, such as flooding, it may be necessary to release as many inmates from jail as possible due to safety issues for both the inmates and deputies. The costs of an alternate jail site, as well as the costs to transport inmates to it, are expensive. In those situations, the courts may have to decide which inmates can be released on

personal recognizance bonds or whether the amount of their respective bail bonds can be reduced to enable them to be released from jail. The clerk will need to establish a system to receive the paperwork from the DA's office and send that information to the sheriff's office when a judge reduces the amount of a bail bond or an inmate is released on a personal recognizance bond. Again, it is important to have the cell phone numbers for the sheriff or his/her designee.

The clerk and other critical partners should have a plan in place to quickly send and receive bail bond and personal recognizance bond information to each other. The plan should address how information would be manually transferred in the event there is no power. These critical partners include:

- sheriff
- constables
- police chiefs
- district attorney
- designated defense attorney(s) who handles cases in an emergency situation
- local DPS representative
- local managing attorney of the Attorney General's Office

## G. Juries

After a major emergency, a court typically will not be able to hold jury trials for a certain period of time. The rescheduling of prospective jurors who have been summoned to jury duty during or after an emergency cannot be done without the court's direction. The clerk will need to confer with the judge(s) to find out when jury trials will resume. It is suggested that **before** an emergency, the court(s) develop a written procedure that is approved by the local administrative judge. For example, if a court is not able to hold jury trials for five days or less and prospective jurors have been summoned to appear during that time period, then the appearance date will automatically be re-scheduled for two weeks from that date.

Prospective jurors who have been summoned to report for jury duty during or after an emergency must be notified about what they are to do. Many will be in panic mode, having to deal with immediate personal matters during the emergency, but believing they will be fined or given jail time for not reporting for jury duty.

The clerk must have a plan to communicate with summoned prospective jurors. The clerk may:

- Post information on the clerk's website or contact the local media to notify prospective jurors if, or when and where, they should report for jury duty or what phone number they should call for information.

*[Note: If the courts or county have a public information officer, it may be more appropriate for that person rather than the clerk to contact the media.];*

- Post information on all other emergency communication outlets that the county has set up to notify the public on the current status of the county’s government;
- Include a statement on the jury summons that provides, for example, “In the event of an emergency affecting the courthouse and courts, check this website or call this phone number”; and
- In situations in which there is advance notice of an emergency (e.g., hurricane), the jury clerk can print (in the event the clerk’s computer system goes down during the emergency) a list of the prospective jurors who have been summoned and keep it with other priority work. The clerk would then be able to directly contact those jurors by phone or email (assuming the email system is operational).

Jurors who have already been impaneled also must be contacted. It is suggested that the jury clerk maintain a hard copy list of impaneled jurors with their contact information. Also, as part of juror orientation, emergency procedures should be provided to jurors. For example, they should be advised to check the clerk’s website or call a telephone number for instructions regarding when and where they should report for jury duty in the event of an emergency.

Lastly, it will most likely not be possible to pay jurors who served prior to a major emergency until the environment is stabilized. The clerk should post a notice on his/her website notifying past jurors they will be paid for their service as soon as it is possible. In Galveston County, that was approximately two to three weeks after Hurricane Ike.

### ***III. Recovery and Mitigation***

#### **A. Records Management**

The clerk is the custodian of many essential or vital records that must be identified prior to an emergency so they can be protected. In section 201.003(5) of the Local Government Code, an essential or vital record is defined as a record necessary to the resumption of government operations in an emergency or disaster, a record needed for the re-creation of a government’s legal and financial status and to fulfill the obligations that it has to its residents. The clerk should also consider the protection of historical records.

In the Galveston County district clerk’s office, the following records were identified as essential or vital records:

- all minute books
- every type of docketing book
- naturalization records
- criminal case files
- historical records and exhibits from 1800 – 1920

The clerk should maintain duplicate essential records (i.e., digital back-ups) and store them at an offsite location – near enough to be accessible yet far enough away that the records are not subject to the same risk.

Prior to an emergency, the clerk should determine whether the county has a contract with a records recovery company. The clerk should educate the company, as well as those in the county responsible for contracting with the company, of the critical importance and value of official court records. The clerk should make sure he or she is satisfied with the procedures and processes that will be used by the company.

In counties where the probability of a hurricane or flooding is high, the clerk may want to have arrangements in place with a trucking company to move records offsite in advance of an oncoming hurricane or flood. The clerk should consider the potential geographic range of a disaster and arrange for temporary storage facilities outside the area as a viable alternative. The clerk, for example, may want to enter into an agreement with a fellow clerk to temporarily store his or her records during or after the hurricane or other emergency.

### **1. Preservation of Water-Damaged Records**

If the emergency involves flooding, then paper records may be damaged by the water. They also may be damaged from a sprinkler system activated by a fire. Reducing humidity and temperature are key to stabilizing water-damaged documents. Mold causes the most damage to documents, and it begins to grow on paper within 48 hours. If the clerk is able to freeze water-damaged files and documents, they likely can be saved. Freezing prevents mold growth and stops the deterioration process.

Before a disaster strikes, the clerk should have arrangements in place for equipment and supplies for freezing damaged documents. This may include transportation in refrigerated trucks to a freezer space facility or having freezers delivered to a location designated by the clerk.

Prior to an emergency, the clerk should meet with the county's emergency management team to determine what records management recovery is covered by FEMA and how it is covered. For example, FEMA will only pay for freezer storage for a certain amount of time, so the clerk must get the water-damaged records to a recovery facility before that deadline.

If files or information are kept on microfilm, the microfilm reels or sheets should be kept wet until a microfilm processor can rewash and dry the film.

### **2. Smoke-damaged Records**

If records have smoke damage, but no water damage, they can be “dry cleaned” by a records recovery vendor.

### **3. Records Recovery Vendors**

If a county or clerk is not able to find information about records recovery companies that serve their area, they should contact the Texas State Library and Archives Commission, Local Records Management Assistance Program, for that information. The county employee or clerk should ask to speak to the Government Information Analyst/Records Management Assistant who serves their county.

#### **B. Staff**

The clerk must be able to respond to the stress and trauma experienced by his or her staff resulting from an emergency. Approximately 60 percent of the staff, and 80 percent of management, in the Galveston County district clerk's office lost everything. The Galveston County district clerk scheduled a mandatory staff meeting, which was attended by all her employees, with an Employees Assistance Program counselor. The employees were paid to attend the meeting. Additionally, the counselor met individually with employees who were having the toughest time.

A clerk may not be able to use all staff in an emergency, but should be fair to all staff. For example, the clerk may want to establish a primary response team and secondary response team. The two teams can be rotated in and out, as long as the secondary team can perform all essential functions.

Employees of the clerk's office must keep up with their work schedules and the hours they work. If the computer system is disabled or time clocks are not available in the alternate site, employees will have to use paper time sheets to keep track of their time. All employees should be made aware of the days and hours they and everyone else in the office is working. Scheduling changes can be made through personal email and texting.

It may be necessary for employees of the clerk's office to assist in other county departments where staff is needed. For example, they may be asked to answer phones in the county's emergency management department.