

COURTS IN THE AFTERMATH OF SEPTEMBER 11TH
NINE-ELEVEN SUMMIT SESSIONS
**"EMERGENCY PREPAREDNESS PLANS: AN OVERVIEW OF POLICY &
PRACTICE ISSUES"**

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1 MR. BIRKLAND: Good morning, and thank you all for
2 coming to this very, very important event at which I can tell
3 you I'm -- I'm a student of disaster policy, and I've learned
4 as much here in the last day and a half as -- as I'll learn in
5 a semester of reading books and monographs and reports, and all
6 the other things that occupy more space in my office than --
7 than I do.

8 But at any rate, I think that we have an excellent
9 panel this morning. I've talked to our panelists before, and I
10 think that I we're going to have some really important insights
11 for you and your role as jurists, members of the bar, or even
12 in your role as a concerned citizen worried about the
13 administration of -- of government and the justice in this
14 country.

15 The -- the purpose of this panel is to describe in
16 broad terms some of the broader policy in practice issues
17 facing the courts and -- and their managers. And it's my hope
18 that this discussion will help sharpen the focus of many of the
19 workshops we've had before, and this workshop "- this "- this
20 -- this discussion will be in -- in fairly broad terms and
21 then there's also a workshop that follows it if you're
22 interested in getting into more nitty-gritty aspects of plan
23 writing and things like that. There's a lot of that material
24 also distributed in the cd-rom, so if you have a -- a --
25 another workshop you'd like to attend after this, you can

1 certainly get a lot of the flavor what we'll do in the cd-rom.

2 But without further ado, what I'd like to do is ask
3 the panelists starting from my far right to introduce
4 themselves, and spend a minute discussing why they're here
5 today, what their experience has been with policy and practice
6 issues related to emergency management, at which point when
7 we're finished, I'll throw a few questions out to the panelists
8 and we'll go through a few of those. And then as time permits,
9 and I hope to permit a great deal of time, for audience
10 questions and participation, because I know you have a lot of
11 questions you'd like to ask about these issues. So like I said
12 without further ado, starting from my far right, I'd like the
13 panelists to spend about thirty to forty-five seconds to
14 introduce themselves.

15 KAREN MILTON: Good morning. I'm Karen Milton. I'm
16 the Circuit Executive for the Second Circuit, and as such, I'm
17 the Chief Administrative Officer for the federal courts in New
18 York, Vermont, and Connecticut.

19 And I guess I'm here this morning, as I was yesterday
20 morning, because I think the federal courts in lower Manhattan,
21 which includes the United States Court of Appeals for the
22 Second Circuit, the U.S. District Court for the Southern
23 District of New York, and the bankruptcy court for the Southern
24 District of New York, have really then come the poster children
25 for emergency preparedness in why you want to have these

1 guidelines in writing. And I think I guess we'll sort of
2 develop that as we go along this morning.

3 But, I'm here to tell you that we survived the three
4 courts, we survived the events of last fall, and we got the job
5 done. But, I'm a firm believer, having survived that
6 experience, that we need to have these -- these plans in
7 writing. And in addition, you know, when you talk about a
8 continuity of operation plan, there are parts to it, and what
9 we are talking about is you want to have an emergency protocol
10 in writing. You want to have a chain of authority, or line of
11 succession in writing. You want to have an occupant emergency
12 plan in writing that you and your staff and your judges have
13 trained on. And finally you want to combine all of these
14 things, along with a disaster recovery plan into your
15 continuity of operations plan, and you want to keep it vital,
16 and you want to train on it, and you want to get everyone, both
17 chambers and staff to buy into this program, because it "-
18 there and there are lots of reasons -" but the bottom line is,
19 ultimately, it protects property, it protects vital court
20 records, it keeps your court operating and above all, it saves
21 lives. And it tells your staff, most importantly, I think,
22 that you really care about them and then their well-being.

23 DANIEL DITONNO: Good morning. I'm Daniel DiTonno.
24 I'm coming from the private sector. I'm presently the Director
25 of Environmental Health and Safety, at New York Institute of

1 Technology, as well as I own the compliance zone that deals
2 with regulatory compliance issues.

3 My emergency management disaster preparedness
4 planning has spanned over probably about ten to twelve years.
5 I've developed a number of plans for any number of
6 institutions, private school districts, colleges, universities,
7 private industry, manufacturing, hospitals, nursing homes -- so
8 I again, have -- bring a lot of experience with regards to
9 emergency management planning.

10 If I were to give one thing today, I would say that
11 you want to, as Karen had mentioned, develop a formalized
12 written program. It's a lot of work, there's no doubt, but if
13 you get that in place, you kind of minimize any of your losses.
14 And things like designating an emergency coordinator, a person
15 who is going to be able to take command and take control of the
16 issues, others would be including a crisis management team.
17 You need operational personnel involved in this. And lastly,
18 is you need to decide what kind of emergency disasters may you
19 have. It's just not a matter of -- of -- of -- terrorism, it
20 could be weather emergencies. It could be operational
21 emergencies, communication emergencies, so these are some of
22 the things that you really need to take into consideration as
23 you -- many of you are starting your programs. Thank you.

24 JEAN COX: Hi, my name is Jean Cox, and I'm the

1 But, I -- some learning took place, and I now know
2 what that acronym means. For the last three years or so, I've
3 been working actively in a partnership with our court system,
4 our State Sheriff's Association, and state technical college
5 system to deliver a courthouse security training program across
6 our state. An integral part of any overall safety and security
7 plan, is emergency preparedness and we discuss that in our
8 training program, and that's why I am here today.

9 GREGORY COWAN: My name is Greg Cowan. I'm with the
10 Office of the State Courts Administrator in Florida with the
11 Florida Supreme Court. I served as the primary staff -- for
12 the work -- the Florida Supreme Court work group on emergency
13 preparedness that Chief Justice Wells established shortly after
14 911 -- and -- I'm looking forward to the -- to the session.

15 THOMAS BIRKLAND: Thank you very much. And what I
16 thought would be a good idea to start with this morning, was
17 realizing why we're a block or even less from the tragedy that
18 happened in New York City on 911, there are other sort of
19 disasters, emergencies, situations that can occur besides
20 terrorism, and I'd like to throw this question out to the
21 panel. In -- in your mind, what are the sort of emergencies
22 that you see that the court should be preparing for? If you --
23 if you accept my lie that terrorism is not the most common sort
24 of emergency that you are going to face. What sort of -- in

1 every states, I guess are going to have slightly different
2 experience. What sort of things do you think about when you
3 think about emergencies?

4 UNIDENTIFIED SPEAKER: I can respond to that. Taking
5 a look at judicial specific and court specific, things like
6 bomb threats; being able to have again, your personnel be able
7 to know how to respond to bomb threats. Others would be on
8 threats. Still another would be unauthorized incursion,
9 hostage taking, kidnaping, weather emergencies, high profile
10 cases. If anyone's ever had a media rush, you know that you
11 really need to prepare for that. As well as communication
12 breakdowns, and also any kind of loss of, or partial loss of
13 facility. So, those are just really the tip of the iceberg.
14 I'm sure there are many more that we can cover.

15 KAREN MILTON: As someone who's in an almost seventy-
16 year old courthouse, I guess, I'm approaching this not so much
17 that we're preparing for another 911 attack, but on a little
18 more mundane level. I worry about one of those old pipes which
19 about live their useful life-span by about forty years,
20 suddenly bursting and taking out my courtroom, and my court of
21 appeals -- and it would be during a double panel week -- where
22 I suddenly need to find another space in which my court can
23 continue to hear oral arguments. Or I worry about my 1936
24 wires, in those cute little old hooked casings finally you

1 know, making us the next St. John the Divine, with some major
2 electrical fire that takes out part or all of our building, and
3 makes it untenable. And I have to say that that's, you know,
4 sort of some of the scenarios that we've been using as we work
5 at our court to develop a written -- a written plan for these
6 kinds of emergencies.

7 STEVEN STEADMAN: I'd just like to echo what Karen
8 said, I think that water pipes bursting, the sprinklers
9 accidentally going on, electrical fire -- which I have a little
10 experience there -- creates acid type environment, covers
11 everything with soot, destroys your electronic equipment, it
12 doesn't burn the place down, but makes it untenable. Are --
13 are some significant issues, and I want to throw in another
14 one. We are all very reliant on our management information
15 systems. Let's just suppose the big server at the courthouse,
16 crashes, and you lose it all.

17 KAREN MILTON: Oh when you mean like when you
18 discover there's a major water leak from a major rainstorm, and
19 it just happens to be in your computer room, where all your
20 servers are, not just for your court, but for the entire second
21 circuit? We'd be sad.

22 [laughter]

23 STEVEN STEADMAN: It happened in our -- the largest
24 county in our state. It happened in Milwaukee County. And

1 they lost everything.

2 GREGORY COWAN: In Florida, we certainly have weather
3 related emergencies, and there "- we have other types of
4 emergencies as well. Fall of 2000 is a specific type of
5 emergency that we had to deal with in Florida. And Greg
6 Waters, if he's "- if he's here in the room, he became quite
7 famous from a certain emergency we had to deal with.

8 THOMAS BIRKLAND: I'm just curious, you know, we've
9 -- we've talked in various workshops about these events, how
10 many of you have had a burst water pipe be damaged to your
11 facility or courtroom, or?

12 Okay. How many of you've had a weather related
13 disruption? A snowstorm, a hurricane? A good number. More
14 than the water pipes bursting.

15 How many of you have had an electrical fire? Yeah, I
16 -- I -- I bet we could do a survey and find out, there is a
17 powerful correlation between the age of your courthouse, and
18 the electrical fires, and things like that. So, yeah, there's a
19 whole pan of issues.

20 How many of you have had an earthquake that affected
21 your operations? How many of you are from California?

22 [laughter]

23 THOMAS BIRKLAND: I'm not standing underneath a
24 chandelier thank God. But "- there's some Oregonians here

1 too, I believe that -- that also experienced the [inaudible]
2 earthquake. So those are some of the things that we have to
3 keep in the back of our minds.

4 There was an earthquake in Plattsburgh, New York that
5 -- that had issues in terms of public infrastructure. Sight
6 out of mind down state, but you know, it was a big deal up
7 state. So, those are a lot of live issues.

8 Yet, it's " we're still here gathered for the 911.
9 I'd like to post this to the panel next. Given that we have
10 this range of disasters or emergencies that we'll talk about in
11 a minute, and we'll -- we'll get into some of the nitty-gritty,
12 but have you perceived a change in attitude towards emergency
13 planning, or a "- an impotence to do more of this, or to get
14 started on it, since 911?

15 UNIDENTIFIED SPEAKER: Let me tackle that first as a
16 judicial officer, I don't believe I'd ever thought of the
17 emergency planning prior to 911. So, I mean we "- we had fire
18 drills, we knew we had to get our juries out. The -- the usual
19 thing. But, it was no different than when I was in school, and
20 you had a fire drill. I look at it very, very differently now.
21 Very differently.

22 THOMAS BIRKLAND: Let me ask you to follow up on a
23 question, Kim [inaudible]. Do the judges participate in the
24 drills now as well as the staff? As in some jurisdictions the

1 judges will hang back, and it will just be the staff that do
2 the fire drills.

3 UNIDENTIFIED SPEAKER: Absolutely, the judges
4 participate, and it's my opinion that if the judges don't lead
5 on this, that it will never be done right. Because, your staff
6 will know whether the judges are committed to this, and if the
7 judges aren't committed to it and a disaster occurs, and the
8 judicial officers are the first group that you are focused on,
9 and that you have to deal with, and if they're not "- if they
10 don't know the plan, if they won't work with the plan, then
11 other problems are going to follow suit from that.

12 So, it's the "- it's my message that the judicial
13 officer has to commit to this, and only when the "- the -"
14 judicial officers commit to it, will the staff be able to do
15 what staff knows they have to do. If you have to sell the
16 judge on this, there's a problem. Because, it should be the
17 judge who's out leading everyone else, and saying let's get
18 this done, because this is for the good of everyone. This is
19 what is going to keep our court family together, and working
20 and positive once a disaster occurs.

21 GREGORY COWAN: I would like to echo that. In
22 Florida -- immediately after -- soon after 911, our Chief
23 Justice, within Chief Justice Wells he took the lead. He -- he
24 said this is what we need to do. We need to take steps to make

1 sure we can keep the courthouse open. So, our chief "- we got
2 it from the -- from the very top. It was our Chief Justice.

3 STEVEN STEADMAN: I just want to support what the
4 Judge said and bless you Judge for saying that. What we did
5 that rather effectively in Wisconsin was, we had a great
6 support from our Chief Justice, sending a clear signal that
7 Supreme Court values this training, and this type of
8 preparedness, and at our regional training programs, the Chief
9 Judges attended the entire session, and gave an orientation
10 talk sending a very clear signal to the diverse group of people
11 that this is something that's valued by the Court system. If
12 the judges don't lead on this issue, you cannot succeed.

13 THOMAS BIRKLAND: Let me ask Jean too from the
14 [inaudible] perspective. Have you gotten a lot more interest
15 from -- a whole range of interest not simply the courts but
16 we're talking about the courts today -- have you -- have you
17 seen more interest in emergency management derive from 911?

18 JEAN COX: Absolutely. Our planning section has been
19 just going full boards. We're always busy, but every county in
20 the state, every city, every municipality is now having
21 interest in planning. And also we've been able to tap into the
22 Attorneys Association who's a State Bar Association. We've
23 really been getting a lot of inquires about how do we plan, how
24 do we prepare for so that we can be better prepared if

1 something like that happens in our municipality.

2 THOMAS BIRKLAND: Great. So, I think it's fair to
3 say, based on a comment that was made yesterday morning too, at
4 the first [inaudible], that the 911 provides a window of
5 opportunity for "- for getting these issues on people's agenda.
6 Getting it on the radar screen. Good.

7 The next question I would like to raise to the panel,
8 is this -- this question about, balancing safety and security,
9 health, with the administration of justice -- and Greg you had
10 post this week -- sort of drafted up some topics to talk about.
11 And could you -- could you and then the others if you could
12 follow on, explain how you're able to balance preserving life
13 safety in particular, but also in the structural integrity of
14 your building, the integrity of your records, the what not, the
15 integrity of the judicial system itself. How do you balance
16 that with "- with making -- balance that like safety issue.
17 Getting people out of the building if they need too, or getting
18 them in a safe place. With the need to keep the courts up and
19 running.

20 UNIDENTIFIED SPEAKER: These were the "-" and it was
21 interesting hearing the discussion yesterday, these are exactly
22 the -- the goals that we've established in Florida. One,
23 protect lives, and protect the health of our judges staff and
24 visitors to the courts. And two, keep the courts open. These

1 are our goals. And to meet those goals, we've developed a
2 strategy that has -" and part of that strategy are a number of
3 best practices. Some of those best practices include naming
4 emergency coordinating officers, in each of our file court
5 circuits, and "- and -" and appellate court districts. So, we
6 have a warm body in each of those areas, that if something
7 happens in Miami, we know that we can call Frank, who's our
8 emergency coordinating officer in Miami. And those emergency
9 coordinating officers will then task to get hooked into the
10 already existing emergency management network that each of our
11 counties have an emergency coordinating -- emergency operation
12 center. And our state has an emergency operating center.

13 So, if there was one thing that I could stress, it
14 would be naming those emergency coordinating officers, and
15 getting the courts hooked in to the already existing network.

16 THOMAS BIRKLAND: (Inaudible) I'd love to hear the
17 reaction to the others.

18 UNIDENTIFIED SPEAKER: I would agree with that, in
19 fact, I'd like to mention that North Dakota Courts brought
20 their state emergency manager director here to listen to this
21 Court presentation. It's so important to get that connection
22 in. Because you need to know what's going on outside your
23 courthouse, your protecting the people there, your protecting
24 your records, but you need to know first of all if you can

1 evacuate. Maybe the road's closed right in front of you.
2 Maybe the flooding is happening right in front of your
3 courthouse. You need to plug into that situation, and I left
4 with you a calendar. It has every county emergency manager's
5 phone number in it. And it's very important for the New York
6 State Courts to get connected with that.

7 Maybe a point an emergency management coordinator in
8 each court has them put into that system. It's so important,
9 and it's a great resource for you to have, and utilize right
10 now.

11 UNIDENTIFIED SPEAKER: It's specifically a way to
12 protect lives, and then all of those resources that you can
13 bring to bare, after the emergency, you can get your courthouse
14 back up and running.

15 UNIDENTIFIED SPEAKER: I would just add to that, that
16 judges and court administrators out in the audience you make
17 the call. You call the emergency government people. Don't
18 expect them to call you. You heard sometimes "- in some of the
19 discussions we're not really on the radar screen of what's out
20 there. I mean, that's unfortunate, but, if you're expecting
21 them to come find you, it's not going to happen. And we need
22 to make that first step. We have a little bit of an uphill
23 battle. Our reputation is that we're not all that cooperative
24 with outside agencies on this issue, and we need to make that

1 change.

2 UNIDENTIFIED SPEAKER: I'd like to add that in our
3 disaster relief coordinating, we have made those contacts in
4 our community. We did reach out to them, and from fire
5 departments, through emergency aid workers, they were surprised
6 to hear from us, that they were extremely grateful to hear from
7 us, and we had a mock disaster drill, in which all of us
8 participated. Streets were closed off, we evacuated the
9 building, and we did a number of things that we knew we would
10 have to know how to do. And afterwards, we heard back from all
11 of the local and state people, thanking us for the fact that we
12 had taken the lead on it, they were surprised, as Steve has
13 said, to hear from us, but they were very grateful.

14 THOMAS BIRKLAND: I think it's important to keep
15 impor " to keep in mind, I mean the emergency management groups
16 do want to help with you, but they "- they -- they often are so
17 busy that "- that -- that you need to come to them, and you
18 say, "Oh wow! That's a really good important point!"

19 Another thing that came up in a conversation I had
20 with some folks this morning too, I would like you to direct to
21 this, is the notion that instead of being proactive on the part
22 of the judiciary, is -- is partial judicial independence that
23 you really want to demonstrate. That we are not dealing with
24 an agency here, we deal with a branch, you know a coequal

1 branch of government. I wonder if anybody has any thoughts
2 about how you can sort of you know, maintain that -- that --
3 that image which is very real, it's not just an image of
4 judicial independence by being proactive about managing
5 emergencies.

6 UNIDENTIFIED SPEAKER: Well, I'll jump in on that
7 one. I think that the judicial independence issue is, it's --
8 it's something that in the court system we hold near and dear.

9 And I think sometimes it's often misinterpreted to be judicial
10 autonomy. And I think that the way that courts in the future
11 that are going to get the job done effectively are going to do
12 this, is improve the way that they can show the public that
13 we're taking care of our business and that we are accountable.

14 I think by doing that, the public will have confidence, and
15 that's the best way to insure judicial independence. And this
16 is a great way to show that we're doing some business-like
17 approaches to maintain "- you know, we're copying the private
18 sector, and we're using a business-like approach to manage our
19 business.

20 UNIDENTIFIED SPEAKER: You know, there's nothing
21 worse than having to manage the reality that you did not know
22 what you were doing, if you have a disaster, and it's spread
23 all over the press that people didn't get out of the building
24 safely, or they didn't know where to go when they got out of

1 the building. These are the kinds of issues that you don't
2 want playing in four inch headlines in the paper, because it
3 doesn't help the third branch image.

4 But, more importantly, as an independent branch of
5 government, we have an obligation to the public that we serve.
6 The public's in our courthouses, everyday; and if we aren't
7 prepared for the issues that we need to address when there's
8 safety "- the safety of the public is at risk, we are not
9 fulfilling our obligation.

10 THOMAS BIRKLAND: That goes to a question that I'll
11 -" I'll -- I'd like to talk a little bit more later, about
12 what the Court's responsibility is to it's " it's " it's
13 clients, if you will, its stakeholders.

14 What I'd like to turn to now, moving from the broad
15 to the practical. Start with Steve, and -- and everybody in
16 the panel, please chime in. What are some "- both hi-tech and
17 low-tech resources you can use to improve emergency
18 preparedness -- emergency planning? And, I'd like -- I'd like
19 to hear about some of the technological solutions, but I think
20 a lot of people out there, are interested in the low-tech, the
21 solutions that don't cost a lot of money to implement.

22 STEVEN STEADMAN: Well, I want to have people recall
23 the closing comments of Mr. Finer yesterday, where he was
24 saying you know, we have to balance access with security, and

1 the cost per foot of new courthouses, and things like that, if
2 you try to build in all the security things, and really laying
3 the money issue out there front and center. And at a certain
4 point in this -- on the -- on this -- this subject, you can't
5 get away from that.

6 What we have done through our program in Wisconsin
7 is, we start at the other end, and we talk to the folks that
8 come to our training about what are low and no-cost ways that
9 can be used to improve safety and security at the courthouse?
10 And they can be really simple things, basically the planning;
11 getting the people together, finding your occupant emergency
12 plan. In our travels throughout Wisconsin, we would have a
13 little section where he said, "Say, Judge. Did you know that
14 there's a plan for your building? And that if something bad
15 happens, the director of emergency government, might be telling
16 you where to go, are you aware of that?" And the judges' jaws
17 would go slack a little bit. Then we'd say, "You might want to
18 find that plan, and just see what they expect you to do."

19 It's things like that. Just taking the time to do
20 those things. So, we start at the other end of the path and
21 say, "Let's do everything we can, to be prepared. It doesn't
22 cost any money, and then let's talk to the funding bodies about
23 how wise we are to do that. And then when the time comes to
24 buy some of the technological gear, they're more receptive,

1 because they -- they know that you've taken a planning
2 approach, a business-like approach, it's sort of fundamental
3 politics in a way. Start with the easiest things to change,
4 and move forward to the high-tech stuff.

5 In our materials, I noticed that magazine "- and it
6 was a shock to me "- the variety of vendors that are out there
7 that are willing to save us, in the event of an emergency,
8 where the very high-tech solutions, but I -- I don't think that
9 we, you know, in the court systems, or most of the courts,
10 should start there. I think we need to start with the
11 fundamental, "Let's wake people up. Let's get the judges
12 leading. Let's inform our staff that these safety issues are
13 not the responsibility of a emergency government or law
14 enforcement, or anybody else. There's something that we share,
15 that is our job, and we just have to do that." So, I really
16 think we want to look at the low-cost things first. It's the
17 drilling, the training, getting the information out there.

18 UNIDENTIFIED SPEAKER: One of the "-

19 KAREN MILTON: Oh, go ahead.

20 UNIDENTIFIED SPEAKER: One of the low-cost things
21 that we've done, is we've used the -- our existing staff to
22 develop templates for plans. Then we had a training with all
23 of our emergency coordinating officers on -- on the templates,
24 and basic fill-in-the-blank, fill-in-the-box templates for

1 their plans. And then they can structure those templates, edit
2 what is unnecessary, add to, where needed. But, it gives them
3 a very simple form that they can then fill in and -- and -- and
4 then we can come back and exercise those plans. But, it's very
5 low cost, very [inaudible] with existing staff.

6 KAREN MILTON: We -- we took -- instituted some, what
7 I would call low-tech steps after last fall, I mean, we found
8 out that people in an emergency, either forgot, you know the
9 name of the TV station, and the radio station that we primarily
10 use for emergency matters at the Court of Appeals, people
11 either, you know, forgot the Marshals number to call, or you
12 know, didn't remember to take certain home numbers with them.
13 So, we have our personnel office under a standing order that
14 every you know, minimum ninety days or earlier, if there's a
15 big surge, or influx of say law clerks coming on at the court.

16 They send around updated home address and telephone
17 numbers to each senior manager at the court, for that person's
18 unit, to each chamber, for all of the staff. I get a complete
19 list of every single person, chambers and non-chambers with
20 home addresses. We're thinking of even going to asking for
21 next of kin, maybe even asking for your blood type. We
22 recently at our judicial conference, had a medical emergency,
23 where a judge was bitten by some insect, and had a horrible
24 allergic reaction. The judge was a little disoriented and not

1 in the best state to provide us with information and we all
2 stood around looking at each other, because this was a judge
3 who hadn't filled out his judicial security profile, and we had
4 no idea. Was he allergic to medication? What was his blood
5 type? You know, what do we tell the doctor? How do we provide
6 medical assistance.

7 We have all of our judges. If their judicial
8 security profiles that are supposed to be filed with the
9 Marshals, are more than one year old -- that's about all of
10 them -- they're filling them all out. And you know, we're
11 getting a lot less resistance than in -- than in other years.
12 We make sure that we know the car licenses, you know, so that
13 we have the list for purposes of gaining access to the judges
14 garage. And, as I said yesterday, every single staff member,
15 now has "- and when they come on board -- they get this little
16 laminated card that has important numbers, it has our web site,
17 you know. It has that we use WNBC or CBS and 10-10 WINS or
18 whatever, it's just so that people don't have to think. And
19 we've done similar things for the judges and they also have an
20 additional secured 24-hour number in Washington. It really
21 cost us nothing.

22 And the other thing we're doing on the low-tech side,
23 is we're redesigning our ID's. We've found that we have gen --
24 generic ID's in the -- in the federal courts that don't say

1 who's who. So, I don't know if it's good or bad, but I could
2 talk my way through every checkpoint last fall, saying I'm the
3 Circuit Executive, when I absolutely had nothing on my person
4 that was official that said to the law enforcement officer at
5 the checkpoint that I was really the Circuit Executive, and I
6 really needed to gain access to what was in essence a
7 restricted area.

8 On the high-tech side, we're grappling with, how do
9 we set up a hot-site, a cold-site, whatever you want to call
10 it. But, an off-site location where we're going to have
11 servers and we can back up our data that in the "- in the event
12 we once again lose our data lines, we have a way that we have
13 certain critical information. And we're grappling is, to
14 define critical, for staff and chambers, and then define how do
15 you retrieve it? You know. And then define where do we put
16 it? So that we have at least a staff member who can get to the
17 site, to activate that computer equipment. And that's on the
18 more expensive side. But, I think it's something that we
19 ultimately all have to grapple with. That if you lose your
20 building, and you lose your servers in your building, how are
21 you going to preserve your vital data that you're going to need
22 to keep operating?

23 UNIDENTIFIED SPEAKER: Just to follow onto that. A
24 couple I've learned at this conference, one from the gentleman

1 from the National Archives, that you can go to their web site,
2 www.archives.gov and there's a link there that says, Disaster
3 Recovery, and it's a list of what you ought to have on hand, or
4 be able to find in the event that you have a disaster that
5 affects your records, like flooding. And it's right there, and
6 it's available. Talk about low-cost. That's one.

7 And the other was from Professor Kelley yesterday,
8 one that I'm going to be taking back with me for our larger
9 courthouses. Our -- there ought to be some set-ups where
10 there's a flashlight, a whistle, and a map that can get you
11 through smoke, and we ought to have those around in some
12 locations, I mean, what's that? Six bucks? You know, and you
13 can, you know, you buy a hundred of them, for your -- for your
14 -- for your folks. You know? We just got to -- we just have
15 to have that. That's just smart business. Those are -- those
16 are real low-tech items, and that's the kind of thing that we
17 need capitalize on, and just have, you know, spread far and
18 wide, that we have that and it's available, and we know what
19 we're doing.

20 UNIDENTIFIED SPEAKER: We talk about a lot -- a low
21 tech which is really good, but are there ever other -- there's
22 some technologies you see that are promising that are -- that
23 are useful and I don't want to talk about the, you know, the
24 bleeding edge kind of stuff, but when it comes down -- Karen,

1 for example the off-site storage thing. It's not exotic
2 technology at all, it's really a set of policy questions, about
3 what to back up and how to get it off the system "-

4 KAREN MILTON: -- I should -- I should really call on
5 my automation guru who is the guy who got us through last -"
6 last fall to really talk about what's -- what Joel and I have
7 been kicking around and what we're proposing, to the automation
8 committee. But, it really isn't. I mean, we're you know,
9 we've purchased an additional server, we're not talking about a
10 huge storage area network at the off-site location, but we've
11 purchased an additional server. In the federal "- in the
12 federal system, we're supposed to keep these things in federal
13 buildings. We've identified a site that's you know, about 40
14 miles outside of Manhattan that is a federal building, that we
15 think right now, is, you know, will be accessible, because a
16 number of key managers, including myself are within, you know,
17 a half hour to forty-five minutes from this location, and it's
18 large enough to accommodate us, and if we need to grow. And
19 we're talking about maybe throwing a couple of our extra
20 computers that we have out there with a fax machine and, you
21 know, some telephones, that if we had to have a command post,
22 we wouldn't have to use the Pizzeria we used on 44th Street
23 last year. But, we would actually have a place where we could
24 store, you know, certain records, especially those records that

1 you can't scan, but you, you know, that you want to have
2 preserved.

3 For example, we've cre " we have building plans for
4 our seventy-year-old courthouse that we've pulled together over
5 the years, that if we lost them -" I mean, maybe it's not the
6 worse thing in the world, but on the other hand, to recreate
7 them, would be really difficult, so we're thinking, you know,
8 maybe it makes smart business sense to make copies of these
9 things to the extent that we've created schematics for -" for
10 portions of our systems, and our -" and our areas, and to have
11 these things stored out there. It is going to take, you know,
12 several thousand dollars to do this. But, you know, the
13 simplest thing you can do, is just make sure that your systems
14 guys are taking your backup tapes every night and getting them
15 out of your building. I mean, as simple as, you know, sending
16 them to the courthouse across the street, and then you know,
17 weekly or whatever, making sure you get them to some off-site
18 location, where, you know, if there was a major flood, a
19 hurricane, a tornado, they would hopefully be protected.

20 You know, as I said, the automation side "- we're not
21 looking at exotic things, because we're -- we're not cutting
22 edge. We're the federal judiciary. We are looking at whether
23 we should explore, you know, something as simple as when you
24 have a few extra dollars, purchasing laptops, so that every key

1 manager will have a laptop at home that will have all of this
2 vital information on it. You know, we're looking into whether
3 we can, along with Washington, explore the use of blackberries
4 or other devices that seem to work last year, when all the
5 phone lines and the receptors for the cell phones went down
6 with the towers. We don't have all the answers yet, but we've
7 certainly raised the issues with Washington and with each
8 other, both in the down state area and in the "- in both in our
9 circuit, and with our neighboring circuits, the first and the
10 third circuit in Boston and in Philadelphia.

11 UNIDENTIFIED SPEAKER: Knowing from well -- knowing
12 this generally, and definitely having it had been emphasized
13 here at this conference, the fact that communication in the
14 event of an emergency is -- is so critical. That is an area
15 where I see technology as -- as being a major "- a major
16 assistance to the courts. I heard some folks from
17 Washington D.C. talk at a meeting that I was at about cell "-
18 combination cell phone/radio phones. But, the radio part
19 worked in the emergency. That's one type of idea that I
20 commend to you. The other that I heard, I don't know if it was
21 in the plenary or the breakout, satellite phones from major
22 locations in your state, can also work. And Judge Lippen men -
23 - mentioned yesterday that one of the things that New York has
24 invested in, is Internet phone service. But whether it was

1 resilient in an emergency, and I think that's a model for all
2 of us. And so, I commend communication as probably the main
3 area for the higher-tech solutions. I commend that to you for
4 your thoughts.

5 THOMAS BIRKLAND: Yeah, you think that it's really
6 important. I mean, you think about the history of the web. It
7 was designed to be resilient. It was designed to handle just
8 this very sort of event, where a central point on the network
9 goes down, and the telephone system wasn't designed that way.
10 So, that's what I hadn't thought of, but I think that it's
11 really important.

12 Real quickly though, I'm just "- I have one question
13 for you, since we're on technology. Has technology ever been
14 implemented that -- that caused more trouble than it was worth
15 for you? That you had to go backwards because something was
16 promised that didn't deliver, or something like that?

17 UNIDENTIFIED SPEAKER: Yes, I've seen in some cases,
18 I work in hospital environments, and we use things like
19 proximity readers, and card readers, and when you get a glitch
20 in the system, I mean, you do have problems. So, some of the
21 high-tech things can be a problem, most definitely.

22 THOMAS BIRKLAND: Right. Yeah, that's how one things
23 my back problem. You know, the technology is supposed to solve
24 one problem, but creates another. Interesting.

1 Jean, I'd like to turn to you and talk about the role
2 of -- of state emergency management office, and these would be
3 the courts. What do you see that the role of FEMA or your
4 colleagues in other states being in handling the Courts work
5 with you doing emergency planning, working with FEMA, things
6 like that?

7 JEAN COX: Well, I think that it's important. I was
8 just thinking about this, that in order to get your courts back
9 in operation, you have to understand that there are many
10 competing interests when you have a disaster. Everybody thinks
11 this road should be open, or this road should be open, or these
12 utilities should be going up. And if you have a plan, to
13 determine maybe your priorities for your court system. Maybe
14 not every single one of your buildings has to be up in
15 operational within twenty-four hours. Maybe you have a plan,
16 where certain courts you need open right away, and others can
17 wait a day. Or you know, you can do a graduated approach.
18 That would be very helpful so that the emergency management
19 committee would see that you're not just saying, "well, we need
20 everything open right away." It doesn't matter. Everybody "
21 everything has a priority, and maybe your criminal courts will
22 need to be open before your civil courts will need to be open.
23 So, I think as court administrators, you need to look
24 at that, and set a priority list as to what courts need to be

1 open and how quickly you need to function, and that will go a
2 long way in the emergency management community and helping them
3 understand what the priorities are.

4 UNIDENTIFIED SPEAKER: I would just like to comment
5 on that too. One of the things that was mentioned yesterday in
6 the communication breakout Dave had mentioned it, was that in
7 his relationship with the press after 911, that the thing that
8 really helped him was the personal contacts he had in the
9 media, and this is the same situation. If you have personnel
10 in your court, who personally know somebody in the emergency
11 operation center, that's going to work to your advantage in
12 getting your court back up and running.

13 JEAN COX: And you'll understand with the emergency
14 management issues are also, because if you've been to planning
15 and training and drills with them, you'll understand the global
16 picture as to what they're dealing with, and then you can fix
17 -" see how your court system will fit into that, and you
18 maybe helpful. Your court maybe a great place for a shelter,
19 or something like that. You may be able to assist the larger
20 community, while also getting your court back up and
21 operational, because maybe part of it could be used for
22 shelter, while the other part could up and running, therefore,
23 you might be on the first priority to get the utilities back.
24 So, there's ways you can really help -" we can help each other.

1 GREGORY COWAN: The State Emergency Operation Center
2 is actually set as -- in Florida -- has actually set aside two
3 seats at the Emergency Operation Center for branch personnel.
4 Our marshal is our judicial branch emergency coordinating
5 officer. He has a seat, and Greg Waters, our public
6 information officer, now has a seat actually at the Emergency
7 Operation Center in Tallahassee.

8 THOMAS BIRKLAND: Interesting.

9 JEAN COX: You know, I'd like " I just thought of
10 something. I'd like to follow up on that, because I think it's
11 not obvious, but maybe important, and that is that there is
12 competing interests when you talk about assistance in the
13 community versus security. And I can well foresee that if a
14 courthouse was on site to become a shelter, and at the same
15 time be operational, at least in the federal system, the
16 marshals would not allow that, where you would have to fight
17 with the marshals about whether to allow that because the "-
18 the insistence will be, "we have to be secure, we have to be
19 secure, we have to be secure." And that's the mantra that
20 we're going to keep hearing, at the same when we do have this
21 very public role, and obligation to assist the community.

22 So, that's something that you should be thinking
23 about and it's another reason to go ahead and reach out early
24 before anything happens, so that there isn't this little fight

1 that starts when it's too late.

2 UNIDENTIFIED SPEAKER: I think that comes to the
3 point about you not being just another agency, too. I mean,
4 you're a court, and you've got some special unique needs that
5 -- that need to be addressed. It's not just a building that
6 conserves as a shelter.

7 KAREN MILTON: But in the federal system, you know,
8 we need to make sure since the marshals are our primary link to
9 the various law -- local, state, and other federal law
10 enforcement agencies, you need to make sure that your marshal
11 has a seat at the table and also, then you need to make sure
12 that your court security committee, and I think this goes
13 whether you're a state court, a local court, or a federal
14 court, you need to have an active security committee.

15 In our court, we combine it with the space committee,
16 because we have thirteen active judges. There are three of
17 them formed this committee, and they meet in conjunction now,
18 which we didn't before September 11, with the security
19 committee of the District Court in the building next to us, and
20 the marshals briefed them.

21 And you know, and before 911, you know, the marshals,
22 I think, were not as necessarily integrated into the local and
23 even federal community. You know, now there is a marshal has a
24 seat on the joint terrorist task force. There's a marshal who

1 has a seat with the Mayor's office of operations and emergency.

2 So, we're on the radar screen, because one thing we
3 found out when we lost our data lines last fall, and we were
4 competing with every other entity in lower Manhattan to get a
5 dat "- to get an emergency data line put in, we were told,
6 well, we need to know where you are, on this national security
7 priority list and surprise, surprise, there wasn't a "- the
8 third branch of government in the federal system wasn't on the
9 list. They were -" we were not on the list! And we were told
10 well, hey! If you're not on the list, we can't lay this line
11 for you and you know, maybe you'll get your computers, you
12 know, your computer data communications network back sometime
13 in 2002, if you're lucky.

14 And we jumped up and down and screamed and cried, and
15 begged, and surprise, surprise we got on the list. Okay, we
16 are not number one, the CIA and the FBI come before us, but
17 we're, you know the federal courts as an entity are about
18 number two or three on this list. You know, we're in the
19 first, you know, several entities now, that if there is another
20 major disaster in one of the circuits or one of the districts,
21 you know, they're going to go to this list, and you can "- and
22 the AO can call someone, the AO, is our version of OCA, in the
23 government -- and low and behold, you know, we're going to get
24 some assistance, and we may just be able to get back up and

1 running a little faster than we did last fall.

2 UNIDENTIFIED SPEAKER: And the planning and training,
3 that's where that would be so important, have your marshals or
4 whatever your security is in your courthouse, get involved with
5 the local law enforcement, the local emergency manager, the
6 local fire department. So, that way you don't have to jump and
7 down scream at the time of the disaster. They are already
8 aware of your priorities, and can assist you, and you might be
9 able to assist them also.

10 UNIDENTIFIED SPEAKER: Great. I just want to follow
11 up on that just for a second. I " I " I really think that the
12 court, you know "- in an event of an emergency, the courts are
13 under the obligation as oth -- other citizens to be of
14 assistance, not be a hindrance to operations. And by getting
15 to the table before a crisis, we can "- we'll be able to better
16 perform our role, and hold up our end of the bargain in our
17 democratic society, and that will be good for us. Because the
18 worst judge Keeley eluded to it earlier, the worse thing that
19 could happen is, we're a hindrance.

20 And that gets -" or we didn't know what we were
21 doing. That isn't "- that's not good for the independence of
22 the court or -- or any other important issue that we have.
23 These are really, really important things to consider.

24 THOMAS BIRKLAND: It's worth keeping in mind too,

1 that and I've -- I've heard this more than once, that "- that
2 in some cases, the "- the courthouse, the county courthouse
3 might say they might be a shelter after some negotiation,
4 because you're not the only tenant, if I'm not mistaken.
5 There's a lot of courts that sit in buildings that have other
6 functions. And so, that's something to keep in mind too.

7 Another thing to keep in mind, is something that Gene
8 brought up, and I'd like to pose this to the panel, is notion
9 to prioritizing courts.

10 That's something I came to when I first started
11 thinking about these issues. Yeah, sure, you've got to keep
12 the trial courts open, but do the appeals courts really need to
13 sit right away, or this family court will they need to sit
14 right away?

15 And I -- I know I'm carrying this out [inaudible -
16 laughter] -- you know, as a lay person, I'm like, well, you
17 know -- you know, I can wait another month to -- to -- to plea
18 bargain my speeding ticket, you know, why does that need to
19 happen right away? So, is -- is there really a way to
20 prioritize which courts should be open before other courts?

21 KAREN MILTON: Well, I'm not going to speak for the
22 state court system, I mean sure, in life everything has a
23 priority. But, I can just say that in our circuit last
24 September, when I spoke with the Chief Judge on Sept -- on the

1 afternoon of September 12, he felt very strongly that it was
2 important for our court, which is as a Federal Appeals Court
3 sits every day from the last week in August to the last week in
4 June, to be up and running.

5 And to show that what happened the day before, was
6 not going to stop us, and that litigants would know we were "-
7 we were proceeding, you know, it's almost business as usual,
8 not this "- not withstanding the fact that below four "- below
9 Cannel Street, there was nothing usual going on.

10 And I do think, you know, as someone and I will say
11 you know, after -- in discussing with the Chief, as someone who
12 was then charged with the responsibility of you know, getting
13 into a restricted area, finding an alternate location where
14 litigants could come to present oral arguments to the court, I
15 think it sent a powerful message for our court to be there on
16 the following Monday, on September 17, with three judges
17 sitting behind a desk, or a table in a meeting room at the
18 association board of the City of New York in midtown Manhattan,
19 and to have you know, the deputy clerk of court stand up and
20 say the United States Court of Appeals for the Second Circuit
21 is in session.

22 And I really do think it sent a powerful message, it
23 sent a powerful message to the community, and it sent a
24 powerful message to the staff and to the judges. And I think

1 it helped sort of allay some fears. You know, it's like okay,
2 we're going to go on, we're going to figure this out, it's not
3 going to be pretty, but we're going to move forward. And I
4 think it gave people responsibilities, it gave them jobs, they
5 weren't sitting around wringing their hands. It was, we have
6 work to do, and we're going to do it.

7 I think the importance of having a plan and in
8 working out priorities with the law enforcement community is
9 that when there is a disaster and you lose your phone lines,
10 you lose your building, you're at least on a priority list.
11 And I'm not suggesting that we all need to be number one in
12 front of you know, the NYPD, or other agencies, but, you know,
13 we weren't even on anybody's radar screen last year. When the
14 mayor's priority list came out to restore phone service, the
15 bagel store around the corner was on the list before we were,
16 because they provided a real service in the eyes of the mayor,
17 you know, who are the federal courts?

18 What we did find is, you know, we -- we didn't look
19 to be up and running the way we're up and running today, 100%.
20 We stripped it along with the district court, we stripped it
21 down as lean and mean as we could go. But, at least we kept "--
22 we kept operating. And I think in the wake of that particular
23 disaster that was absolutely the right thing for us to do.

24 And -- and you know, not everybody agreed with us at

1 the time, not everybody probably agrees with us today. But,
2 given the nature of that disaster, it was absolutely the right
3 thing for the federal courts to say, is we're not -- we're not
4 going to stop --" and we didn't lose one argument. We just --
5 we scheduled them, but everybody who was scheduled for argument
6 the week of September 10, if they wanted their oral argument,
7 they had their oral argument in front of our court, before
8 Thanksgiving.

9 UNIDENTIFIED SPEAKER: One of the key points in
10 continuity of operations plan, is defining your mission
11 essential functions. Then you can scale back your operations
12 to your mission essential functions, during, we've said in
13 Florida a 30-day window.

14 So, immediately following an emergency, if the
15 facility is no longer there, we can perform at least according
16 to our plan, we hope to be able to perform our mission
17 essential functions within that 30-day window. And I tell you,
18 it does a good job in defining their main essential functions,
19 is Essex Vicinage over in New Jersey.

20 We actually got their template for defining mission
21 essential functions, and we've developed a template based on
22 their, the way they've set up their mission essential
23 functions.

24 THOMAS BIRKLAND: Your template is available on your

1 web site, is that right?

2 UNIDENTIFIED SPEAKER: Yes"-

3 THOMAS BIRKLAND: What? Could you let folks know
4 what that web site is?

5 UNIDENTIFIED SPEAKER: The web site is
6 www.flcourts.org.

7 THOMAS BIRKLAND: That's really easy. Flcourts.org?

8 UNIDENTIFIED SPEAKER: Dot org. Click on judicial
9 administration, and then click on emergency preparedness.

10 THOMAS BIRKLAND: Great. Excellent.

11 UNIDENTIFIED SPEAKER: Just a comment, again
12 something I picked up at this conference, is that you know, I
13 mean it's important to make sure that the symbolic role of the
14 courts is -" is in place, and I think the time that we can get
15 back in business, is when the "- when life safety issues are
16 handled basically. Are people getting food, water? They can
17 move around in our society, as soon as that's in place, we can
18 be ready to get back in business. But, we -- we need to be --
19 be back in business as soon as is practically possible.

20 KAREN MILTON: Well, I think it goes to you have to
21 define your mission. And, in doing so, you'll determine
22 whether there are cases in every type of court, in family
23 court, in -- in the trial courts, in the appellate courts, in
24 the federal courts that -- that are essential, and that need to

1 go forward. And in defining your mission, that helps decide
2 how you're going to operate. And what your window is going to
3 be for getting -- for getting back into business. Are you
4 going to wait 24 hours, 48 hours, you know 72 hours to get the
5 lay of the land? Fine you know, activate your alternate sites,
6 move everybody where they have to go, you know, get the word
7 out, so that the litigants know, the jurors know where to come
8 and get there safely.

9 But again, that should all be in your plan, and
10 that's why we want to do these things, because it sends a
11 message that we are the third branch, and we, you know, we
12 remain unaffected by these things.

13 We're just going to keep doing what we do, which is
14 administrating justice, and making sure that the tenants of the
15 civilized society are there, even in major disasters.

16 THOMAS BIRKLAND: Great. What we -- these insights
17 are remarkable, and I -- I think they've generated probably a
18 lot of questions, and since we're running a little over time to
19 that, I wanted to get to questions soon.

20 And so I would like go ahead and start that process
21 now, by inviting the audience to pose questions to our -- our
22 Excellent panel. They'll be a microphone distributed, I
23 understand. And it might be good to raise your hand, and then
24 wait until the microphone finds it to you -- it's way to you --

1 UNIDENTIFIED SPEAKER: If you're here, no, I -- I
2 hope that I you all understand that you have to -- you have to
3 have a line of authority for which you're going to proceed both
4 within your district and at each point. Because there's got to
5 be that kind of coordination. And then you have to make sure
6 that other people know that.

7 So, that's part of your coop, it's also part of your
8 card. Our card is a little bit bigger than the one that's used
9 in the second circuit. But, that's because we want everybody
10 to know who you call next if number one is out of commission or
11 number two is out of commission.

12 GREGORY COWAN: We kind of faked it in Florida. We
13 -- we said each judicial, each of our trial circuits, and
14 each of our appellate districts had to have an emergency
15 coordinating officer. But, in a lot of those areas, we have
16 multiple counties, and multiple courthouses, in multiple
17 counties. So, then each facility, we designated a safety
18 officer. So, each facility has a safety officer, each circuit
19 or district has an emergency coordinating officer.

20 UNIDENTIFIED SPEAKER: Question right here in the
21 back.

22 UNIDENTIFIED SPEAKER: [Inaudible - away from
23 microphone] include a protocol for reoccupancy of a building
24 that you can't tell visibly whether it's safe or not?

1 UNIDENTIFIED SPEAKER: Well, our plan includes both
2 the coordination -- the continuity of operations plan and the
3 occupant plan as well. And you have to determine which one is
4 going to kick in and the criteria basically of the criteria
5 then amounts to, can you get back in? So, the first thing that
6 you have to do, is determine whether your building can be
7 reentered, and that's frankly not so much the responsibility of
8 the judicial officer although -- aren't involved in that, but I
9 am going to be relying on the marshals, those people who were
10 first line responders for security. It's also going to be
11 people in the community who are going to tell me whether or not
12 that building is safe to reenter. But, if it is, this same
13 plan tells me exactly what I'm supposed to do, because it sends
14 me to what we call the OEP, and then if not, we know we're --
15 we're operating under the coordinate -- continuity of
16 operations plan.

17 KAREN MILTON: We don't own our buildings, that is
18 the judiciary doesn't own it's buildings in the federal system,
19 they're owned by the general services administration which is
20 an executive branch agency whose administrators are appointed
21 by the President.

22 So, last fall, although our judges were a little
23 surprised to learn that GSA decided whether the building would
24 be opened or closed, one of the first things that I did, in

1 speaking to GSA, was to say to them, you know, I'd been in the
2 building, it looked pretty structurally sound to me, but I also
3 knew that the building shook on the day that the Trade Towers
4 were attacked. So, one of the things that we insisted on was
5 that they "- that GSA as soon as possible get structural
6 engineers in and also get your mechanical engineers in to clean
7 out and double check your "- your operating system. It's not
8 only just a question, depending on the disaster, of your
9 building being structurally sound, but you want to make sure
10 that your systems are structurally sound. That you're going to
11 bring people back into a building where they're not going to be
12 breathing what could possibly be toxic air that got into your
13 HVAC system, or your heating system. You know, we wanted to
14 make sure that the ducts were clean, the filters were changed,
15 and that should be part of your plan.

16 You know, the biggest problem is knowing who to call,
17 and having their emergency numbers, you know, even if it's a
18 home number, not just their office number. Because for us, GSA
19 is going to do that. If we're out of our building, and this is
20 how we are writing our plan, if we're out of our building for
21 two weeks, and there's no return in sight, then we go to GSA as
22 our landlord and say, you know where we putting a hundred and
23 fifty people for the foreseeable future? And that's sort of
24 how we're approaching it. We're not saying we're going to move

1 a hundred and fifty people lock, stock, and barrel to a new
2 location, we will move several judges so that they can hear
3 arguments. We will have key staff hopefully being able to
4 perform the function and getting the papers to the judges, but
5 we're not looking that within 48 hours, we just set up shop
6 like Deiochabank, you know, a mirror image somewhere "-
7 somewhere else.

8 IRENE KEELEY: Can I just follow up on that for a
9 minute, because on 911, I received a phone call from the FBI in
10 our area. We have five miles from my courthouse, the key FBI
11 Identification Facility for the world. It is mostly
12 underground. It's not well "- well documented to where it is,
13 but because we were within a hundred miles of where the plane
14 to Pennsylvania went down, the FBI wasn't sure what the target
15 was. The FBI knew that if their building had been targeted, it
16 was going to put out the capacity around the world to identify
17 who might be involved in this.

18 And so therefore, I received a phone call saying, we
19 want you out of there. We want the building shut down. And I
20 sent the word out, also, we have a court within forty-five
21 minutes of downtown Washington, and that was without a -- a
22 thought had to be shut down. So, we were "- I sent the order
23 out. Drafted the order, and sent it out. The buildings are
24 shut down. We're in a Post Office building. We don't have the

1 GSA. We're controlled by the "- our building is owned by the
2 Post Office. The Post Office refused to shut down. So, while
3 we're trying to protect ourselves, and protect everything that
4 we've got in there, because nobody knows what's going on, and
5 even though it's a small town in West Virginia, we "- we do
6 know that we're within five miles of -- of this wonderful
7 facility that Senator Berd obtained for us "-

8 (Laughter)

9 IRENE KEELEY: -- we couldn't get the -- the
10 courthouse shut down, and we finally had to call "- I'm not
11 sure if it was Washington or Richmond, where we went to -- to
12 find whoever's head we had to go over, for the Post Office
13 before we could get that building shut down. So, there were
14 people running in and out of that building after we had
15 officially shut down operations. That is something to consider
16 if you share a building with other tenants. Who's in charge?

17 THOMAS BIRKLAND: That - that - that whole issue of
18 going back in an unsafe building, is I -- I think the ninth
19 circuit's experience is really instructive there. Now, I think
20 it was visible to manage that structure but, I think the point
21 that -- that Karen made is really crucial. That you can't look
22 at a building and tell if it's safe. You've got to get a
23 structural engineer.

24 This gentleman back here had a question.

1 UNIDENTIFIED SPEAKER: You heard a great deal of the
2 [inaudible] -- and how to leave a building or leave facilities.
3 Had the panel given any thought or are there protocol when
4 confronted with key personnel or members of the judiciary who
5 are independent who make decisions not to come back in, because
6 he or she has done research and determined that the area was
7 safe, notwithstanding all the communication that says that you
8 can come back in?

9 So, you could be supervising the building with X
10 number of judges and find out that more than half of your
11 judges will not come back into the courthouse and more than
12 half of your key personnel will not come back into the
13 courthouse because of the proposed scare. Particularly we
14 heard a great deal yesterday about bioterrorism. What can you
15 offer us in terms of a protocol to deal with that possibility?

16 KAREN MILTON: I think that it's something, again,
17 that you and your security committee for your building, your
18 judges, who need to be on this committee along with your
19 marshal or whoever your chief security officer is, need to be
20 discussing. We have the issue, I mean, in the -- in the
21 federal judiciary every article three judge, that's every court
22 of appeals judge, every district court judge, is independent.
23 The chief judge of these courts is first among equals. You
24 know, so my chief judge you know really can't order his

1 colleagues to do something and "- and even if he does, if a
2 colleague refuses to close chambers, or refuses to leave the
3 building, my chief can't order him out of the building. On
4 September 11, we had judges who did not want to leave the
5 building.

6 And my instructions to my staff were to go through
7 the building, to clear out our staff, to clear out the public,
8 but if a judge refused to leave, to note the name of the judge,
9 how many people were in that judges' chambers, you know, was
10 the secretary there, the law clerks there, note the location,
11 continue through the building, and when you got down to the
12 marshals office on the first floor, hand the marshals the list,
13 and let the marshals -- and let the marshals go back into the
14 building and deal with the judge.

15 It's an issue that our security committees of the two
16 courts have been discussing. I don't think we're ever no
17 matter how much planning we have and if we fal "- you know,
18 ultimately get all the judges to agree to our plan, and that
19 when -- if we do activate the coop the next time around, the
20 judges are going to look at the chief and we're going to say
21 that the chief is not first among equals in this situation, but
22 there's always going to be a judge who's just not going to do
23 that.

24 We also conversely had staff members who were afraid

1 to come back. We worked with them, we had counselors meet
2 them. We met them offsite. We escorted them in. We gave them
3 as much leeway as we could, and when we got to the point that
4 we felt, we had expended as much understanding as an employer
5 that we could, and it was now hurting moral as opposed to
6 helping, we then said to these employees, "Listen, here's the
7 deal.

8 You know, there are therapists you can continue to go
9 see. There are counselors that you can continue to go see, but
10 you need to come to work. Out of 150 employees, 149 of them
11 are all coming in to this area. But, we also made sure that
12 one, you could get down below Canal Street, that there were
13 services open. You know that the deli's were back open.
14 People could go buy lunch. That we had water pressure, there
15 was running water. We had electricity. You know, we tried to
16 make sure. We were bringing them back to the extent that we
17 could into a safe environment. And that was one reason why we
18 didn't bring the staff until September 24.

19 UNIDENTIFIED SPEAKER: One of the -- one of the
20 points that a -- a former division of emergency management
21 director made to us at a training, regarding employees in this
22 issue was what he told his employees was, you're not
23 volunteers. You're staff, and at some point, you've got a job
24 to do.

1 THOMAS BIRKLAND: Well, we have time for at least one
2 more question. I've got my back turned to this side of the
3 room, so I'll stay on this side. Are there any other
4 questions?

5 (Audience talking, inaudible)

6 UNIDENTIFIED SPEAKER: [Inaudible - away from
7 microphone]

8 UNIDENTIFIED SPEAKER: Well, I'll take the first
9 crack at that. I -- I think that's a very, very good question,
10 and I think it's up to the judicial officer to make sure that -
11 - that doesn't happen. You have to keep it active. You have
12 to make sure it's in front of your security committee that it's
13 being updated. Have that marked disaster drill, that drives it
14 home to everybody. Even though the judges hate being
15 interrupted and everything and point of fact, I can say this is
16 a judge. Don't tell them that this is going to happen. Just
17 -- just have a mock drill and find out what they do! Find
18 out what happens in your building when something like that goes
19 on. It won't gather dust after they see the disaster that is
20 their own lack of preparation.

21 UNIDENTIFIED SPEAKER: One of the -- one of the
22 things we've got in Florida, we've developed all of these
23 templates and "- and our work -- our work upon emergency
24 preparedness has -- has set standards, and we've told our

1 circuit, our trial courts and our appellate courts, you know,
2 this is what we think you should and here's what "- how it will
3 help. But a lot of it is local. I mean, so much of -" of
4 responding to an emergency is "- is local. And there's only so
5 much we can do at Offska in Tallahassee, for things that happen
6 in Orlando or Tampa or somewhere else in the state. Both in
7 developing their plans, and in updating their plans.

8 UNIDENTIFIED SPEAKER: Two things are critical and
9 they've both been mentioned. Judicial leadership and active
10 courthouse security committees will keep these plans in action.
11 They need to be reviewed. They need to be drilled. We need
12 to follow on exceptional leads by the private sector, and the
13 school systems who are far ahead of us in this area, and
14 they're good models for us. I think those are absolutely key
15 to success and not just having a plan that eventually gets lost
16 somewhere and put up on a shelf.

17 UNIDENTIFIED SPEAKER: I should mention, being in the
18 private sector that we have a crisis management team, and we
19 actually meet four times a year, and it's all operational
20 people and we let them get the word out to the indi --
21 individuals. So, and definitely the drills should be conducted
22 "- drills should be conducted at least once a year and then you
23 should do a post-evaluation. How effective, how quickly did
24 people get out of the building if that was the only thing that

1 you were doing? So, I think that's a -- a -- again a very
2 important part of the pre-planning, again the actual things
3 like that, the training, the manuals and trainings is what
4 we've also talked about previously. And again, evaluating
5 pretty much what you plan on doing.

6 THOMAS BIRKLAND: Excellent. Well, that beep you
7 might have just heard means that we are out of time,
8 unfortunately. But, thank you very much this excellent panel.
9 Let's join in a round of applause.

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